(ii) If you find a crack in the fitting, replace the fitting with an airworthy fitting before further flight.

(iii) If you find a crack in the shaft, replace the shaft with an airworthy shaft before further flight by reference to Figure 1 and by following paragraph 2.B.3. of ASB 05.00.47 or 05.45, whichever is appropriate for your model helicopter.

(3) After the effective date of this AD, do not install any of the following parts on any helicopter:

(i) Left-hand sliding door, part number (P/N) 350A25–0030–00XX, 350A25–0120–00XX, and 350AMR–0227–0052;

(ii) Right-hand sliding door, P/N 350A25–0030–01XX, 350A25–0120–01XX, 350A25–0120–03XX, and 350AMR–0227–0051;

(iii) Rail roller pin, P/N 350A25–1275–20; and

(iv) Cast roller support fittings, P/N 350A25–1270–20 and P/N 350A25–1270–22.

Differences Between This AD and the MCAI AD

(f) This AD differs from EASA AD No. 2007–0236 as follows:

(1) We use the word ''inspect'' to describe the actions required by a mechanic versus the word ''check,'' which is how we describe the actions allowed by a pilot.

(2) We refer to the compliance time as hours time-in-service (TIS) rather than flying hours.

(3) We do not require an operator to inform the manufacturer if a crack is found in the shaft as specified in the service information.

(4) We do not include the Model L1, which is a military model helicopter; but we are including the Models 350C and D1 helicopters.

Other Information

(g) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, Rotorcraft Directorate, ATTN: DOT FAA, Southwest Region, Gary Roach, ASW–111, Aviation Safety Engineer, Regulations and Guidance Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5130, fax (817) 222–5961, has the authority to approve AMOCs for this AD, if requested, using the procedures found in 14 CFR 39.19.

Related Information

(h) MCAI EASA AD No. 2007–0236, dated August 31, 2007, contains related information.

Joint Aircraft System Component (JASC) Code

(i) JASC Code 5344: Fuselage Door Hinges.

Issued in Fort Worth, Texas, on October 8, 2009.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E9–25440 Filed 10–21–09; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 131 and 292

[Docket No. RM09–23–000]

Revisions to Form, Procedures, and Criteria for Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility

October 15, 2009.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this Notice of Proposed Rulemaking, the Federal Energy Regulatory Commission (Commission) proposes to revise its regulations, which currently provide the FERC Form No. 556 (Form 556) that is used in the certification of qualifying status for an existing or proposed small power production or cogeneration facility. The Commission proposes to revise its regulations to remove the contents of the Form No. 556 from the regulations, and, in their place, to provide that an applicant seeking to certify qualifying facility (QF) status of a small power production or cogeneration facility must complete, and electronically file, the Form No. 556 that is in effect at the time of filing. We propose to revise and reformat the Form No. 556 to clarify the content of the form and to take advantage of newer technologies that will reduce both the filing burden for applicants and the processing burden for the Commission. We also propose to exempt generating facilities with net power production capacities of 1 MW or less from the QF certification requirement, and to codify the Commission's authority to waive the QF certification requirement for good cause. Finally, we propose to clarify, simplify or correct certain sections of the regulations.

DATES: Comments must be filed on or before December 21, 2009.

ADDRESSES: You may submit comments, identified by Docket No. RM09–23–000, by one of the following methods:

Agency Web site: http://www.ferc.gov. Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.

Mail: Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT:

Tom Dautel (Technical Information), Division of Economic and Technical Analysis, Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–6196, E-mail: *thomas.dautel@ferc.gov.*

Paul Singh (Technical Information), Division of Tariffs and Market Development—West, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–8576, E-mail: *paul.singh@ferc.gov.*

S.L. Higginbottom (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–8561, E-mail: *samuel.higginbottom@ferc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

1. The Commission proposes to revise § 131.80 of its regulations,[1] which currently sets forth the FERC Form No. 556 (Form 556) that is used in the certification of qualifying status for an existing or proposed small power production or cogeneration facility. Section 131.80 now contains Form No. 556 and general instructions for completing the form. The Commission proposes to revise § 131.80 of its regulations to remove the contents of the Form No. 556 and, in their place, provide that an applicant seeking to certify qualifying facility (QF) status of a small power production or cogeneration facility must complete and file the Form No. 556 that is in effect at the time of filing, which will be made available for download from the Commission's QF Web site.[2] The Commission also proposes to require that the Form No. 556 be submitted to the Commission electronically.

2. The Commission proposes to revise and reformat the Form No. 556 to clarify the content of the form and to take advantage of newer technologies that will reduce both the filing burden for applicants and the processing burden for the Commission.

3. The Commission also proposes revisions to the procedures, standards and criteria for QF status provided in Part 292 of its regulations to accomplish

[1] 18 CFR 131.80.

[2] *http://www.ferc.gov/QF.*

the following: (1) Exemption of generating facilities with net power production capacities of 1 MW or less from the QF certification requirement; (2) codification of the Commission's authority to waive the QF certification requirement for good cause; (3) extension to all applicants for the QF certification requirement (currently applicable only to applicants for self certification of QF status) to serve a copy of a filed Form No. 556 on the affected utilities and state regulatory authorities; (4) elimination of the requirement for applicants to provide a draft notice suitable for publication in the **Federal Register**; and (5) clarification, simplification or correction of certain sections of the regulations.[3]

4. Finally, the Commission proposes a change to the exemption of QFs from the Federal Power Act,[4] and to the exemption of QFs from the Public Utility Holding Company Act of 2005 (PUHCA) and certain State laws and regulations [5] to make clear that certain small power production facilities that satisfy the criteria of section 3(17)(E) of the Federal Power Act qualify for those exemptions.

5. The Commission is proposing the revisions described above with the following goals: (1) Making the Form No. 556 easier and less time consuming to complete and submit; (2) decreasing opportunities for confusion and error in completing the form; (3) improving consistency and quality of the data collected by the form; (4) decreasing Commission resources dedicated to managing errors and omissions in submitted forms; and (5) clarifying and correcting the regulations governing the requirements for obtaining and maintaining QF status.

6. The proposed revisions to the Form No. 556 and the procedures for filing the Form No. 556 are informed by the Commission's experience both with administering the Form No. 556 and with new technologies for electronic data collection that have become available since the Form No. 556 was first established by Order No. 575 in 1995.[6] We believe that the proposed changes will increase the effectiveness of the Commission's policies encouraging cogeneration and small power production, as required by section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

II. Background

7. When the Commission first implemented section 201 of PURPA, it provided two paths to QF status: self-certification and Commission certification.[7] The procedures for self-certification are contained in § 292.207(a) of the Commission's regulations.[8] When a small power production facility or cogeneration facility self-certifies (or self-recertifies),[9] it certifies that it satisfies the requirements for QF status. The Commission does not formally review the self-certification. Instead, the self-certification is assigned a docket number, and Commission staff looks at the filing to determine that the self-certifier has provided the information required by the regulations.

8. Self-certification was an essential part of the Commission's implementation of PURPA, and was intended, in part, to make the certification process quick and not unduly burdensome. Thus, when the Commission first implemented section 201 of PURPA in Order No. 70,[10] the Commission rejected a proposal to adopt a case-by-case Commission certification requirement for all QFs, but instead provided that facilities that met the requirements for QF status need only furnish notice to the Commission of QF status.[11] This notice (the self-certification) was purely for informational purposes and to help the Commission monitor the market penetration of QFs. QF status, however, was established by meeting the requirements for such status and did not depend on the filing. Indeed, the Commission noted that QFs and purchasing utilities could agree that a generation facility met the requirements for QF status, and the facility would qualify for the benefits of PURPA without making any filing with the Commission.

9. The Commission recognized, however, that the self-certification process would not always satisfy all those interested in a particular facility's status. Accordingly, the Commission also established, in § 292.207(b) of the regulations,[12] the ''optional procedure'' for QF status. Under the optional procedure, an entity may file an application for a determination by the Commission that a facility meets the requirements for QF status. Such an application requires a filing fee.[13] After receiving an application for Commission certification and the required fee, the Commission assigns the filing a docket number and notices the filing in the **Federal Register,** providing an opportunity for interventions and protests. The Commission's regulations provide that it will act on an application within 90 days of the filing (or of its supplement or amendment). The process gives those that need assurance of a facility's QF status (or lack of such status) a Commission order certifying (or denying) QF status. This optional procedure is commonly known as an application for Commission certification. In its original regulations, the Commission also provided that, once a facility was certified by the Commission, its qualifying status could be revoked by the Commission, upon the Commission's own motion, or upon the motion of any person.[14] This combination of encouraging self-certifications, while providing for both Commission-certification and an opportunity to seek revocation of QF status, would assure, the Commission believed, that only those generation facilities that meet the criteria for QF status would receive and retain that status.

[3] 18 CFR Part 292.

[4] 18 CFR 292.601.

[5] 18 CFR 292.602.

[6] *Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978,* Order No. 575, 60 FR 4831 (Jan. 25, 1995), FERC Stats. & Regs. ¶ 31,014, *order on reh'g,* Order No. 575–A, 71 FERC ¶ 61,121 (1995).

[7] There is no fee for a self-certification; there is, however, a fee for Commission certification. 18 CFR 381.505. The Commission will not process an application for Commission certification without receipt of the applicable fee.

[8] 18 CFR 292.207(a).

[9] Because recertification is a type of certification, policies applicable to self-certification and application for Commission certification also apply to self-recertification and application for Commission recertification.

[10] *Small Power Production and Cogeneration Facilities—Qualifying Status,* Order No. 70, FERC Stats. & Regs., Regulations Preambles 1977–1981 ¶ 30,134 (1980), *order on reh'g,* Order Nos. 69–A and 70–A, FERC Stats. & Regs., Regulations Preambles 1977–1981 ¶ 30,160 (1980), *aff'd in part and vacated in part, American Electric Power Service Corp.* v. *FERC,* 675 F.2d 1226 (D.C. Cir. 1982), *rev'd in part, American Paper Institute, Inc.* v. *American Electric Power Service Corp.,* 461 U.S. 402 (1983).

[11] Order No. 70, FERC Stats. & Regs. ¶ 30,134 at 30,954. As discussed below, the Commission, in 2005, added a requirement that a cogeneration facility or small power production facility either self-certify or receive Commission certification to have QF status. *See* 18 CFR 292.203(a)(3), (b)(2).

[12] 18 CFR 292.207(b).

[13] 18 CFR 381.505.

[14] *See* 18 CFR 292.207(d)(ii). A similar opportunity for the Commission to revoke the QF status of a self-certified facility on the Commission's own motion, or on the motion of another party, was not expressly provided in the regulations; the Commission, however, allowed others to seek the revocation of a self-certified QF by filing a petition for declaratory order. In Order No. 671, *infra* note 18, the right to file a motion seeking revocation of a self-certification was added to the Commission's regulations. A motion seeking revocation requires a filing fee as a declaratory order. *Chugach Electric Association, Inc.,* 121 FERC ¶ 61,287, at P 51–54 (2007). The filing fee for a declaratory order is provided in 18 CFR 381.302.

10. As noted above, the Commission, when it first enacted its regulations, had hoped that self-certifications would be the primary means for obtaining QF status, but recognized that there would be instances in which a Commission ruling on QF status would be desirable. While the Commission later, in Order No. 575, required QFs to provide more detailed information about self-certifying QFs, in Form No. 556, the Commission continued to encourage self-certification, but also recognized that there would be reasons that a QF may want or need Commission certification (including the requirement of some lenders, electric utilities, or state regulators that a generator seeking QF status and the benefits of PURPA be Commission-certified). The Commission thus sought to make the self-certification process more informative about the nature of the self-certified QFs while keeping the process relatively simple. The Commission stated the following:

> The Commission continues to believe that self-certification should be retained as an option; it is unnecessary to conduct a full review of each facility, even in instances where outside lenders and investors will be involved. However, in consideration of the various comments, and in recognition of the various other clarifications being made in this final rule, the Commission will not adopt the proposed affidavit requirement. Instead, the Commission will modify the self-certification process to: (a) incorporate the Form 556 information requirement that the Commission is also adopting for applications for Commission certification; and (b) require that cogenerators and small power producers provide copies of the notice of self-certification to each affected state commission and to each affected electric utility. The self-certifying cogenerator or small power producer must also specify the utility services that it intends to request (*see* item 3b of Form 556).[15]

11. Following the enactment of the Energy Policy Act of 2005 (EPAct 2005), which imposed new requirements for QF status for ''new'' cogeneration facilities,[16] the Commission issued Order No. 671,[17] which implemented those new requirements. As part of that implementation, for the first time, notices of self-certifications for new cogeneration facilities were required to be published in the **Federal Register**; self-certifications, other than for new cogeneration facilities, are not published in the **Federal Register**. In addition, as noted above, for the first time, the Commission required the filing of a notice of self-certification or an application for Commission certification as a requirement for QF status.[18]

III. Proposed Revisions to Regulations

A. Revisions to 18 CFR 131.80

12. Currently, § 131.80 of the Commission regulations contains the text of Form No. 556 as well as instructions on how to complete the form. We propose that § 131.80 of the Commission's regulations will no longer contain Form No. 556. In place of the current language, we propose to require in § 131.80(a) that any person seeking to certify a facility as a QF must complete and file the Form No. 556 then in effect and in accordance with the instructions then incorporated in that form.

13. Revising § 131.80 as proposed will make it easier to clarify and correct the form, should such changes prove necessary or appropriate in the future. Future changes to the form would be reviewed by the Office of Management and Budget following a solicitation of comments from the public on proposed changes, but would not require a formal rulemaking. This treatment is consistent with how a number of other Commission information collections are managed, including FERC Form Nos. 1, 1–F, 3–Q, 60, 80, 423, 714, and 715, as well as the FERC Form No. 580 Interrogatory.[19]

14. We are also proposing to require, through proposed § 131.80(c), that applicants submit their QF applications (whether initial certifications or recertifications, and whether self-certifications or applications for Commission certification) electronically via the Commission's eFiling website. We make this proposal for several reasons. First, for most applicants, the electronic filing process will be faster, easier, less costly and less resource-intensive than hardcopy filing. An applicant filing electronically will receive an acknowledgement that the Commission has received their application and a docket number for their submittal much more quickly than they would by filing in hardcopy format. Also, electronic filing will allow the Commission to electronically process QF applications, dramatically reducing required staff resources and human error, and allowing the Commission to identify patterns of reporting errors and noncompliance that would be difficult to detect through manual processing. Finally, electronic filing of QF applications would facilitate the compilation of QF data that could be made available to the public. Each year Commission staff field a number of requests for QF certification data from private organizations, researchers and other government agencies. Requiring applicants to file in electronic format would make it possible to respond to many more such requests, and/or to publish compiled QF data on the Commission's website.

15. While electronic filing of QF certifications has many benefits, we recognize that some of the parties submitting applications for certification of QF status are small entities that consider the cost of legal representation to be burdensome and/or that lack access to the computer facilities necessary to make an electronic filing.

16. To address this concern, we propose to amend § 292.203 to exempt the smallest applicants, those with a net power production capacity less than or equal to 1 MW, from the requirement to make any filing with the Commission in order to be a QF. Facilities larger than 1 MW represent a significant departure from residential power generation, and we would expect entities certifying such facilities to have access to the legal representation and the computer facilities needed to electronically file a Form No. 556. We seek comments on this proposal, and, in particular, on whether a 1 MW threshold is the appropriate threshold. We note that until the effective date of Order No. 671, no filing, either of a self-certification or an application for Commission certification, was needed for QF status. In instituting the filing requirement for QF status, the Commission, among other things, explained that requiring a filing would help ensure that a ''new'' cogeneration facility would not be able to claim QF status without making a filing; the Commission believed that the Congressional mandate to tighten the standards for cogeneration facilities required that a filing, either a self-certification or an application for Commission certification, be made by an entity claiming QF status.[20] While, as discussed above, the data submitted on Form No. 556 are valuable, there may not be as compelling reasons for

[15] Order No. 575, FERC Stats. & Regs. ¶ 31,014 at 31,275.

[16] A ''new'' cogeneration facility is defined as any cogeneration facility that was either not a qualifying cogeneration facility on or before August 8, 2005, or that had not filed a notice of self-certification, self-recertification or an application for Commission certification or Commission recertification as a qualifying cogeneration facility prior to February 2, 2006. 16 U.S.C. 824a–3(n)(2)(B); 18 CFR 292.205(d).

[17] *Revised Regulations Governing Small Power Production and Cogeneration Facilities,* Order No. 671, 71 FR 7852 (Feb. 2, 2006), FERC Stats. & Regs. ¶ 31,203 (2006), *order on reh'g,* Order No. 671–A, 71 FR 30585 (May 22, 2006), FERC Stats. & Regs. ¶ 31,219 (2006).

[18] *See* 18 CFR 292.203(a)(3), (b)(2).

[19] 18 CFR 366.23.

[20] Order No. 671, FERC Stats. & Regs. ¶ 31,203 at P 81.

facilities that are very small, such as solar generation facilities installed at residences or other relatively small electric consumers such as retail stores, hospitals, or schools, to make filings with the Commission for QF status.

17. Alternatively, we could maintain a hardcopy filing requirement for small facilities instead of exempting small facilities from any certification requirement; however, such a policy would add considerably to the complexity of the Commission's regulations. The very limited benefit of such a policy does not seem to justify this added complexity or the burden on the affected parties.

B. Revisions to 18 CFR 292.203

18. Section 292.203 of our regulations [21] lists the general requirements for QF status. For a qualifying small power production facility, those requirements currently state that the facility must meet the maximum size criteria specified in § 292.204(a), meet the fuel use criteria specified in § 292.204(b), and must have filed a notice of self-certification or an application for Commission certification that has been granted. For a qualifying cogeneration facility, those requirements currently state that the facility must meet any applicable operating and efficiency standards provided in § 292.205(a) and (b), and that the facility must have filed a notice of self-certification or an application for Commission certification that has been granted.

19. We propose to correct an inadvertent error in § 292.203(b)(1) of our regulations.[22] Order No. 671 implemented additional technical requirements for certain cogeneration facilities in § 292.205(d), but § 292.203(b)(1) was not updated to reflect that a facility must comply with these new requirements (if applicable) in order to be a qualifying cogeneration facility. We propose to add the reference to § 292.205(d) in § 292.203(b). Because the technical requirements of § 292.205(d) are not ''operating and efficiency standards,'' we propose to amend § 292.203(b) to delete the phrase ''operating and efficiency standards'' and to replace it with the phrase ''standards and criteria.''

20. Finally, as mentioned above, we seek comments on whether to add a § 292.203(d) which would exempt certain very small facilities from the requirement to make a filing for qualifying status and would make explicit the Commission's authority to grant waiver of the filing requirement upon petition where good cause is shown.[23] As discussed above, certain very small facilities may find the filing requirement for obtaining QF status to be unduly burdensome. On the other hand, there is value to the data received in a self-certification, the self-certification process has been designed to be and is relatively easy, and we intend to make it easier with the adoption of an easier-to-use Form No. 556.

C. Revisions to 18 CFR 292.204

21. Section 3(17)(E) of the Federal Power Act provides that an ''eligible solar, wind, waste or geothermal facility'' is a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources, but only if such facility meets certain criteria for dates of certification and construction. Section 3(17)(A) of the Federal Power Act provides that any eligible solar, wind, waste, or geothermal facility is a small power production facility, regardless of its size. The Commission implemented these sections of the Federal Power Act in § 292.204(a), including the statement that there are no size limitations for ''eligible'' solar, wind or waste facilities,[24] as defined by section 3(17)(E) of the Federal Power Act. The regulation then states that, for ''a non-eligible facility,'' the size limitation for a qualifying small power production facility is 80 MW.

22. The wording of § 292.204(a) has created confusion for many applicants. Applicants not familiar with section 3(17)(A) or (E) of the Federal Power Act frequently confuse the statutory concept of ''eligibility'' with more general questions of whether their facility is eligible for QF status. They often assume that an ''eligible facility'' is any facility that is eligible for qualifying status. In an attempt to reduce such confusion, we propose to revise § 292.204(a) to be more clear while achieving the same regulatory outcome as the current § 292.204(a); the proposed revision avoids using the term ''eligible.''

D. Revisions to 18 CFR 292.205

23. The text of § 292.205(d) of the Commission's regulations [25] contains an error in the description of the new cogeneration facilities that are subject to the requirements of §§ 292.205(d)(1) and (2). Section 292.205(d) provides that the following facilities are subject to these requirements:

> Any cogeneration facility that was either not *certified as* a qualifying cogeneration facility on or before August 8, 2005, or that had not filed a notice of self-certification, self-recertification or an application for Commission certification or Commission recertification as a qualifying cogeneration facility under § 292.207 of this chapter prior to February 2, 2006, and which is seeking to sell electric energy pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 824a–1.[26]

24. From this language, the criteria for QF status include whether or not a cogeneration facility was ''certified as'' a qualifying cogeneration facility by August 8, 2005.[27] However, the text of section 210(n)(2) of PURPA states that the Commission's prior cogeneration requirements shall continue to apply to any facility that ''*was* a qualifying cogeneration facility on [August 8, 2005].'' [28] Furthermore, at the time of enactment of EPAct 2005, the Commission's regulations did not require that a facility that complied with the requirements for QF status be certified in order to be a QF.[29] As such, there were many facilities that were QFs on August 8, 2005, even though they were not certified as QFs by that date. To correct this error, we propose to strike the words ''certified as'' from the first sentence of § 292.205(d).

25. Section 210(n)(2) of PURPA also states that the Commission's prior cogeneration requirements will continue to apply to any facility that ''had filed with the Commission a notice of self-certification, self recertification or an application for Commission certification under 18 CFR 292.207 prior to [February 2, 2006].'' [30] The Commission implemented this provision in § 292.205(d) by not applying the new cogeneration requirements to any cogeneration facility that had filed ''a notice of self-certification, self-recertification or an application for Commission certification or Commission recertification as a qualifying cogeneration facility under § 292.207 of this chapter prior to February 2, 2006.'' Because any facility

[21] 18 CFR 292.203.

[22] 18 CFR 292.203(b)(1).

[23] *See Ashland Windfarm, LLC,* 124 FERC ¶ 61,068 (2008) (Commission granted waiver of the filing requirement for QF status).

[24] ''Geothermal'' was inadvertently omitted when the regulation was written. The change we are proposing obviates the need to correct this omission.

[25] 18 CFR 292.205(d).

[26] *Id.* (emphasis added).

[27] The significance of August 8, 2005 is that it is the date on which the Energy Policy Act of 2005 was signed into law.

[28] 16 U.S.C. 824a–3(n)(2)(A) (emphasis added).

[29] *See Revised Regulations Governing Small Power Production and Cogeneration Facilities,* Order No. 671, 71 FR 7852 at P 81 (Feb. 2, 2006), FERC Stats. & Regs. ¶ 31,203, at P 81 (2006).

[30] 16 U.S.C. 824a–3(n)(2)(B).

that had recertified (either by self-recertification or application for Commission recertification) prior to February 2, 2006 must necessarily have made its original certification prior to February 2, 2006, the inclusion of ''self-recertification'' and ''application for Commission recertification'' in this provision is unnecessary. We propose to simplify § 292.205(d) to state that the new cogeneration requirements will not apply to any facility that had filed ''a notice of self-certification or an application for Commission certification as a qualifying cogeneration facility under § 292.207 of this chapter prior to February 2, 2006.'' This proposed revision would achieve the same regulatory result while decreasing the complexity of the regulatory text, and thus the opportunities for confusion.

E. Revisions to 18 CFR 292.207

1. Elimination of Pre-Authorized Commission Recertification

26. We propose to eliminate the procedure for pre-authorized Commission recertification contained in § 292.207(a)(2).[31] That procedure was established to give applicants for facilities that have been certified under the procedures for Commission certification in § 292.207(b) a list of insubstantial alterations and modifications that would not result in the revocation of QF status previously granted by the Commission. Section 292.207(a)(2)(ii) also requires those making the changes listed in § 292.207(a)(2)(i) to notify the Commission and each affected utility and State regulatory authority of each such change.

27. The pre-authorized Commission recertification process does not currently require the use of Form No. 556, and historically the very few applicants that have filed pre-authorized Commission recertifications have done so in the form of a letter describing the changes to their facilities. In this rulemaking, we are implementing procedures to require that self-certifications or applications for Commission certification be made through the electronic submission of a Form No. 556. Removing the pre-authorized recertification option ensures that all QF certification filings will be made electronically using Form No. 556. We could opt to revise the procedure for the pre-authorized Commission recertification to require such filings to be made electronically using a Form No. 556, but such a revised procedure would be essentially identical to the procedure for self-certification. Having such a duplicative procedure appears unjustified, particularly given the increase in complexity to the Form No. 556 and the Commission's regulations that would result.

28. Furthermore, we note that the types of changes listed in § 292.207(a)(2)(i) may be somewhat misleading, as a strict reading of that list may imply that almost any change to a QF, no matter how small, would require notice to the Commission and to the affected utilities and State regulatory authorities. In reality, changes falling below a certain level of importance are not significant enough to justify the burden on the applicant of the recertification requirement.

2. Elimination of Procedures for Referring to Information From Previous Certifications

29. Section 292.207(a)(1)(iii) provides that subsequent notices of self-recertification for the same facility may reference prior notices or prior Commission certifications, and need only refer to changes which have occurred with respect to the facility since the prior notice or the prior Commission certification. We propose to delete this provision, and, as a result, to change the Commission's policy so that applicants are required to provide all of the information for their facility in each Form No. 556 they submit with a self-recertification or an application for Commission recertification. We believe this proposed change will result in greater transparency. During the processing of routine QF petitions and periodic compliance reviews of self-certifications, the Commission frequently finds that the original certification data for some facilities (particularly facilities originally certified in the 1980s) can be difficult to obtain. And requiring the provision of full data in a recertification would be a small, one-time burden for applicants, because applicants may, after their first recertification subsequent to a Final Rule implementing this proposal, simply download their previous electronically-filed Form No. 556 from eLibrary and update the relevant responses to generate their new Form No. 556. Given the significant benefit and the small, one-time burden, deletion of § 292.207(a)(1)(iii) appears appropriate.

3. Elimination of Requirement to Provide a Draft Notice Suitable for Publication in the **Federal Register**

30. Section 292.207(a)(1)(iv) of our regulations [32] currently requires that notices of self-certifications and self-recertifications for new cogeneration facilities be published in the **Federal Register**. Similarly, § 292.207(b)(4) of our regulations [33] requires that notices of applications for Commission certification or recertification be published in the **Federal Register**. For these applications that require publication of notices in the **Federal Register**, §§ 292.207(a)(1)(iv) and (b)(4) require that applicants provide with their filing a draft notice suitable for publication in the **Federal Register** on electronic media.

31. We propose to continue to publish notices self-certification and self-recertification for new cogeneration facilities and applications for Commission certification and recertification in the **Federal Register**, and we include that requirement in the proposed § 292.207(c). However, we propose to delete §§ 292.207(a)(1)(iv) and (b)(4) in order to eliminate the requirement that applicants for those types of filings provide a draft notice suitable for publication in the **Federal Register**. We have found that there is a significant amount of confusion among many QF applicants—particularly smaller applicants—about exactly what a **Federal Register** notice is, and how to provide a draft of such a notice on electronic media. Furthermore, because under the proposed changes to § 131.80 applicants would file their Forms 556 electronically, the Commission can automatically generate **Federal Register** notices directly from the Form No. 556 data, without requiring a draft notice submitted by the applicant. We expect this proposed amendment will result in a decrease in the burden to small QF applicants.

4. Requirement to Serve a Copy of a Form No. 556 on Affected Utilities and State Commissions

32. Currently applicants for self-certification are required to serve a copy of their QF self-certification filings on each electric utility with which they expect to interconnect, transmit or sell electric energy to, or purchase supplementary, standby, back-up and maintenance power from, and the State regulatory authority of each state where the facilities and each affected electric

[31] 18 CFR 292.207(a)(2).

[32] 18 CFR 292.207(a)(1)(iv).

[33] 18 CFR 292.207(b)(4).

utility is located.[34] No such requirement currently exists for applications for Commission certification.

33. We propose to amend the regulations to require that any applicant filing a self-certification, self-recertification, application for Commission certification or application for Commission recertification must serve a copy of its filing on each affected electric utility and State regulatory authority. Specifically, we propose to make the following revisions: (1) Delete § 292.207(a)(1)(ii); (2) rename § 292.207(c) ''Notice requirements'' instead of the current ''Notice requirements for facilities of 500 kW or more''; (3) insert § 292.207(c)(1) before the current first paragraph in § 292.207(c), that would establish that any applicant for self-certification, self-recertification, Commission certification or Commission recertification must serve on each affected utility and state regulatory authority a copy of its filing; and (4) revise the existing text of § 292.207(c), which will become § 292.207(c)(2), requiring facilities of 500 kW or more to provide that an electric utility is not required to purchase electric energy from a facility with a net power production capacity of 500 kW or more until 90 days after the facility meets the notice requirements in § 292.207(c)(1).

5. Other Proposed Changes

34. We propose to remove reference to ''pre-authorized Commission recertification'' in the title of § 292.207(a) and in the body text of § 292.207(d)(1)(i). We also propose to delete the current § 292.207(a)(1), and to replace it, in § 292.207(a), with a procedure for self-certification that incorporates clear reference to proposed § 131.80 and to the notice requirements in § 292.207(c).

F. Revisions to 18 CFR 292.601

35. We propose to amend § 292.601(a) of our regulations [35] to make clear the exemption from the specified Federal Power Act sections is applicable to any facility that meets the definition of an ''eligible solar, wind, waste or geothermal facility'' under section 3(17)(E) of the Federal Power Act. Section 4 of the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (Incentives Act) [36] provides that ''eligible facilities'' shall not be subject to the size limitations contained in § 292.601(b) of the Commission's regulations, unless the Commission otherwise specifies. The Commission has found that the size limitation for eligibility for the exemptions contained in §§ 292.601 and 292.602, otherwise applicable to other small power production facilities, does not apply to ''eligible facilities.'' [37] We propose to amend § 292.601(a) to make that clear.[38]

G. Revisions to 18 CFR 292.602

36. We propose to amend § 292.602(c)(1) to clarify that it is only the QFs described in paragraph (a) of that section that may take advantage of the exemptions provided in § 292.602, and to correct a typographical error. Finally, we propose to correct a typographical error in the title of § 292.602.

IV. Proposed Revisions to the Form No. 556

A. General

37. We propose to make a number of changes to the content and organization of the Form No. 556. A proposed revised Form No. 556 is included as Attachment A to this document, and will be available for download from the Commission's QF Web site.[39] As discussed above, we are not proposing to include the content of the Form No. 556 in the Commission's regulations, however, the changed Form No. 556, once approved, will become ''the Form No. 556 then in effect'' for purposes of the proposed § 131.80. We are therefore giving notice of our proposed changes to Form No. 556, which after receiving and considering comments on those changes, we will submit for OMB approval pursuant to the provisions of the Paperwork Reduction Act of 1995.[40]

38. In addition to the structure of the proposed Form No. 556, we propose to include (in the Final Rule version of the form) data controls, automatic calculations, error handling and other programmatic features to assist applicants and maintain data quality. We request comment on any specific features that interested persons would find useful, and that should be included in the form.

39. Most of the proposed changes to the Form No. 556 are intended to make use of new electronic data structuring. While, in most cases, we propose to collect the same data that is currently collected in the Form No. 556, the new form will allow the Commission to more efficiently administer the QF program. Commission staff spends a significant amount of time working with applicants that either misunderstand the current form, pay insufficient attention to the informational requirements on the current form, or both. By making Form No. 556 easier to understand, we will make the submission of Form No. 556 less burdensome to applicants.

40. Our experience has been that the open-ended nature of the current Form No. 556 data collection—where applicants are able to type any answer or no answer in response to an item—often results in applicants incorrectly answering or skipping items or portions of items that they mistakenly feel do not apply to them. Improved instructions, the use of a greater number of questions which are individually narrower in scope, and the use of certain electronic data controls and validation options, such as checkboxes and data entry fields that only accept data formatted in the appropriate way, are proposed to minimize these problems.

41. We seek comments on any aspect of the proposed form. While many of the changes to the form are self-explanatory, we discuss the more significant changes below.

B. Name of Form

42. In Order No. 575, the Commission adopted San Diego Gas and Electric Company's suggestion to title the Form No. 556 to make clear that it applies to proposed as well as to existing facilities.[41] We are not proposing to change the applicability of the form to proposed and existing facilities; however, as part of our attempt to make the Form No. 556 as simple and clear as possible, we propose to shorten the name of the form to ''Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility.''

C. Geographic Coordinates

43. Over the years we have received a number of inquiries from the public seeking certain information about QFs. Many of these inquiries were from academics, research organizations or

[34] 18 CFR 292.207(a)(ii).

[35] 18 CFR 292.601(a).

[36] Public Law 101–575, 104 Stat. 2834 (1990), as amended by Public Law 102–46, 105 Stat. 249 (1991).

[37] *Cambria Cogen Co.,* 53 FERC ¶ 61,459, at 62,619 (1990).

[38] Because 18 CFR 292.602(a) states that the exemption from PUHCA and State laws and regulations provided in that section applies to any QF described in 18 CFR 292.601(a), and because the QFs described by 18 CFR 292.601(a) include all QFs other than those described by 18 CFR 292.601(b), the Incentives Act's exemption of ''eligible facilities'' from the size limitation contained in 18 CFR 292.601(b) has the effect of making such facilities also eligible for the exemptions from PUHCA and State laws and regulations in 18 CFR 292.602.

[39] *http://www.ferc.gov/QF.* The proposed revised Form No. 556 will not be attached to the Microsoft Word version of this document.

[40] 44 U.S.C. 3507(d).

[41] Order No. 575, 60 FR 4831 (Jan. 13, 1995), FERC Stats. & Regs. ¶ 31,014, at 31,282 and 31,285.

other government entities performing studies of the effectiveness of PURPA and the Commission's regulations implementing PURPA. Often such inquiries have involved the dates that applications for different types of QFs were filed (particularly relative to certain changes in policies) and the locations of the QFs. Currently, location information is collected only through the street address of the facility, even though some facilities in rural or wilderness areas do not have a street address.

44. We believe it may be useful to researchers (as well as the public in general, and affected electric utilities and State regulatory authorities in particular) to have specific locational data for QFs, even for facilities that do not have street addresses. In addition to having value for researchers, such specific locational data would also provide a transparent means of determining compliance with the size requirement for small power production facilities, which is based in part on the distance between adjacent generating facilities. As such, we propose to include a new line 3c that will require applicants for facilities without a street address to provide the geographic coordinates (latitude and longitude) of their facilities. The text of the proposed line 3c directs applicants to the Geographic Coordinates section of the instructions on page 4 which discusses several different ways through which applicants might obtain the geographic coordinates of their facilities: Through certain free online map services (with links available through the Commission's QF Web site); a GPS device; Google Earth; a property survey; various engineering or construction drawings; a property deed; or a municipal or county map showing property lines. Applicants are directed in line 3c to provide their geographic coordinates to three decimal places, and are given a simple formula for how to convert degrees, minutes and seconds to decimal degrees. We solicit comments on the submission of locational information for facilities that do not have a street address.

D. Ownership

45. In Order No. 671, the Commission eliminated the limitation on electric utility and electric utility holding company ownership of QFs, but maintained the requirement that applicants provide ownership information in the Form No. 556.[42]

46. The wording of item 1c of the current Form No. 556 has proven confusing with respect to the collection of ownership information. In particular, item 1c does not specify the amount of equity interest in the facility above which the applicant is required to identify the owner. For facilities with many owners, this can prove burdensome, particularly if the ownership changes frequently.

47. Experience has also shown that the current wording of item 1c proves confusing to applicants with respect to which types of owners (direct or upstream) they are supposed to identify.

48. We propose to clarify both the level of ownership above which applicants are required to identify owners, and which information must be provided for direct and upstream owners. First, while maintaining the current requirement that applicants indicate the percentage of direct ownership held by any electric utility[43] or holding company,[44] we propose to clarify in line 5a of the proposed Form No. 556 that applicants need only provide information for direct owners that hold at least 10 percent equity interest in the facility.[45] Second, we propose to require in line 5b that applicants identify all upstream owners that both (1) hold at least a 10 percent equity interest in the facility and (2) are electric utilities or holding companies.

49. We seek comments on these changes to the ownership requirement. In particular, we seek comment on whether the 10 percent equity interest threshold is the proper threshold.

E. Fuel Use for Small Power Production Facilities

50. Section 292.204(b) of the Commission's regulations[46] allows small power production facilities to use oil, natural gas or coal in amounts up to and including 25 percent of the total energy input to the facility as calculated during the 12-month period beginning with the date the facility first produces electric energy and any calendar year subsequent to the year in which the facility first produces electric energy. Such use of oil, natural gas or coal is limited to certain purposes specified in section 3(17)(B) of the Federal Power Act as implemented in § 292.204(b)(2) of the Commission's regulations.[47]

51. Item 7 of the current Form No. 556 requires applicants to describe ''how fossil fuel use will not exceed 25 percent of the total annual energy input limit,'' and ''how the use of fossil fuel will be limited to the following purposes to conform to Federal Power Act Section 3(17)(B): Ignition, start-up, flame stabilization, control use, and minimal amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the public.'' Experience with this item has indicated two problems. First, because applicants have significant latitude in how they respond, they often make statements which do not, on their face, commit themselves to fuel use that would meet the Commission's requirements for qualifying small power production facilities. While these responses are unlikely to represent an intentional attempt on the part of applicants to circumvent the Commission's regulations for fuel use,[48] the statements could make enforcement of the Commission's regulations more difficult.

52. On the other hand, applicants who are very specific in their response to item 7 may feel that they have committed themselves to only engage in the particular uses they specified in their Forms 556, despite the fact that the Commission's regulations may permit more flexibility in the use of fossil fuel.

53. We propose a simpler method of certifying compliance with the Commission's fuel use requirements for small power production facilities that should avoid these problems. Rather than requiring applicants to describe how they will comply, we propose to simply state what the fuel use requirements are, and to require the applicant to certify, by checking a box next to each requirement, that they will comply. This proposal will, we believe, obligate the applicant to comply with the stated requirements, while not creating an impression that the applicant must limit its fuel use to some standard which is more stringent than

[42] *Revised Regulations Governing Small Power Production and Cogeneration Facilities,* Order No. 671, 71 FR 7852 (Feb. 2, 2006), FERC Stats. & Regs. ¶ 31,203 (2006), *order on reh'g,* Order No. 671–A, 71 FR 30585 (May 22, 2006), FERC Stats. & Regs. ¶ 31,219 (2006).

[43] As defined in section 3(22) of the Federal Power Act. 16 U.S.C. 796(22).

[44] As defined in section 1262(8) of the Public Utility Holding Company Act of 2005. 42 U.S.C. 16451(8).

[45] The 10 percent ownership threshold is proposed to be consistent with the 10 percent ownership thresholds used in the definition of a ''holding company'' in section 1262(8) of the Public Utility Holding Company Act of 2005, 42 U.S.C. 16451(8), and in the definition of ''affiliate'' in 18 CFR 35.36(a)(9). However, we seek comments on whether a different threshold would be more appropriate in this context.

[46] 18 CFR 292.204(b).

[47] 18 CFR 292.204(b)(2).

[48] Particularly since the wording of the current item 7 of the Form No. 556 states the fuel use requirements of the Commission's regulations, we would find unconvincing any argument that an applicant was justified in violating the fuel use requirements of the Commission's regulations by virtue of its statements in item 7.

that established in the Commission's regulations.

F. Mass and Heat Balance Diagrams for Cogeneration Facilities

54. Item 10 of the current Form No. 556 requires applicants for qualifying cogeneration facility status to provide a mass and heat balance diagram depicting average annual hourly operating conditions. As part of item 10, applicants are required to provide the following on their mass and heat balance diagrams: All fuel flow inputs in Btu/hr. specified using lower heating value, separately indicating fuel inputs for supplementary firing; average net electric output in kW or MW; average net mechanical output in horsepower; number of hours of operation used to determine the average annual hourly facility inputs and outputs; and working fluid flow conditions at input and output of prime mover(s) and at delivery to and return from each useful thermal application. Working fluid flow conditions required to be provided include the following: Flow rates in lbs./hr.; temperature in °F; pressure in psia; and enthalpy in Btu/lb.

55. Some applicants have complained that, for relatively simple cogeneration facilities, some of the information required is meaningless or not known. For example, small diesel generators utilizing jacket water cooling systems to capture waste heat are often certified as qualifying cogeneration facilities. Such systems typically have no steam at any point in the system, and instead use pressurized water or an antifreeze solution to recover the waste heat and transport it to the useful thermal application. For such systems, applicants have complained that specifying pressure has no significance, since the effect of pressure on enthalpy (a measure of thermal energy content) is negligible for liquids at standard conditions. Likewise, applicants have complained that, since pressure in all-liquid systems is not an important design variable, it is often not known to any degree of accuracy in such systems.

56. Some applicants have also pointed out that, in systems which are all liquid water, the extra work required to determine and specify enthalpy is not necessary. Since enthalpy in liquid water is a nearly linear function of temperature (because the specific heat of water does not vary significantly under standard conditions), specification of temperature at each required location and a specification of the specific heat of the working fluid (usually water) is all that is necessary to describe the energy balance of the cogeneration facility.

57. We agree. We propose to include language in new line 10b of the Form No. 556 indicating that, for systems where the working fluid is liquid only (no vapor at any point in the cycle) and where the type of liquid and specific heat of that liquid is clearly indicated on the diagram or in the Miscellaneous section of the Form No. 556, only mass flow rate and temperature (not pressure and enthalpy) need be specified.

58. Our experience has shown that a relatively high level of deficiency and rejection letters for QF applications are a result of noncompliance with the requirements for the mass and heat balance diagram. This is likely due to a combination of the fact the requirements for the mass and heat balance diagram are long, technical and not always clear, and the fact that some applicants do not put sufficient effort and attention into ensuring compliance. To improve reporting and to decrease future noncompliance, we propose to require applicants for qualifying cogeneration facility status to certify compliance with each of the requirements for the mass and heat balance diagram by checking a box next to each written requirement. We expect that, by requiring applicants to proceed box by box through the individual requirements, which will be stated more clearly than in the current Form No. 556, reporting will improve and noncompliance will drop dramatically.

G. EPAct 2005 Cogeneration Facilities

59. In response to EPAct 2005, the Commission implemented in Order No. 671 additional requirements for new cogeneration facilities selling power pursuant to section 210 of PURPA.[49] The Commission implemented the ''productive and beneficial'' and ''fundamental use'' requirements of EPAct 2005 through the inclusion of a new section in the Form No. 556 that required applicants to respond to the text of the statute, providing applicants space to demonstrate compliance with EPAct 2005's requirements. In practice, Form No. 556 has not provided sufficient guidance to applicants through the determination of whether EPAct 2005 applies to their facilities, whether their facilities enjoy a presumption of compliance under § 292.205(d)(4) of the Commission's regulations, or whether such facilities fall within the safe harbor established by the ''fundamental use test'' in § 292.205(d)(3).

60. We note that, in implementing the ''productive and beneficial'' requirement of EPAct 2005, the Commission essentially maintained its long-standing ''usefulness'' standard, except that what it deemed as presumptively useful was now rebuttable.[50] The current Form No. 556 requirement that applicants demonstrate compliance both with the ''productive and beneficial'' standard (in item 15) and the ''useful'' standard (in items 12, 13 and/or 14) can be condensed and streamlined without degrading the information provided or the level of Commission and public oversight of the QF program. We propose to consolidate these requirements into the portion of the proposed Form No. 556 where applicants demonstrate the ''usefulness'' of the thermal output (lines 12a, 12b, 14a, and 14b of the proposed form).

61. The ''fundamental use'' requirement for EPAct 2005 cogeneration facilities, on the other hand, does involve data collection that is specific to EPAct 2005 facilities. As such, we propose to implement a new section of the Form No. 556 entitled ''EPAct 2005 Requirements for Fundamental Use of Energy Output from Cogeneration Facilities.'' This section would replace the current ''For New Cogeneration Facilities'' section. We propose this new section to facilitate an applicant's determination (1) whether the EPAct 2005 cogeneration requirements apply to its facility, given the date on which the facility was originally a QF or originally filed for QF certification; (2) whether its pre-EPAct 2005 facility (if applicable) is subject to EPAct 2005 by virtue of changes to the facility which essentially make it a ''new'' EPAct 2005 facility; (3) whether its facility is excluded from the ''fundamental use'' requirement by virtue of the fact that power will not be sold from the facility pursuant to section 210 of PURPA; (4) whether its facility enjoys a rebuttable presumption of compliance with the ''fundamental use'' requirement by virtue of its small electric output; and/or (5) whether its facility complies with the fundamental use requirement by virtue of meeting the fundamental use test established in § 292.205(d)(3) of the Commission's regulations. If an applicant's facility is found to be subject to the EPAct 2005 requirements, but to fail the

[49] Congress in EPAct 2005, and the Commission in implementing EPAct 2005, referred to the facilities subject to the EPAct 2005 requirements as ''new'' cogeneration facilities. 16 U.S.C. 824a–3(n); 18 CFR 292.205(d). To avoid confusion that this ''new'' label will create as time passes and such facilities are not ''new'' anymore (except with respect to the date of the implementation of EPAct 2005), we will refer in the proposed Form No. 556 to such facilities as ''EPAct 2005 cogeneration facilities.''

[50] Order No. 671, FERC Stats. & Regs. ¶ 31,203 at P 17 (2006).

fundamental use test, then the applicant is instructed by line 11d of the proposed Form No. 556 to provide a narrative explanation of and support for why its facility meets the requirement that the electrical, thermal, chemical and mechanical output of an EPAct 2005 cogeneration facility is used fundamentally for industrial, commercial, residential or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a QF to its host facility.

62. We seek comments on the proposed ''EPAct 2005 Requirements for Fundamental Use of Energy Output from Cogeneration Facilities'' section. In particular, we seek comments on proposed line 11c. In the proposed line 11c, we seek information to be used in determining whether a modification to a pre-EPAct 2005 cogeneration facility might be so significant that the facility should be considered a new facility that would be subject to the additional requirements (if applicable) for EPAct 2005 cogeneration facilities. In Order No. 671, the Commission established a rebuttable presumption that a pre-EPAct 2005 cogeneration facility does not become an EPAct 2005 cogeneration facility merely because it files for recertification; however, the Commission cautioned that ''changes to an existing cogeneration facility could be so great (such as an increase in capacity from 50 MW to 350 MW) that what an applicant is claiming to be an existing facility should, in fact, be considered a 'new' cogeneration facility at the same site.'' [51] We will continue this rebuttable presumption, but also require that an applicant filing a self-recertification or an application for Commission recertification for a pre-EPAct 2005 cogeneration facility provide sufficient information about any changes to the facility to evaluate whether in fact the changes are so significant that the facility should be considered an EPAct 2005 cogeneration facility.

63. Thus an applicant for recertification of a pre-EPAct 2005 cogeneration facility which intends to rely upon the rebuttable presumption that recertification of its existing facility does not make the facility subject to the EPAct 2005 requirements must provide a description of the relevant changes to the facility, including the purpose of the changes, and an explanation why the facility should not be considered an EPAct 2005 cogeneration facility.

64. We stress that we are not proposing a finding that every facility that has undergone a change should be considered an EPAct 2005 cogeneration facility; rather, we are proposing to require that an applicant filing a self-recertification or an application for Commission recertification for a pre-EPAct 2005 cogeneration facility provide enough information about any changes to the facility to allow the Commission and the public to evaluate the changes.

V. Information Collection Statement

65. The collections of information contained in this proposed rule have been submitted to the Office of Management and Budget for review under section 3507(d) of the Paperwork Reduction Act of 1995.[52] The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

A. Estimated Annual Burden

66. The Commission has previously broken down its estimated annual burden for completing the Form No. 556 by filing type (self-certification or Commission certification). We believe that breaking down the filings by facility type (small power production facility or cogeneration facility) in addition to filing type will result in a significantly improved burden estimate. Using this method, the total estimated annual time for the collection of information associated with the Form No. 556 is 2,156 hours, calculated as follows:

Facility type	Filing type	Number of respondents	Hours per respondent	Total annual hours
cogeneration facility > 1 MW	self-certification	100	8	800
cogeneration facility > 1 MW	application for Commission certification	3	50	150
small power production facility > 1 MW	self-certification	400	3	1200
small power production facility > 1 MW	application for Commission certification	1	6	6

67. *Information Collection Costs:* The Commission seeks comments on the costs to comply with these requirements. As almost all of the regulation changes are intended to make seeking certification easier, and because we are proposing to exempt applicants for facilities not greater than 1 MW from the certification requirement, the Commission estimates that the collection costs associated with the new form will be less burdensome than with the existing form. Although the length of the form has increased, this is a result of the proposal to change the form to more effectively ''walk'' applicants through the certification and compliance determinations that they currently have to research and process on their own.

Title: FERC Form No. 556, ''Certification of qualifying facility (QF) status for small power production or cogeneration facility.''

Action: Proposed information collection.

OMB Control No.: 1902–0075.

Respondents: Residences, businesses or other for profit entities, and government agencies.

Frequency of responses: On occasion.

Necessity of the information: The Form No. 556 was established in Order No. 575 to allow an applicant to self-certify or to request the Commission to determine whether a facility meets the criteria for qualifying small power production or cogeneration status under the Commission's regulations, and thus whether the applicant is eligible to receive the benefits available to it under PURPA.

Internal review: The Commission has reviewed its proposed changes to the requirements pertaining to the certification of qualifying small power production and cogeneration facilities and determined the proposed changes appear to decrease the existing burden on applicants. These proposed requirements conform to the Commission's plan for efficient information collection, communication and management within the energy

[51] *Id.* P 115.

[52] 44 U.S.C. 3507(d).

industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

68. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Deputy Chief Information Officer, phone: (202) 502–8415, fax: (202) 273–0873, e-mail: *Michael.Miller@ferc.gov*]. Comments concerning the collection of information and the associated burden estimates, should be sent to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone (202) 395–4638; fax (202) 395–7285].

VI. Environmental Analysis

69. 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.[53] No environmental consideration is needed for the promulgation of a rule that addresses information gathering, analysis, and dissemination.[54] These proposed rules, if finalized, involve information gathering, analysis, and dissemination. Consequently, neither an Environmental Impact Statement nor Environmental Assessment is required.

VII. Regulatory Flexibility Act

70. The Regulatory Flexibility Act of 1980 (RFA) [55] requires rulemakings to contain either a description or analysis of the effect that the rule will have on small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities. In this notice, we propose three different types of regulatory changes, and we address each in turn.

71. First, we propose to clarify and streamline the Form No. 556. These changes make the form easier for applicants, whether large or small, to complete, because the proposed form leads applicants step-by-step through the compliance determinations.

72. Second, we propose certain limited additional disclosures of information. In particular, we propose (1) to collect in line 3g of the proposed form the geographic coordinates of facilities that do not have a street address, and (2) to collect certain information used to determine applicability of the EPAct 2005 cogeneration requirements that was not previously explicitly required to be included in Form No. 556.

73. The requirement to report geographic coordinates is applicable only to those facilities that do not have a street address and is therefore not generally applicable to all applicants. Moreover, in most cases, geographic coordinates can be obtained from a simple web search (with help provided by the instructions and the Commission's website); a GPS device (including some cellular phones); the use of free computer programs (such as Google Earth); or the review of certain documents, such as a property survey, various engineering or construction drawings, a property deed, or a municipal or county map showing property lines.

74. The new information proposed to be collected from applicants for cogeneration facilities in lines 11a through 11f serves to guide the applicants through the determination whether the EPAct 2005 cogeneration requirements apply to their facilities. The process of completing lines 11a through 11f replicates, but in a clearer and more concise manner, the process that such applicants already have to go through in completing the current form. Completing lines 11a through 11f should substantially decrease the burden of complying with the EPAct 2005 cogeneration requirements for most or all applicants for cogeneration facilities. In the absence of this step-by-step guide proposed in lines 11a through 11f, applicants (particularly small applicants) must independently research the requirements and determine compliance with the relatively complex EPAct 2005 cogeneration requirements.

75. Third, we propose to require applicants for certification of QF status to submit their Forms 556 electronically, via the Commission's eFiling website. We also propose, however, to exempt applicants for facilities with net power production capacities of 1 MW and smaller from any filing requirement. If both of these proposals are adopted, then the electronic filing requirement would not apply to applicants for small QFs. We believe that any applicant for a facility larger than 1 MW should have access to the resources needed to make an electronic filing.

VIII. Comment Procedures

76. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due on or before December 21, 2009. Comments must refer to Docket No. RM09–23–000, and must include the commenter's name, the organization he or she represents, if applicable, and his or her address.

77. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats, and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing.

78. Commenters who are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

79. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this notice of proposed rulemaking are not required to serve copies of their comments on other commenters.

IX. Document Availability

80. In addition to publishing the full text of this document (with the exception of the Form No. 556 itself—which will be available in eLibrary and posted at *http://www.ferc.gov/QF*) 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 the Commission's home page (*http://www.ferc.gov*) and in the Commission'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.

81. From the Commission'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.

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[53] *See Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[54] *See* 18 CFR 380.4(a)(5).

[55] 5 U.S.C. 601–12.

82. User assistance is available for eLibrary and the Commission'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 or e-mail at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-mail at *public.referenceroom@ferc.gov.*

List of Subjects

18 CFR Part 131

Electric power, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 292

Electric power, Electric power plants, Electric utilities.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend parts 131 and 292 of Title 18 of the *Code of Federal Regulations*, as set forth below:

Subchapter D—Approved Forms, Federal Power Act and Public Utility Regulatory Policies Act of 1978

PART 131—FORMS

1. The authority citation for part 131 continues to read as follows:

Authority: 16 U.S.C. 791a–825r. 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Section 131.80 is revised to read as follows:

§ 131.80 FERC Form No. 556, Certification of qualifying facility (QF) status for a small power production or cogeneration facility.

(a) *Who must file.* Any person seeking to certify a facility as a qualifying facility pursuant to sections 3(17) or 3(18) of the Federal Power Act, 16 U.S.C. 796(3)(17), (3)(18), unless otherwise exempted or granted a waiver by Commission rule or order pursuant to § 292.203(d), must complete and file the Form of Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility, FERC Form No. 556. Every Form of Certification of Qualifying Status must be submitted on the FERC Form No. 556 then in effect and must be prepared in accordance with the instructions incorporated in that form.

(b) *Availability of FERC Form No. 556.* The currently effective FERC Form No. 556 shall be made available for download from the Commission's Web site.

(c) *How to file a FERC Form No. 556.* All applicants must file their FERC Forms No. 556 electronically via the Commission's eFiling Web site.

Subchapter K—Regulations Under the Public Utility Regulatory Policies Act of 1978

PART 292—REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION

1. The authority citation for part 292 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Revise § 292.203 to read as follows:

§ 292.203 General requirements for qualification.

(a) *Small power production facilities.* Except as provided in paragraph (c) of this section, a small power production facility is a qualifying facility if it:

(1) Meets the maximum size criteria specified in § 292.204(a);

(2) Meets the fuel use criteria specified in § 292.204(b); and

(3) Unless exempted by paragraph (d), has filed with the Commission a notice of self-certification, pursuant to § 292.207(a); or has filed with the Commission an application for Commission certification, pursuant to § 292.207(b)(1), that has been granted.

(b) *Cogeneration facilities.* A cogeneration facility, including any diesel and dual-fuel cogeneration facility, is a qualifying facility if it:

(1) Meets any applicable standards and criteria specified in §§ 292.205(a), (b) and (d); and

(2) Unless exempted by paragraph (d), has filed with the Commission a notice of self-certification, pursuant to § 292.207(a); or has filed with the Commission an application for Commission certification, pursuant to § 292.207(b)(1), that has been granted.

(c) *Hydroelectric small power production facilities located at a new dam or diversion.* (1) A hydroelectric small power production facility that impounds or diverts the water of a natural watercourse by means of a new dam or diversion (as that term is defined in § 292.202(p)) is a qualifying facility if it meets the requirements of:

(i) Paragraph (a) of this section; and

(ii) Section 292.208.

(2) [Reserved]

(d) *Exemptions and waivers from filing requirement.* (1) Any facility with a net power production capacity of 1 MW or less is exempt from the filing requirements of paragraphs (a)(3) and (b)(2) of this section.

(2) The Commission may waive the requirement of paragraphs (a)(3) and (b)(2) of this section for good cause. Any applicant seeking waiver of paragraphs (a)(3)and (b)(2) of this section must file a petition for declaratory order describing in detail the reasons waiver is being sought.

3. In § 292.204, paragraph (a)(1) is revised and paragraph (a)(4) is added to read as follows:

§ 292.204 Criteria for qualifying small power production facilities.

(a) *Size of the facility*—(1) *Maximum size.* Except as provided in paragraph (a)(4) of this section, the power production capacity of a facility for which qualification is sought, together with the power production capacity of any other small power production facilities that use the same energy resource, are owned by the same person(s) or its affiliates, and are located at the same site, may not exceed 80 megawatts.

* * * * *

(4) *Exception.* Facilities meeting the criteria in section 3(17)(E) of the Federal Power Act (16 U.S.C. 796(17)(E)) have no maximum size, and the power production capacity of such facilities shall be excluded from consideration when determining the maximum size of other small power production facilities within one mile of such facilities.

* * * * *

4. In § 292.205, paragraph (d) introductory text is revised to read as follows:

§ 292.205 Criteria for qualifying cogeneration facilities.

* * * * *

(d) *Criteria for new cogeneration facilities.* Notwithstanding paragraphs (a) and (b) of this section, any cogeneration facility that was either not a qualifying cogeneration facility on or before August 8, 2005, or that had not filed a notice of self-certification or an application for Commission certification as a qualifying cogeneration facility under § 292.207 of this chapter prior to February 2, 2006, and which is seeking to sell electric energy pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 824a–1, must also show:

* * * * *

5. In § 292.207, paragraphs (a) through (d)(1)(i) are revised to read as follows:

§ 292.207 Procedures for obtaining qualifying status.

(a) *Self-certification.* The qualifying facility status of an existing or a proposed facility that meets the requirements of § 292.203 may be self-certified by the owner or operator of the facility or its representative by properly completing a Form No. 556 and filing

that form with the Commission, pursuant to § 131.80 of this chapter, and complying with paragraph (c) of this section.

(b) *Optional procedure*—(1) *Application for Commission certification.* In lieu of the self-certification procedures in paragraph (a) of this section, an owner or operator of an existing or a proposed facility, or its representative, may file with the Commission an application for Commission certification that the facility is a qualifying facility. The application must be accompanied by the fee prescribed by part 381 of this chapter, and the applicant for Commission certification must comply with paragraph (c) of this section.

(2) *General contents of application.* The application must include a properly completed Form No. 556 pursuant to § 131.80 of this chapter.

(3) *Commission action.* (i) Within 90 days of the later of the filing of an application or the filing of a supplement, amendment or other change to the application, the Commission will either: inform the applicant that the application is deficient; or issue an order granting or denying the application; or toll the time for issuance of an order. Any order denying certification shall identify the specific requirements which were not met. If the Commission does not act within 90 days of the date of the latest filing, the application shall be deemed to have been granted.

(ii) For purposes of paragraph (b) of this section, the date an application is filed is the date by which the Secretary of the Commission has received all of the information and the appropriate filing fee necessary to comply with the requirements of this Part.

(c) *Notice requirements*—(1) *General.* An applicant filing a self-certification, self-recertification, application for Commission certification or application for Commission recertification of the qualifying status of its facility must concurrently serve a copy of such filing on each electric utility with which it expects to interconnect, transmit or sell electric energy to, or purchase supplementary, standby, back-up or maintenance power from, and the State regulatory authority of each state where the facility and each affected electric utility is located. The Commission will publish a notice in the **Federal Register** for each application for Commission certification and for each self-certification of a cogeneration facility that is subject to the requirements of § 292.205(d).

(2) *Facilities of 500 kW or more.* An electric utility is not required to purchase electric energy from a facility with a net power production capacity of 500 kW or more until 90 days after the facility meets the notice requirements in paragraph (c)(1) of this section.

(d) *Revocation of qualifying status.* (1)(i) If a qualifying facility fails to conform with any material facts or representations presented by the cogenerator or small power producer in its submittals to the Commission, the notice of self-certification or Commission order certifying the qualifying status of the facility may no longer be relied upon. At that point, if the facility continues to conform to the Commission's qualifying criteria under this part, the cogenerator or small power producer may file either a notice of self-recertification of qualifying status pursuant to the requirements of paragraph (a) of this section, or an application for Commission recertification pursuant to the requirements of paragraph (b) of this section, as appropriate.

* * * * *

6. In § 292.601, paragraph (a) is revised to read as follows:

§ 292.601 Exemption to qualifying facilities from the Federal Power Act.

(a) *Applicability.* This section applies to qualifying facilities, other than those described in paragraph (b) of this section. This section also applies to qualifying facilities that meet the criteria of section 3(17)(E) of the Federal Power Act (16 U.S.C. 796(17)(E)), notwithstanding paragraph (b) of this section.

* * * * *

7. In § 292.602, revise the section heading and paragraph (c)(1) to read as follows:

§ 292.602 Exemption to qualifying facilities from the Public Utility Holding Company Act of 2005 and certain State laws and regulations.

* * * * *

(c) *Exemption from certain State laws and regulations.* (1) Any qualifying facility described in paragraph (a) of this section shall be exempted (except as provided in paragraph (c)(2) of this section) from State laws or regulations respecting:

* * * * *

Note: The following Appendix will not be published in the *Code of Federal Regulations.*

Appendix A—Proposed FERC Form No. 556

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC

Form 556 Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility

General

Information about the Commission's QF program, answers to frequently asked questions about QF requirements or completing this form, and contact information for QF program staff are available at the Commission's QF website, www.ferc.gov/QF. The Commission's QF website also provides links to the Commission's QF regulations (18 C.F.R. § 131.80 and Part 292), as well as other statutes and orders pertaining to the Commission's QF program.

Who Must File

Any applicant seeking QF status or recertification of QF status for a generating facility with a net power production capacity (as determined in lines 7a through 7g below) greater than 1000 kW must file a self-certification or an application for Commission certification of QF status, which includes a properly completed Form 556. Any applicant seeking QF status for a generating facility with a net power production capacity 1000 kW or less is exempt from the certification requirement, and is therefore not required to complete or file a Form 556. *See* 18 C.F.R. § 292.203.

How to Complete the Form 556

This form will be easiest to understand and complete if you respond to the lines in the order they are presented, following the instructions given. Certain lines in this form will be automatically calculated based on responses to previous lines, with the relevant formulas shown. You must respond to all of the previous lines within a section before the results of an automatically calculated field will be displayed. If you disagree with the results of any automatic calculation on this form, contact Commission staff to discuss the discrepancy before filing.

You must complete all lines in this form unless instructed otherwise. Do not alter this form or save this form in a different format. Incomplete or altered forms, or forms saved in formats other than PDF, will be rejected.

How to File a Completed Form 556

Applicants are required to file their Form 556 electronically through the Commission's eFiling website (see instructions on page 2). By filing electronically, you will reduce your filing burden, save paper resources, save postage or courier charges, help keep Commission expenses to a minimum, and receive a much faster confirmation (via an email containing the docket number assigned to your facility) that the Commission has received your filing.

If you are simultaneously filing both a waiver request and a Form 556 as part of an application for Commission certification, see the "Waiver Requests" section on page 3 for more information on how to file.

Paperwork Reduction Act Notice

This form is approved by the Office of Management and Budget (OMB Control No. [number], expiration [date]). Compliance with the information requirements established by the FERC Form No. 556 is required to obtain or maintain status as a QF. See 18 C.F.R. § 131.80 and Part 292. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The estimated burden for completing the FERC Form No. 556, including gathering and reporting information, is as follows: 3 hours for self-certification of a small power production facility, 8 hours for self-certifications of a cogeneration facility, 6 hours for an application for Commission certification of a small power production facility, and 50 hours for an application for Commission certification of a cogeneration facility. Send comments regarding this burden estimate or any aspect of this collection of information, including suggestions for reducing this burden, to the following: Michael Miller, Office of the Executive Director (ED-34), Federal Energy Regulatory Commission, 888 First Street N.E., Washington, DC 20426; and Desk Officer for FERC, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (oira_submission@omb.eop.gov). Include the Control No. [number] in any correspondence.

Electronic Filing (eFiling)

To electronically file your Form 556, visit the Commission's QF website at www.ferc.gov/QF and click the eFiling link.

If you are eFiling your first document, you will need to register with your name, email address, mailing address, and phone number. If you are registering on behalf of an employer, then you will also need to provide the employer name, alternate contact name, alternate contact phone number and and alternate contact email.

Once you are registered, log in to eFiling with your registered email address and the password that you created at registration. Follow the instructions. When prompted, select one of the following QF-related filing types, as appropriate, from the Electric or General filing category.

Filing category	Filing Type as listed in eFiling	Description
Electric	(Fee) Application for Commission Cert. as Cogeneration QF	Use to submit an application for Commission certification or Commission recertification of a cogeneration facility as a QF.
	(Fee) Application for Commission Cert. as Small Power QF	Use to submit an application for Commission certification or Commission recertification of a small power production facility as a QF.
	Self-Certification Notice (QF, EG, FC)	Use to submit a notice of self-certification of your facility (cogeneration or small power production) as a QF.
	Self-Recertification of Qualifying Facility (QF)	Use to submit a notice of self-recertification of your facility (cogeneration or small power production) as a QF.
	Supplemental Information or Request	Use to correct or supplement a Form 556 that was submitted with errors or omissions, or for which Commission staff has requested additional information. Do not use this filing type to report new changes to a facility or its ownership; rather, use a self-recertification or Commission recertification to report such changes.
General	(Fee) Petition for Declaratory Order (not under FPA Part 1)	Use to submit a petition for declaratory order granting a waiver of Commission QF regulations pursuant to 18 C.F.R. §§ 292.204(a)(3) and/or 292.205(c). A Form 556 is not required for a petition for declaratory order unless Commission recertification is being requested as part of the petition.

You will be prompted to submit your filing fee, if applicable, during the electronic submission process. Filing fees can be paid via electronic bank account debit or credit card.

During the eFiling process, you will be prompted to select your file(s) for upload from your computer.

Filing Fee

No filing fee is required if you are submitting a self-certification or self-recertification of your facility as a QF pursuant to 18 C.F.R. § 292.207(a).

A filing fee is required if you are filing either of the following:

(1) an application for Commission certification or recertification of your facility as a QF pursuant to 18 C.F.R. § 292.207(b), or
(2) a petition for declaratory order granting waiver pursuant to 18 C.F.R. §§ 292.204(a)(3) and/or 292.205(c).

The current fees for applications for Commission certifications and petitions for declaratory order can be found by visiting the Commission's QF website at www.ferc.gov/QF and clicking the Fee Schedule link.

You will be prompted to submit your filing fee, if applicable, during the electronic filing process described on page 2.

Required Notice to Utilities and State Regulatory Authorities

Pursuant to 18 C.F.R. § 292.207(a)(ii), you must provide a copy of your self-certification or request for Commission certification to the utilities with which the facility will interconnect and/or transact, as well as to the State regulatory authorities of the states in which your facility and those utilities reside. Links to information about the regulatory authorities in various states can be found by visiting the Commission's QF website at www.ferc.gov/QF and clicking the Notice Requirements link.

What to Expect From the Commission After You File

An applicant filing a Form 556 electronically will receive an email message acknowledging receipt of the filing and showing the docket number assigned to the filing. Such email is typically sent within one business day, but may be delayed pending confirmation by the Secretary of the Commission of the contents of the filing.

An applicant submitting a self-certification of QF status should expect to receive no documents from the Commission, other than the electronic acknowledgement of receipt described above. Consistent with its name, a self-certification is a certification by the applicant itself that the facility meets the relevant requirements for QF status, and does not involve a determination by the Commission as to the status of the facility. An acknowledgement of receipt of a self-certification, in particular, does not represent a determination by the Commission with regard to the QF status of the facility. An applicant self-certifying may, however, receive a rejection, revocation or deficiency letter if its application is found, during periodic compliance reviews, not to comply with the relevant requirements.

An applicant submitting a request for Commission certification will receive an order either granting or denying certification of QF status, or a letter requesting additional information or rejecting the application. Pursuant to 18 C.F.R. § 292.207(b)(3), the Commission must act on an application for Commission certification within 90 days of the later of the filing date of the application or the filing date of a supplement, amendment or other change to the application.

Waiver Requests

18 C.F.R. § 292.204(a)(3) allows an applicant to request a waiver to modify the method of calculation pursuant to 18 C.F.R. § 292.204(a)(2) to determine if two facilities are considered to be located at the same site, for good cause. 18 C.F.R. § 292.205(c) allows an applicant to request waiver of the requirements of 18 C.F.R. §§ 292.205(a) and (b) for operating and efficiency upon a showing that the facility will produce significant energy savings. A request for waiver of these requirements must be submitted as a petition for declaratory order, with the appropriate filing fee for a petition for declaratory order. Applicants requesting Commission recertification as part of a request for waiver of one of these requirements should electronically submit their completed Form 556 along with their petition for declaratory order, rather than filing their Form 556 as a separate request for Commission recertification. Only the filing fee for the petition for declaratory order must be paid to cover both the waiver request and the request for recertification if such requests are made simultaneously.

18 C.F.R. § 292.203(d)(2) allows an applicant to request a waiver of the Form 556 filing requirements, for good cause. Applicants filing a petition for declaratory order requesting a waiver under 18 C.F.R. § 292.203(d)(2) do not need to complete or submit a Form 556 with their petition.

Geographic Coordinates

If a street address does not exist for your facility, then line 3c of the Form 556 requires you to report your facility's geographic coordinates (latitude and longitude). Geographic coordinates may be obtained from several different sources. You can find links to online services that show latitude and longitude coordinates on online maps by visiting the Commission's QF webpage at www.ferc.gov/QF and clicking the Geographic Coordinates link. You may also be able to obtain your geographic coordinates from a GPS device, Google Earth (available free at http://earth.google.com), a property survey, various engineering or construction drawings, a property deed, or a municipal or county map showing property lines.

Filing Privileged Data or Critical Energy Infrastructure Information in a Form 556

The Commission's regulations provide procedures for applicants to either (1) request that any information submitted with a Form 556 be given privileged treatment because the information is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. § 552, and should be withheld from public disclosure; or (2) identify any documents containing critical energy infrastructure information (CEII) as defined in 18 C.F.R. § 388.113 that should not be made public. If you are seeking privileged treatment or CEII status for any data in your Form 556, indicate as such below:

☐ Applicant requests privileged treatment of data contained in the following line numbers; this data has been redacted from the public version of this form (see instructions below):

☐ Applicant is identifying CEII information contained in the following line numbers; this data has been redacted from the public version of this form (see instructions below):

If you are seeking privileged treatment or CEII status for any data in your Form 556, then you must follow the procedures in 18 C.F.R. § 388.112. See www.ferc.gov/help/filing-guide/file-ceii.asp for more information.

Among other things (see 18 C.F.R. § 388.112 for other requirements), applicants seeking privileged treatment or CEII status for data submitted in a Form 556 must file both (1) a complete version of the Form 556 (containing the privileged and/or CEII data), and (2) a public version of the Form 556 (with the privileged and/or CEII data redacted). The eFiling process described on page 2 will allow you to identify which documents you submit are public, privileged and/or CEII. The filenames for such documents should begin with "Public", "Priv", or "CEII", as applicable, to clearly indicate the security status of the file. Both versions of the Form 556 should be unaltered PDF copies of the Form 556, as available for download from www.ferc.gov/QF. To redact data from the public copy of the submittal, simply delete it from the Form. Be sure to identify above all redacted fields.

The Commission is not responsible for detecting or correcting filer errors, including those errors related to security designation. If your documents contain sensitive information, make sure they are filed using the proper security designation.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC

Form 556

Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility

Application Information

1a Full name of applicant (legal entity on whose behalf qualifying facility status is sought for this facility)

1b Applicant street address

1c City

1d State/province

1e Postal code

1f Country (if not United States)

1g Telephone number

1h Has the instant facility ever previously been certified as a QF? Yes ☐ No ☐

1i If yes, provide the docket number of the last known QF filing pertaining to this facility: QF___ - _____ - ____

1j Under which certification process is the applicant making this filing?

☐ Notice of self-certification (see note below)

☐ Application for Commission certification (requires filing fee; see "Filing Fee" section on page 3)

Note: a notice of self-certification is a notice by the applicant itself that its facility complies with the requirements for QF status. A notice of self-certification does not establish a proceeding, and the Commission does not review a notice of self-certification to verify compliance. See the "What to Expect From the Commission After You File" section on page 3 for more information.

1k What type(s) of QF status is the applicant seeking for its facility? (check all that apply)

☐ Qualifying small power production facility status ☐ Qualifying cogeneration facility status

1l What is the purpose and effective date(s) of this filing?

☐ Original certification; facility anticipated to be installed by _____ and to begin operation on _____

☐ Change(s) to a previously certified facility to be effective on _____

(check one category of change below, and describe change in the Miscellaneous section starting on page 19)

☐ Name change and/or other administrative change(s)

☐ Change in ownership

☐ Change(s) affecting plant equipment, fuel use, power production capacity and/or cogeneration thermal output

1m If any of the following three statements is true, check the box(es) that describe your situation and complete the form to the extent possible, explaining any special circumstances in the Miscellaneous section starting on page 19.

☐ The instant facility complies with the Commission's QF requirements by virtue of a waiver of certain regulations previously granted by the Commission in an order dated _____

☐ The instant facility would comply with the Commission's QF requirements if a petition for waiver submitted concurrently with this application is granted

☐ The instant facility complies with the Commission's regulations, but has special circumstances, such as the employment of unique or innovative technologies not contemplated by the structure of this form, that make the demonstration of compliance via this form difficult or impossible

FERC Form 556 — All Facilities

Contact Information

2a Name of contact person

2b Telephone number

2c Which of the following describes the contact person's relationship to the applicant? (check one)

☐ Applicant (self) ☐ Employee or partner of applicant authorized to represent the applicant on this matter

☐ Employee of a company affiliated with the applicant authorized to represent the applicant on this matter

☐ Lawyer, consultant, or other representative authorized to represent the applicant on this matter

2d Company or organization name

2e Street address (if same as Applicant, click here and skip to line 3a) ☐

2f City

2g State/province

2h Postal code

2i Country (if not United States)

Facility Identification and Location

3a Facility name

3b Street address (if a street address does not exist for the facility, click here and skip to line 3c) ☐

3c Geographic coordinates: If you indicated in line 3b that no street address exists for your facility, then you must specify the latitude and longitude coordinates of the facility in degrees (to three decimal places). Use the following formula to convert to decimal degrees from degrees, minutes and seconds: decimal degrees = degrees + (minutes/60) + (seconds/3600). See the "Geographic Coordinates" section on page 4 for help. If you provided a street address for your facility in line 3b, then specifying the geographic coordinates below is optional.

Longitude ☐ East (+) ☐ West (-) _____ degrees

Latitude ☐ North (+) ☐ South (-) _____ degrees

3d City (if unincorporated, check here and enter nearest city) ☐

3e State/province

3f County (or check here for independent city) ☐

3g Country (if not United States)

Transacting Utilities

Identify the electric utilities that are contemplated to transact with the facility.

4a Identify utility interconnecting with the facility

4b Identify utilities providing wheeling service, if any

4c Identify utilities purchasing the useful electric power output, if any

4d Identify utilities providing supplementary power, backup power, maintenance power, and/or interruptible power service, if any

FERC Form 556 All Facilities

Ownership and Operation

5a Direct ownership as of effective date: Identify all direct owners of the facility holding at least 10 percent equity interest. For each identified owner, also (1) indicate whether that owner is an electric utility, as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22)), or a holding company, as defined in section 1262(8) of the Public Utility Holding Company Act of 2005 (42 U.S.C. 16451(8)), and (2) for owners which are electric utilities or holding companies, provide the percentage of equity interest in the facility held by that owner. If no direct owners hold at least 10 percent equity interest in the facility, then provide the required information for the two direct owners with the largest equity interest in the facility.

	Full legal names of direct owners	Electric utility or holding company	If Yes, % equity interest
1)		Yes ☐ No ☐	%
2)		Yes ☐ No ☐	%
3)		Yes ☐ No ☐	%
4)		Yes ☐ No ☐	%
5)		Yes ☐ No ☐	%
6)		Yes ☐ No ☐	%
7)		Yes ☐ No ☐	%
8)		Yes ☐ No ☐	%
9)		Yes ☐ No ☐	%
10)		Yes ☐ No ☐	%

☐ Check here and continue in the Miscellaneous section starting on page 19 if additional space is needed

5b Upstream (i.e., indirect) ownership as of effective date: Identify all upstream (i.e., indirect) owners of the facility that both (1) hold at least 10 percent equity interest in the facility, and (2) are electric utilities, as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22)), or holding companies, as defined in section 1262(8) of the Public Utility Holding Company Act of 2005 (42 U.S.C. 16451(8)). Also provide the percentage of equity interest in the facility held by such owners. Enter "None" at the first line if no such owners exist.

	Full legal names of electric utility or holding company upstream owners	% equity interest
1)		%
2)		%
3)		%
4)		%
5)		%
6)		%
7)		%
8)		%
9)		%
10)		%

☐ Check here and continue in the Miscellaneous section starting on page 19 if additional space is needed

5c Identify the facility operator

FERC Form 556 — All Facilities

Energy Input

6a Describe the primary energy input: (check one main category and, if applicable, one subcategory)

- ☐ Biomass (specify)
  - ☐ Landfill gas
  - ☐ Manure digester gas
  - ☐ Municipal solid waste
  - ☐ Sewage digester gas
  - ☐ Wood
  - ☐ Other biomass (describe on page 19)
- ☐ Waste (specify type below in line 6b)
- ☐ Renewable resources (specify)
  - ☐ Hydro power - river
  - ☐ Hydro power - tidal
  - ☐ Hydro power - wave
  - ☐ Solar - photovoltaic
  - ☐ Solar - thermal
  - ☐ Wind
  - ☐ Other renewable resource (describe on page 19)
- ☐ Geothermal
- ☐ Fossil fuel (specify)
  - ☐ Coal (not waste)
  - ☐ Fuel oil/diesel
  - ☐ Natural gas (not waste)
  - ☐ Other fossil fuel (describe on page 19)
- ☐ Other (describe on page 19)

6b If you specified "waste" as the primary energy input in line 6a, indicate the type of waste fuel used: (check one)

☐ Waste fuel listed in 18 C.F.R. § 292.202(b) (specify one of the following)

- ☐ Anthracite culm produced prior to July 23, 1985
- ☐ Anthracite refuse that has an average heat content of 6,000 Btu or less per pound and has an average ash content of 45 percent or more
- ☐ Bituminous coal refuse that has an average heat content of 9,500 Btu per pound or less and has an average ash content of 25 percent or more
- ☐ Top or bottom subbituminous coal produced on Federal lands or on Indian lands that has been determined to be waste by the United States Department of the Interior's Bureau of Land Management (BLM) or that is located on non-Federal or non-Indian lands outside of BLM's jurisdiction, provided that the applicant shows that the latter coal is an extension of that determined by BLM to be waste
- ☐ Coal refuse produced on Federal lands or on Indian lands that has been determined to be waste by the BLM or that is located on non- Federal or non-Indian lands outside of BLM's jurisdiction, provided that applicant shows that the latter is an extension of that determined by BLM to be waste
- ☐ Lignite produced in association with the production of montan wax and lignite that becomes exposed as a result of such a mining operation
- ☐ Gaseous fuels (except natural gas and synthetic gas from coal) (describe on page 19)
- ☐ Waste natural gas from gas or oil wells (describe on page 19 how the gas meets the requirements of 18 C.F.R. § 2.400 for waste natural gas; include with your filing any materials necessary to demonstrate compliance with 18 C.F.R. § 2.400)
- ☐ Materials that a government agency has certified for disposal by combustion (describe on page 19)
- ☐ Heat from exothermic reactions (describe on page 19) ☐ Residual heat (describe on page 19)
- ☐ Used rubber tires ☐ Plastic materials ☐ Refinery off-gas ☐ Petroleum coke

☐ Other waste energy input that has little or no commercial value and exists in the absence of the qualifying facility industry (describe in the Miscellaneous section starting on page 19; include a discussion of the fuel's lack of commercial value and existence in the absence of the qualifying facility industry)

6c Provide the average energy input, calculated on a calendar year basis, in terms of Btu/h for the following fossil fuel energy inputs, and provide the related percentage of the total average annual energy input to the facility (18 C.F.R. § 292.202(j)). For any oil or natural gas fuel, use lower heating value (18 C.F.R. § 292.202(m)).

Fuel	Annual average energy input for specified fuel	Percentage of total annual energy input
Natural gas	Btu/h	%
Oil-based fuels	Btu/h	%
Coal	Btu/h	%

FERC Form 556 All Facilities

Technical Facility Information

Indicate the maximum gross and maximum net electric power production capacity of the facility at the point(s) of delivery by completing the worksheet below. Respond to all items. If any of the parasitic loads and/or losses identified in lines 7b through 7e are negligible, enter zero for those lines.

7a The maximum gross power production capacity at the terminals of the individual generator(s) under the most favorable anticipated design conditions	kW
7b Parasitic station power used at the facility to run equipment which is necessary and integral to the power production process (boiler feed pumps, fans/blowers, office or maintenance buildings directly related to the operation of the power generating facility, etc.). If this facility includes non-power production processes (for instance, power consumed by a cogeneration facility's thermal host), do not include any power consumed by the non-power production activities in your reported parasitic station power.	kW
7c Electrical losses in interconnection transformers	kW
7d Electrical losses in AC/DC conversion equipment, if any	kW
7e Other interconnection losses in power lines or facilities (other than transformers) between the terminals of the generator(s) and the point of interconnection with the utility	kW
7f Total deductions from gross power production capacity = 7b + 7c + 7d + 7e	kW
7g Maximum net power production capacity = 7a - 7f	kW

7h Description of facility and primary components: Describe the facility and its operation. Identify all boilers, heat recovery steam generators, prime movers (any mechanical equipment driving an electric generator), electrical generators, photovoltaic solar equipment, fuel cell equipment and/or other primary power generation equipment used in the facility. Descriptions of components should include (as applicable) specifications of the nominal capacities for mechanical output, electrical output, or steam generation of the identified equipment. For each piece of equipment identified, clearly indicate how many pieces of that type of equipment are included in the plant, and which components are normally operating or normally in standby mode. Provide a description of how the components operate as a system. Applicants for cogeneration facilities do not need to describe operations of systems that are clearly depicted on and easily understandable from a cogeneration facility's attached mass and heat balance diagram; however, such applicants should provide any necessary description needed to understand the sequential operation of the facility depicted in their mass and heat balance diagram. If additional space is needed, continue in the Miscellaneous section starting on page 19.

Information Required for Small Power Production Facility

If you indicated in line 1k that you are seeking qualifying small power production facility status for your facility, then you must respond to the items on this page. Otherwise, skip page 10.

Certification of Compliance with Size Limitations --

Pursuant to 18 C.F.R. § 292.204(a), the power production capacity of any small power production facility, together with the power production capacity of any other small power production facilities that use the same energy resource, are owned by the same person(s) or its affiliates, and are located at the same site, may not exceed 80 megawatts. To demonstrate compliance with this size limitation, or to demonstrate that your facility is exempt from this size limitation under the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (Pub. L. 101-575, 104 Stat. 2834 (1990) *as amended by* Pub. L. 102-46, 105 Stat. 249 (1991)), respond to lines 8a through 8d below (as applicable).

8a Was the original notice of self-certification or application for Commission certification of the facility filed on or before December 31, 1994? Yes ☐ No ☐

8b Did construction of the facility commence on or before December 31, 1999? Yes ☐ No ☐

8c If you answered No in line 8b, was reasonable diligence exercised toward the completion of the facility, taking into account all factors relevant to construction? Yes ☐ No ☐ If you answered Yes in line 8c, provide a brief narrative explanation in the Miscellaneous section starting on page 19 of the construction timeline (in particular, describe why construction started so long after the facility was certified) and the diligence exercised toward completion of the facility.

If any of the answers to lines 8a, 8b or 8c is No, then you must complete line 8d; otherwise, skip line 8d.

8d Identify any facilities with electrical generating equipment located within 1 mile of the electrical generating equipment of the instant facility, and for which any of the entities identified in lines 5a or 5b, or their affiliates, holds at least a 5 percent equity interest. Enter "None" at the first line if no such facilities exist.

	Facility name (if any)	Root docket #	Common owner(s)	Maximum net power production capacity
1)		QF___-___		kW
2)		QF___-___		kW
3)		QF___-___		kW

☐ Check here and continue in the Miscellaneous section starting on page 19 if additional space is needed

Certification of Compliance with Fossil Fuel Use Requirements

Pursuant to 18 C.F.R. § 292.204(b), qualifying small power production facilities may use fossil fuels, in minimal amounts, for only the following purposes: ignition; start-up; testing; flame stabilization; control use; alleviation or prevention of unanticipated equipment outages; and alleviation or prevention of emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages. The amount of fossil fuels used for these purposes may not exceed 25 percent of the total energy input of the facility during the 12-month period beginning with the date the facility first produces electric energy or any calendar year thereafter.

9a Certification of compliance with 18 C.F.R. § 292.204(b) with respect to uses of fossil fuel:

☐ Applicant certifies that the facility will use fossil fuels exclusively for the purposes listed above.

9b Certification of compliance with 18 C.F.R. § 292.204(b) with respect to amount of fossil fuel used annually:

☐ Applicant certifies that the amount of fossil fuel used at the facility will not, in aggregate, exceed 25 percent of the total energy input of the facility during the 12-month period beginning with the date the facility first produces electric energy or any calendar year thereafter.

Information Required for Cogeneration Facility

If you indicated in line 1k that you are seeking qualifying cogeneration facility status for your facility, then you must respond to the items on pages 11 through 13. Otherwise, skip pages 11 through 13.

General Cogeneration Information

Pursuant to 18 C.F.R. § 292.202(c), a cogeneration facility produces electric energy and forms of useful thermal energy (such as heat or steam) used for industrial, commercial, heating, or cooling purposes, through the sequential use of energy. Pursuant to 18 C.F.R. § 292.202(s), "sequential use" of energy means the following: (1) for a topping-cycle cogeneration facility, the use of reject heat from a power production process in sufficient amounts in a thermal application or process to conform to the requirements of the operating standard contained in 18 C.F.R. § 292.205(a); or (2) for a bottoming-cycle cogeneration facility, the use of at least some reject heat from a thermal application or process for power production.

10a What type(s) of cogeneration technology does the facility represent? (check all that apply)

☐ Topping-cycle cogeneration ☐ Bottoming-cycle cogeneration

10b To help demonstrate the sequential operation of the cogeneration process, and to support compliance with other requirements such as the operating and efficiency standards, include with your filing a mass and heat balance diagram depicting average annual operating conditions. This diagram must include certain items and meet certain requirements, as described below. You must check next to the description of each requirement below to certify that you have complied with these requirements.

Check to certify compliance with indicated requirement	Requirement
☐	Diagram must show orientation within system piping and/or ducts of all prime movers, heat recovery steam generators, boilers, electric generators, and condensers (as applicable), as well as any other primary equipment relevant to the cogeneration process.
☐	Diagram must specify all fuel inputs by fuel type and average annual rate in Btu/h. Fuel for supplementary firing should be specified separately and clearly labeled. All specifications of fuel inputs should use lower heating values.
☐	Diagram must specify average gross electric output in kW or MW for each generator.
☐	Diagram must specify average mechanical output (that is, any mechanical energy taken off of the shaft of the prime movers for purposes not directly related to electric power generation) in horsepower, if any. Typically, a cogeneration facility has no mechanical output.
☐	At each point for which working fluid flow conditions are required to be specified (see below), such flow condition data must include mass flow rate (in lb/h or kg/s), temperature (in °F, R, °C or K), absolute pressure (in psia or kPa) and enthalpy (in Btu/lb or kJ/kg). Exception: For systems where the working fluid is liquid only (no vapor at any point in the cycle) and where the type of liquid and specific heat of that liquid are clearly indicated on the diagram or in the Miscellaneous section starting on page 19, only mass flow rate and temperature (not pressure and enthalpy) need be specified. For reference, specific heat at standard conditions for pure liquid water is approximately 1.002 Btu/(lb*R) or 4.195 kJ/(kg*K).
☐	Diagram must specify working fluid flow conditions at input to and output from each steam turbine or other expansion turbine or back-pressure turbine.
☐	Diagram must specify working fluid flow conditions at delivery to and return from each thermal application.
☐	Diagram must specify working fluid flow conditions at make-up water inputs.

FERC Form 556 — Cogeneration Facilities

EPAct 2005 Requirements for Fundamental Use of Energy Output from Cogeneration Facilities

EPAct 2005 cogeneration facilities: The Energy Policy Act of 2005 (EPAct 2005) established a new section 210(n) of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 USC 824a-3(n), with additional requirements for any qualifying cogeneration facility that (1) is seeking to sell electric energy pursuant to section 210 of PURPA and (2) was either not a cogeneration facility on August 8, 2005, or had not filed a self-certification or application for Commission certification of QF status on or before February 1, 2006. These requirements were implemented by the Commission in 18 C.F.R. § 292.205(d). Complete the lines below, carefully following the instructions, to demonstrate whether these additional requirements apply to your cogeneration facility and, if so, whether your facility complies with such requirements.

11a Was your facility operating as a qualifying cogeneration facility on or before August 8, 2005? Yes ☐ No ☐

11b Was the initial filing seeking certification of your facility (whether a notice of self-certification or an application for Commission certification) filed on or before February 1, 2006? Yes ☐ No ☐

If the answer to either line 11a or 11b is Yes, then continue at line 11c below. Otherwise, if the answers to both lines 11a and 11b are No, skip to line 11e below.

11c With respect to the design and operation of the facility, have any changes been implemented on or after February 2, 2006 that affect general plant operation, affect use of thermal output, and/or increase net power production capacity from the plant's capacity on February 1, 2006?

☐ Yes (continue at line 11d below)

☐ No. Your facility is not subject to the requirements of 18 C.F.R. § 292.205(d) at this time. However, it may be subject to to these requirements in the future if changes are made to the facility. At such time, the applicant would need to recertify the facility to determine eligibility. Skip lines 11d through 11k.

11d Does the applicant contend that the changes identified in line 11c are not so significant as to make the facility a "new" cogeneration facility that would be subject to the 18 C.F.R. § 292.205(d) cogeneration requirements?

☐ Yes. Provide in the Miscellaneous section starting on page 19 a description of any relevant changes made to the facility (including the purpose of the changes) and a discussion of why the facility should not be considered a "new' cogeneration facility in light of these changes. Skip lines 11e through 11j.

☐ No. Applicant stipulates to the fact that it is a "new" cogeneration facility (for purposes of determining the applicability of the requirements of 18 C.F.R. § 292.205(d)) by virtue of modifications to the facility that were initiated on or after February 2, 2006. Continue below at line 11e.

11e Will electric energy from the facility be sold pursuant to section 210 of PURPA?

☐ Yes. The facility is an EPAct 2005 cogeneration facility. You must demonstrate compliance with 18 C.F.R. § 292.205(d)(2) by continuing at line 11f below.

☐ No. Applicant certifies that energy will not be sold pursuant to section 210 of PURPA. Applicant also certifies its understanding that it must recertify its facility in order to determine compliance with the requirements of 18 C.F.R. § 292.205(d) before selling energy pursuant to section 210 of PURPA in the future. Skip lines 11f through 11j.

11f Is the net power production capacity of your cogeneration facility, as indicated in line 7g above, less than or equal to 5,000 kW?

☐ Yes, the net power production capacity is less than or equal to 5,000 kW. 18 C.F.R. § 292.205(d)(4) provides a rebuttable presumption that cogeneration facilities of 5,000 kW and smaller capacity comply with the requirements for fundamental use of the facility's energy output in 18 C.F.R. § 292.205(d)(2). Applicant certifies its understanding that, should the power production capacity of the facility increase above 5,000 kW, then the facility must be recertified to (among other things) demonstrate compliance with 18 C.F.R. § 292.205(d)(2). Skip lines 11g through 11j.

☐ No, the net power production capacity is greater than 5,000 kW. Demonstrate compliance with the requirements for fundamental use of the facility's energy output in 18 C.F.R. § 292.205(d)(2) by continuing on the next page at line 11g.

EPAct 2005 Requirements for Fundamental Use of Energy Output from Cogeneration Facilities (continued)

Lines 11g through 11k below guide the applicant through the process of demonstrating compliance with the requirements for "fundamental use" of the facility's energy output. 18 C.F.R. § 292.205(d)(2). Only respond to the lines on this page if the instructions on the previous page direct you to do so. Otherwise, skip this page.

18 C.F.R. § 292.205(d)(2) requires that the electrical, thermal, chemical and mechanical output of an EPAct 2005 cogeneration facility is used fundamentally for industrial, commercial, residential or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a qualifying facility to its host facility. If you were directed on the previous page to respond to the items on this page, then your facility is an EPAct 2005 cogeneration facility that is subject to this "fundamental use" requirement.

The Commission's regulations provide a two-pronged approach to demonstrating compliance with the requirements for fundamental use of the facility's energy output. First, the Commission has established in 18 C.F.R. § 292.205(d)(3) a "fundamental use test" that can be used to demonstrate compliance with 18 C.F.R. § 292.205(d)(2). Under the fundamental use test, a facility is considered to comply with 18 C.F.R. § 292.205(d)(2) if at least 50 percent of the facility's total annual energy output (including electrical, thermal, chemical and mechanical energy output) is used for industrial, commercial, residential or institutional purposes.

Second, an applicant for a facility that does not pass the fundamental use test may provide a narrative explanation of and support for its contention that the facility nonetheless meets the requirement that the electrical, thermal, chemical and mechanical output of an EPAct 2005 cogeneration facility is used fundamentally for industrial, commercial, residential or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a qualifying facility to its host facility.

Complete lines 11g through 11j below to determine compliance with the fundamental use test in 18 C.F.R. § 292.205(d)(3). Complete lines 11g through 11j even if you do not intend to rely upon the fundamental use test to demonstrate compliance with 18 C.F.R. § 292.205(d)(2).

11g	Amount of electrical, thermal, chemical and mechanical energy output (net of internal generation plant losses and parasitic loads) expected to be used annually for industrial, commercial, residential or institutional purposes and not sold to an electric utility	MWh
11h	Total amount of electrical, thermal, chemical and mechanical energy expected to be sold to an electric utility	MWh
11i	Percentage of total annual energy output expected to be used for industrial, commercial, residential or institutional purposes and not sold to a utility = 100 * 11g /(11g + 11h)	%

11j Is the response in line 11i greater than or equal to 50 percent?

☐ Yes. Your facility complies with 18 C.F.R. § 292.205(d)(2) by virtue of passing the fundamental use test provided in 18 C.F.R. § 292.205(d)(3). Applicant certifies its understanding that, if it is to rely upon passing the fundamental use test as a basis for complying with 18 C.F.R. § 292.205(d)(2), then the facility must comply with the fundamental use test both in the 12-month period beginning with the date the facility first produces electric energy, and in all subsequent calendar years.

☐ No. Your facility does not pass the fundamental use test. Instead, you must provide in the Miscellaneous section starting on page 19 a narrative explanation of and support for why your facility meets the requirement that the electrical, thermal, chemical and mechanical output of an EPAct 2005 cogeneration facility is used fundamentally for industrial, commercial, residential or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a QF to its host facility. Applicants providing a narrative explanation of why their facility should be found to comply with 18 C.F.R. § 292.205(d)(2) in spite of non-compliance with the fundamental use test may want to review paragraphs 47 through 61 of Order No. 671 (accessible from the Commission's QF website at www.ferc.gov/QF), which provide discussion of the facts and circumstances that may support their explanation. Applicant should also note that the percentage reported above will establish the standard that that facility must comply with, both for the 12-month period beginning with the date the facility first produces electric energy, and in all subsequent calendar years. *See* Order No. 671 at paragraph 51. As such, the applicant should make sure that it reports appropriate values on lines 11g and 11h above to serve as the relevant annual standard, taking into account expected variations in production conditions.

Information Required for Topping-Cycle Cogeneration Facility

If you indicated in line 10a that your facility represents topping-cycle cogeneration technology, then you must respond to the items on pages 14 and 15. Otherwise, skip pages 14 and 15.

Usefulness of Topping-Cycle Thermal Output

The thermal energy output of a topping-cycle cogeneration facility is the net energy made available to an industrial or commercial process or used in a heating or cooling application. Pursuant to sections 292.202(c), (d) and (h) of the Commission's regulations (18 C.F.R. §§ 292.202(c), (d) and (h)), the thermal energy output of a qualifying topping-cycle cogeneration facility must be useful. In connection with this requirement, describe the thermal output of the topping-cycle cogeneration facility by responding to lines 12a and 12b below.

12a Identify and describe each thermal host, and specify the annual average rate of thermal output made available to each host for each use. For hosts with multiple uses of thermal output, provide the data for each use in separate rows.

	Name of entity (thermal host) taking thermal output	Thermal host's relationship to facility; Thermal host's use of thermal output	Average annual rate of thermal output attributable to use (net of heat contained in process return or make-up water)
1)			Btu/h
2)			Btu/h
3)			Btu/h
4)			Btu/h
5)			Btu/h
6)			Btu/h

☐ Check here and continue in the Miscellaneous section starting on page 19 if additional space is needed

12b Demonstration of usefulness of thermal output: At a minimum, provide a brief description of each use of the thermal output identified above. In some cases, this brief description is sufficient to demonstrate usefulness. However, if your facility's use of thermal output is not common, and/or if the usefulness of such thermal output is not reasonably clear, then you must provide additional details as necessary to demonstrate usefulness. Your application may be rejected and/or additional information may be required if an insufficient showing of usefulness is made. (Exception: If you have previously received a Commission certification approving a specific use of thermal output related to the instant facility, then you need only provide a brief description of that use and a reference by date and docket number to the order certifying your facility with the indicated use. Such exemption may not be used if any change creates a material deviation from the previously authorized use.) If additional space is needed, continue in the Miscellaneous section starting on page 19.

Topping-Cycle Operating and Efficiency Value Calculation

Applicants for facilities representing topping-cycle technology must demonstrate compliance with the topping-cycle operating and efficiency standards. Section 292.205(a)(1) of the Commission's regulations (18 C.F.R. § 292.205(a)(1)) establishes the operating standard for topping-cycle cogeneration facilities: the useful thermal energy output must be no less than 5 percent of the total energy output. Section 292.205(a)(2) (18 C.F.R. § 292.205(a)(2)) establishes the efficiency standard for topping-cycle cogeneration facilities: the useful power output of the facility plus one-half the useful thermal energy output must (A) be no less than 42.5 percent of the total energy input of natural gas and oil to the facility; and (B) if the useful thermal energy output is less than 15 percent of the total energy output of the facility, be no less than 45 percent of the total energy input of natural gas and oil to the facility. To demonstrate compliance with the topping-cycle operating and efficiency standards, or to demonstrate that your facility is exempt from these standards based on the date that installation began, respond to lines 13a through 13l below.

If you indicated in line 10a that your facility represents both topping-cycle and bottoming-cycle cogeneration technology, then respond to lines 13a through 13l below considering only the energy inputs and outputs attributable to the topping-cycle portion of your facility. Your mass and heat balance diagram must make clear which mass and energy flow values and system components are for which portion (topping or bottoming) of the cogeneration system.

13a Did installation of the facility commence on or after March 13, 1980? Yes ☐ No ☐

If you answered Yes in line 13a, then you must complete lines 13b through 13l. If you answered No, then your facility is exempt from the operating and efficiency standards, and you should skip the rest of page 15.

13b Indicate the annual average rate of useful thermal energy output made available to the host(s), net of any heat contained in condensate return or make-up water	Btu/h
13c Indicate the annual average rate of net electrical energy output	kW
13d Multiply line 13c by 3,412 to convert from kW to Btu/h	Btu/h
13e Indicate the annual average rate of mechanical energy output taken directly off of the shaft of a prime mover for purposes not directly related to power production (this value is usually zero)	hp
13f Multiply line 13e by 2,544 to convert from hp to Btu/h	Btu/h
13g Indicate the annual average rate of energy input from natural gas and oil	Btu/h
13h Topping-cycle operating value = 100 * 13b / (13b + 13d + 13f)	%
13i Topping-cycle efficiency value = 100 * (0.5*13b + 13d + 13f) / 13g	%

13j Compliance with operating standard: Is the operating value shown in line 13i greater than or equal to 5%?

☐ Yes (complies with operating standard) ☐ No (does not comply with operating standard)

13k Compliance with efficiency standard (for low operating value): If the operating value shown in line 13i is less than 15%, then indicate below whether the efficiency value shown in line 13j greater than or equal to 45%:

☐ Yes (complies with efficiency standard) ☐ No (does not comply with efficiency standard) ☐ N/A

13l Compliance with efficiency standard (for high operating value): If the operating value shown in line 13i is greater than or equal to 15%, then indicate below whether the efficiency value shown in line 13j is greater than or equal to 42.5%:

☐ Yes (complies with efficiency standard) ☐ No (does not comply with efficiency standard) ☐ N/A

Information Required for Bottoming-Cycle Cogeneration Facility

If you indicated in line 10a that your facility represents bottoming-cycle cogeneration technology, then you must respond to the items on pages 16 and 17. Otherwise, skip pages 16 and 17.

Usefulness of Bottoming-Cycle Thermal Output

The thermal energy output of a bottoming-cycle cogeneration facility is the energy related to the process(es) from which at least some of the reject heat is then used for power production. Pursuant to sections 292.202(c) and (e) of the Commission's regulations (18 C.F.R. § 292.202(c) and (e)), the thermal energy output of a qualifying bottoming-cycle cogeneration facility must be useful. In connection with this requirement, describe the process(es) from which at least some of the reject heat is used for power production by responding to lines 14a and 14b below.

14a Identify and describe each thermal host and each bottoming-cycle cogeneration process engaged in by each host. For hosts with multiple bottoming-cycle cogeneration processes, provide the data for each process in separate rows.

	Name of entity (thermal host) performing the process from which at least some of the reject heat is used for power production	Thermal host's relationship to facility; Thermal host's process type	Has the energy input to the thermal host been augmented for purposes of increasing power production capacity? (if yes, describe on page 19)
1)			Yes ☐ No ☐
2)			Yes ☐ No ☐
3)			Yes ☐ No ☐

☐ Check here and continue in the Miscellaneous section starting on page 19 if additional space is needed

14b Demonstration of usefulness of thermal output: At a minimum, provide a brief description of each process identified above. In some cases, this brief description is sufficient to demonstrate usefulness. However, if your facility's process is not common, and/or if the usefulness of such thermal output is not reasonably clear, then you must provide additional details as necessary to demonstrate usefulness. Your application may be rejected and/or additional information may be required if an insufficient showing of usefulness is made. (Exception: If you have previously received a Commission certification approving a specific bottoming-cycle process related to the instant facility, then you need only provide a brief description of that process and a reference by date and docket number to the order certifying your facility with the indicated process. Such exemption may not be used if any material changes to the process have been made.) If additional space is needed, continue in the Miscellaneous section starting on page 19.

FERC Form 556 Bottoming-Cycle Cogeneration Facilities

Bottoming-Cycle Operating and Efficiency Value Calculation

Applicants for facilities representing bottoming-cycle technology must demonstrate compliance with the bottoming-cycle operating and efficiency standards. Section 292.205(b) of the Commission's regulations (18 C.F.R. § 292.205(b)) establishes the efficiency standard for bottoming-cycle cogeneration facilities: the useful power output of the facility must be no less than 45 percent of the energy input of natural gas and oil for supplementary firing. To demonstrate compliance with the bottoming-cycle efficiency standard (if applicable), or to demonstrate that your facility is exempt from this standard based on the date that installation of the facility began, respond to lines 15a through 15h below.

If you indicated in line 10a that your facility represents both topping-cycle and bottoming-cycle cogeneration technology, then respond to lines 15a through 15h below considering only the energy inputs and outputs attributable to the bottoming-cycle portion of your facility. Your mass and heat balance diagram must make clear which mass and energy flow values and system components are for which portion of the cogeneration system (topping or bottoming).

15a Did installation of the facility commence on or after March 13, 1980? Yes ☐ No ☐

If you answered Yes in line 15a, then you must complete lines 15b through 15h. If you answered No, then your facility is exempt from the efficiency standard, and you should skip the rest of page 17.

15b Indicate the annual average rate of net electrical energy output	kW
15c Multiply line 15b by 3,412 to convert from kW to Btu/h	Btu/h
15d Indicate the annual average rate of mechanical energy output taken directly off of the shaft of a prime mover for purposes not directly related to power production (this value is usually zero)	hp
15e Multiply line 15d by 2,544 to convert from hp to Btu/h	Btu/h
15f Indicate the annual average rate of supplementary energy input from natural gas or oil	Btu/h
15g Bottoming-cycle efficiency value = 100 * (15c + 15e) / 15f	%

15h Compliance with efficiency standard: Indicate below whether the efficiency value shown in line 15g is greater than or equal to 45%:

☐ Yes (complies with efficiency standard) ☐ No (does not comply with efficiency standard)

Certificate of Completeness, Accuracy and Authority

Applicant must certify compliance with and understanding of filing requirements by checking next to each item below and signing at the bottom of this section. Forms with incomplete Certificates of Completeness, Accuracy and Authority will be rejected by the Secretary of the Commission.

Signer identified below certifies the following: (check all items and applicable subitems)

☐ He or she has read the filing, including any information contained in any attached documents, such as cogeneration mass and heat balance diagrams, and any information contained in the Miscellaneous section starting on page 19, and knows its contents.

☐ He or she has provided all of the required information for certification, and the provided information is true as stated, to the best of his or her knowledge and belief.

☐ He or she possess full power and authority to sign the filing; as required by Rule 2005(a)(3) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2005(a)(3)), he or she is one of the following: (check one)

- ☐ The person on whose behalf the filing is made
- ☐ An officer of the corporation, trust, association, or other organized group on behalf of which the filing is made
- ☐ An officer, agent, or employe of the governmental authority, agency, or instrumentality on behalf of which the filing is made
- ☐ A representative qualified to practice before the Commission under Rule 2101 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2101) and who possesses authority to sign

☐ He or she has reviewed all automatic calculations and agrees with their results, unless otherwise noted in the Miscellaneous section starting on page 19.

☐ He or she has provided a copy of this Form 556 and all attachments to the utilities with which the facility will interconnect and transact (see lines 4a through 4d), as well as to the regulatory authorities of the states in which the facility and those utilities reside. See the Required Notice to Public Utilities and State Regulatory Authorities section on page 3 for more information.

Provide your signature, address and signature date below. Rule 2005(c) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2005(c)) provides that persons filing their documents electronically may use typed characters representing his or her name to sign the filed documents. A person filing this document electronically should sign (by typing his or her name) in the space provided below.

Your Signature	Your address	Date

Audit Notes
Commission Staff Use Only:

FERC Form 556 All Facilities

Miscellaneous

Use this space to provide any information for which there was not sufficient space in the previous sections of the form to provide. For each such item of information clearly identify the line number that the information belongs to. You may also use this space to provide any additional information you believe is relevant to the certification of your facility.

Your response below is not limited to one page. Additional page(s) will automatically be inserted into this form if the length of your response exceeds the space on this page. Use as many pages as you require.

[FR Doc. E9–25261 Filed 10–21–09; 8:45 am]
BILLING CODE 6717–01–C

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151

46 CFR Part 162

[USCG–2001–10486]

RIN 1625–AA32

Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meetings.

SUMMARY: This notice provides the times and locations of two public meetings which will be held by the Coast Guard (USCG) regarding the Notice of Proposed Rulemaking (NPRM) entitled ''Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters'' that published in the **Federal Register** on Friday, August 28, 2009.

DATES: Public meetings will be held in the Oakland, CA (October 27, 2009) and New York, NY (October 29, 2009) areas to provide opportunities for oral comments. The comment period for the NPRM closes on December 4, 2009. All comments and related material submitted after a meeting must either be submitted to our online docket via *http://www.regulations.gov* on or before December 4, 2009 or reach the Docket Management Facility by that date.

ADDRESSES: The public meetings will be held at the Marriott Oakland City Center, 1001 Broadway, Oakland, CA, 94607, on October 27, 2009, and the Marriott New York Downtown, 85 West Street at Albany Street, New York, NY 10006, on October 29, 2009.

All meetings will be held from 9 a.m. until 4 p.m. local time unless otherwise noted. The meetings may conclude before the allotted time if all matters of discussion have been addressed.

You may submit written comments identified by docket number USCG–2001–10486 before or after the meeting using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. Our online docket for this rulemaking is available on the Internet at *http://www.regulations.gov* under docket number USCG–2001–10486.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rulemaking, call or e-mail Mr. John Morris, Project Manager, Environmental Standards Division, U.S. Coast Guard Headquarters, telephone 202–372–1433, e-mail: *John.C.Morris@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

The Coast Guard published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on Friday, August 28, 2009 (74 FR 44632), entitled ''Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters.'' In it, we stated our intention to hold public meetings, and to publish a notice with additional details regarding those public meetings as soon as the information was available (74 FR 44632).

On Monday, September 14, 2009, we published a Notice of Public Meeting to inform the public of the date for each public meeting, as well as the city in which those meetings will be held (74 FR 46964). That notice also stated that additional notice(s) would be published in the **Federal Register** as specific locations and details for these meetings were finalized.

On Tuesday, September 22, 2009, we published a Notice of Public Meeting with the specific locations and details for the first two of the six public meetings (74 FR 48190). Then, on Monday, September 28, 2009, we published a Notice of Public Meeting providing the same information for the second two public meetings and restating the details for the first two public meetings (74 FR 49355). This notice provides those details for the final two public meetings.

On Thursday, October 15, 2009, we published a Notice to extend the periods of public comment on the Notice of Proposed Rulemaking (NPRM) and the Draft Programmatic Environmental Impact Statement (DPEIS) to December 4, 2009 (74 FR 52941).

The October 27, 2009 meeting will be held at the Marriott Oakland City Center, 1001 Broadway, Oakland, CA, 94607. The phone number for the location is 510–451–4000.

The October 29, 2009 meeting will be held at the Marriott New York Downtown, 85 West Street at Albany Street, New York, NY 10006. The phone number for the location is 212–385–4900.

Live webcasts (audio and video) of the public meetings will also be broadcast online at *http://ballastwater.us/.*

Written comments and related material may also be submitted to Coast Guard personnel specified at those meetings for inclusion in the official docket for this rulemaking.

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meetings, contact Mr. John Morris at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.