sources that "will emit" at this level, it also exempts sources that "emit" at this level. A source that has actual emissions of 1,666 pounds of organic chemicals per month may have the potential to emit at greater amounts, and therefore may be a part 70 source. In addition, the commenter noted that these Wisconsin exemptions are based on emissions measured prior to entering any emission control devices, while the determination of a source's potential to emit may be calculated by including air pollution control devices (if enforceable by the Administrator). Regardless of this distinction, EPA does not believe that the exemptions are based on potential to emit.

One commenter requested that the exemption in ss.NR 407.03(1)(t) be maintained to the extent possible. This provision provides an exemption for a combination of specified activities. The exemption is structured differently than the other exemptions for which EPA is granting interim approval, as it does not attempt to limit sources' potential to emit. Instead, this exemption allows combinations of activities to be grouped together, and certain combinations could result in emissions that would exempt part 70 sources from the permit program. Therefore, Wisconsin must revise this exemption to ensure that no part 70 sources are exempted. The State will need to determine to what extent this exemption can be retained and still ensure that no part 70 sources are eligible for the exemption.

10. Source Category Limited Interim Approval

Two commenters were supportive of EPA's proposed source category limited (SCL) interim approval; however, they were concerned that the State's current determination that it will not need additional time to issue initial permits would require those source categories to submit permit applications before the State has fully developed the program requirements for these sources. The EPA proposed SCL interim approval for Wisconsin for two separate circumstances: for new and modified sources that are not in compliance, and for sources belonging to the source categories covered by the permitting exemptions in ss.NR 407.03(1) (d), (g), (h), (o), (s), (sm), and (t).

The deficiency in Wisconsin's program with respect to new and modified sources that are not in compliance relates to the lack of State authority to issue permits to such sources. However, the State program does require these sources to submit permit applications in accordance with the State application schedule. Therefore, these sources are already covered by the State program, and are currently required to submit applications.

The deficiency in Wisconsin's program with respect to the permitting exemptions relates to the lack of State authority to require permits for certain part 70 sources. Therefore, the State may currently exempt some part 70 sources. Interim approval requires the State to correct this deficiency and submit a corrected program to EPA within 18 months after the effective date of the interim approval. Once the State corrects the deficiency, any part 70 sources which had been exempt will be required to obtain an operating permit in accordance with the requirements of the State program.

As stated in the proposal, Wisconsin has not requested additional time for issuing initial operating permits because the State intends to fix the SCL interim approval deficiencies in time to permit all sources within the 3 year phase-in period. In addition, previously exempted part 70 sources (if any exist) will be required to submit applications within one year of the interim approval effective date. If Wisconsin determines that it cannot meet these implementation requirements, SCL interim approval does provide that the completion of the initial permitting of the SCL sources could occur as late as 5 years after the granting of SCL interim approval (the 3 year phase in period plus the 2 year interim approval). To obtain this extension, Wisconsin would have to submit a request to EPA that includes compelling reasons why the additional time is needed. For additional discussion of this issue, including the specific requirements for a state's extension request, refer to the August 2, 1993 memorandum entitled, "Interim Title V Program Approvals," signed by John Seitz, Director of the Office of Air Quality Planning and Standards.

11. Proposed Part 70 Rules

One commenter submitted comments it had previously filed on the proposed part 70 rule, and stated that it objected to interim approval of Wisconsin's operating permits program for the same reasons it had objected to the part 70 rule itself. The EPA believes the appropriate forum for pursuing objections to the legal validity of the part 70 rule is through a petition for review of the rule brought in the D.C. Circuit Court of Appeals. The EPA notes that this commenter has filed such a petition. However, unless and until the part 70 rule is revised, EPA must evaluate programs according to the rule that is in effect.

12. Particulate Matter (PM) Issues

One commenter raised several issues regarding PM that were not relevant to EPA's proposed interim approval of Wisconsin's operating permits program. Therefore, EPA is not addressing these comments in the final action on Wisconsin's program.

B. Final Action

The EPA is promulgating interim approval of the operating permits program submitted by the State of Wisconsin on January 27, 1994. The scope of Wisconsin's part 70 program approved in this notice applies to all part 70 sources within Wisconsin, except for tribal lands in the manner described previously in this notice. The State must make the following changes to receive full approval:

1. Revise Wisconsin's operating permit program regulations to provide for criminal fines against any person who knowingly makes any false material statement, representation, or certification in a permit application. This provision is required by 40 CFR 70.11(a)(3)(iii).

2. Revise the following legislation and regulations to provide an application shield for "new" and "modified sources" (as defined by ss.144.30(20s) and (20e), Wis. Stats.): s.144.391(1)(b), Wis. Stats.; s.144.3925(7), Wis. Stats.; s.NR 407.06(2), Wis. Adm. Code; and s.NR 407.08, Wis. Adm. Code. Wisconsin's program does provide an application shield for "existing sources" (as defined by s.144.30(13). 40 CFR 70.7(b) requires that the application shield must apply to all part 70 sources which meet the application shield requirements.

3. Revise the following legislation and regulation to provide for operational flexibility, as required by 40 CFR 70.4(b)(12)(i), for "new" and "modified sources" (as defined by ss.144.30(20s) and (20e), Wis. Stats.): s.144.391(4m), Wis. Stats.; and s.NR 407.025, Wis. Adm. Code. Wisconsin's program does include this requirement for "existing sources" (as defined by s.144.30(13)). 40 CFR 70.4(b)(12)(i) is required to apply to all part 70 sources.

4. Revise the appropriate legislation and regulations to provide the authority to deny a renewal application for a source that is not in compliance. 40 CFR 70.6(a)(6)(i) requires that any permit noncompliance is grounds for denial of a permit renewal application. Section NR 407.09(1)(f)1., Wis. Adm. Code, states that the authority to deny a permit renewal application for noncompliance