§ 69.12 Continuing exemptions.

(1) A waiver of the requirement to obtain a PSD permit prior to construction is granted for the electric generating unit identified in the 1995 Petition as Cabras Unit No. 4, with the following conditions:
   (i) Cabras Unit No. 4 shall not operate until a final PSD permit is received by GPA for this unit;
   (ii) Cabras Unit No. 4 shall not operate until it complies with all requirements of its PSD permit, including, if necessary, retrofitting with BACT;
   (iii) If Cabras Unit No. 4 operates either prior to the issuance of a final PSD permit or without BACT equipment, Cabras Unit No. 4 shall be deemed in violation of this waiver and the CAA beginning on the date of commencement of construction of the unit.
   (2) A waiver of the requirement to obtain a PSD permit prior to the operation of the unit identified in the 1995 Petition as Cabras Unit No. 3 is granted subject to the following conditions:
      (i) The protocol to be followed for the ICS of fuel switching for electric generating units shall be modified to require the use of fuel oil with a sulfur content of 2.00 percent or less during offshore wind conditions. This fuel shall be fired in Cabras Power Plant Units Nos. 1 through 3 and in Piti Power Plant Units Nos. 4 and 5.
      (ii) Cabras Unit No. 3 shall operate in compliance with all applicable requirements in its permits to construct and to operate as issued by Guam Environmental Protection Agency.
      (iii) The waiver provisions allowing Cabras Unit No. 3 to operate prior to issuance of a PSD permit shall expire on August 15, 1996, or upon the receipt by GPA of a PSD permit for Cabras Unit No. 3, whichever event occurs first.
      (3) On or before October 15, 1995, GPA shall submit to EPA, Region IX, a report concerning the operation of Cabras Unit No. 3 and the construction of Cabras Unit No. 4. The report shall contain:
         (i) A summary of GPA’s conclusions from its wind tunnel study;
         (ii) A description of the alternatives available to assure compliance with all air quality requirements, including PSD requirements, during the operation of Cabras Units Nos. 3 and 4;
         (iii) A description of the alternative GPA chooses to assure compliance with all air quality requirements, including PSD requirements, during the operation of Cabras Units Nos. 3 and 4; and
         (iv) A plan of implementation by GPA.
   (d)(1) Pursuant to Section 325(a) of the CAA and a petition submitted by the Governor of Guam on February 11, 1997 ("1997 Petition"), the Administrator of EPA conditionally exempts Piti Power Plant Units No. 8 and No. 9 from certain CAA requirements.
   (2) A waiver of the requirement to obtain a PSD permit prior to construction is granted for the electric generating units identified in the 1997 Petition as Piti Units No. 8 and No. 9 (two 45 megawatt baseload diesel electric generators and associated waste heat recovery boilers with a steam generator), with the following conditions:
      (i) Piti Units No. 8 and No. 9 shall not operate until final PSD permits are received for these units;
      (ii) Piti Units No. 8 and No. 9 shall not operate until they comply with all requirements of their PSD permits, including, if necessary, retrofitting with BACT;
      (iii) If either Piti Units No. 8 or No. 9 operate either prior to the issuance of a final PSD permit or without BACT equipment, the Piti Unit(s) shall be deemed in violation of this waiver and the CAA beginning on the date of commencement of construction of the unit(s).

§ 69.13 Title V conditional exemption.

(a) Conditional exemption. In response to a petition submitted by the Governor of Guam and pursuant to section 325(a) of the Clean Air Act (Act), the Administrator of the United States EPA (EPA) grants the following conditional exemptions:

(1) Guam is exempted from the requirement to develop, submit for approval, and implement an operating permit program under title V of the Clean Air Act on the condition that Guam meets the requirements of paragraph (b) of this section and subject to the provisions of paragraphs (c) through (e) of this section.

(2) Except for sources listed under paragraph (a)(4) of this section, owners or operators of sources located in Guam subject to the operating permit requirements of title V of the Clean Air Act are exempt from the requirement to apply for and obtain a title V operating permit, on the condition that the owner or operator of each such source must apply for and obtain an operating permit under an EPA approved alternate program that meets the requirements of paragraph (b) of this section and subject to the provisions of paragraphs (c) through (e) of this section. The owner or operator of each such source shall apply for and obtain a permit under the alternate operating permit program by the deadlines set forth in the approved program, but in any event shall obtain a permit no later than January 13, 2003. If the owner or operator of any source has not obtained an operating permit under an EPA approved alternate program approved by Guam by January 13, 2003, the exemption for such source shall expire and the owner or operator of such source shall become subject to the permitting requirements of 40 CFR part 71 on that date, consistent with paragraph (d)(4) of this section.

(3) Upon EPA approval of an alternate operating permit program adopted by Guam in accordance with this §69.13, a person shall not violate any permit condition or term in a permit that has been issued under such alternate permit program.

(4) This exemption does not apply to owners or operators of major sources of hazardous air pollutants (HAPs) as defined under section 112 of the Clean Air Act or to owners or operators of solid waste incinerators subject to the title...