

Dated: December 31, 2002.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*  
[FR Doc. 03-373 Filed 1-8-03; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-02-131]

RIN 2115-AA97

#### **Safety and Security Zones: Drilling and Blasting Operations, HubLine Project, Captain of the Port, Boston, MA**

**AGENCY:** Coast Guard, (DOT).

**ACTION:** Temporary final rule; request for comments; correction.

**SUMMARY:** This document corrects the temporary final rule; request for comments published in the **Federal Register** on December 9, 2002, creating temporary safety and security zones around the Drillboat No. 8 and Lablift IV to protect the public from hazards associated with drilling and blasting operations and to protect the vessels and the public from possible acts of terrorism. Due to heavy weather conditions and better information as to the makeup of the ocean floor in the area, contractors with the Hubline Gas Pipeline Project decided to replace the vessels Drillboat No. 8 and Lablift IV with one vessel, the lift barge Kaitlyn Eymard. This correction amends the temporary final rule to reflect the change of vessels that the security and safety zones are established to protect.

**DATES:** The temporary final rule published in the **Federal Register** is effective from November 18, 2002 through February 28, 2003. These corrections to that rule are effective December 24, 2002.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary final rule; request for comments; correction, contact Chief Petty Officer Daniel Dugery, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223-3000.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background and Purpose**

The Coast Guard published a temporary final rule; request for comments in the **Federal Register** on December 9, 2002 (67 FR 72840). This rule added temporary section 165.T01-131 to part 165 of Title 33 Code of

Federal Regulations creating temporary safety and security zones around the Drillboat No. 8 and the Lablift IV from November 18, 2002 through February 28, 2003.

#### **Need for Correction**

As published, the vessels named in the temporary final rule have been changed. Due to heavy weather conditions and better information as to the makeup of the ocean floor in the area, contractors with the Hubline Gas Pipeline Project determined that use of a single vessel, the lift barge Kaitlyn Eymard, would be safer and more effective than using two vessels, Drillboat No. 8 and Lablift IV, as currently identified in the temporary final rule. This rule removes the Drillboat No. 8 and the Lablift IV and replaces it with the lift barge Kaitlyn Eymard.

#### **Correction of Publication**

In temporary final rule, FR Doc. 02-30928, published on December 9, 2002 (67 FR 72840), make the following corrections:

1. On page 72840, in the first column, on lines 25, 38, and 41, in the second column, line 60, and in the third column, lines 18 and 29, on page 72841 first column, line 24, third column, line 57, and on page 72842, first column, lines 2, 5, and 14, replace the words "Drillboat No. 8 and Lablift IV" with "Kaitlyn Eymard".

2. On page 72840, first column, lines 24, 31, and 37, second column, lines 59 and 67, and third column, lines 23, 31, and 43, on page 72841, in the third column, line 62, replace the word "vessels" with "vessel".

3. On page 72840, first column, lines 24, 28, and 35, second column, line 64, third column, lines 23, 28, 30, 40, 41, 53, and 54, on page 72841, first column, lines 23, 37, and 40, second column, line 2, third column, lines 50 and 55, and on page 72842, first column, line 12, replace the word "zones" with "zone".

4. On page 72840, first column, line 33, and third column, line 8 replace, "800-PSI" with "high pressure".

5. On page 72840, in the first column, on lines 30 and 35, and in third column, line 41, replace the word "these" with "this".

6. On page 72840, in the first column, on lines 35 and 42, in the second column, lines 65 and 67, in the third column, lines 2 and 40, and on page 72841, in the first column, on line 25, replace the word "are" with "is".

7. On page 72840, in the first column, on line 42 and in the third column, on

line 2, replace the words "they" with "it".

8. On page 72840, in the third column, on line 24, replace the word "them" with "it".

9. On page 72840, in the second column, on line 65, replace the words "drill barges" with "vessel".

10. On page 72840, in the third column, on line 19, replace the words "drill vessels themselves" with "vessel itself".

11. On page 72840, in the third column, on line 44, replace the word "each" with "the".

12. On page 72840, in the third column, on line 50, replace the word "in" with "is".

13. On page 72840, in the second column, on line 64, replace the word "affect" with "affects".

14. On page 72840, third column, line 45, replace the word "each" with the word "the".

Dated: December 24, 2002.

**B.M. Salerno,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. 03-314 Filed 1-8-03; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 69

[GU02-01; FRL-7433-5]

#### **Clean Air Act Interim Approval of the Alternate Permit Program; Territory of Guam**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action to grant interim approval of the alternate permit program submitted by the Territory of Guam (Guam). In EPA's November 13, 1996 direct final rule, EPA granted Guam, as well as owners and operators of certain sources within Guam, an exemption from Title V requirements on the condition that Guam promulgate and administer an approved alternative permit program. EPA granted these conditional exemptions under the authority of section 325 of the Clean Air Act (Act). Interim approval of Guam's alternate permit program will allow sources to be permitted under an approved alternate permit program while also requiring Guam to make additional submissions to fulfill all of the requirements of the conditional exemption.

**DATES:** The direct final rule for Guam is effective on April 9, 2003 unless adverse

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:**

- I. Background
- II. Final Action and Implications
  - A. Interim Approval of Guam's Exemption Request
  - B. Expiration and Revocation of the Exemption in 40 CFR 69.13(a)
  - C. Other Terms of Conditional Exemption Continue Unchanged
  - D. Interaction of Part 71 and Part 69
- 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

permit program treats fees in a manner which EPA would not allow under a Title V program, because a unified fund is established for fees which are collected under the alternate permit program submitted to EPA (approved program fees) and fees which are collected under the completely local air permit program (local air program fees), and money from this unified fund will be commingled for use on both the approved program and the local program.

A Title V operating permit program is not allowed to commingle fees between the Title V program and the non-federal local program because non-federal local program fees are often used as part of the state matching grant required to receive federal funds. See the July 21, 1994 Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, "Transition to Funding Portions of State and Local Air Programs with Permit Fees Rather than Federal Grants," which can be found at <http://www.epa.gov/ttn/oarpg/t5/memoranda/grantmem.pdf>.

The Administrator has exercised her authority under Section 325 of the Act and granted Guam a conditional exemption from the Title V requirements. In addition, the Administrator has the authority to waive the Title V requirement concerning commingled fees because Congress made different rules for grants and matching fees in "Insular Areas" such as Guam, American Samoa, and CNMI. Congress authorized grants to be consolidated, and for agencies to waive any requirements for matching funds otherwise required by law to be provided by the Insular Area involved. See 48 U.S.C. 1469a (2002). More specifically, Congress authorized the Administrator of EPA to modify the maintenance or level of effort requirements for assistance grants. See Act August 27, 1986, Public Law 99-396, section 12(a), 100 Stat. 841.

EPA believes that it is appropriate to allow Guam's consolidated treatment of funds for the following reasons. The unique situation of the territories has prompted Congress to allow consolidation of grants and waiver of matching fund requirements in Insular Territories such as Guam, in recognition of factors which are relevant here. One purpose of granting a section 325 conditional exemption was to allow for the development of a streamlined part 69 program which would be protective of air quality and designed in a manner appropriate to the unique conditions of Guam. Guam EPA (GEPA) shall be implementing the 40 CFR part 69 alternate permit program and the purely

local program as a combined program. Maintaining the federal program separate from the local activities authorized under Guam's Air Pollution Control Act would require burdensome recordkeeping and reporting procedures, and the increased burden would be an unnecessary drain on the resources of GEPA which would not contribute to better air quality. Most critical, Guam's law and regulations require that fees collected under the combined program can only be used to support the program activities authorized under Guam's Air Pollution Control Act. Taking all of these factors into consideration, EPA finds that Guam's program, meets the requirements of 40 CFR 69.13(b)(2).

#### (b). Scope

EPA notes that Guam's Regulations Section 1102.11 (Variances) is not part of the approved alternate permit program. Variances are not available for the part 69 program. We also note that section 1102.11 by its very terms would not apply to the alternate permit program because section 1102.11(b) states "Under no circumstances shall a variance from any federal regulations or federally enforceable air pollution control permit terms or conditions be granted." All owners or operators of a source wishing to qualify for the exemption from the permitting requirements of 40 CFR part 71 must obtain an operating permit under Guam's approved alternate permit program.

#### (c). Regular Inspections

40 CFR 69.13(b)(8) requires a system of regular inspections of permitted sources. Section 1104.13 of Guam's Regulations provides that sources required to obtain a permit are subject to regular inspections for compliance. 40 CFR 69.13(b)(8) also requires a system to identify unpermitted major sources, and guidelines for appropriate responses to violations. The submission packet by Guam included a program description discussing inspection, compliance, enforcement and penalties.

A system of regular inspections requires that Guam provide adequate inspector staff and training and develop appropriate internal procedures to inspect all permitted sources. EPA also expects that Guam will develop appropriate guidelines for responding to violations that are discovered. EPA will continue to assist Guam by providing guidance and manuals for inspecting permitted sources. EPA reserves the right to revoke the exemption in its entirety through rulemaking if Guam does not provide adequate inspector

staff and training and develop appropriate internal procedures to inspect permitted sources so that it is adequately administering and enforcing the alternate operating permit program.

#### 2. Alternate Permit Program Does Not Meet All Requirements

Two key requirements of the conditional exemption were not met by Guam's submission.

##### (a). EPA Ability To Reopen for Cause

40 CFR 69.13(b)(10) requires that the program allow EPA to reopen a permit for cause. If EPA provides Guam with written notice that a permit must be reopened for cause, Guam must issue a revised permit within 180 days (including public notice and comment) that sufficiently addresses EPA's concerns. If Guam fails to issue a permit that resolves EPA's concerns within 180 days, then EPA will terminate, modify, or revoke and reissue the permit under part 71 after providing the permittee and the public with notice and opportunity for comment. The language in Guam's submission does not match this requirement that Guam must issue a permit that resolves EPA's concerns within 180 days, or EPA will terminate, modify or revoke and reissue the permit under part 71.

Section 1104.16 of Guam's Regulations states that EPA has authority to act under 40 CFR part 71 if EPA lodges an objection concerning GEPA issuing a permit, permit renewal or permit amendment and that objection is not resolved within 180 days, but section 1104.16 does not clearly cover the situation where a permit is reopened and the action is to terminate or suspend the permit.

Under sections 1104.18(f) and 1104.18(g) of Guam's Regulations, it can take up to 360 days to terminate, suspend, reopen or amend the permit in accordance with EPA's objection. Under section 1104.18(f), GEPA has up to 180 days to submit a proposed determination. Under section 1104.18(g), if EPA then objects, GEPA has up to 180 additional days to terminate, suspend, reopen or amend the permit in accordance with EPA's objection. Further, in the case of termination or suspension of a permit, sections 1104.18 does not clearly specify that EPA shall itself have authority to act under part 71. For final approval of the alternate permit program, section 1104.18 must be amended to conform with the requirements of 40 CFR 69.13(b)(10).

## (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 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 actions 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

for sources to obtain part 71 permits. Sources in areas with approved part 70 programs are not permanently required to submit part 71 applications to EPA. Forty CFR 71.4(l) states that the Administrator will suspend the issuance of part 71 permits promptly upon publication of notice of approval of a State or Tribal operating permits program that meets the requirements of part 70. Forty CFR 71.4(l)(1) states that the Administrator will continue to administer and enforce part 71 permits until they are replaced by permits issued under the approved part 70 program. EPA thus suspends issuance of part 71 permits once a part 70 program is authorized. A program that meets the requirements of part 70 can be a program with full approval, or a program with interim approval. Section 71.4(l) states that the Administrator may retain jurisdiction over the part 71 permits for which the administrative or judicial review process is not complete and will address this issue in the notice of state program approval. If the program being granted interim approval in this action were a part 70 program, then EPA would suspend the issuance of part 71 permits, and address in the notice of program approval the issue of part 71 permits for which the administrative process is not complete.

(4) Interpretation of part 71 regulations in light of the conditional exemption: EPA believes that the part 71 regulations should be interpreted in a manner which is consistent with the conditional exemption granted to Guam under section 325 of the Act. Guam requested and received a conditional exemption from the need to implement a program which meets all of the requirements of part 70. Although Guam is not required to implement a part 70 program, it must have a program which meets the requirements set forth at 40 CFR 69.13. Furthermore, while Guam's alternate permit program reflects Guam's unique conditions and circumstances, it is the functional equivalent of a part 70 permit program. It is consistent with the regulatory framework therefore, to consider that Guam's alternate permit program approved in today's rule "meets the requirements of part 70" for the purposes of 40 CFR 71.4(l). Accordingly, EPA will suspend the issuance of part 71 permits for sources which are eligible for the conditional exemption upon Guam's program being granted interim approval, provided that the owners and operators of such sources apply for and obtain permits under Guam's approved operating permit program, in the manner specified below.

(5) Timing and source requirements upon approval of Guam's program. Owners and operators of sources eligible for the conditional exemption that become, pursuant to 40 CFR 69.13(d)(3), automatically subject to part 71 on January 13, 2003 because such source does not have a permit issued under Guam's EPA-approved permit shall be subject to the following: (1) Owners/operators of such sources must submit a timely and complete application to Guam EPA by the applicable deadline specified in Guam's approved program. (2) Owners/operators of such sources must obtain a federally enforceable operating permit issued pursuant to Guam's alternative operating permit program within the time periods specified by that program.

Owners and operators of sources which under 40 CFR 69.13(d)(3) are automatically subject to part 71 on January 13, 2003 do not need to submit a part 71 permit application to EPA so long as they meet all of the above criteria. Owners and operators of sources which under 40 CFR 69.13(d)(3) are automatically subject to part 71 on January 13, 2003 and which do not meet all of the above criteria remain subject to the requirement to apply for and obtain a part 71 permit. Owners or operators of sources excluded from the conditional exemption (see 40 CFR 69.13(a)(4)) remain subject to the requirement to apply for and obtain a part 71 permit.

### III. Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law.

This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law.

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more

Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000).

This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Act.

This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR parts 69 and 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Act, EPA will approve State programs provided that they meet the requirements of the Act and EPA's regulations codified at 40 CFR part 70 or, in this case, 40 CFR part 69. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 10, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 69

Environmental protection, Air pollution control, Guam.

Dated: December 17, 2002.

Alexis Strauss,

Acting Regional Administrator, Region 9.

40 CFR part 69 is amended as follows:

#### PART 69—[AMENDED]

1. The authority citation for part 69 continues to read as follows:

**Authority** : Sec. 325, Clean Air Act, as amended (42 U.S.C. 7625–1).

#### Subpart A—Guam

2. Subpart A is amended by adding § 69.13(f) to read as follows:

#### § 69.13 Title V conditional exemption.

\* \* \* \* \*

(f) Interim approval of alternate permit program.

(1) The following sections of Guam's Air Pollution Control Standards and Regulations are granted interim approval as Guam's alternate permit program:

1101.1(a) Administrator  
 1101.1(d) Air pollutant  
 1101.1(e) Air pollution  
 1101.1(i) Air pollution emission source  
 1101.1(r) CFR  
 1101.1(s) Clean Air Act  
 1101.1(t) Commenced  
 1101.1(v) Compliance Plan  
 1101.1(aa) Emission  
 1101.1(cc) Emissions unit  
 1101.1(ii) Fugitive Emissions  
 1101.1(jj) GEPA  
 1101.1(kk) Hazardous air pollutant  
 1101.1(xx) Owner or operator  
 1101.1(zz) Permit  
 1101.1(bbb) Person  
 1101.1(eee) Potential to emit  
 1101.1(iii) Regulated air pollutant  
 1101.1(jjj) Responsible official  
 1101.1(ooo) Source  
 1101.1(uuu) USEPA  
 1101.1(vvv) USEPA Administrator  
 1102.3 Certification  
 1102.7 Public Access to Information  
 1102.9 Prompt Reporting of Deviations  
 1104.1 Definitions  
 (a) Administrative Permit Amendment  
 (b) AP-42  
 (c) Applicable requirement  
 (d) Federal oversight source  
 (e) Insignificant source  
 (f) Insignificant sources—Type I  
 (g) Insignificant sources—Type II  
 (h) Major source  
 (i) Minor source  
 (j) Modification  
 (k) Pollution prevention  
 (l) Significant modification  
 (m) Transition period  
 1104.2 Applicability  
 1104.3 General conditions for considering applications  
 1104.4 Holding and transfer of permit  
 1104.5(a) Cancellation of Air Pollution Control Permit  
 1104.6 Air Pollution Control Permit Application  
 1104.7 Duty to Supplement or Correct Permit Applications  
 1104.8 Compliance Plan  
 1104.9 Compliance Certification of Air Pollution Emission Sources  
 1104.10 Transition Period and Deadlines to Submit First Applications  
 1104.11 Permit Term  
 1104.12 Permit Content  
 1104.13 Inspections  
 1104.14 Federally-Enforceable Permit Terms and Conditions  
 1104.15 Transmission of Information to USEPA  
 1104.16 USEPA Oversight  
 1104.17 Emergency Provision  
 1104.18 Permit Termination, Suspension, Reopening, and Amendment  
 1104.19 Public Participation  
 1104.20 Administrative Permit Amendment  
 1104.21 General Fee Provisions  
 1104.22 Air Pollution Control Special Fund  
 1104.23 Application Fees for Air Pollution Emission Sources  
 1104.24 Annual Fees for Air Pollution Emission Sources  
 1104.25 Penalties and Remedies  
 1106 Standards of Performance for Air Pollution Emission Sources

(2)(i) If Guam does not submit a revised alternate operating permit program within 18 months of April 9, 2003, 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.

(ii) If Guam submits revisions within 18 months of April 9, 2003, 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 April 9, 2003. 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.

(3) SIP Revision. Guam shall adopt, pursuant to required procedures, and submit to EPA a revision to Guam's 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 this § 69.13.

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#### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 102–75

[FMR Amendment C–1 Corrections]

RIN 3090–AH45

#### Federal Management Regulation; Real Property Policies Update; Corrections

**AGENCY**: Office of Governmentwide Policy, General Services Administration (GSA).

**ACTION**: Correcting amendments.

**SUMMARY**: The General Services Administration is issuing amendments to FMR Amendment C–1, Real Property Policies Update, published in the **Federal Register** at 67 FR 76820, December 13, 2002, to correct the dollar thresholds associated with negotiated sales and explanatory statements to be consistent with existing statutes.

**DATES**: Effective Date: January 9, 2003.

**FOR FURTHER INFORMATION CONTACT**: Stanley C. Langfeld, Director, Real Property Policy Division, Office of Governmentwide Policy, General Services Administration, by phone at (202) 501–1737 or by e-mail at [stanley.langfeld@gsa.gov](mailto:stanley.langfeld@gsa.gov).