

Supporting Statement for
**FERC Form 556A, Certification of Qualifying Facility (QF) Status for a Small
Power Production or Cogeneration Facility,
as proposed in Docket Nos. RM19-15 and AD16-16**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC Form 556A [also called “FERC-556A”], Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility (OMB Control No. TBD), as proposed in the Notice of Proposed Rulemaking (NOPR) in Docket Nos. RM19-15 and AD16-16.

At the time that this NOPR and information collection request was submitted, OMB review was pending for the regular renewal of the existing FERC Form 556.¹ Only one item per OMB Control No. can be pending OMB review at a time. For this reason, we are using a temporary (placeholder) information collection number (FERC-556A) in order to submit the NOPR in Docket Nos. RM19-15 and AD16-16² to OMB on a timely basis. *If and when a Final Rule is issued in Docket Nos. RM19-15 and AD16-16, the burden estimates provided here for FERC-556A will likely be consolidated into FERC-556 (obviating the need for the temporary information collection number FERC-556A).*

¹ On 5/20/2019 the renewal request for FERC-556 (Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility; OMB Control No. 1902-0075) was submitted to OMB for approval and approved by OMB on 11/8/2019. That request for a 3-year renewal was addressed separately and is not covered in this supporting statement.

On 10/4/2019 this package for FERC-556A was submitted to OMB for review. The OMB-approved figures for the FERC-556 renewal were approved by OMB on 11/8/2019, after submittal of this package for FERC-556A. Those now approved FERC-556 figures are provided for background in Table 1 in Question 12 at OMB’s request. Those figures for FERC-556 are not otherwise addressed in this supporting statement for FERC-556A for the NOPR in Docket Nos. RM19-15 and AD16-16

² The NOPR in Docket Nos. RM19-15 and AD16-16 (posted in FERC’s eLibrary at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15359670>) discusses FERC Form 556 (also called “FERC-556”). This supporting statement for the temporary (placeholder) information collection number FERC-556A addresses those proposed changes in Docket Nos. RM19-15 and AD16-16.

(Additional information on Qualifying Facilities is posted in FERC’s eLibrary at <https://www.ferc.gov/industries/electric/gen-info/qual-fac.asp>.)

Additional items (such as the Commissioners’ Statement and Partial Dissent, and the News Release) are included in ROCIS supporting documents.

Much of the information provided here relates to the FERC-556 (and correspondingly the temporary information collection number FERC-556A) in order to provide the reader with background and context.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Public Utility Regulatory Policies Act of 1978 (PURPA)³ was enacted as part of a package of legislative proposals intended to reduce the country's dependence on oil and natural gas, which at the time were in short supply and subject to dramatic price increases. PURPA was intended to promote the development of alternative generation resources that do not rely on fossil fuels and cogeneration facilities that make more efficient use of the heat produced from the fossil fuels that were then commonly used in the production of electricity. Congress provided for a range of potential incentives that could be granted to these types of generation resources to encourage their development, such as non-cost-based rates for the sale of their power, more attractive rates for their purchase of backup power, and exemptions from certain regulatory provisions applicable to public utilities.

FERC-556. FERC Form 556 is required to implement Sections 201 and 210 of PURPA. FERC is authorized, under those sections, to encourage cogeneration and small power production and to prescribe such rules as necessary in order to carry out the statutory directives.

A primary statutory objective is efficient use of energy resources by cogeneration facilities, which make use of reject heat associated with commercial or industrial processes, and by small power production facilities, which use renewable resources and waste. PURPA, through establishment of various regulatory benefits, encourages the development of small power production facilities and cogeneration facilities that meet certain technical and corporate criteria. Facilities that meet these criteria are called Qualifying Facilities, or QFs.

The Commission's regulations in 18 CFR Part 292 specify: a) the certification procedures which must be followed by the applicant (legal entity on whose behalf qualifying facility status is sought) of small power production and cogeneration facilities; b) the criteria which the applicant must meet; c) the information which the applicant must submit to FERC in order to obtain qualifying status; d) the PURPA rights which are available to QFs to encourage small power production and cogeneration; and e) the requirements pertaining to arrangements between electric utilities and QFs.

³ 16 U.S.C. 796(17)-(22), 824a-3.

18 CFR Part 292 requires electric utilities to:

- purchase energy and capacity from QFs, with such purchases priced on the basis of the avoided cost of the power that is displaced by the QF power (i.e., the incremental cost to the purchasing utility if it had generated the displaced power itself or purchased it from another source);
- sell backup, maintenance, and other power services to QFs;
- provide interconnection and transmission services to QFs;
- offer to operate in “parallel” with QFs pursuant to standards determined by a state regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility to ensure system safety and reliability of interconnected operations; and,
- make avoided cost information and system capacity needs available to the public.

In 18 CFR Part 292, the Commission also exempts QFs from certain corporate, accounting, reporting, and rate regulation requirements of the Federal Power Act (FPA) and the Public Utility Holding Company Act of 2005.

In Order No. 732,⁴ amending its regulations subsequent to the Energy Policy Act of 2005, FERC revised FERC Form 556. The Commission removed the contents and general instructions of the FERC Form 556 from 18 CFR Section 131.80, and, in their place, provided that an applicant seeking to certify QF status of a small power production or cogeneration facility complete and file the FERC Form 556 that is in effect at the time of filing. The current form is available for download from the FERC website. FERC also began requiring that the FERC Form 556 be submitted electronically.

Additionally in that order, FERC revised and reformatted the FERC Form 556 to clarify the content of the form and to take advantage of newer technologies to reduce both the filing burden for applicants and the processing burden for the Commission.

FERC also updated the procedures, standards, and criteria for QF status provided in 18 CFR Part 292 of its regulations to, among other things, exempt generating facilities with net power production capacities of 1 MW or less from the requirement that a generating facility, to be a QF, must file either a notice of self-certification or an application for Commission certification, and codified FERC’s authority to waive the QF-certification filing requirement for good cause.

⁴ *Revisions to Form, Procedures, and Criteria for Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility*, Order No. 732, 130 FERC ¶ 61,214 (2010).

Finally, in Order No. 732, FERC changed the exemption of QFs from the FPA and the Public Utility Holding Company Act of 2005 to make clear that certain small power production facilities that satisfy the criteria of section 3(17)(E) of the FPA qualify for those exemptions from the FPA and the Public Utility Holding Company Act of 2005. The revisions: (1) made the FERC Form 556 easier and less time consuming to complete and submit; (2) decreased opportunities for confusion and error in completing the form; (3) improved consistency and quality of the data collected by the form; (4) decreased FERC resources dedicated to managing errors and omissions in submitted forms; and (5) clarified and corrected the regulations governing the requirements for obtaining and maintaining QF status.

FERC-556A. In this NOPR in Docket No. RM19-15, the Commission proposes to revise its regulations implementing sections 201 and 210 of PURPA in light of changes in the energy industry since 1978. The Commission believes these proposed changes would help ensure that the Commission continues to be able to fulfill its statutory obligations under section 210 of PURPA. Consideration of transparent, competitive market prices in appropriate circumstances would help identify a utility's avoided costs in a simpler, more predictable manner that would, in conjunction with the Commission's other existing and proposed PURPA Regulations, act to encourage QFs. Allowing energy prices, but not capacity prices, to vary in QF contracts would protect consumers without materially affecting QF financing and, indeed, likely would make it easier for QFs to obtain longer-term contracts that support financing. Further, the proposed revisions to the regulations relating to the one-mile rule and PURPA section 210(m) would better implement the Commission's understanding of Congress' intent in enacting those provisions, as explained in more detail in the NOPR.

As relevant here, the principal proposed changes that affect information collection, i.e., the Form 556, are as follows: *first*, the Commission proposes to change its current "one-mile rule" for determining whether generation facilities should be considered to be part of a single facility for purposes of determining qualification as a small power production facility, by allowing utilities, state regulatory authorities, or other interested parties to show that facilities between one and ten miles apart actually are a single facility; and *second*, to allow a party to protest a self-certification or self-recertification of a facility without a fee.

2. HOW, BY WHOM AND FOR WHAT PURPOSE IS THE INFORMATION USED, AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

FERC-556. The information collected from FERC Form 556 under 18 CFR Section

FERC Form 556A (OMB Control No. TBD)
NOPR (issued 9/19/2019) in Docket Nos. RM19-15 and AD16-16
RIN: 1902- AF67
(updated 2/5/2020)

131.80 and 18 CFR Part 292 is used by the Commission to determine whether a proposed certification for QF status meets the criteria for a qualifying small power production facility or a qualifying cogeneration facility under Commission regulations and is eligible to receive the benefits available to a QF under PURPA.

In order to obtain QF status and obtain PURPA benefits, an applicant for QF status must follow the process indicated in FERC Form 556 and select, at its option, either the procedure set forth in 18 CFR Section 292.207(a), which requires the submission to FERC of a self-certification or self-recertification, or the procedure set forth in 18 CFR Section 292.207(b), which requires the submission to FERC of an application for Commission certification or recertification. The information requirements for these two processes are largely the same (i.e., the submittal of a completed FERC Form 556 provides the information necessary to demonstrate compliance with FERC's regulations). If FERC did not collect the FERC Form 556 information, there would be no basis for the Commission to determine whether a facility satisfies the requirements of QF status.

Since FERC may revoke the qualifying status of a small power production or cogeneration facility if the facility fails to comply with any of the 18 CFR Part 292 criteria, private financial lenders to small power production and cogeneration power facilities occasionally require small power producers and cogenerators to follow 18 CFR Section 292.207(b) procedures (certification by FERC as opposed to self-certification) in order to reduce the risk of status revocation.

FERC-556A, as proposed in NOPR in Docket No. RM19-15. FERC proposes to revise its regulations⁵ implementing sections 201 and 210 of PURPA in light of changes in the energy industry since 1978.

As relevant here, the principal proposed changes that affect information collection, i.e., the Form 556, are as follows: *first*, the Commission proposes to change its current “one-mile rule” for determining whether generation facilities should be considered to be part of a single facility for purposes of determining qualification as a small power production facility, by allowing utilities, state regulatory authorities, or other interested parties to show that facilities more than one mile but less than ten miles apart actually are a single facility; and *second*, to allow a party to protest a self-certification or self-recertification of a facility without a fee.

⁵ 18 CFR Part 292.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND THE TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

In Order No. 619,⁶ FERC established an electronic filing initiative to meet the goals of the Government Paperwork Elimination Act, which directed agencies to provide for optimal use and acceptance of electronic documents and signatures and electronic recordkeeping, where practical, by October 2003.

FERC has attempted to facilitate the process of seeking QF status by electronically providing materials to potential small power producers and cogenerators to assist in their preparation of notices of self-certification and applications for Commission certification. FERC Form 556 can be downloaded from FERC's web site at: <http://www.ferc.gov/docs-filing/forms.asp#556>.

In Order No. 732, FERC required that applicants submit their QF applications (whether initial certifications or recertifications, and whether self-certifications or applications for Commission certification) electronically via the FERC website. The electronic filing process is faster, easier, less costly and less resource-intensive than hard-copy filing. An applicant filing electronically receives an acknowledgement that the Commission has received the application and a docket number for the submittal much more quickly than if filing in hard-copy format. Electronic filing has allowed the Commission to electronically process QF applications, reduced required staff resources and human error, and allowed 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 has facilitated the compilation of QF data. Requiring applicants to file electronically has made it possible to make better use of this data.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2.

FERC Forms 556 and 556A are necessary information collections for the Commission to remain in compliance with FPA and PURPA mandates. No similar information is, in fact, publicly available. There are no other Federal agencies collecting this data, as there are no other Federal agencies responsible for certifying an electric generating facility as a QF and/or allowing a cogenerator or small power producer to determine whether it qualifies

⁶ *Electronic Filing of Documents*, Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

for the benefits bestowed by PURPA, including the exemptions from certain provisions of federal and state law.

5. METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

FERC-556. The FERC Form 556 and accompanying instructions have made it easier for applicants to complete this form because the form leads applicants step-by-step through the compliance determinations. Without the instructions and FAQs (Frequently Asked Questions), applicants (particularly small applicants) must independently research the requirements and determine compliance with the relatively complex EPC Act 2005 cogeneration requirements.⁷

The FERC website has a list of frequently asked questions⁸ to help filers. It also provides the names and phone numbers of legal and technical staff at FERC that filers can call directly to get answers to questions and to receive general guidance and information about FERC's QF program and policies. The website also provides an email address that can be used to submit written questions to FERC technical and legal staff.

Finally, the Commission has exempted applicants for facilities with net power production capacities of 1 MW and smaller from any filing requirement; the electronic filing requirement thus does not apply to these small QFs. The Commission believes that any applicant for a facility larger than 1 MW would have access to the resources needed to develop and make an electronic filing.

FERC-556A, as proposed in RM19-15. The proposed form will be submitted electronically.

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

FERC-556 and FERC-556A. Applicants submit an initial form and additional forms for any changes in qualifying status criteria. In view of this one-time requirement, the form cannot be collected less frequently (i.e. not collected at all). If the information were not collected, as noted above, the Commission would be unable to certify the facility as a QF, and the cogenerator or small power producer would be unable to determine whether it

⁷ Form 556 and its accompanying instructions are posted at <https://www.ferc.gov/docs-filing/forms/form-556/form-556.pdf>.

⁸ The FAQs are posted at <https://www.ferc.gov/resources/faqs/qf-faqs.asp>.

qualifies for the benefits bestowed by PURPA, including the exemptions from certain provisions of Federal and state law.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

There are no special circumstances.

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE TO THESE COMMENTS

Each FERC rulemaking (both proposed and final rules) is published in the Federal Register thereby providing public utilities and licensees, state commissions, Federal agencies, and other interested parties an opportunity to submit data, views, comments or suggestions concerning the proposed collection of data. The NOPR (issued 9/19/2019) is published in the Federal Register (84 FR 53246, 10/4/2019).

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in filings to be confidential. However, the Commission will consider specific requests for confidential treatment (e.g. Critical Energy/Electric Infrastructure Information [CEII] or non-public) to the extent permitted by law.⁹ The Commission will review each request for confidential treatment on a case-by-case basis.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE

There are no questions of a sensitive nature.

⁹ 18 C.F.R. § 388.112. More information on the CEII definition, program and requirements is posted at <http://www.ferc.gov/legal/ceii-foia/ceii.asp>.

12. ESTIMATED BURDEN FOR COLLECTION OF INFORMATION

The FERC-556 (which is affected by this NOPR in Docket RM19-15) was submitted to OMB on 5/20/2019 and approved by OMB on 11/18/2019 with the burden estimates shown in Table 1 (and provided here only for background information).

Only one item per OMB Control Number can be pending at OMB at a time, and the OMB approval of FERC-556 was not issued until after submittal of this FERC-556A package to OMB. In order to submit this material for the NOPR in RM19-15 timely to OMB for review, the corresponding burden and cost estimates as proposed in the NOPR in RM19-15 are shown in Table 2 for the temporary information collection number FERC-556A.

If and when a final rule is issued in Docket No. RM19-15, we expect to submit it under FERC-556 (and the temporary information collection number FERC-556A will no longer be necessary).

TABLE 1
BACKGROUND ONLY---FERC-556, in OMB-approved inventory
(as of OMB approval dated 11/18/2019 for ICR 201903-1902-005)

Facility Type	Filing Type	Number of Responses (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hours & Cost Per Response ¹⁰ (4)	Total Annual Burden Hours & Total Annual Cost (rounded) (3)*(4)=(5)	Cost per Respondent (\$) (rounded) (5)÷(1)
Cogeneration Facility > 1 MW ¹¹	Self-certification	63	1.25	78.75	1.5 hrs.; \$118.5	118.125 hrs.; \$9,332	\$148
Cogeneration Facility > 1 MW	Application for FERC certification	1	1.25	1.25	50 hrs.; \$3,950	62.5 hrs.; \$4,938	\$4,938

¹⁰ The Commission staff believes that the industry is similarly situated in terms of wages and benefits. Therefore, cost estimates are based on FERC's 2018 average annual wage (and benefits) for a full-time employee of \$164,820 (or \$79.00/hour).

¹¹ MW = megawatt.

FERC Form 556A (OMB Control No. TBD)
 NOPR (issued 9/19/2019) in Docket Nos. RM19-15 and AD16-16
 RIN: 1902- AF67
 (updated 2/5/2020)

Small Power Production Facility > 1 MW	Self-certification	2,698	1.25	3,372.5	1.5 hrs.; \$118.5	5,058.75 hrs.; \$399,641	\$148
Small Power Production Facility > 1 MW	Application for FERC certification	0	1.25	0	50 hrs.; \$3,950	0 hrs.; \$0	\$0
Cogeneration and Small Power Production Facility ≤ 1 MW (Self-Certification) ¹²	Self-certification	692	1.25	865	1.5 hrs.; \$118.5	1,297.5 hrs.; \$102,503	\$148
TOTAL		3,454		4,317.5		6,536.875 hrs.; \$516,413.13	

TABLE 2 FERC-556A, as proposed in the NOPR in Docket Nos. RM19-15 and AD16-16 ^{13, 14}							
Facility Type	Filing Type	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hours & Cost Per Response (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Cogeneration Facility > 1 MW	Self-certification	10	1.25	12.5	8 hrs.; \$632	100 hrs.; \$7,900	\$790
Cogeneration Facility > 1 MW	Application for FERC certification	1	1.25	1.25	55 hrs.; \$4,345	68.75 hrs.; \$5,431.25	\$5,431.25

¹² Not required to file.

¹³ The burden costs are based on FERC’s 2018 average annual salary plus benefits of \$164,820 (or \$79/hour). The Commission staff believes that industry is similarly situated in terms of staff costs (wages and benefits).

¹⁴ In this table, “no change” means the current OMB-approved figures included in FERC-556 are not affected by the NOPR in Docket No. RM19-15.

FERC Form 556A (OMB Control No. TBD)
 NOPR (issued 9/19/2019) in Docket Nos. RM19-15 and AD16-16
 RIN: 1902- AF67
 (updated 2/5/2020)

Small Power Production Facility > 1 MW, > 1 Mile, < 10 Miles from Affiliated Facility	Self-certification	20	1.25	25	8 hrs.; \$632	200 hrs.; \$15,800	\$790
Small Power Production Facility > 1 MW, > 1 Mile, < 10 Miles from Affiliated Facility	Application for FERC certification	1	1.25	1.25	55 hrs.; \$4,345	68.75 hrs.; \$5,431.25	\$5,431.25
Cogeneration and Small Power Production Facility ≤ 1 MW (Self-Certification) ¹⁵	Self-certification	312	1.25	390	4 hrs.; \$316	1,560 hrs.; \$123,240	\$395
Small Power Production Facility > 1 MW, ≤ 1 Mile from Affiliated Facility	Self-certification	no change	no change	no change	no change	no change	no change
Small Power Production Facility > 1 MW, ≤ 1 Mile from Affiliated Facility	Application for FERC certification	1	1.25	1.25	55 hrs.; \$4,345	68.75 hrs.; \$5,431.25	\$5,431.25
Small Power Production Facility > 1 MW, ≥ 10 Miles from Affiliated Facility	Self-certification	1,980	1.25	2,475	8 hrs.; \$632	19,800 hrs.; \$1,564,200	\$790

¹⁵ Not required to file.

Small Power Production Facility > 1 MW, ≥ 10 Miles from Affiliated Facility	Application for FERC certification	no change	no change	no change	no change	no change	no change
TOTAL for FERC-556A, as proposed in the NOPR in Docket Nos. RM19-15 and AD16-16						22,235 hrs.; \$1,727,433.75	

Details on the proposed changes to the FERC-556 information collection are provided in Attachment A to this supporting statement.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no non-labor start-up costs. All costs are related to burden hours and are addressed in Questions #12 and #15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost for ‘analysis and processing of filings’¹⁶ is based on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collection.

The PRA Administrative Cost¹⁷ is the average annual FERC cost associated with preparing, issuing, and submitting materials necessary to comply with the PRA for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. It also includes the cost of publishing the necessary notices in the Federal Register.

FERC-556A	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of	1 ¹⁸	\$167,091

¹⁶ The estimate uses the FERC’s FY 2019 average annual salary plus benefits of one FERC FTE (full-time equivalent [\$167,091 per year or \$80.00 per hour]). (These estimates were updated in July 1, 2019.)

¹⁷ This estimate was updated July 1, 2019.

¹⁸ The existing FERC-556 has an annual estimate of two (2) FERC FTEs. The proposed changes in the NOPR in Docket Nos. RM19-15 and AD16-16 would add one (1) FERC FTE (shown in this supporting statement for temporary information collection number

Filings		
PRA Administrative Cost		\$4,832
FERC Total		\$171,923

15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

Details on the proposed changes to the FERC-556 information collection are provided in Attachment A to this supporting statement.

The Commission believes that an update to the PURPA Regulations is warranted to ensure the Commission continues to fulfill its statutory obligations under PURPA. Modifying the current “one-mile rule” for determining whether generation facilities should be considered to be part of a single facility for purposes of determining qualification as a qualifying small power production facility increases the burden on each filer to provide more information in its filing. The Commission proposes to allow entities challenging a QF certification to rebut the presumption that affiliated facilities located more than one mile and less than ten miles apart are considered to be separate QFs. The Commission proposes that this change would be effective as of the date of a final rule, which means that such challenges could only be made to QF certifications and recertifications that are submitted after the effective date of the final rule in this proceeding.

The Commission proposes that an entity can seek to rebut the presumption only for those facilities that are located more than one mile apart, but less than ten miles apart. The Commission believes that, just as there are some facilities that may be so close that it is reasonable to irrebuttably treat them as a single facility (those a mile or less apart), so there are some facilities that are sufficiently far apart that it is reasonable to treat them as irrebuttably separate facilities. That latter distance, the Commission believes, is ten miles or more apart. Thus, if two affiliated facilities are one mile or less apart they are currently and would under the proposed changes continue to be irrebuttably presumed to be a single facility at a single site. If affiliated facilities are ten miles or more apart, they would be irrebuttably presumed to be separate facilities at separate sites.

The Commission proposes corresponding changes to the FERC Form No. 556. Currently, item 8a of Form No. 556 requires that the applicant identify any facilities with electrical generating equipment within one mile of the instant facility’s electrical generating equipment. The Commission proposes adding a new item, which would be similar to the current item 8a, except that it would cover affiliated facilities whose nearest

FERC-556A), giving a new total of three (3) FERC FTEs annually to analyze and process the filings.

electrical generating equipment is greater than 1 mile and less than 10 miles from the electrical generating equipment of the instant facility.

The Commission proposes that the instructions for the new item would also allow applicants with facilities identified under the new item (i.e., facilities over one and less than ten miles apart) to, if they choose, explain why the facilities identified under the new item should be considered separate facilities, considering the relevant physical and ownership factors. The Commission further proposes to provide reference, in the instructions to the new item, to the paragraphs of a final rule under this rulemaking which discuss the relevant physical and ownership factors that may be asserted to defend against rebuttal.

The Commission also proposes that both existing item 8a and the new item would request the measured distance between the applicant facility and the other identified neighboring facilities, along with an explanation of how those distances were calculated.

The proposed changes would require more time from filing parties to describe any relation to neighboring or affiliated facilities.–

The following table shows the total burden of the proposed FERC-556A related to the NOPR in Docket No. RM19-15. *As noted above, if and when a Final Rule is issued in Docket No. RM19-15, these estimates will likely be consolidated into FERC-556, and also obviate the need for the temporary (placeholder) information collection number FERC-556A.*

FERC Form 556A	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	2,906	0		2,906
Annual Time Burden (Hours)	22,235	0		22,235
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no plans for publication. The data are used for regulatory purposes only.

17. DISPLAY OF EXPIRATION DATE

FERC Form 556A (OMB Control No. TBD)
NOPR (issued 9/19/2019) in Docket Nos. RM19-15 and AD16-16
RIN: 1902- AF67
(updated 2/5/2020)

Form No. 556 is available from the Commission's website (<http://www.ferc.gov/docs-filing/forms.asp#556>) as a standard form that can be downloaded and the expiration date for OMB approval is on the form/instructions.

The OMB expiration dates are also posted on <http://www.ferc.gov/docs-filing/info-collections.asp>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.

ATTACHMENT A

**NOPR in Docket Nos. RM19-15 and AD16-16—
 Details on the Changes Proposed to the FERC-556 and Some Requests for Comment**

If the changes to the evaluation of whether QFs are separate facilities are implemented as proposed in the NOPR, the Commission proposes corresponding changes to the FERC Form No. 556. Currently, item 8a of Form No. 556 requires that the applicant identify any facilities with electrical generating equipment within one mile of the instant facility’s electrical generating equipment, as shown below in Figure 1.

Figure 1: Item 8a of the current Form No. 556

8a 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.

Check here if no such facilities exist.

	Facility location (city or county, state)	Root docket # (if any)	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

The Commission proposes adding a new item 8b,¹⁹ which would be similar to the current item 8a, except that it would cover affiliated facilities whose nearest electrical generating equipment is *greater than 1 mile and less than 10 miles* from the electrical generating equipment of the instant facility.

The Commission proposes that the instructions for the new item would also allow applicants with facilities identified under the new item (*i.e.*, facilities over one mile but less than ten miles apart) to, if they choose, explain (in the Miscellaneous section starting on page 19 of the form) why the facilities identified under the new item should be considered separate facilities, considering the relevant physical and ownership factors. We further propose to provide reference, in the instructions to the new item, to the paragraphs of the final rule under this rulemaking which discuss the relevant physical and ownership factors that may be asserted to defend against rebuttal.

¹⁹ Subsequent items in that section of the form would be retained, but re-numbered and moved down accordingly.

In the NOPR, the Commission seeks comment on whether item 8a (existing) should be revised and the new item (as newly proposed) written to require that the applicant specify the distance from the instant facility to each affiliated facility listed. We also seek comment on whether items 8a and the new item should require the applicant to document (in the Miscellaneous section on page 19 of the Form No. 556) how the distances reported were calculated. Specifically, we seek comment on whether the applicant should be required to identify the particular electrical generating equipment and associated geographic coordinates used in calculating the distance(s) between the facility(ies).

The Commission notes that item 8a currently requires applicants to list all affiliated “facilities.” Under this requirement, an applicant would have to list all affiliated QFs and affiliated *non*-QFs. The Commission requests comment on whether such a requirement is more burdensome than necessary. It is not clear that requiring the listing of affiliated *non*-QFs is necessary in monitoring for compliance with the relevant QF regulations, which are concerned only with distance between affiliated *QFs*. Particularly under the newly proposed item, where applicants would list facilities located over one mile but less than ten miles away, many more facilities are likely to be listed than are currently listed in the existing item 8a. As such, the Commission seeks comment on whether it should revise item 8a (existing) and write new item (as newly proposed) to require that applicants list only affiliated *QFs*, or whether there is reason to continue to require all affiliated facilities to be listed.

The Commission also seeks comment on whether item 3c (geographic coordinates) and the Geographic Coordinates instructions on page 4 of the current Form No. 556 should be modified such that reporting of geographic coordinates should be required for *all* applications, rather than only for applications where there is no facility street address (as is now the case). We believe such information may provide more transparency in approximate distances between facilities, and that such transparency may be useful for both the public and Commission staff in monitoring compliance with the Commission’s QF regulations.

We note, as we did in Order No. 732,²⁰ and as we do in the general form instructions on page 4 of the Form No. 556, that such coordinates can be obtained through certain free online map services (with links and instructions available through the Commission’s QF website); GPS devices (including smartphones, which are now nearly ubiquitous); Google Earth; property surveys; various engineering or construction drawings; property deeds; or municipal or county maps showing property lines. We also note that the

²⁰ *Revisions to Form, Procedures, and Criteria for Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility*, Order No. 732, 130 FERC ¶ 61,214, at P 100 (2010).

FERC Form 556A (OMB Control No. TBD)
NOPR (issued 9/19/2019) in Docket Nos. RM19-15 and AD16-16
RIN: 1902- AF67
(updated 2/5/2020)

Commission has a link on its QF webpage (www.ferc.gov/QF) which provides assistance with determining geographic coordinates of facilities. As such, we believe that the burden that would be created by requiring every QF to provide geographic coordinates would be limited. Even so, we seek comment on whether the value of the information to the public and the Commission would outweigh the limited burden.