

# Rules and Regulations

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 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

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations which were published in the *Federal Register* of Tuesday, March 30, 2010. The final rule document adopted revisions to FERC Form 556 and to Commission procedures and criteria for the certification of qualifying facility status for a small power production or cogeneration facility.

**DATES:** August 16, 2011.

**FOR FURTHER INFORMATION CONTACT:** 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](mailto:samuel.higginbottom@ferc.gov).

**SUPPLEMENTARY INFORMATION:** The final regulations amended 18 CFR 292.205 and affect the Commission's criteria and procedures for the certification of qualifying facility status for small power production or cogeneration facilities.

As published, the final regulations contained errors; they incorrectly removed paragraphs from 18 CFR 292.205(d). These paragraphs contain critical criteria for new cogeneration facilities.

#### List of Subjects in 18 CFR Part 292

Electric power, Electric power plants, Electric utilities.

Accordingly, 18 CFR part 292 is corrected by making the following correcting amendment:

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

#### PART 292—REGULATIONS UNDER SECTION 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. Section 292.205 is amended by adding paragraphs (d)(1) through (5) to read as follows:

#### § 292.205 Criteria for qualifying cogeneration facilities.

\* \* \* \* \*

(d) \* \* \*

(1) The thermal energy output of the cogeneration facility is used in a productive and beneficial manner; and

(2) The electrical, thermal, chemical and mechanical output of the 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.

(3) Fundamental use test. For the purpose of satisfying paragraph (d)(2) of this section, the electrical, thermal, chemical and mechanical output of the cogeneration facility will be considered used fundamentally for industrial, commercial, or institutional purposes, and not intended fundamentally for sale to an electric utility if at least 50 percent of the aggregate of such output, on an annual basis, is used for industrial, commercial, residential or institutional purposes. In addition, applicants for facilities that do not meet this safe harbor standard may present evidence to the Commission that the facilities should nevertheless be certified given state laws applicable to sales of electric energy or unique technological,

efficiency, economic, and variable thermal energy requirements.

(4) For purposes of paragraphs (d)(1) and (2) of this section, a new cogeneration facility of 5 MW or smaller will be presumed to satisfy the requirements of those paragraphs.

(5) For purposes of paragraph (d)(1) of this section, where a thermal host existed prior to the development of a new cogeneration facility whose thermal output will supplant the thermal source previously in use by the thermal host, the thermal output of such new cogeneration facility will be presumed to satisfy the requirements of paragraph (d)(1).

Dated: August 9, 2011.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2011–20751 Filed 8–15–11; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Parts 870 and 884

[Docket No. FDA–2010–N–0412]

#### Effective Date of Requirement for Premarket Approval for Three Class III Preamendments Devices

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a final rule to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the following three class III preamendments devices: Ventricular bypass (assist) device; pacemaker repair or replacement material; and female condom. The Agency has summarized its findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring the devices to meet the statute's approval requirements and the benefits to the public from the use of the devices. This action implements certain statutory requirements.

**DATES:** This rule is effective August 23, 2011.