Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to ''any matter which the Commission determines to be in controversy among the parties.''

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, ''Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors'' (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

For further details with respect to this action, see the application for amendment dated December 23, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Dated at Rockville, Maryland, this 7th day of January 1999.

For the Nuclear Regulatory Commission.

Scott Flanders,

Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 99–758 Filed 1–12–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Number 40–8102]

Exxon Coal and Minerals Company

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of Exxon Coal and Minerals Company's application for establishing alternate concentration limits in source material license SUA–1139 for the Highland Uranium Mill in Converse County, Wyoming; notice of opportunity for a hearing.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated December 18, 1998, an application from Exxon Coal and Minerals Company (ECMC) to establish Alternate Concentration Limits (ACLs) for nickel, radium (Ra 226+228), and natural uranium (UNAT); and amend accordingly Source Material License No. SUA–1139 for the Highland uranium mill.

FOR FURTHER INFORMATION CONTACT: Mohammad W. Haque, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6640.

SUPPLEMENTARY INFORMATION: ECMC's application to amend Source Material License SUA–1139, which describes the proposed change and the reasons for the request, is being made available for public inspection at NRC's Public Document Room at 2120 L Street, N.W. (Lower Level), Washington, DC 20555.

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR Part 2, Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally, or by mail, to:

(1) The applicant, Exxon Coal and Minerals Company, P.O. Box 1314, Houston, Texas 77251–1314, Attention: David Range; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

Dated at Rockville, Maryland, this 5th day of January 1999.

N. King Stablein,

Acting Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–756 Filed 1–12–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–09]

Public Service Company of Colorado, Fort St. Vrain Independent Spent Fuel Storage Installation; Exemption

I

Public Service Company of Colorado (PSCo, the licensee) holds Materials

License SNM–2504 for receipt and storage of spent nuclear fuel at an independent spent fuel storage installation (ISFSI) located on the Fort St. Vrain (FSV) site. The facility is located in Weld County, Colorado.

II

Pursuant to 10 CFR 72.7, the Nuclear Regulatory Commission (NRC) may grant exemptions from the requirements of the regulations in 10 CFR Part 72 as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

Section 72.32(b)(12) states in part that ''each application for an ISFSI that is licensed under this part and that may process and/or repackage spent fuel, must be accompanied by an Emergency Plan that includes * * * provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies.'' Section 6.6.1(b)(2) of the PSCo ISFSI Emergency Response Plan (ERP) (Revision 2, (submitted September 6, 1996), includes a provision to conduct a biennial exercise of the ERP as required by 10 CFR 72.32(b)(12).

III

By letter dated July 31, 1998, the licensee requested an exemption, pursuant to 10 CFR 72.7, from the biennial emergency response exercise requirement of 10 CFR 72.32(b)(12)(I). In its submittal, the licensee stated that it its currently due to perform a biennial emergency exercise in December 1998. The licensee further requested that, in approving the requested exemption, the NRC approve postponing the biennial exercise for six months until June 1999. The circumstances associated with PSCo's request are described below.

The United States Department of Energy (DOE) has submitted a request to transfer Materials License SNM–2504 for the FSV ISFSI from PSCo to DOE. This request, submitted on December 17, 1998, is currently under NRC staff review. The completion of this review and transfer of the license is anticipated in early 1999. To prepare for assuming the responsibilities associated with the FSV ISFSI license, DOE has been developing programs and modifying PSCo programs for routine and non-routine operation of the ISFSI. As part of this preparation, DOE performed an emergency response exercise on September 23, 1998, at the FSV ISFSI. This exercise, which was developed and executed by DOE and its agents, demonstrated the response of existing local emergency responders, including local law enforcement and local ambulance services, as well as the response of DOE's emergency response organization.

As current holder of the FSV ISFSI license, PSCo is required, pursuant to 10 CFR 72.32(b)(12)(I), to hold an emergency response exercise biennially. The next scheduled emergency exercise for PSCo should be conducted in December 1998. PSCo, in its exemption request, describes the extensive coordination with local community responders who are required to perform an emergency exercise. The exemption is requested to relieve the burden imposed on the local community responders by having to prepare for and perform two emergency exercises between September 1998 (the DOE exercise) and December 1998 (the PSCo exercise which is currently due).

The NRC conducted an inspection of the September 23, 1998, DOE emergency exercise and documented the results of that inspection in a report, IR 72–09/98–201, dated December 28, 1998. In IR 72–09/98–201, the staff stated:

''On September 23, 1998, DOE–ID conducted a second exercise at the FSV site to demonstrate that adequate corrective actions had been taken to resolve the weaknesses identified during the May, 1997 exercise. The September, 1998 exercise scenario was a very challenging accident involving the dropping of a fuel storage container resulting in high radiation exposures, contamination, and serious injury of a worker. Correction of the program weaknesses identified in the May, 1997 exercise were adequately demonstrated except for radiological controls. In addition, a new problem was identified concerning medical treatment of a seriously injured person. The hospital, which had a Memorandum of Understanding with FSV, was not equipped or staffed to accept serious head trauma cases. These types of injuries would be routed to another hospital in Denver. FSV did not have any arrangement with the other hospital in Denver to accept a contaminated person. On November 29, 1998, DOE–ID established a Memorandum of Understanding with North Colorado Medical Center to accept and treat contaminated and injured persons. North Colorado Medical Center is qualified to accept all levels of injuries including serious head injuries.

The radiological control problem identified in the May 1997 exercise concerned the inability of the emergency responders to adequately address radiological problems. In the September, 1998 exercise, the scenario presented an even more significant radiological condition with very high radiation and contamination levels. Lack of adequate radiological controls during the emergency response, resulted in emergency response personnel receiving unnecessarily high exposures. Examples include: evacuating personnel leaving the affected area proceeding through the high radiation area, and the ambulances arriving and parking in the high radiation area. Consequently, both the command post and ambulances became contaminated. Radiological controls were simulated by the radiation protection technician, because he did not have time to implement the necessary actions.

For activities associated with the FSV facility, the type of problems presented during the scenario would not occur, except during the movement of fuel. Regarding the radiological problems that occurred in both exercises, the lack of sufficient personnel available to implement radiological controls was a key factor. Having a second radiation protection technician available onsite at FSV during the event could have prevented a number of the observed problems. DOE–ID concurred with this assessment and committed to revise their procedures to require a second qualified radiation protection individual to be onsite during any fuel movement activities. This has been entered into the DOE–ID process deficiency report system as PDR #5079.''

During the September 23, 1998 exercise, the staff observed that local community emergency organizations responded in a timely manner. In addition, the staff observed that some of the current PSCo staff of the FSV ISFSI will be retained as facility staff when DOE assumes the license. These staff, who participated in the DOE sponsored exercise, will ensure continuity in both routine and emergency operation. Based on the above, the staff concludes that the emergency response capability, including the response of local community responders and onsite staff has been adequately exercised and that an additional exercise, conducted by PSCo during December 1998 is not necessary.

IV

Accordingly, NRC has determined, in accordance with 10 CFR 72.7 that this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, NRC hereby grants the licensee an exemption from the biennial emergency exercise requirement of 10 CFR 72.32(b)(12(I) as requested by letter dated July 31, 1998.

The documents related to this proposed action are available for public inspection and for copying at the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555. Pursuant to 10 CFR 51.32, NRC has determined that granting this exemption will have no significant impact on the quality of the human environment (63 FR 72337).

This exemption is effective upon issuance. The exemption expires June 30, 1999, or upon transfer of SNM–2504 to the Department of Energy, whichever occurs first.

Dated at Rockville, Maryland, this 31st day of December 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–757 Filed 1–12–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 18, 1998, through December 31, 1998. The last biweekly notice was published on December 30, 1998 (63 FR 71962).

Notice of Consideration of Issuance of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By February 12, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law