

Department of Energy

§ 501.60

from any information contained in the record of the proceeding, that the certification does not meet the requirements of section 301 of the Act, as amended, or §§ 504.5, 504.6, and 504.8 of these regulations. If OFE terminates the proceeding or publishes a final Notice of Non-Concurrence, or the proposed order recipient fails to submit a complete certification, OFE will notify the proposed order recipient and other parties to the proceeding and publish a notice in the FEDERAL REGISTER. In such event, the proposed order recipient may submit a new certification under any provision of section 301 of the Act, as amended, at a later date. Specifically, a Notice of Non-Concurrence under either section 301(b) or 301(c) shall not affect a proposed order recipient's ability to make a certification under the other subsection.

(c) *Record and decision to issue a final order.* (1) OFE will base its determination to issue an order on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(2) OFE shall include in the final order a written statement of the basis upon which the final order is issued, and its concurrence in the required certification. A copy of the final order and a summary of the basis therefor will be published in the FEDERAL REGISTER. While the prohibition order is final for purposes of judicial review under section 702 of FUA, the prohibitions contained in the final order shall not become effective for purposes of amendment under section 301(d) of FUA, as amended, and § 501.52(d) of these regulations until the effective date of the prohibitions stated in the order, or, where the order is subject to one or more conditions subsequent listed in the prohibition order compliance schedule, until all its conditions are met.

(d) *Amendment to certifications under §§ 504.5 and 504.6.* The proposed prohibition order recipient may amend its compliance schedule under § 504.5(d), or its certification under section 301 of FUA, as amended, and §§ 504.5, 504.6 and 504.8 of these regulations in order to take into account changes in relevant facts and circumstances at any time

prior to the effective date of the prohibitions contained in the final prohibition order.

(e) *Rescission of prohibition orders.* The rescission or modification of final prohibition orders issued to existing electric powerplants will be governed by the procedure in § 501.101 of these regulations.

(Approved by the Office of Management and Budget under control number 1903-0077)

(Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7101 *et seq.*; Energy Supply and Environmental Coordination Act of 1974, Pub. L. 93-319, as amended by Pub. L. 94-163, Pub. L. 95-70, and Pub. L. 95-620, 15 U.S.C. 719 *et seq.*; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, as amended by Pub. L. 97-35, 42 U.S.C. 8301 *et seq.*; Omnibus Budget Reconciliation Act of 1981, (Pub. L. 97-35))

[47 FR 17042, Apr. 21, 1982]

§§ 501.53-501.56 [Reserved]

Subpart F—Exemptions and Certifications

§ 501.60 Purpose and scope.

(a) (1) If the owner or operator plans to construct a new baseload powerplant and the unit will not be in compliance with the prohibition contained in section 201(a) of FUA, this subpart establishes the procedures for filing a petition requesting a temporary or permanent exemption under, respectively, sections 211 and 212 of FUA.

(2) Self-certification alternative. If the owner or operator plans to construct a new baseload powerplant not in compliance with the prohibitions contained in section 201(a) of FUA, this subpart establishes the procedures for the filing of a self-certification under section 201(d) of FUA.

(3) If the petitioner owns, operates or controls a new powerplant, this subpart provides the procedures for filing a petition requesting extension of a temporary exemption granted under sections 211 or 311 of FUA.

(4) If the petitioner owns, operates or controls a new or existing powerplant or MFBI, this subpart provides the procedures for filing a petition requesting extension of a temporary exemption granted under section 211 or section 311 of FUA.

§ 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 (1-1-06 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,