have a significant effect on purchasing and wheeling utilities. EEI states, for example, that a change in the maximum net power production capacity of a QF can affect utility obligations regarding the amount of power to be purchased and the amount of backup and maintenance power that the utility must provide to the QF; that a location change can affect a utility's point of interconnection with the QF, as well as a utility's transmission and distribution system requirements; or that a change in the QF's fuel could affect the facility's performance and reliability.

Southern California Edison is concerned that some of the proposed pre-authorized changes (*i.e.*, changes with regard to site, thermal load, fuel use, plant size, cogeneration thermal host or prime-mover technology) may result in a new QF project and may have a significant effect on a contracting utility. It urges the Commission to delete these changes from the Commission's list of automatically approved, pre-certified changes.<sup>42</sup>

Southern Companies is concerned about the effects that a change in location may have on utility planning, and on transmission and distribution systems, in the absence of adequate notice to the utility. Detroit Edison points out that a change in location of a QF may affect the local utility's ability to accommodate the facility, especially since the Commission's pre-authorized change proposal seems to contemplate that a QF may move from the service territory of one utility to that of another, or even move from one state to another.

On the other hand, Tenaska suggests that the Commission's list of automatically approved, pre-certified changes should be even more expansive. It proposes that the Commission permit a change in power generation equipment whenever there is no material or substantial change in capacity or operating characteristics of the facility. Tenaska also urges that the Commission extend to coal, other fossil fuels, and waste the pre-authorized changes permitted for oil and natural gas usage by a cogeneration facility.

American Cogen and Electric Generation Association propose additional pre-approvals: (a) For changes within an existing corporate structure; (b) for changes in the equity interests (to ensure that the facility continues to comply with the ownership requirements of § 292.206); and (c) for changes in the steam host that do not affect levels of thermal output or the operating and efficiency values of the facility.

EEI recommends that the Commission clarify that a self-certified cogenerator or small power producer also may file a notice of self-recertification with regard to the Commission's pre-authorized changes and that such minor changes will not result in a self-certified facility's losing its qualifying status.<sup>43</sup>

Commission Response: In consideration of the comments, the Commission will adopt the proposed rule with the modifications discussed below. The Commission will preauthorize ownership changes within a corporate family that do not affect the ultimate upstream derivative ownership in the facility (§ 292.207(a)(2)(i)(A)).44 The Commission will also pre-authorize changes in the steam host when there is no change in the thermal application or process (§ 292.207(a)(2)(i)(M)), and extend its pre-authorization of changes in oil and natural gas use by a cogeneration facility to other fuels (§ 292.207(a)(2)(i)(Ĕ)).45

The Commission will not adopt EEI's suggestion that the Commission extend the pre-authorized changes to the selfcertification procedure. The Preauthorized Commission recertification procedure is not available to a selfcertified facility because, under selfcertification, the owner or operator of the facility is free to report any change.

We are also deleting the proposed regulatory text which stated that the Commission would return these submittals stamped "approved." The deleted text is inconsistent with the new procedure that pre-approves certain types of changes.

Finally, because of concerns about the effect on utility planning and utility

<sup>44</sup> We encourage applicants to describe such ownership changes with the aid of a corporate relationship chart.

<sup>45</sup> Because there is no efficiency standard applicable to the use of other fuels by a cogeneration facility, any change in the use of such fuels also warrants pre-authorization. systems, the Commission will require that cogenerators and small power producers provide affected utilities and state commissions a copy of any report of pre-authorized changes filed under § 292.207(a)(2).

The Commission declines to adopt the CPUC's proposal that it indicate which modifications the Commission considers too fundamental to include in a list of pre-approved changes. The intent of adopting a list of preauthorized changes in the final rule is to authorize changes that are sufficiently minor for purposes of QF status that it is unnecessary to obtain specific Commission approval each time such changes are made. If a change is not included on the list, then the preauthorized change procedure cannot be used, and the cogenerator or small power producer must apply for recertification or file a notice of selfrecertification.

The final rule revises § 292.207(a)(2) accordingly.

5. Qualifying Transmission and Interconnection Equipment

The Commission proposed to amend the definition of the term "qualifying facility" to include transmission lines, transformers and switchyards to reflect Commission precedent.<sup>46</sup> As proposed, cogenerators, small power producers and utilities could use such equipment only to transmit qualifying power from the QF to the purchasing electric utility and to transmit supplementary, standby, backup and maintenance power from an electric utility to the QF.

Comments: NEP contends that a generic rule that allows transmission equipment to be a component of a QF is ill-advised. NEP and Pennsylvania P&L suggest that the Commission should continue to consider this issue on a case-by-case basis. NEP is concerned that, under a generic rule, electric utilities may find themselves in the difficult situation of needing to tap into QF transmission lines and obtain wheeling in order to serve load growth in their own service territories. NEP is also concerned that the presence of qualifying transmission facilities might affect: (a) A utility's transmission and distribution plans; (b) public safety; and (c) the environment.

Pennsylvania P&L is concerned that codification of the QF transmission line

<sup>&</sup>lt;sup>42</sup> Southern California Edison notes that the CPUC has instructed utilities not to accept certain modifications under existing power purchase contracts in the absence of corresponding concessions from the cogenerator or small power producer. Southern California Edison is concerned that the Commission's treatment will conflict with the CPUC's directive.

<sup>&</sup>lt;sup>43</sup> EEI observes that proposed § 292.207(a)(2)(i) limits reports of pre-authorized minor changes to those QFs previously certified by the Commission, and that this seems to suggest that a self-certified facility might be subject to revocation of qualified status as a consequence of the institution of similar minor changes. In addition, EEI states that § 292.207(a)(2)(ii) is confusing because of its reference to the term "application." According to EEI, the term makes it appear to require that a § 292.207(d)(2) filing, which pertains to a change that will not result in the revocation of qualifying status, is mandatory for a Commission certified facility but discretionary for a self-certified facility. Yet, EEI argues, § 292.207(d)(2) seems to suggest that a filing under that section is discretionary for all QFs.

<sup>&</sup>lt;sup>46</sup> See, e.g., Clarion Power Company (*Clarion*), 39 FERC ¶ 61,317 (1987); Kern River Cogeneration Company, 31 FERC ¶ 61,183 (1985) (*Kern River*); Malacha Power Project, Inc. (*Malacha*), 41 FERC ¶ 61,350 (1987); see also, Oxbow Geothermal Corporation, 67 FERC ¶ 61,193 (1994) (*Oxbow*) (granting recertification when the QF leased spare transmission capacity to an adjacent QF and disclaiming FPA jurisdiction over the lease).