

(b). SIP Revision

Forty CFR 69.13(c) states that Guam shall no later than March 15, 1999 submit a revision to its SIP that provides that a person shall not violate a permit condition or term in an operating permit that has been issued under an EPA approved alternate operating permit program adopted by Guam pursuant to the exemption authorized in 40 CFR 69.13.

Guam submitted a revision to its SIP by the applicable deadline but, at EPA's request, GEPA issued a clarification letter on July 12, 1999 in which it withdrew the SIP submission. EPA agreed at that time to defer action on the required SIP language until GEPA received comments from EPA on the revision. EPA has now provided comments on the alternate permit program, and Guam can thus proceed in properly adopting and submitting a SIP revision which meets the requirements of 40 CFR 69.13(c).

(c). Other Changes

Major deficiencies are discussed above. In addition, EPA has recommended that GEPA take certain steps to clarify the regulatory language and strengthen the program. The technical support document contains a more detailed discussion of these recommended changes.

3. Reason for Interim Approval of Program

The alternate operating permit program submitted by Guam meets most of the requirements of the conditional exemption from Title V requirements, but the deficiencies discussed above must be corrected before EPA can grant full approval of the alternate permit program. EPA is confident that these deficiencies can be corrected by Guam, but there remains a question of timing. If the owner or operator of any source has not obtained an operating permit under an alternate operating permit program approved by EPA for Guam by January 13, 2003, the exemption for such source shall expire and the source shall become subject to the permitting requirements of 40 CFR part 71 on that date.

To ensure that there is adequate time to review and issue permit applications under an EPA-approved program before the January 13, 2003 deadline, EPA has decided to grant interim approval of the program. This interim approval will allow Guam to simultaneously move forward with permitting sources while correcting the deficiencies identified above. If Guam has not corrected the deficiencies in the alternate permit program within two years, then the

interim approval of the alternate program shall expire and the owner or operators of such sources shall become subject to the permitting requirements of 40 CFR part 71 on that date.

B. Expiration and Revocation of the Conditional Exemption in 40 CFR 69.13(a)

The conditional exemption set forth circumstances under which the exemption shall expire or may be revoked. Those circumstances set forth in the conditional exemption continue unchanged. Guam's alternate program, which is receiving interim approval pursuant to today's rule, will be implemented within the framework of the conditional exemption as follows:

(1) If Guam does not submit a revised alternate operating permit program within 18 months of the effective date of this interim approval, then interim approval of the alternate permit program shall expire with no further rulemaking and 40 CFR Part 71 shall become effective for all subject sources in Guam.

(2) If Guam submits revisions within 18 months of the effective date of this interim approval, the interim approval will continue for an additional 6 months while EPA reviews the amended program to determine if it qualifies for full approval. Unless EPA approves the amended program, the interim approval will expire with no further rulemaking two years after the effective date of this interim approval. EPA will approve the amended program and provide notice of the approval in the **Federal Register** if the amended program meets all the conditions of the exemption. In the event that EPA disapproves the program because the program does not meet the requirements, EPA will revoke the exemption at 40 CFR 69.13(a)(1) by rulemaking.

C. Other Terms of Conditional Exemption Continue Unchanged

EPA is granting interim approval only to those portions of Guam's Regulations that are necessary to implement Guam's alternate permit program, required by the conditional exemption as part of the exemptions from the Title V program. This approval does not constitute approval under any other provisions of the Act. Except as provided herein, all other terms and conditions of the conditional exemption continue unchanged. The scope of the exemptions set forth in the conditional exemption continues unchanged. EPA continues to reserve its authority to revoke or modify the exemptions in whole or in part.

D. Interaction of Part 71 and Part 69

Approval of Guam's program is occurring close to the January 13, 2003 deadline set forth in part 69. As a result, most sources will be unable to obtain a permit under an EPA approved program by the January 13, 2003 deadline, as required by § 69.13(d)(3). Because the failure to meet the January 13, 2003 deadline is not, in these cases, caused by the failure of the applicant to timely submit information required or requested to process the application, GEPA has asked EPA to clarify how the provisions of part 71 will be applied to sources which submit a timely and complete permit application to GEPA but which have not obtained a permit by January 13, 2003.

(1) Requirements of Guam's program: Guam's program requires that major sources must submit permit applications within 6 months of the effective date of Guam's alternate program, PSD sources and NSPS sources must submit permit applications within 10 months, and NESHAP and all other sources must submit permit applications within 12 months of the effective date of Guam's alternate program. See Guam's Regulations at section 1104.10, and appendix A to section 1104.10. These deadlines match or exceed the requirements of parts 70 and 71. See 40 CFR 70.4(b)(11)(i) and 71.5(a)(1)(i). Guam shall approve or deny the application within twelve months after receipt of a complete application, although shorter action times apply in some instances. See Guam's Regulations at section 1104.6(j). Guam's program requires action from the regulatory agency that matches or exceeds the requirements of parts 70 and 71. See 40 CFR 70.4(b)(11)(ii), 71.7(a)(2) and 71.4(i).

(2) Sources become subject to part 71 on January 13, 2003: Sources without permits become subject to part 71 on January 13, 2003. Pursuant to 40 CFR 69.13(d)(3), part 71 requirements will apply to all sources which do not have permits under an EPA approved program on January 13, 2003. If the owners or operators of a source which was eligible for the conditional exemption do not have a permit under Guam's approved part 69 program on January 13, 2003, and do not have a part 71 permit, then they must submit a timely and complete part 71 application to EPA, and "timely" means submitted to EPA within 12 months. See 40 CFR 71.5(a)(1).

(3) Approval of part 70 programs results in EPA suspension of part 71 permit issuance: Interim approval of Guam's program should affect the need