

§ 501.61

(b) If the petition is for an extension of a temporary exemption, the petitioner must apply for this extension at least (90) days prior to the expiration of the temporary exemption.

(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 50849, Nov. 10, 1982; 54 FR 52892, Dec. 22, 1989]

§ 501.61 Certification contents.

(a) A self-certification filed under section 201(d) of FUA should include the following information:

- (1) Owner's name and address.
- (2) Operator's name and address.
- (3) Plant location and address.
- (4) Plant configuration (combined cycle, simple cycle, topping cycle, etc.)
- (5) Design capacity in megawatts (MW).
- (6) Fuel(s) to be used by the new facility.
- (7) Name of utility purchasing electricity from the proposed facility and percent of total output to be sold.
- (8) Date unit is expected to be placed in service.
- (9) Certification by an officer of the company or his designated representative certifying that the proposed facility:
 - (i) Has sufficient inherent design characteristics to permit the addition of equipment (including all necessary pollution devices) necessary to render such electric powerplant capable of using coal or another alternate fuel as its primary energy source; and
 - (ii) Is not physically, structurally, or technologically precluded from using coal or another alternate fuel as its primary energy source.

(b) A self-certification filed pursuant to § 501.61(a) shall be effective to establish compliance with the requirement of section 201(a) of FUA as of the date filed.

(c) OFE will publish a notice in the FEDERAL REGISTER within fifteen days reciting that the certification has been filed. Publication of this notice does

10 CFR Ch. II (1-1-10 Edition)

not serve to commence a public comment period.

(d) OFE will notify the owner or operator within 60 days if supporting documentation is needed to verify the certification.

[54 FR 52892, Dec. 22, 1989]

§ 501.62 Petition contents.

(a) A petition for exemption should include the following information:

- (1) The name of the petitioner;
- (2) The name and location of the unit for which an exemption is being requested;
- (3) The specific exemption(s) being requested; and
- (4) The name, address, and telephone number of the person who can supply further information.

(b) *Table of contents.* Include only those sections contained in the petition.

(c) *Introduction.* Include the following:

- (1) Description of the facility under consideration;
- (2) Description of the unit and fuel the petitioner proposes to burn in that unit, including the purpose of and need for the unit; and
- (3) Description of the operational requirements for the unit, including size (capacity, input and output in millions of Btu's per hour), output in terms of product or service to be supplied, fuel capability, and operating mode, including capacity factor, utilization factor, and fluctuations in the load.

(d) *General requirements.* The evidence required under part 503 subpart B for each exemption(s) for which the petitioner is applying:

- (1) No alternate power supply (§ 503.8);
- (2) Use of mixtures (§ 503.9);
- (3) Alternative site (§ 503.11);
- (4) Compliance Plan (§ 503.12);
- (5) Environmental impact analysis (§ 503.13);
- (6) Fuels search (§ 503.14).

(e) *Specific evidence.* Evidence required for each exemption, segregated by exemption (part 503 subparts C and D).

(f) *References.* (1) Specify the reports, documents, experts, and other sources consulted in compiling the petition. Cite these sources in accordance with acceptable documentation standards,

Department of Energy

§ 501.63

and indicate the part of the petition to which they apply. If the source is unusual or little known, briefly describe its contents.

(2) Identify at the end of each section of the petition any information or any statement based, in whole or in part, on information or principles which, to petitioner's knowledge, represent significant innovations to or departures from generally accepted facts or principles.

(g) *Appendices.* Include in the appendices material which the petitioner believes substantiates any analyses fundamental to the petition, materials prepared in connection with it, and any other documents, studies, or analyses which are believed to be relevant to the decision to be made. Also, include in the appendices copies of any forms submitted as part of the petition.

(h) *List of preparers.* List the names with the qualifications and professional credentials of the principal contributors to the preparation of the petition. Indicate the sections or subject matters for which each principal contributor was responsible.

(i) *Incorporation by reference.* Pertinent information may be incorporated into the petition by reference when this can be done without impeding agency and public review. Referenced materials must be specifically identified and their contents briefly described in the petition. To incorporate by reference, the material must be submitted with the petition, or if previously submitted, the office to which it was submitted must be identified in the petition. The petitioner cannot incorporate by reference material based on proprietary data not available to OFE for review.

(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 50849, Nov. 10, 1982]

§ 501.63 Notice of the commencement of an administrative proceeding on an exemption petition.

(a)(1) When a petition is accepted, OFE will publish in the FEDERAL REGISTER a Notice of Acceptance, or, in the case of a certification exemption, a Notice of Acceptance and Availability of Certification, signifying that an exemption proceeding has commenced. The notice will include a summary of the exemption petition, and publication will commence a public comment period of no less than forty-five (45) days during which interested parties may file written comments concerning the petition. In the case of a certification exemption, interested persons may request a public hearing during this period, pursuant to § 501.33.

(2) OFE will notify the appropriate State agency having apparent primary authority to permit or regulate the construction or operation of a powerplant that an exemption proceeding has commenced and will consult with this agency to the maximum extent practicable. Copies of all accepted petitions also will be forwarded to EPA, as provided in § 501.14(a).

(b) In processing an exemption petition, OFE shall comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's implementing regulations, and the DOE guidelines implementing those regulations (45 FR 20694, Mar. 28, 1980). Compliance with NEPA may involve the preparation of (1) an environmental impact statement (EIS) evaluating the grant or denial of an exemption petition, (2) an environmental assessment (EA), or (3) a memorandum to the file finding that the grant of the requested petition would not be considered a major federal action significantly affecting the quality of the human environment. If an EIS is required, OFE will publish in the FEDERAL REGISTER a Notice of Intent (NOI) to prepare an EIS as soon as practicable after commencement of the proceeding. A public meeting may be held pursuant to 40 CFR 1501.7 to solicit comments or suggestions on the structure and content of the EIS.

[46 FR 59889, Dec. 7, 1981, as amended at 54 FR 52893, Dec. 22, 1989]