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# FEDERAL ENERGY REGULATORY COMMISSION



WASHINGTON, D.C. 20426

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## NEWS RELEASE

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### FOR IMMEDIATE RELEASE

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Docket No. RM05-36-000

## NEW CRITERIA PROPOSED FOR COGENERATION FACILITIES, OF OWNERSHIP RESTRICTIONS WOULD BE ELIMINATED

Acting under an Energy Policy Act of 2005 mandate, the Federal Energy Regulatory Commission today proposed to revise its regulations for small power production and cogeneration facilities. The Commission proposes to eliminate ownership restrictions and to ensure that thermal output of facilities is utilized productively and beneficially.

The proposed rule would amend Commission regulations to effectively end its “presumptively useful” standard in determining whether a cogeneration facility’s thermal output is useful. By ensuring that new qualifying cogeneration facilities use thermal output in a productive manner, and that the electrical, thermal, chemical and mechanical output of new qualifying cogeneration facilities is used for industrial, commercial and institutional purposes, the Commission’s proposal would blunt development of facilities that are not truly designed to save energy.

Under the Commission’s current regulations, a qualifying cogeneration facility is a generating facility that produces electricity and another form of useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes.

In the future, the proposal states, the Commission “will scrutinize the use a cogeneration facility makes of its thermal output to assure that the use is not a ‘sham’ and the thermal output is used in a ‘productive and beneficial manner’.” The Commission will consider the uses to which the product produced by the thermal output is put, including factors such as whether the product is needed and whether there is a market. The Commission said that it will more closely scrutinize facilities that only satisfy “minimal” operating standards.

To ensure continuing progress in development of efficient electric energy technology, the Commission proposes to expand its efficiency standards to coal-fired facilities. At present, the Commission’s efficiency standard regulations apply only to oil

and natural gas-fired facilities.

Reflecting the recently enacted Energy Policy Act, the Commission proposes to eliminate the ownership limitations for qualifying cogeneration and small power production facilities (qualifying facilities or QFs). When the Public Utility Regulatory Policies Act (PURPA) was enacted in 1978, ownership of QFs was limited to persons not primarily engaged in the generation or sale of electric power. As a result of these changes, a QF may now be largely or wholly owned by traditional utilities.

Today's proposal also would amend the number of exemptions from the Federal Power Act. The Commission proposes to eliminate the exemption from the rate filing provisions of the Federal Power Act (sections 205 and 206) for sales that are not made pursuant to a state regulatory authority's avoided-cost regime. The Commission will consider retaining the exemption for smaller QFs – those under 5 megawatts.

To reflect the criteria for new qualifying cogeneration facilities today's proposal would also amend Form No. 556 – the application for certification of a QF.

Comments on the proposed rule, *Revised Regulations Governing Small Power Production and Cogeneration Facilities*, are due 21 days after the NOPR's publication in the Federal Register ([www.gpoaccess.gov](http://www.gpoaccess.gov)).