§ 503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

(a) Eligibility. Section 212(a)(1) (A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify for such an exemption, a petitioner must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of these regulations;

(3) No alternate power supply exists, as required under § 503.8 of these regulations.

(b) Evidence required in support of a petition. The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations;

(4) Fuels search, as required under § 503.14 of these regulations;

(5) All data required by § 503.6 (cost calculation) of these regulations necessary for computing the cost calculation formula.

§ 503.34 Inability to comply with applicable environmental requirements.

(a) Eligibility. Section 212(a)(1)(C) of the Act provides for a permanent exemption due to the inability to comply with applicable environmental requirements. To qualify, a petitioner must demonstrate that despite good faith efforts:

(1) The petitioner will be unable within 5 years after beginning operation, to comply with the applicable prohibitions imposed by the Act without violating applicable Federal or state environmental requirements; and

(2) Reasonable alternative sites, which would permit the use of alternate fuels in compliance with applicable Federal or state environmental requirements, are not available.

Note: (1) For purposes of considering an exemption under this section, OFE's decision will be based solely on an analysis of the petitioner's capacity to physically achieve applicable environmental requirements. The cost of compliance is not relevant, but cost-related considerations may be presented as part of a demonstration submitted under § 503.32 (Lack of alternate fuel supply).

(2) Prior to deciding to submit an exemption petition, it is recommended that a petitioner request a meeting with OFE and EPA or the appropriate state or local regulatory agency to discuss options for operating an alternate fuel-fired facility in compliance with the applicable environmental requirements.

(b) Evidence required in support of the petition. A petitioner must include in the petition the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations; and

(4) Fuels search, as required under § 503.14 of these regulations.