

## Department of Energy

## § 501.34

advisable. OFE will, however, place in the public file a record of any conference.

### § 501.33 Request for a public hearing.

(a) *New facilities.* In the case of a petition for an exemption under title II of FUA, any interested person may submit a written request that OFE convene a public hearing in accordance with section 701 of FUA no later than forty-five (45) days after publication of either the Notice of Acceptance of a petition, or in the case of a certification exemption, the publication of the Notice of Acceptance of Certification. This time period may be extended at the discretion of OFE.

(b) *Existing powerplants.* In the case of a petition for an exemption from a prohibition imposed by a final rule or order issued by OFE to an electing powerplant under former sections of title III of FUA or a petition for a permit under §504.1, any interested person may submit a written request that OFE convene a public hearing in accordance with section 701 of FUA within 45 days after the notice of the filing of a petition is published in the FEDERAL REGISTER. In the case of a proposed prohibition rule or order issued to an electing powerplant under former section 301, the 45 day period in which to request a public hearing shall commence upon the publication of the Notice of Availability of the Tentative Staff Analysis. In the case of a proposed prohibition order to be issued to certifying powerplants under section 301 of FUA, as amended, the 45 day period in which to request a public hearing commences upon publication of the Notice of Acceptance of Certification. This time limit may be extended at the discretion of OFE in accordance with §501.7.

(c) *Contents of request.* A request for a public hearing must be in writing and must include a description of the requesting party's interest in the proceeding and a statement of the issues involved. The request should, to the extent possible, identify any witnesses that are to be called, summarize the anticipated testimony to be given at

the hearing, and outline questions that are to be posed.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3269 (42 U.S.C. 8301 *et seq.*); Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35); E.O. 12009, 42 FR 46267, Sept. 15, 1977)

[46 FR 59889, Dec. 7, 1981, as amended at 47 FR 50848, Nov. 10, 1982; 54 FR 52892, Dec. 22, 1989]

### § 501.34 Public hearing.

(a) A public hearing under this subsection is for the purpose of insuring that all issues are fully and properly developed, but is not a formal adjudicatory hearing subject to the provisions of 5 U.S.C. 554 and 556.

(b) *Opportunity to be heard at a public hearing.* (1) Any interested person, may request, and OFE will provide, an opportunity to present oral or written data, views and arguments at a public hearing on any proposed prohibition rule or order, or on any petition for an exemption or permit. An interested person may file a request to be listed as a party to a hearing on the service list prepared by the Presiding Officer pursuant to §501.34(d) of this part.

(2) Participants at the public hearing will have an opportunity to present oral or written data, views and arguments.

(3) A request for a public hearing may be withdrawn by the requestor at any time. If other persons have requested to participate as parties in the public hearing, OFE may cancel the hearing only if all parties agree to cancellation. OFE will give notice, whenever possible, in the FEDERAL REGISTER of the cancellation of any hearings for which there has been prior notice.

(c) *Presiding Officer.* OFE will appoint a Presiding Officer to conduct the public hearing.

(d) *Powers of the Presiding Officer.* The Presiding Officer is responsible for orderly conduct of the hearing and for certification of the record of the public hearing. The Presiding Officer will not prepare any recommended findings, conclusions, or any other recommendations for disposition of a particular