List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Flags, Freedom of information, Government contracts, Government employees, Government property, Infants and children, Inventions and patents, Investigations, Parking, Penalties, Postal service, Privacy, Reporting and recordkeeping requirements, Seals and insignia, Security measures, Wages.

Approved: September 7, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 1 is amended as set forth below:

PART 1—GENERAL PROVISIONS

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

Authority: Sections 1.955 to 1.970 issued under 38 U.S.C. 3720(a)(4) and 5302; 5 U.S.C. 5584.

§ 1.783 [Amended]

2. In § 1.783, paragraph (l)(1)(i) is amended by removing ''$10,000'' and adding in lieu thereof ''$50,000''; and paragraph (l)(1)(ii) is amended by removing ''$50,000'' and adding in lieu thereof ''$100,000''.

[FR Doc. 95–23036 Filed 9–15–95; 8:45 am]

BILLING CODE 8320–01–P

38 CFR Parts 1 and 2

RIN 2900–AH69

Contract Appeals Board Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document removes the Department of Veterans Affairs (VA) regulations concerning ''APPEALS FROM DECISIONS OF CONTRACTING OFFICERS.'' These regulations concerned appeals to the VA Contract Appeals Board (VACAB). Prior to 1978, contract disputes were resolved by the VACAB. However, the VACAB was ''superseded'' and ''subsumed'' by the VA Board of Contract Appeals (VABCA). The VACAB's functions were to be phased-out. The last VACAB appeal was docketed in 1986, and the phase-out has been completed. Hence, the VACAB regulations are no longer needed.

EFFECTIVE DATE: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Patricia J. Sheridan, Counsel to the Chairman, VA Board of Contract Appeals, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420, (202)273–6743.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 553 there is a basis for dispensing with prior notice and comment and for dispensing with a 30-day delay of the effective date since this final rule concerns rules of agency organization, practice, or procedure. Additionally, under 5 U.S.C. there is good cause for dispensing with prior notice and comment and for dispensing with a 30-day delay of the effective date since the changes made by this document should not affect anyone and, consequently, prior procedures are impracticable, unnecessary, and contrary to the public interest.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule should not have an impact on any individual or entity. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

This regulatory action has been reviewed by the Office of Management and Budget under Executive Order 12866.

There is no Catalog of Federal Domestic Assistance number.

List of Subjects

38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Flags, Freedom of Information, Government contracts Government employees, Government property, Infants and children, Inventions and patents, Investigation, Parking, Penalties, Postal Service, Privacy Reporting and recordkeeping requirements, Seals and insignia Security measures, Wages

38 CFR Part 2

Authority delegations (Government agencies)

Approved: September 7, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR parts 1 and 2 are amended as follows:

PART 1—GENERAL PROVISIONS

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

Authority: Sections 1.955 to 1.970 issued under 38 U.S.C. 3720(a)(4) and 5302; 5 U.S.C. 5584.

§§ 1.770–1.776 [Removed]

2. The heading ''APPEALS FROM DECISIONS OF CONTRACTING OFFICERS'' and §§ 1.770 through 1.776 are removed.

PART 2—DELEGATIONS OF AUTHORITY

3. The authority citation for part 2 continues to read as follows:

Authority: 72 Stat. 1114; 38 U.S.C. 501, unless otherwise noted.

§ 2.5 [Amended]

4. In § 2.5, paragraph (b) is amended by removing ''and Contracts Appeals Board''.

§§ 2.62–2.65a [Removed]

5. Sections 2.62 through 2.65a are removed.

[FR Doc. 95–23037 Filed 9–15–95; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–5294–9]

Inspection/Maintenance Flexibility Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today's action revises the motor vehicle Inspection/Maintenance (I/M) Program Requirements. EPA announced its intent to amend the I/M Program Requirements in December 1994 and held stakeholders' meetings on January 24, 1995 and January 31, 1995. This action creates an additional, less stringent enhanced I/M performance standard which allows areas that can meet the 1990 Clean Air Act requirements for Reasonable Further Progress and attainment to implement an I/M program that falls below the originally promulgated enhanced I/M performance standard. Because the new low enhanced I/M performance standard eliminates the need for the special enhanced performance standard for El Paso, Texas, today's action repeals that special performance standard. This action also revises the high enhanced I/M performance standard to include a visual inspection of the positive crankcase ventilation (PCV) valve on all light-duty vehicles and light-duty trucks from model years 1968 to 1971, inclusive, and of the exhaust gas recirculation (EGR) valve on all light-duty vehicles and light-duty trucks from

model years 1972 through 1983, inclusive. The low enhanced performance standard contains similar testing requirements, which are necessary to ensure full compliance with the Clean Air Act's requirement that all federal performance standards for enhanced I/M programs be based upon a model program that includes, at a minimum, two inspections per subject vehicle: an emission inspection and a visual inspection. Today's action also changes the waiver cost requirements by extending the deadline for implementing the minimum expenditure to qualify for a waiver specified in the Clean Air Act; allowing the application of pre-inspection repairs toward meeting the waiver expenditure requirements under limited circumstances; allowing the cost of primary emission control components replaced by family or friends to apply toward the waiver cost requirement; and removing the bar against issuing hardship exemptions more than once per vehicle lifetime. EPA is also including revised regulatory language to change the population cutoff for basic I/M from 50,000 persons to 200,000 persons. Lastly, this rule makes clarifying amendments to the I/M requirements for areas undergoing redesignation. EPA will soon publish a separate Supplemental Notice of Proposed Rulemaking proposing an additional performance standard for attainment and moderate (with less than 200,000 population) ozone nonattainment areas not otherwise required to implement basic I/M programs in the Ozone Transport Region. That proposed standard is based on minimum statutory requirements for these particular areas and would afford them flexibility beyond that provided by this final action.

EFFECTIVE DATE: This rule will take effect on October 18, 1995.

ADDRESSES: Materials relevant to this rulemaking are contained in Public Docket No. A–95–08. The docket is located at the Air Docket, Room M–1500 (6102), Waterside Mall SW., Washington, DC 20460. The docket may be inspected between 8 a.m. to 4:30 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Eugene J. Tierney, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone (313) 668–4456.

SUPPLEMENTARY INFORMATION:

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II. Summary of Rule

Under the Clean Air Act as amended in 1990 (the Act), 42 U.S.C. 7401 *et seq.*, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** on November 5, 1992 (40 CFR part 51, subpart S) rules related to plans for Motor Vehicle Inspection and Maintenance (I/M) programs (hereafter referred to as the I/M rule, see 57 FR 52950). EPA published a notice of proposed rule making proposing changes to the I/M rule in the **Federal Register** on April 28, l995 (60 FR 20934). EPA today takes final action to revise the 1992 I/M rule to provide greater flexibility to states required to implement I/M programs.

Section 182 of the Act was prescriptive regarding the various elements that are required as part of an enhanced I/M performance standard. It also required that EPA provide states with flexibility in meeting the requirement for enhanced or basic I/M programs. States have requested additional flexibility in two areas: the timing of the Act's mandated minimum expenditure required to qualify for a waiver and a lower performance standard for areas that may not need an enhanced I/M program as effective as the one EPA adopted in 1992 to meet the Act's Reasonable Further Progress and attainment demonstration requirements. (These two standards are referred as the low enhanced and high enhanced performance standards, respectively.)

EPA is establishing an alternate, low enhanced I/M performance standard. This standard is designed for nonattainment areas that are required to implement enhanced I/M but which can obtain adequate emission reductions from other sources to meet emission reduction requirements, without the stringency of the high enhanced I/M performance standard. EPA will approve an enhanced I/M SIP meeting the low performance standard provided EPA has approved or is simultaneously approving the state's 1996 15% VOC reasonable further progress SIP and provided that the state's ozone or CO attainment SIP and its post-1996 VOC reasonable further progress SIPs have not been disapproved.

The low enhanced performance standard meets the Act's requirement that it be based on centralized, annual testing of light duty cars and trucks, and checks for tampering and exhaust emissions. Nevertheless, this standard can be met with a comprehensive decentralized, test-and-repair program.

EPA's opinion that states should have the flexibility to implement only the low enhanced I/M program if more is not needed to meet their air quality goals makes common sense for areas whose emissions affect only themselves. With respect to states in the Northeast Ozone Transport Region, however, there is the additional issue of the effect of one area's emissions on downwind areas' air quality, even if the first area's emissions result in achievement of all local goals for clean air. EPA believes that making the low enhanced performance standard available even within the OTR will result in needed reductions on both local and regional scales, while offering useful flexibility especially with respect to areas that themselves have no air quality problem. OTR states are required to submit attainment plans for their nonattainment areas, and these plans must address both local and transported emissions. In fact, EPA now believes that the low performance standard that EPA proposed and is finalizing today offers insufficient flexibility, in that it would require states to create all-new networks of emission testing stations in many cities currently without them, cities with no air quality problem of their own. EPA believes that the affected states will likely be able to find more cost-effective and publicly preferred ways to provide for region-wide attainment. However, EPA did not propose any more flexible policy for these areas, and cannot take final action at this time to provide more flexibility. Therefore, EPA will soon publish a Supplemental Notice of Proposed Rulemaking, which offers additional flexibility by proposing to establish a lower enhanced performance standard for qualified areas in the OTR. The Supplemental Notice will also explain the legal basis for this additional flexibility. The standard will allow attainment areas and marginal and moderate (with less than 200,000 population) ozone areas in the OTR, not otherwise required to implement basic I/M programs, to implement enhanced

programs which meet the requirements of the statute without establishing extensive emission test networks.

EPA published a Notice of Proposed Rulemaking (NPRM) on April 28, 1995 describing these and other proposed amendments to the I/M rule. Proposed changes in the waiver requirements, population cutoff for basic programs and requirements for basic areas which have been redesignated to attainment were designed to offer greater flexibility to the states in the implementation of their I/M programs. The NPRM also proposed the inclusion of visual checks as part of the test procedure for all vehicles subject to enhanced I/M. Readers should refer to the NPRM for a complete description of the background and rationale for the proposed amendments, which will not be restated here.

After receiving and considering public comment on the NPRM, EPA is today finalizing each of the proposed amendments as follows.

(1) EPA is establishing the alternative low enhanced performance standard.

(2) EPA is extending the deadline for the full implementation of the minimum expenditure required to be eligible for a waiver for both basic and enhanced I/M programs until January 1998. In the interim, a state can establish any minimum expenditure it chooses, as long as it accounts for the higher waiver rates that will occur between now and 1998 in its emission inventory forecasts in the Reasonable Further Progress plan.

(3) EPA is allowing states to include qualified repair cost expenditures that occur within 60 days of the initial test toward meeting the minimum waiver expenditure.

(4) Additionally, EPA is allowing the cost of specified emission control components replaced by persons other than recognized repair technicians to apply towards the waiver cost limit.

(5) EPA is deleting language from the November 5, 1992 I/M rule barring motorists from qualifying for more than one hardship exemption during the lifetime of a vehicle.

(6) EPA is adding a visual inspection of the positive crankcase ventilation (PCV) valve on all light-duty vehicles and light-duty trucks of model year 1968 through 1971, inclusive, and of the exhaust gas recirculation (EGR) valve on all light-duty vehicles and light-duty trucks of model year 1972 through 1983, inclusive to the high enhanced performance standard.

(7) In the proposed rule of April 28, 1995, EPA requested comment on whether or not it should change the minimum population cutoff for basic I/M programs. Based on the public comment received, EPA is revising the regulatory language in this rulemaking to increase the minimum threshold for basic I/M programs to 200,000 or more.

(8) Finally, EPA is clarifying the requirements for basic I/M areas that are eligible for redesignation to attainment. Consistent with EPA's original intent, EPA does not believe that a violation of the standard in an area that has been redesignated automatically requires the implementation or upgrade of an I/M program. EPA believes that, in the event of a violation, a state should have the flexibility to select whichever contingency measures are best suited to correcting the problem to bring the area to attainment as quickly as possible. The rule would continue to require, however, that such an upgraded basic I/M program be among the contingency measures from which the state will choose. Changes to remove extraneous language related to the requirements for an implementation schedule will also go into effect.

III. Authority

Authority for the action in this notice is granted to EPA by section 182 of the Clean Air Act as amended (42 U.S.C. 7401, *et seq.*).

IV. Public Participation

This section discusses the content of the most significant of the flexibility amendments, the submissions to the docket received during the comment period and EPA's response to those comments. Submissions were received from approximately 60 commenters including state governments and agencies, industry, environmental organizations and other organizations. Copies of the original comments can be obtained in their entirety for a reasonable copying fee from the docket for this rule. The docket also includes a complete Response to Comments document for this rule. Substantial comments were received on each of the amendments and were fully addressed in that document.

A. Low Enhanced Performance Standard

1. Summary of Proposal

EPA proposed to establish an alternate, less stringent I/M performance standard called the low enhanced performance standard. This low enhanced standard is designed for areas which are required to implement enhanced programs but which do not have a major mobile source component to the air quality problem, or which can obtain adequate reductions from other sources to meet the 15% VOC reduction requirement and demonstrate attainment.

The low enhanced standard differs from the original standard, now referred to as the high enhanced performance standard, in that it allows for idle testing. Although the standard is based on an annual, test-only network this can also be met with a biennial, test-and-repair network.

2. Summary of Comments

Commenters generally supported the notion of flexibility and the proposed low enhanced option, although most believe that it does not offer enough flexibility. The thrust of these comments was that the proposed flexibility will not be a viable option for most areas because credit discounts for test-and-repair networks and other mandated requirements preclude most states from implementing programs which they believe to be equivalent to required programs. One comment asked for clarification of an apparent inconsistency between the summary and the proposed rule: whether the low enhanced standard can be applied if attainment goals are met for either CO and/or ozone or both CO and ozone.

Several commenters strongly opposed the proposed low enhanced standard, claiming that it is inconsistent with Clean Air Act section 182(c)(3)(C)(vi), which mandates EPA to require centralized networks unless states can demonstrate equivalency of decentralized networks. They argue that these programs will be less effective and will result in failure to meet attainment goals. Comments were also made that EPA is mandated to establish ''a'' performance standard and that to establish more than one is contrary to law.

3. Response to Comments

EPA has designed this flexibility specifically for those areas which either do not have a major mobile source component to their air pollution problem or which do not require I/M programs which achieve substantial reductions in automotive emissions to achieve air quality goals. To lower the standard any further and make it available to more enhanced I/M areas by granting inappropriately large credits to test-and-repair programs would undermine the goals of I/M and the Clean Air Act. While the Act requires certain program parameters to ensure programs are both effective and enforceable, EPA is mandated to ensure that these programs meet their intended goals. EPA maintains that it offers the states flexibility to do so by making a case-by-case assessment of program

effectiveness and assigning credits accordingly. EPA is, in fact, in the process of doing this with two test-and-repair states. EPA believes that to allow more credit for test-and-repair networks than is scientifically justified by the available data or make vital requirements optional would lead to failed programs and attainment goals. EPA supports its credit assessment for test-and-repair networks later in this document.

EPA believes that the low enhanced performance standard is consistent with the Act's requirement that a program be based on a centralized network unless the state demonstrates that a decentralized program is equally effective. EPA believes that low enhanced programs that opt for the decentralized network can make such a demonstration with the MOBILE5a model and a comprehensive program which includes annual testing of heavy duty vehicles, pressure testing, and full anti-tampering programs. EPA also maintains that the Act in no way bars it from establishing multiple performance standards. This is not a new interpretation, but rather one which EPA took in the case of El Paso which was subject to an alternate standard under the original I/M rule.

To clarify the apparent inconsistency between the summary and the rule: low enhanced I/M may be implemented only in those states that can meet all of the 1990 Clean Air Act requirements for Reasonable Further Progress (RFP) for ozone and attainment for both ozone and carbon monoxide, if the area is required to implement enhanced I/M for both pollutants. If an area is required to implement enhanced I/M for only one pollutant (regardless of a requirement to implement basic I/M for the other pollutant), then low enhanced may be implemented if RFP and attainment requirements are met for that pollutant.

B. Extended Deadline for Implementing the $450 Waiver

1. Summary of Proposal

The original I/M rule requires that for enhanced programs, states must implement the $450 minimum expenditure to qualify for a waiver when the I/M program starts in 1995.

EPA proposed to postpone full implementation of the enhanced I/M waiver requirement until January 1, 1998, to allow states time to reach the long-term goals of the Clean Air Act. This action aims to provide the short term regulatory relief states have been requesting and would give states additional time to develop programs to assist low-income vehicle owners to repair their vehicles.

Some states are in the process of developing programs to mitigate the impact of I/M-related repair costs on low-income motorists. Such efforts have generally involved either granting low-income motorists time extensions of up to one full test cycle (per the November 5, 1992 rule), repair subsidy programs for individuals on some form of public assistance, or scrappage programs for low value, high emitting vehicles. Repair subsidy and scrappage based efforts tend to vary most in the area of funding mechanism. In some programs, mitigation efforts are funded by way of late fees collected from motorists who have missed their scheduled testing deadline; in others, revenue is generated by allowing new car buyers to pay a on-time ''mitigation fee'' which exempts them from the first scheduled inspection. EPA is willing to work with states that wish to develop other creative ways to deal with the issue of repair costs for low-income motorists.

2. Summary of Comments

Comments were divided on the issue of whether EPA should extend the deadline for implementing the $450 waiver. Most of the parties unsatisfied by EPA's proposal argued that a CPI (Consumer Price Index) adjustment of the $450 waiver expenditure would increase the repair cost minimum to between $600–650 when the full waiver requirement would be implemented in 1998, leading to public acceptance problems. With respect to this issue, two parties made the following recommendations: The EPA was urged to allow states to maintain their current minimum waiver amounts until 1998, at which time the phase-in would begin. Once $450 was applied as the limit during 1998, the minimum waiver amount would be adjusted annually based on the CPI with 1998 as the base year. Another commenter asked for revision of the rule language to clearly state that the often-referenced CPI-adjusted $450 amount would be likely to exceed $600 in 1998. One comment claimed that lost credit would occur from extending the waiver and this would have to be made up elsewhere. Another commenter queried why EPA was still interested in identifying high emitters through enhanced test programs when the amendment would mean that individuals would not be required to make all the necessary repairs.

The general thrust of comments supporting the rule focused on the additional flexibility this amendment would give states to phase in the $450 minimum expenditure waiver and implement hardship waiver programs. One comment suggested that the additional time would allow states to work on building public acceptance of the program and improve technician training. Another comment supported the extension of the deadline but suggested that CPI adjustments be applied only to the full minimum expenditure waiver amount no sooner than one full test cycle following final implementation.

3. Response to Comments

For emissions-related repairs not covered by warranty, the Clean Air Act very clearly requires a minimum expenditure of $450 for vehicles to qualify for a waiver. It is also very clear that the waiver limit is to be adjusted annually based on the Consumer Price Index, with a base year of 1989. As the preamble to the original I/M rule states, (page 52964, **Federal Register**), EPA will annually notify states of the adjusted amount.

It is not the EPA's intention that states begin the phase-in in 1998. EPA maintains that states have more than enough flexibility to begin the phase-in now to maintain a minimal increment by 1998. EPA believes that the enhanced I/M program should be fully implemented by 1998, including the CPI adjusted $450 waiver, to enable areas to achieve the reductions contemplated by the program prior to the attainment deadline for serious areas (i.e., 11/15/99). Should areas need reductions between now and 1998 to meet reasonable further progress requirements, they would have to achieve them from other programs should they choose to delay full implementation of the $450 waiver amount.

EPA believes that the extension of the waiver deadline will give states the opportunity to improve technician training so that by 1998 the majority of vehicles would be repaired for well below the CPI-adjusted $450 minimum waiver amount. The additional time will also give states ample opportunity to set up hardship programs for low-income vehicle owners and scrappage programs for vehicles that are not economical to repair.

To clarify the apparent misunderstanding regarding the proposed amendment's effect on repairs: I/M programs will continue as scheduled, motorists will still be required to repair their vehicles, and real emissions reductions will be achieved. However, the minimum waiver amount will depend on the cost limit prescribed by the state's phase-in

program and the levels of emissions reductions will depend upon what waiver rates result.

C. Population Requirements for Basic I/M

1. Summary of Proposal

EPA requested comment on whether it should change the minimum population cut-off for basic I/M programs. Currently, basic I/M programs are required in moderate ozone and carbon monoxide non-attainment areas with a 1990 Census-defined population of 50,000 or more. EPA considered raising this threshold to 200,000 or more.

2. Summary of Comments

The majority of responses to the proposed amendment were generally supportive. Some commenters indicated that the issue did not affect them since they were in the OTR (Ozone Transport Region) and therefore required enhanced testing regardless of whether or not the population cut-off was increased. Many of the commenters who supported the change did so with a proviso: that the rule be applied only to areas that were not currently included in I/M and that were in moderate attainment areas. Two parties indicated that the proposed amendment should only apply if an area can demonstrate that the absence of I/M would not impact downwind areas. A few supported the change because they viewed it as added flexibility for the states.

Commenters opposed to the amendment suggested that EPA had not offered a reasonable explanation for this change and that areas with less than 200,000 people deserved clean air protection. They argued that the amendment would only serve to encourage states to opt-out of OTR to avoid compliance.

3. Response to Comments

EPA proposed this amendment to grant states further flexibility in designing I/M programs to meet local needs. Areas under 200,000 population which are still in nonattainment are required to achieve whatever ozone reductions are needed to meet reasonable further progress or attainment requirements. While exempted from the mandatory basis I/M requirement under this amendment, such areas would have to achieve those reductions from other programs, or implement an I/M program, at the state's discretion.

EPA concludes that the 200,000 population cut-off for basic programs is authorized by the Act because sections 182(a)(2)(B)(i) and 182(b)(4) require implementation only of an I/M program no less stringent than that required under pre-1990 EPA I/M guidance. EPA's pre-1990 I/M guidance required implementation of basic I/M programs only in urbanized areas of 200,000 population. It is true that some moderate areas would not be required to implement I/M programs if their population were under 200,000, despite the fact that section 182(b)(4) requires a basic I/M program in all moderate areas. However, the basic program that is required is a program that applies only to areas of 200,000 or more population. The issue of whether Congress meant to expand the geographic scope of basic I/M programs by requiring them in all moderate areas was presented to the court in litigation on the 1992 I/M rules. The court ruled that the statutory language ''does not, in our view, compel the conclusion that Congress sought silently to alter any preexisting exclusions for basic I/M programs, particularly when Congress explicitly incorporated the preexisting guidance by reference.'' Further, the court concluded that ''the requirement that states submit implementation plans for those moderate areas not covered in the previous statute does not by its term affect the scope of I/M programs *within* those areas''. *Natural Resources Defense Council, Inc.* v. *EPA*, 22 F.3d 1125, 1141–2. Consequently, EPA believes that although basic I/M programs are required for all moderate areas, they need only be implemented in urbanized areas with populations of 200,000 or more within such moderate areas.

Basic I/M is prescribed to solve local problems. Questions arising from the transport of ozone and CO downwind across state boundaries may be answered by referring to section 184 of the Clean Air Act.

As to the effects on OTR areas, states will not be encouraged to opt out to avoid compliance. Rather, the SNPRM discussed previously outlines the OTR-low enhanced performance standard which gives states more flexibility and incentive to remain in the OTR.

D. Test-and-Repair Discount and Program Equivalency

1. Summary of the Issue

Although today's action does not address the credit allowances for test-and-repair networks and the question of equivalency with test-only networks, the issue has become a point of contention as some states seek more flexibility in program design. A notable quantity of the comments received on today's rulemaking dealt expressly with this issue.

2. Summary of Comments

Commenters in support of the default discount stressed that SIP credits must be based on real quantifiable emissions reductions and that they supported the default discount and would also support data that showed an even greater discount for a test-and-repair network. Another commenter strongly supported the default discount, adding that the undisputed performance disadvantage of ''test-and repair'' systems should persuade EPA to keep the current credit structure. Another group commented that their independent data analysis of two states, one with a test-only system and one with a test-and-repair system, showed conclusively that the test-and-repair system was achieving significantly less emission reductions than the test-only system and that the default discount used by the EPA accurately reflected the loss of emission reductions for the test-and-repair system.

Commenters opposed to the default discount claimed that test-only I/M does not work as well as EPA claims and that test-and-repair programs are unfairly discounted by their comparison to an inflated estimate of test-only effectiveness. Some commenters added that past performance has shown that test-and-repair could be as effective as test-only and should be credited accordingly. The California I/M Review Committee was frequently cited along with studies by Georgia Tech, and others as scientific evidence that the audit data upon which EPA studies were based was somehow flawed.

3. Response to Comments

It should first be noted that in the original I/M rule EPA had proposed granting ''provisional equivalency'' to test-and-repair programs for purposes of initial SIP submission and approval, requiring program evaluation to assure that programs meet the performance standard. Comments by state agencies and others at that time were compelling and strongly against provisional equivalency. They argued that because both state and EPA evidence showed that test-and-repair programs were inferior to test-only programs, in terms of emissions reductions, it would be inadequate and probably illegal for EPA to grant them full credit. They suggested that to grant provisional equivalency without proven success would be irresponsible and would allow ineffective and costly programs to continue while air quality improvement would suffer. EPA acknowledged these

comments and eliminated provisional equivalency from the final I/M rule. Nevertheless, EPA included provisions in the final rule allowing states to make demonstrations based on local data that test-and-repair was more effective than the national default credits.

EPA's default discount for test-and-repair services is based on the best data from a broad set of indicators and across many programs. Cited studies have not shown evidence that would cause EPA to revoke the default discount. The most comprehensive study of test-and-repair effectiveness was conducted by the California I/M Review Committee in the early 1990s and showed that despite aggressive enforcement, the use of advanced technology, and a huge outlay of government oversight, the program still did not achieve more than half of what a test-only program could achieve. While EPA continues to believe that the default discount is appropriate as a national estimate when there is no local data to prove another level, EPA is willing to consider local data to determine whether it supports a higher or lower credit. EPA believes the I/M rule allows it to give prospective credit based on a retrospective analysis of such local data. EPA is working with Utah and Virginia at this time to analyze local data in an attempt to establish program specific credits.

EPA received only minor comment on all other proposals in the NPRM for this rule. A summary of those comments and of EPA's response may be found in the Response to Comments document included in the docket for this rule.

Based upon the public comment received and a reasoned analysis, EPA is proceeding with the adoption of each of the proposed amendments with no substantive changes.

V. Administrative Requirements

A. Administrative Designation

It has been determined that these amendments to the I/M rule are a significant regulatory action under the terms of Executive Order 12866 and are therefore subject to OMB review.

However, it does not create an annual effect on the economy of $100 million or more or otherwise adversely affect the economy or the environment. Any impacts associated with these revisions do not constitute additional burdens when compared to the existing I/M requirements published in the **Federal Register** on November 5, 1992 (57 FR 52950). It is not inconsistent with nor does it interfere with actions by other agencies. It does not alter budgetary impacts of entitlements or other programs, and it does not raise any new or unusual legal or policy issues.

B. Reporting and Recordkeeping Requirement

There are no information requirements in this final rule which require the approval of the Office of Management and Budget under the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities and, therefore, is not subject to the requirement of a Regulatory Impact Analysis. A small entity may include a small government entity or jurisdiction. A small government jurisdiction is defined as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' This certification is based on the fact that the I/M areas impacted by the rulemaking do not meet the definition of a small government jurisdiction, that is, ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' Furthermore, the impact created by the action does not increase the pre-existing burden which this final rule seeks to amend.

D. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule.

To the extent that the rules being promulgated by this action would impose any mandate as defined in Section 101 of the Unfunded Mandates Act upon the state, local, or tribal governments, or the private sector, as explained above, this rule is not estimated to impose costs in excess of $100 million. Therefore, EPA has not prepared a statement with respect to budgetary impacts. As noted above, this rule offers opportunities to states that would enable them to lower economic burdens from those resulting from the currently existing I/M rule.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Transportation.

Dated: September 6, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 51 of title 40 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. Section 51.350 is amended by revising paragraphs (a)(4), (a)(6), (a)(7), (a)(8), (a)(9) and (b)(4) and by removing and reserving paragraph (a)(5) to read as follows:

§ 51.350 Applicability.

* * * * *

(a) * * *

(4) Any area classified as moderate ozone nonattainment, and not required to implement enhanced I/M under paragraph (a)(1) of this section, shall implement basic I/M in any 1990 Census-defined urbanized area with a population of 200,000 or more.

(5) [Reserved]

(6) If the boundaries of a moderate ozone nonattainment area are changed pursuant to section 107(d)(4)(A)(i)-(ii) of the Clean Air Act, such that the area includes additional urbanized areas with a population of 200,000 or more, then a basic I/M program shall be implemented in these additional urbanized areas.

(7) If the boundaries of a serious or worse ozone nonattainment area or of a moderate or serious CO nonattainment area with a design value greater than 12.7 ppm are changed any time after enactment pursuant to section 107(d)(4)(A) such that the area includes additional urbanized areas, then an enhanced I/M program shall be implemented in the newly included 1990 Census-defined urbanized areas, if the 1980 Census-defined urban area population is 200,000 or more.

(8) If a marginal ozone nonattainment area, not required to implement enhanced I/M under paragraph (a)(1) of this section, is reclassified to moderate, a basic I/M program shall be implemented in the 1990 Census-defined urbanized area(s) with a

population of 200,000 or more. If the area is reclassified to serious or worse, an enhanced I/M program shall be implemented in the 1990 Census-defined urbanized area, if the 1980 Census-defined urban area population is 200,000 or more.

(9) If a moderate ozone or CO nonattainment area is reclassified to serious or worse, an enhanced I/M program shall be implemented in the 1990 Census-defined urbanized area, if the 1980 Census-defined population is 200,000 or more.

(b) * * *

(4) In a multi-state urbanized area with a population of 200,000 or more that is required under paragraph (a) of this section to implement I/M, any state with a portion of the area having a 1990 Census-defined population of 50,000 or more shall implement an I/M program. The other coverage requirements in paragraph (b) of this section shall apply in multi-state areas as well.

* * * * *

3. Section 51.351 is amended by revising paragraphs (a) introductory text, and (b), by removing and reserving paragraph (e) and by adding paragraphs (f) and (g) to read as follows:

§ 51.351 Enhanced I/M performance standards.

(a) Enhanced I/M programs shall be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm), achieved from highway mobile sources as a result of the program. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model or an alternative model approved by the Administrator, and shall meet the minimum performance standard both in operation and for SIP approval. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas subject to enhanced I/M and subject areas in the Ozone Transport Region, the performance standard must be met for both oxides of nitrogen (NO_X) and volatile organic compounds (VOCs), except as provided in paragraph (d) of this section.

* * * * *

(b) *On-road testing.* The performance standard shall include on-road testing of at least 0.5% of the subject vehicle population, or 20,000 vehicles whichever is less, as a supplement to the periodic inspection required in paragraphs (f) and (g) of this section. Specific requirements are listed in § 51.371 of this subpart.

(e) [Reserved].

* * * * *

(f) *High Enhanced Performance Standard.* Except as provided in paragraph (g) of this section, the model program elements for the enhanced I/M performance standard shall be as follows:

(1) *Network type.* Centralized testing.

(2) *Start date.* For areas with existing I/M programs, 1983. For areas newly subject, 1995.

(3) *Test frequency.* Annual testing.

(4) *Model year coverage.* Testing of 1968 and later vehicles.

(5) *Vehicle type coverage.* Light duty vehicles, and light duty trucks, rated up to 8,500 pounds Gross Vehicle Weight Rating (GVWR).

(6) *Exhaust emission test type.* Transient mass-emission testing on 1986 and later model year vehicles using the IM240 driving cycle, two-speed testing (as described in appendix B of this subpart S) of 1981–1985 vehicles, and idle testing (as described in appendix B of this subpart S) of pre-1981 vehicles is assumed.

(7) *Emission standards.* (i) Emission standards for 1986 through 1993 model year light duty vehicles, and 1994 and 1995 light-duty vehicles not meeting Tier 1 emission standards, of 0.80 gpm hydrocarbons (HC), 20 gpm CO, and 2.0 gpm NO_X;

(ii) Emission standards for 1986 through 1993 light duty trucks less than 6000 pounds gross vehicle weight rating (GVWR), and 1994 and 1995 trucks not meeting Tier 1 emission standards, of 1.2 gpm HC, 20 gpm CO, and 3.5 gpm NO_X;

(iii) Emission standards for 1986 through 1993 light duty trucks greater than 6000 pounds GVWR, and 1994 and 1995 trucks not meeting the Tier 1 emission standards, of 1.2 gpm HC, 20 gpm CO, and 3.5 gpm NO_X;

(iv) Emission standards for 1994 and later light duty vehicles meeting Tier 1 emission standards of 0.70 gpm HC, 15 gpm CO, and 1.4 gpm NO_X;

(v) Emission standards for 1994 and later light duty trucks under 6000 pounds GVWR and meeting Tier 1 emission standards of 0.70 gpm HC, 15 gpm CO, and 2.0 gpm NO_X;

(vi) Emission standards for 1994 and later light duty trucks greater than 6000 pounds GVWR and meeting Tier 1 emission standards of 0.80 gpm HC, 15 gpm CO and 2.5 gpm NO_X;

(vii) Emission standards for 1981–1985 model year vehicles of 1.2% CO, and 220 gpm HC for the idle, two-speed tests and loaded steady-state tests (as described in appendix B of this subpart S); and

(viii) Maximum exhaust dilution measured as no less than 6% CO plus carbon dioxide (CO_2) on vehicles subject to a steady-state test (as described in appendix B of this subpart S); and

(viii) Maximum exhaust dilution measured as no less than 6% CO plus carbon dioxide (CO_2) on vehicles subject to a steady-state test (as described in appendix B of this subpart S).

(8) *Emission control device inspections.* (i) Visual inspection of the catalyst and fuel inlet restrictor on all 1984 and later model year vehicles.

(ii) Visual inspection of the positive crankcase ventilation valve on 1968 through 1971 model years, inclusive, and of the exhaust gas recirculation valve on 1972 through 1983 model year vehicles, inclusive.

(9) *Evaporative system function checks.* Evaporative system integrity (pressure) test on 1983 and later model year vehicles and an evaporative system transient purge test on 1986 and later model year vehicles.

(10) *Stringency.* A 20% emission test failure rate among pre-1981 model year vehicles.

(11) *Waiver rate.* A 3% waiver rate, as a percentage of failed vehicles.

(12) *Compliance rate.* A 96% compliance rate.

(13) *Evaluation date.* Enhanced I/M program areas shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_X shall be the same as for ozone.

(g) *Alternate Low Enhanced I/M Performance Standard.* An enhanced I/M area which is either not subject to or has an approved State Implementation Plan pursuant to the requirements of the Clean Air Act Amendments of 1990 for Reasonable Further Progress in 1996, and does not have a disapproved plan for Reasonable Further Progress for the period after 1996 or a disapproved plan for attainment of the air quality standards for ozone or CO, may select the alternate low enhanced I/M performance standard described below in lieu of the standard described in paragraph (f) of this section. The model program elements for this alternate low enhanced I/M performance standard are:

(1) *Network type.* Centralized testing.

(2) *Start date*. For areas with existing I/M programs, 1983. For areas newly subject, 1995.

(3) *Test frequency*. Annual testing.

(4) *Model year coverage*. Testing of 1968 and newer vehicles.

(5) *Vehicle type coverage*. Light duty vehicles, and light duty trucks, rated up to 8,500 pounds GVWR.

(6) *Exhaust emission test type*. Idle testing of all covered vehicles (as described in Appendix B of Subpart S).

(7) *Emission standards*. Those specified in 40 CFR Part 85, Subpart W.

(8) *Emission control device inspections*. Visual inspection of the positive crankcase ventilation valve on all 1968 through 1971 model year vehicles, inclusive, and of the exhaust gas recirculation valve on all 1972 and newer model year vehicles.

(9) *Evaporative system function checks*. None.

(10) *Stringency*. A 20% emission test failure rate among pre-1981 model year vehicles.

(11) *Waiver rate*. A 3% waiver rate, as a percentage of failed vehicles.

(12) Compliance rate. A 96% compliance rate.

(13) Evaluation date. Enhanced I/M program areas subject to the provisions of this paragraph shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_x shall be the same as for ozone.

4. Section 51.360 is amended by revising the introductory text and paragraphs (a)(1), (a)(5), (a)(6), (a)(7) introductory text, (a)(9) and (b) to read as follows:

§ 51.360 Waivers and compliance via diagnostic inspection.

The program may allow the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards, as long as the prescribed criteria described below are met.

(a) * * *

(1) Waivers shall be issued only after a vehicle has failed a retest performed after all qualifying repairs have been completed. Qualifying repairs include repairs of the emission control components, listed in paragraph (a)(5) of this section, performed within 60 days of the test date.

* * * * *

(5) General repairs shall be performed by a recognized repair technician (i.e., one professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair, or possessing nationally recognized certification for emission-related diagnosis and repair) in order to qualify for a waiver. I/M programs may allow the cost of parts (not labor) utilized by non-technicians (e.g., owners) to apply toward the waiver limit. The waiver would apply to the cost of parts for the repair or replacement of the following list of emission control components: oxygen sensor, catalytic converter, thermal reactor, EGR valve, fuel filler cap, evaporative canister, PCV valve, air pump, distributor, ignition wires, coil, and spark plugs. The cost of any hoses, gaskets, belts, clamps, brackets or other accessories directly associated with these components may also be applied to the waiver limit.

(6) In basic programs, a minimum of $75 for pre-81 vehicles and $200 for 1981 and newer vehicles shall be spent in order to qualify for a waiver. These model year cutoffs and the associated dollar limits shall be in full effect no later than January 1, 1998. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the basic I/M performance standard.

(7) Beginning on January 1, 1998, enhanced I/M programs shall require the motorist to make an expenditure of at least $450 in repairs to qualify for a waiver. The I/M program shall provide that the $450 minimum expenditure shall be adjusted in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index of 1989. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the relevant enhanced I/M performance standard.

* * * * *

(9) A time extension, not to exceed the period of the inspection frequency, may be granted to obtain needed repairs on a vehicle in the case of economic hardship when waiver requirements have not been met. After having received a time extension, a vehicle must fully pass the applicable test standards before becoming eligible for another time extension. The extension for a vehicle shall be tracked and reported by the program.

(b) *Compliance via diagnostic inspection*. Vehicles subject to a transient IM240 emission test at the cutpoints established in §§ 51.351 (f)(7) and (g)(7) of this subpart may be issued a certificate of compliance without meeting the prescribed emission cutpoints, if, after failing a retest on emissions, a complete, documented physical and functional diagnosis and inspection performed by the I/M agency or a contractor to the I/M agency show that no additional emission-related repairs are needed. Any such exemption policy and procedures shall be subject to approval by the Administrator.

* * * * *

5. Section 51.372 is amended by revising paragraphs (c) introductory text, (c)(3), (c)(4), and (e) to read as follows:

§ 51.372 State implementation plan submissions.

* * * * *

(c) *Redesignation requests*. Any nonattainment area that EPA determines would otherwise qualify for redesignation from nonattainment to attainment shall receive full approval of a State Implementation Plan (SIP) submittal under Sections 182(a)(2)(B) or 182(b)(4) if the submittal contains the following elements:

* * * * *

(3) A contingency measure consisting of a commitment by the Governor or the Governor's designee to adopt or consider adopting regulations to implement an I/M program to correct a violation of the ozone or CO standard or other air quality problem, in accordance with the provisions of the maintenance plan.

(4) A contingency commitment that includes an enforceable schedule for adoption and implementation of the I/M program, and appropriate milestones. The schedule shall include the date for submission of a SIP meeting all of the requirements of this subpart. Schedule milestones shall be listed in months from the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Unless the state, in accordance with the provisions of the maintenance plan, chooses not to implement I/M, it must submit a SIP revision containing an I/M program no more than 18 months after notification by EPA.

* * * * *

(e) *SIP submittals to correct violations*. SIP submissions required pursuant to a violation of the ambient ozone or CO standard (as discussed in paragraph (c) of this section) shall address all of the requirements of this subpart. The SIP shall demonstrate that performance standards in either

§ 51.351 or § 51.352 shall be met using an evaluation date (rounded to the nearest January for carbon monoxide and July for hydrocarbons) seven years after the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Emission standards for vehicles subject to an IM240 test may be phased in during the program but full standards must be in effect for at least one complete test cycle before the end of the 5-year period. All other requirements shall take effect within 24 months of the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. The phase-in allowances of § 51.373(c) of this subpart shall not apply.

[FR Doc. 95–23106 Filed 9–15–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 69

[FRL–5296–9]

Special Exemptions From Requirements of the Clean Air Act for the Territory of Guam

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

ACTION: Direct final rulemaking.

SUMMARY: On July 14, 1995, the Governor of Guam filed a petition (''Petition'') with the Administrator seeking a waiver of certain Clean Air Act (''CAA'') requirements which apply to Guam Power Authority (''GPA''). The Petition was filed under Section 325(a) of the CAA. The waiver will help to ease a severe energy emergency on Guam. Based upon the information in the Petition and supplementary information from GPA and the Guam Environmental Protection Agency (''GEPA''), EPA is granting the waiver requested. EPA finds that there is good cause for a direct final rulemaking and that notice and public procedures are impracticable, unnecessary, and contrary to the public interest.

The waiver allows, with certain conditions, one baseload diesel electric generating facility to operate at the Cabras Power Plant prior to the receipt of a final Prevention of Significant Deterioration (''PSD'') permit by GPA. The waiver also allows the construction, but not operation, of a second baseload diesel unit at the Cabras Power Plant prior to GPA's receipt of a final PSD permit.

EFFECTIVE DATE: This direct final rule is effective September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Norman Lovelace, Chief, Office of Pacific Islands and Native American Programs (E–4), Office of External Affairs, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105. Telephone: (415) 744–1599.

SUPPLEMENTARY INFORMATION:

Background

The Petition was submitted by Governor Gutierrez of Guam to the Administrator of EPA in a letter dated July 14, 1995. It is accompanied by supporting documentation, including newspaper accounts describing traffic safety, water supply, and political problems caused by the significant electrical energy shortage on Guam. The Petition incorporates an air quality analysis, based upon computer modeling, which demonstrates the effects of the waiver upon air quality, particularly in the offshore direction, from the generating facilities involved.

The Petition seeks a waiver of certain CAA requirements for the operation and construction by GPA of two baseload diesel electric generators. Both units are part of the Cabras Power Plant. The first facility involved is designated as Cabras Unit No. 3. This forty megawatt diesel generator was constructed, pursuant to 40 CFR 69.11(a)(1), prior to GPA's receipt of a final PSD permit. (This unit is designated Cabras Diesel No. 1 in 40 CFR 69.11(a)(1). Its designation has been changed since the 1993 promulgation of that rule.) The Petition asks EPA to waive CAA requirements as necessary to allow operation of Cabras Unit No. 3, subject to conditions, prior to receipt of a final PSD permit by GPA.

The waiver describes two conditions accompanying the operation of Cabras Unit No. 3. First, during operations under the waiver a lower sulfur fuel oil will be fired in the Cabras Power Plant and in the adjacent Piti Power Plant during certain periods. These power plants operate under a fuel switching intermittent control strategy, and the sulfur-in-fuel reduction in the waiver application applies to operations under offshore wind conditions. Second, the waiver will last only until August 15, 1996, or until issuance of a final PSD permit to GPA for this unit, whichever occurs first.

The Petition also seeks a waiver of CAA requirements as necessary to allow GPA to construct a second forty megawatt baseload unit at the Cabras Power Plant. This facility is designated as Cabras Unit No. 4. The waiver application seeks to allow construction of Cabras Unit No. 4 prior to a receipt by GPA of a PSD permit. Cabras Unit No. 4 will not operate prior to receipt of final PSD permit.

Guam has experienced a longstanding shortage of electrical energy, repeatedly leading to rotating blackouts of areas of the island. The background to this energy shortage is described in the 1993 waiver proceeding before EPA. 50 FR 15579, 15580. The Petition describes how the 1993 energy shortage has continued despite a substantial capital development program by GPA, and in some respects has grown worse. The energy shortage was created originally because of very rapid growth in energy demand due to increased residential electrical consumption and a boom in tourism. The Petition describes how energy shortfalls are now exacerbated as a result of substantial facility outages caused by equipment failures.

As EPA noted in the 1993 waiver proceeding, Guam is an isolated island. 58 FR 13580. GPA generates almost all electric power used on the island (other than power generated by the United States Navy). Unlike power authorities on the mainland United States, GPA does not have the option of purchasing power from other sources. Guam is, and must remain, self sufficient with regard to energy generation.

The Petition states that Guam's energy shortfall has worsened in recent months because of facility outages caused by planned and unplanned maintenance requirements. The longstanding nature of the energy shortage has required GPA to use its existing facilities at peak capacity for several years. GPA has also deferred planned maintenance, when safety considerations have allowed, to permit units to remain in service. Because of the length of time which has elapsed since the beginning of the emergency, the result is now substantially reduced reliability of GPA's electric generating units. The Petition describes several significant and unplanned recent maintenance outages.

The construction and operation of additional, reliable baseload generating units will enable GPA to satisfy electrical demand with an appropriate margin of safety, while at the same time allowing for planned maintenance outages of generating units. Once sufficient baseload capacity exists and can be operated, routine, as well as unplanned blackouts on the island will be ended. Cabras Units Nos. 3 and 4 are such baseload units.

The Petition states that Cabras Unit No. 3 will be ready to begin operation and electrical generation on approximately August 15, 1995. The building which houses Cabras Unit No.