

## § 1003.77

and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may solicit and accept submissions from third persons relevant to any petition provided that the petitioner is afforded an opportunity to respond to all third person submissions. In evaluating a petition, the OHA may consider any other source of information. The OHA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the petition.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the OHA may dismiss the petition without prejudice. If the failure to supply additional information is repeated or willful, the OHA may dismiss the petition with prejudice. If the petitioner fails to provide the notice required by §1003.74, the OHA may dismiss the petition without prejudice.

(b)(1) The OHA will dismiss without prejudice a "Petition for Special Redress or Other Relief" if it determines that another more appropriate proceeding is provided by this part.

(2) The OHA will dismiss with prejudice a "Petition for Special Redress or Other Relief" filed by a person who has exhausted his administrative remedies with respect to any proceeding provided by this part, and received a final order therefrom that addresses the same issue or transaction.

### § 1003.77 Decision and Order.

(a) Upon consideration of the petition and other relevant information received or obtained during the proceeding, the OHA will issue a Decision and Order granting or denying the petition.

(b) The Decision and Order denying or granting the petition shall include a written statement setting forth the relevant facts and legal basis for the Decision and Order. Such Decision and Order shall state that it is a final order of the DOE of which the petitioner may seek judicial review.

## 10 CFR Ch. X (1-1-06 Edition)

### PART 1004—FREEDOM OF INFORMATION

#### Sec.

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AUTHORITY: 5 U.S.C. 552.

SOURCE: 53 FR 15661, May 3, 1988, unless otherwise noted.

#### § 1004.1 Purpose and scope.

This part contains the regulations of the Department of Energy (DOE) that implement 5 U.S.C. 552, Pub. L. 89-487, as amended by Pub. L. 93-502, 88 Stat. 1561, by Pub. L. 94-409, 90 Stat. 1241, and by Pub. L. 99-570, 100 Stat. 3207-49. The regulations of this part provide information concerning the procedures by which records may be requested from all DOE offices, excluding the Federal Energy Regulatory Commission (FERC). Records of the DOE made available pursuant to the requirements of 5 U.S.C. 552 shall be furnished to members of the public as prescribed by this part. Persons seeking information or records of the DOE may find it helpful to consult with a DOE Freedom of Information Officer before invoking the formal procedures set out below. To the extent permitted by other laws, the DOE will make records available which it is authorized to withhold under 5 U.S.C. 552 whenever it determines that such disclosure is in the public interest.

#### § 1004.2 Definitions.

As used in this part:

(a) *Appeal Authority* means the Office of Hearings and Appeals.

(b) *Authorizing or Denying Official* means that DOE officer as identified by the Directorate of Administration by separate directive, having custody of or