

## Department of Energy

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be furnished to the potential petitioner within thirty (30) days after the conference. Copies of all applicable memoranda of record must be attached to any subsequently-filed petition.

(d) A record of all prepetition conferences will be included in the public file. OFE may provide for the taking of a formal transcript of the conference and the transcript will be included in the public file.

[46 FR 59889, Dec. 7, 1981, as amended at 54 FR 52891, Dec. 22, 1989]

### § 501.3 Petitions.

(a) *Filing of petitions.* Petitions for exemptions are to be filed with OFE at the address given in § 501.11.

(b) *Acceptance of petition.* (1) Upon acceptance (as distinguished from filing) of the petition, OFE shall publish in the FEDERAL REGISTER a Notice of Acceptance of Petition or, in the case of an exemption by certification, a Notice of Acceptance and Availability of Certification, signifying that an exemption proceeding has commenced.

(2) OFE will notify each petitioner in writing within thirty (30) days of receipt of the petition that it has been accepted or rejected and, if rejected, the reasons therefor.

(3) A petition, including supporting documents, will be accepted if the information contained appears to be sufficient to support an OFE determination. Additional information may be requested during the course of the proceeding, and failure to respond to such a request may ultimately result in denial of the requested exemption.

(4) Acceptance of petition does not constitute a determination that the requested exemption will be granted.

(c) *Rejection of petition.* (1) OFE will reject a petition if it does not meet the information of certification requirements established for the relevant exemptions under parts 503 and 504 of this chapter. A written explanation of the reasons for rejection will be furnished with notification of the rejection.

(2) A timely-filed petition rejected as inadequate will not be rendered untimely if resubmitted in amended form within ninety (90) days of the date of rejection.

(3) OFE will, within thirty (30) days of receipt of a petition that is found to

be incomplete due to minor deficiencies, notify the petitioner of the deficiencies and allow ninety (90) days from the date of notification to cure the specified deficiencies. The failure to cure the deficiencies during this time may result in denial of the requested exemption.

(d) *Waiver of filing requirements.* Upon its own motion or at the request of a petitioner, OFE may waive some or all of the regulatory requirements if the purposes of FUA would be best achieved by doing so.

### §§ 501.4–501.5 [Reserved]

### § 501.6 Service.

(a) DOE will serve all orders, notices interpretations or other documents that it is required to serve, personally or by mail, unless otherwise provided in these regulations.

(b) DOE will consider service upon a petitioner's duly authorized representative to be service upon the petitioner.

(c) Service by mail is effective upon mailing.

[54 FR 52891, Dec. 22, 1989]

### § 501.7 General filing requirements.

Except as indicated otherwise, all documents required or permitted to be filed with OFE or DOE in connection with a proceeding under parts 503 and 504 shall be filed in accordance with the following provisions:

(a) *Filing of documents.* (1) Documents including, but not limited to, applications, requests, complaints, petitions (including petitions for exemption), and other documents submitted in connection therewith, filed with OFE are considered to be filed upon receipt.

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, an application for modification or rescission in accordance with subpart G of this part, a reply to a notice of violation, a response to a denial of a claim of confidentiality, or a comment submitted in connection with any proceeding transmitted by registered or certified mail and addressed to the appropriate office is considered to be filed upon mailing.

(3) *Timeliness.* Documents are to be filed with the appropriate DOE or OFE office listed in § 501.11. Documents that

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are to be considered filed upon receipt under paragraph (a)(1) of this section and that are received after regular business hours are deemed filed on the next regular business day. Regular business hours are 8 a.m. to 4:30 p.m.

(4) *Computation of time.* In computing any period of time prescribed or allowed by FUA, these regulations or by an order, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a Federal legal holiday.

(5) *Additional time after service by mail.* Whenever a person is required to perform an act, to cease and desist therefrom, or to initiate a proceeding under this part within a prescribed period of time and the order, notice, interpretation or other document is served by mail, three (3) days shall be added to the prescribed period.

(6) *Extension of time.* When a document is required to be filed within a prescribed time, an extension of time to file may be granted upon good cause shown.

(7) *Signing.* All applications, petitions, requests, comments, and other documents that are required to be signed, shall be signed by the person filing the document or a duly authorized representative. Any application, petition, request, complaint, or other document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless an OFE form otherwise requires. (A false certification is unlawful under the provisions of 18 U.S.C. 1001 (1970).)

(8) *Labeling.* An application, petition, or other request for action by DOE or OFE should be clearly labeled according to the nature of the action involved, e.g., "Petition for Temporary Exemption;" "Petition for Extension (or Renewal) of Temporary Exemption," both on the document and on the outside of the envelope in which the document is transmitted.

(9) *Obligation to supply information.* A person who files an application, peti-

tion, complaint, or other request for action is under a continuing obligation during the proceeding to provide DOE or OFE with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, complaint, or request for action that is subsequently filed by that person with any DOE office or OFE office.

(10) *The same or related matters.* In filing a petition or other document requesting OFE action, the person must state whether, to the best of his knowledge, the same or a related issue, act or transaction has been or presently is being considered or investigated by a DOE office, other Federal agency, department or instrumentality, or a State or municipal agency.

(11) *Request for confidential treatment.*

(i) If any person filing a document with DOE or OFE claims that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552); is information referred to in 18 U.S.C. 1905; or is otherwise exempt by law from public disclosure, and if such person requests DOE or OFE not to disclose such information, such person shall make a filing in accordance with paragraph (b)(2) of this section. The person shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for non-disclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If a document is not so filed, OFE may assume that there is no objection to public disclosure of the document in its entirety, unless the person subsequently files a claim of confidentiality prior to public disclosure of the document.

(ii) DOE or OFE retains the right to make its own determination with regard to any claim of confidentiality.

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Notice of the decision by DOE or OFE to deny such claim, in whole or in part, and an opportunity to respond or take other appropriate action to avoid release shall be given to a person claiming confidentiality of information no less than seven (7) days prior to its public disclosure.

(iii) The above provisions in paragraphs (a)(11) (i) and (ii) of this section do not apply to information submitted on OFE forms that contain their own instructions concerning the treatment of confidential information.

(12) *Separate applications, petitions or requests.* Each application, petition, or request for DOE or OFE action shall be submitted as a separate document, even if the applications, petitions, or requests deal with the same or a related issue, act, or transaction, or are submitted in connection with the same proceeding.

(b) *Number of documents to be filed.* (1) A petitioner must file an executed original and fourteen (14) copies of all exemption requests submitted to DOE. For certification requests, an original and three (3) copies shall be submitted.

(2) Where the petitioner requests confidential treatment of some or all of the information submitted, an original and eleven (11) copies of the confidential document and three (3) copies of the document with confidential material deleted must be filed.

[46 FR 59889, Dec. 7, 1981, as amended at 47 FR 15314, Apr. 9, 1982; 54 FR 52891, Dec. 22, 1989]

### § 501.8 [Reserved]

### § 501.9 Effective date of orders or rules.

(a) When OFE issues a rule or order imposing a prohibition or granting an exemption (or permit) under FUA, the rule or order will be effective sixty (60) days after publication in the FEDERAL REGISTER, unless it is stayed, modified, suspended or rescinded.

(b) If the appropriate State regulatory authority has not approved a powerplant for which a petition has been filed, such exemption, to the extent it applies to the prohibition under section 201 of FUA against construction without the capability of using coal or another alternate fuel, shall

not take effect until all approvals required by such State regulatory authority which relate to construction have been obtained.

[54 FR 52891, Dec. 22, 1989]

### § 501.10 Order of precedence.

If there is any conflict or inconsistency between the provisions of this part and any other provisions or parts of this chapter, except for general procedures which are unique to part 515 of this chapter, the provisions of this part will control respect to procedure.

[54 FR 52891, Dec. 22, 1989]

### § 501.11 Address for filing documents.

Send all petitions, self-certifications and written communications to the following address: Office of Fossil Energy, Office of Fuels Programs, Coal and Electricity Division, Mail Code FE-52, 1000 Independence Avenue, SW., Washington, DC 20585.

[54 FR 52891, Dec. 22, 1989]

### § 501.12 Public files.

DOE will make available at the Freedom of Information reading room, room 1E190, 1000 Independence Avenue SW., Washington, DC for public inspection and copying any information required by statute and any information that OFE determines should be made available to the public.

[54 FR 52891, Dec. 22, 1989]

### § 501.13 Appeal.

There is no administrative appeal of any final administrative action to which this part applies.

### § 501.14 Notice to Environmental Protection Agency.

A copy of any proposed rule or order that imposes a prohibition, order that imposes a prohibition, or a petition for an exemption or permit, shall be transmitted for comments, if any, to the Administrator and the appropriate Regional Administrator of the Environmental Protection Agency (EPA). The Administrator of EPA shall be given the same opportunity to comment and question as is given other interested persons.

[54 FR 52891, Dec. 22, 1989]