

or critical comments are received by March 10, 2003. If EPA receives such comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Mail comments to Gerardo Rios, Chief of the Permits Office (AIR-3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the submitted program and other supporting information used in evaluating the alternate permit program are available for inspection during normal business hours at the following location: Pacific Insular Area Program, U.S. EPA-Region IX (CMD-5), U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Ben Machol, EPA Region IX, at (415) 972-3770, (*Machol.Ben@epa.gov*), Pacific Insular Area Program, or Robert Baker, at (415) 972-3979, Permits Office, Air Division, at the EPA-Region IX address listed above.

SUPPLEMENTARY INFORMATION:

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- ##### **III. Administrative Requirements**

I. Background

Section 325(a) of the Act authorizes the Administrator of EPA, upon petition by the Governor, to exempt any person or source or class of persons in Guam, from any requirement of the Act except for requirements of section 110 and Part D of subchapter I of the Act (where necessary to attain and maintain the National Ambient Air Quality Standards), and section 112. An exemption may be granted if the Administrator finds that compliance with such requirement is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory, or such other local factors as the Administrator deems significant.

The Governor of Guam submitted a petition pursuant to section 325(a) of the Act for an exemption from Title V of the Act. Title V requires states, including Guam, to adopt and submit to EPA a Title V operating permit program for major sources and certain other stationary sources. If any state does not adopt an operating permit program, Title V requires EPA to apply certain sanctions within that area and to

promulgate, administer, and enforce a federal operating permit program for such area. EPA proposed regulations to implement a federal operating permit program on April 27, 1995 (60 FR 20804) and promulgated the final rule on July 1, 1996, at 40 CFR part 71 (61 FR 34202) (part 71). Title V requires that sources located in states that do not adopt a Title V permitting program obtain a federal operating permit from the EPA. Guam requested an exemption from the Title V program, but committed to achieving several of the goals of Title V by developing an alternate operating permit program.

On November 13, 1996, EPA issued a direct final rule (61 FR 58289), codified at 40 CFR 69.13 (the conditional exemption) in which EPA granted the government of Guam an exemption from the requirement to adopt a Title V program on the condition that Guam adopt and implement a local alternate operating permit program. EPA also granted owners or operators of certain sources on Guam a conditional exemption from the requirement to apply for a federal Title V operating permit under part 71. These certain owners and operators of sources are exempted from Title V requirements so long as they obtain, by January 13, 2003, an operating permit under an alternate operating program approved by EPA. That rulemaking did not waive part 71 permitting requirements for owners or operators of solid waste incinerators required to obtain a Title V operating permit under section 129(e) of the Act or of major sources under section 112 of the Act required to obtain Title V permits. That rulemaking also does not waive or exempt the government of Guam, or owners or operators of sources located in Guam, from complying with all other applicable Clean Air Act provisions.

On January 13, 1999, Guam submitted an alternate permit program, consisting of Guam's Air Pollution Control Standards and Regulations (Guam's Regulations), along with supporting documents and authorizing legislation. Guam's Regulations set forth (1) the requirements for Guam's proposed alternate permit program, which applies to sources that would be subject to Title V without the exception provided in the conditional exemption; and (2) the requirements for Guam's purely local air permit program, which applies to sources that are not subject to requirements of Title V of the Act. The entire alternate permit program was also submitted as a SIP revision, including matters not required to be submitted as a SIP.

On July 12, 1999, Guam sent a clarifying letter, withdrawing the SIP submission and setting forth which parts of Guam's Air Pollution Control Standards and Regulations are to be considered part of the alternate permit program, and further stating that the SIP revision would be submitted to EPA after all comments were received from EPA.

II. Final Action and Implications

A. Interim Approval of Guam's Alternate Permit Program

EPA is granting interim approval of the alternate permit program submitted by Guam. EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to grant interim approval to Guam's part 69 program if adverse comments are filed. This rule will be effective on April 9, 2003 without further notice unless we receive adverse comment by March 10, 2003. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

1. Alternate Permit Program Meets Most, But Not All, of the Conditional Exemption Requirements

The alternate permit program submitted by Guam meets most of the requirements of the conditional exemption. The technical support document contains a more detailed discussion of the criteria and EPA's evaluation.

(a). Fees

40 CFR 69.13(b)(2) requires that the program shall provide for the collection of fees from permitted sources or other revenues in an amount that will pay for the cost of operation of the program, and that it ensure that funds are used solely to support the program. Guam's alternate permit program provides for the collection of fees from permitted sources, in an amount that will pay for the cost of operation of the program, and it ensures that the funds will be used solely to support the program activities authorized under Guam's Air Pollution Control Act. But Guam's alternate