

**PART 744—[AMENDED]**

■ 3. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of October 29, 2003, 68 FR 62209, 3 CFR, 2003 Comp., p. 347; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

■ 4. Section 744.3 is amended by revising the section heading and paragraphs (a), (b) and (d) to read as follows:

**§ 744.3 Restrictions on Certain Rocket Systems (including ballistic missile systems and space launch vehicles and sounding rockets) and Unmanned Air Vehicles (including cruise missile systems, target drones and reconnaissance drones) End-Uses.**

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export, reexport, or transfer (in-country) an item subject to the EAR, without a license if at the time of the export, reexport or transfer you know the item:

(1) Will be used in the design, development, production or use of rocket systems or unmanned air vehicles capable of a range of at least 300 kilometers in or by a country listed in Country Group D:4 of Supplement No. 1 to part 740 of the EAR.

(2) Will be used, anywhere in the world, in rocket systems or unmanned air vehicles, regardless of range capabilities, for the delivery of chemical, biological, or nuclear weapons; or

(3) Will be used in the design, development, production or use of any rocket systems or unmanned air vehicles in or by a country listed in Country Group D:4, but you are unable to determine:

(i) The characteristics (*i.e.*, range capabilities) of the rocket systems or unmanned air vehicles, or

(ii) Whether the rocket systems or unmanned air vehicles, regardless of range capabilities, will be used in a manner prohibited under paragraph (a)(2) of this section.

**Note to paragraph (a) of this section:** For the purposes of this section, “Rocket Systems” include, but are not limited to,

ballistic missile systems, space launch vehicles, and sounding rockets. Also, for the purposes of this section, “unmanned air vehicles” include, but are not limited to, cruise missile systems, target drones and reconnaissance drones.

(b) *Additional prohibition.* BIS may inform, either individually, by specific notice, or generally through amendment to the EAR, that a license is required for a specific export, reexport or transfer of specified items to a certain end-user, anywhere in the world, because there is an unacceptable risk of use in or diversion to activities described in paragraphs (a)(1) or (a)(2) of this section. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. However, the absence of any such notification does not excuse non-compliance with the license requirements of paragraphs (a)(1), (a)(2), or (a)(3) of this section.

\* \* \* \* \*

(d) *License Review Standards.* (1) Applications to export, reexport or transfer the items subject to this section will be considered on a case-by-case basis to determine whether the export, reexport or transfer would make a material contribution to the proliferation of certain rocket systems, or unmanned air vehicles. When an export, reexport or transfer is deemed to make a material contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on an application required by this section:

(i) The specific nature of the end use;

(ii) The significance of the export, reexport or transfer in terms of its contribution to the design, development, production or use of certain rocket systems or unmanned air vehicles;

(iii) The capabilities and objectives of the rocket systems or unmanned air vehicles of the recipient country;

(iv) The nonproliferation credentials of the importing country;

(v) The types of assurances or guarantees against design, development, production, or use for certain rocket system or unmanned air vehicle delivery purposes that are given in a particular case; and

(vi) The existence of a pre-existing contract.

Dated: October 27, 2004.

**Peter Lichtenbaum,**

*Assistant Secretary for Export Administration.*

[FR Doc. 04–24857 Filed 11–5–04; 8:45 am]

**BILLING CODE 3510–33–P**

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**DEPARTMENT OF ENERGY**
**Federal Energy Regulatory Commission**
**18 CFR Part 375**

[Docket No. RM04–13–000]

**Delegations of Authority**

Issued November 1, 2004.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission is amending its regulations governing delegations of authority to reflect a recent internal reorganization. The change is necessary to transfer certain authority to the official now responsible for the affected functions.

**EFFECTIVE DATE:** The rule will become effective November 8, 2004.

**FOR FURTHER INFORMATION CONTACT:** Wilbur Miller, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8953.

**SUPPLEMENTARY INFORMATION:**

Before Commissioners: Pat Wood, III, Chairman; Nora Mead Brownell, Joseph T. Kelliher, and Suedeem G. Kelly.

**Delegations of Authority; Docket No. RM04–13–000; Order No. 650; Final Rule**

1. This final rule revises the Federal Energy Regulatory Commission’s (Commission) regulations governing delegations of authority to reflect a recent internal reorganization. The changes will become effective immediately.

2. The Commission’s Division of Regulatory Audits has been moved from the Office of the Executive Director (OED) to the Office of Market Oversight and Investigations (OMOI). It has been renamed the Division of Financial Audits (DFA). Among DFA’s duties are financial audits, in which it reviews the accounting records and financial statements of jurisdictional companies to determine if they are complying with requirements of the Uniform Systems of Accounts and related Regulations of the Commission. DFA also performs other types of audits, in which it reviews the

performance of a program, activity, or function in order to provide information to improve public accountability and facilitate decision-making by parties with responsibility to oversee or initiate corrective action.

3. The transfer of DFA to OMOI requires several revisions to the delegations made by the Commission to the Director of OMOI, which are found at 18 CFR 375.314. The changes are as follows:

- The phrase “non-financial” has been deleted from references to “non-financial audits” or “non-financial auditing” in subsections (i) and (k).
- Subsection (j) is being revised to include the authority to pass upon actual legitimate original cost and depreciation thereon, and net investment in jurisdictional companies under the conditions contained in that provision.
- New subsection (1) is being added to allow the Director of OMOI to approve corrective measures with regard to billing errors, where the company agrees.

Parallel revisions are being made to delete these authorities from the Executive Director’s delegations, contained in 18 CFR 375.312.

4. In addition, the Commission’s Division of Regulatory Accounting Policy has been moved from OED to the Office of Markets, Tariffs and Rates. Accounting Policy currently is headed by the Commission’s Chief Accountant. The Commission’s regulations, at 18 CFR 375.303, already contain several delegations made directly to the Chief Accountant; these delegations remain unchanged, although they are being renumbered in this rule. The following delegations are being added to § 375.303 to reflect the move from OED:

- The ability to sign correspondence relating to financial matters is added in new subsection (a).
- New subsection (b) is being added to include the authority to pass upon actual legitimate original cost and depreciation thereon, and net investment in jurisdictional companies under the conditions contained in that provision.
- New subsection (h) is being added to include the authority to pass upon requests for waiver under parts 352 and 356, except in matters that are controversial or involve unusually large transactions.

As with the changes related to OMOI, parallel changes are being made to delete these authorities from the Executive Director’s delegations.

#### Information Collection Statement

5. The Office of Management and Budget’s (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule. 5 CFR part 1320. This final rule contains no information reporting requirements and thus is not subject to OMB approval.

#### Environmental Analysis

6. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>1</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included is an exemption for procedural, ministerial or internal administrative actions.<sup>2</sup> This rulemaking is exempt under that provision.

#### Regulatory Flexibility Act Certification

7. The Regulatory Flexibility Act of 1980 (RFA)<sup>3</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This final rule concerns a matter of internal agency procedure and the Commission therefore certifies that it will not have such an impact. An analysis under the RFA is not required.

#### Document Availability

8. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC’s home page (<http://www.ferc.gov>) and in FERC’s Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

9. From FERC’s home page on the Internet, this information is available in the Commission’s document management system, eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

<sup>1</sup> Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990, ¶ 30,783 (Dec. 10, 1987) (*codified at* 18 CFR part 380).

<sup>2</sup> 18 CFR 380.4(1) and (5).

<sup>3</sup> 5 U.S.C. 601–612.

10. User assistance is available for eLibrary and the FERC’s Web site during normal business hours. For assistance, please contact FERC Online Support at 1–866–208–3676 (toll free) or 202–502–6652 (e-mail at [FERCOnlineSupport@FERC.gov](mailto:FERCOnlineSupport@FERC.gov)), or the Public Reference Room at 202–502–8371, TTY 202–502–8659 (e-mail at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov)).

#### Effective Date and Congressional Notification

11. In accordance with 5 U.S.C. 553(d)(3), the Commission finds that good cause exists to make this final rule effective immediately upon issuance. This rule affects only matters of internal organization. It will have no impact upon the rights of outside parties. The Commission further finds that a period for public comment on this rule is unnecessary. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of internal agency procedure and will not significantly affect regulated entities or the general public.

12. The provisions of 5 U.S.C. 801 regarding Congressional review of final rules do not apply to this final rule, because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

#### List of Subjects in 18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

By the Commission.

**Linda Mitry**,  
Deputy Secretary.

■ In consideration of the foregoing, the Commission amends part 375, chapter I, title 18, Code of Federal Regulations, as follows.

#### PART 375—THE COMMISSION

■ 1. The authority citation for part 375 continues to read as follows:

**Authority:** 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

■ 2. Section 375.303 is amended by redesignating paragraphs (a) through (e) as paragraphs (c) through (g), and by adding new paragraphs (a), (b), and (h) as follows:

**§ 375.303 Delegations to the Chief Accountant.**

The Commission authorizes the Chief Accountant or the Chief Accountant's designee to:

(a) Sign all correspondence with respect to financial accounting and reporting matters on behalf of the Commission.

(b) Pass upon actual legitimate original cost and depreciation thereon and the net investment in jurisdictional companies and revisions thereof.

\* \* \* \* \*

(h) Deny or grant, in whole or in part, requests for waiver of the requirements of parts 352 and 356 of this chapter, except if the matters involve unusually large transactions or unique or controversial features, the Chief Accountant must present the matters to the Commission for consideration.

**§ 375.312 [Amended]**

■ 3. Section 375.312 is amended by removing paragraphs (a) through (e), and by redesignating paragraphs (f) through (n) as paragraphs (a) through (i).

**§ 375.314 [Amended]**

■ 4. Section 375.314 is amended by removing the phrase "non-financial" from paragraphs (i) and (k), and by revising paragraph (j) and adding new paragraph (l) to read as follows:

**§ 375.314 Delegations to the Director of the Office of Market Oversight and Investigations.**

\* \* \* \* \*

(j) Pass upon actual legitimate original cost and depreciation thereon and the net investment in jurisdictional companies and revisions thereof, and sign audit reports involving jurisdictional companies,

(1) If the company agrees with the audit report, or

(2) If the company does not agree with the audit report, provided that any notification of the opportunity for a hearing required under Section 301(a) of the Federal Power Act or Section 8(a) of the Natural Gas Act accompanies the audit report.

\* \* \* \* \*

(l) With regard to billing errors noted as a result of the Commission staff's examination of automatic adjustment tariffs approved by the Commission, approve corrective measures, including recomputation of billings and refunds, to the extent the company agrees.

[FR Doc. 04-24813 Filed 11-5-04; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[R05-OAR-2004-IN-0004; FRL-7820-4]

**Approval and Promulgation of Implementation Plans; Indiana**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to volatile organic compound (VOC) requirements for Eli Lilly and Company (Eli Lilly) for a facility which it owns and operates in Marion County, Indiana. On February 11, 2004, the Indiana Department of Environmental Management (IDEM) submitted a Commissioner's Order requesting the revision as an amendment to the Indiana State Implementation Plan (SIP). The February 11, 2004 submission supplements a December 19, 2001 submission.

Eli Lilly owns and operates a synthesized pharmaceutical manufacturing facility in Marion County. This SIP revision covers new and existing sources in Eli Lilly's Building 110 pilot plant. Eli Lilly is seeking an exemption from 326 Indiana Administrative Code (IAC) 8-5-3, control requirements for synthesized pharmaceutical manufacturing, under the site-specific reasonably available control technology (RACT) rule, 326 IAC 8-1-5. Eli Lilly is seeking this exemption for reactors, filters, centrifuges, and vacuum dryers at Building 110. Other Building 110 sources, such as air dryers, in-process tanks, and storage tanks, comply with 326 IAC 8-5-3. The total VOC annual emissions from Building 110 are limited to less than 10 tons per year (TPY).

**DATES:** This rule is effective on January 7, 2005, unless the EPA receives relevant adverse written comments by December 8, 2004. If adverse comment is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit comments, identified by Docket ID No. R05-OAR-2004-IN-0004 by one of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

E-mail: [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).

Fax: (312) 886-5824.

Mail: You may send written comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR-18J),

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: J. Elmer Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. R05-AR-2004-N-0004.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. The Federal [regulations.gov](http://regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

**Docket:** All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at Environmental Protection