

112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

The EPA is also promulgating approval of Wisconsin's preconstruction permitting program found in Chapters 406 and 408, Wis. Adm. Code, under the authority of title V and part 70 solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between promulgation of the Federal section 112(g) rule and adoption of any necessary State rules to implement EPA's section 112(g) regulations. However, since the approval is for the single purpose of providing a mechanism to implement section 112(g) during the transition period, the approval itself will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. Although section 112(l) generally provides authority for approval of State air programs to implement section 112(g), title V and section 112(g) provide authority for this limited approval because of the direct linkage between the implementation of section 112(g) and title V. The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purposes of any other provision under the Act, for example, section 110. The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide Wisconsin adequate time for the State to adopt regulations consistent with the Federal requirements.

III. Administrative Requirements

A. Official File

Copies of the State's submittal and other information relied upon for the final interim approval, including public comments on the proposal received and reviewed by EPA, are maintained in the official file at the EPA Regional Office. The file is an organized and complete record of all the information submitted

to, or otherwise considered by, EPA in the development of this final interim approval. The official file is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: February 23, 1995.

Robert Springer,

Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by adding the entry for Wisconsin in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Wisconsin

(a) Department of Natural Resources: submitted on January 27, 1994; interim approval effective on April 5, 1995; interim approval expires April 7, 1997.

(b) Reserved

* * * * *

[FR Doc. 95-5403 Filed 3-3-95; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32, 36 and 65

[CC Docket No. 93-50; FCC 95-56]

Accounting and Rate Treatment of Allowance for Funds Used During Construction ("AFUDC") and Telephone Plant Under Construction ("TPUC")

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a report and order to amend its rules regarding the accounting and ratemaking treatment for TPUC and interest costs incurred to finance construction projects. This action is to make FCC rules consistent with generally accepted accounting principles and as fair and reasonable as possible for ratemaking purposes.

EFFECTIVE DATE: September 6, 1995.

FOR FURTHER INFORMATION CONTACT: Kim Yee, Common Carrier Bureau, Accounting and Audits Division, (202) 418-0810.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in CC Docket No. 93-50, adopted February 13, 1995 and released February 28, 1995. The complete text of this Report and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC, and may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., at 2100 M Street, NW., Suite 140, Washington, DC 20037, or call (202) 857-3800.

Synopsis of Report and Order

1. This Report and Order amends Part 32, Uniform Systems of Accounts, and 65, Interstate Rate of Return Prescription Procedures and Methodologies, with respect to the proper accounting and ratemaking treatment for telephone plant under construction and allowance for funds used during construction.

2. Specifically, this Report and Order amended Part 32 to require carriers to capitalize AFUDC for both short-term and long-term TPUC using a capitalization rate based on the carrier's average cost of debt. It amended Part 65 to include the interstate portion of the TPUC balances in the interstate rate base and to require carriers to reduce their interstate revenue requirement by the amount of AFUDC capitalized in the current year.

3. This Report and Order eliminates Account 2004, Telecommunication Plant Under Construction-long term. All plant under construction will be record in Account 2003. The distinction between long-term and short-term construction is eliminated.

4. The Report and Order will be effective six months after it is published in the **Federal Register**.

Rule Changes

5. Accordingly, it is ordered that, pursuant to Section 1, 4(i), 201–205, 219, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–205, 219, and 220, parts 32, 36, and 65 of our Rules, 47 CFR parts 32, 36, and 65 are amended, as set forth below.

6. It is further ordered that, pursuant to Section 220(g) of the Communication Act of 1934, as amended, 47 U.S.C. 220(g) and Section 1.427(c) of the Commission’s Rules, 47 CFR 1.427(c), the amendments to parts 32, 36, and 65 of the Commission’s Rules, 47 C.F.R. parts 32, 36, and 65 as set forth below, shall be effective September 6, 1995.

List of Subjects

47 CFR Part 32

Uniform system of accounts.

47 CFR Part 36

Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts.

47 CFR Part 65

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Federal Communication Commission.

William F. Caton,

Acting Secretary.

Parts 32, 36 and 65 of Title 47 of the CFR are amended as follows:

PART 32—UNIFORM SYSTEM OF ACCOUNTS FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 32 continues to read as follows:

Authority: Secs. 4(i), 4(j) and 220 as amended; 47 U.S.C. secs. 154(i), 154(j) and 220 unless otherwise noted.

2. Paragraph 32.2000(c)(2)(x) is revised to read as follows:

§ 32.2000 Instructions for telecommunications plant accounts.

* * * * *

(c) * * *

(2) * * *

(x) Allowance for funds used during construction (“AFUDC”) provides for the cost of financing the construction of

telecommunications plant. AFUDC shall be charged to Account 2003, Telecommunications Plant Under Construction, and credited to Account 7340. The rate for calculating AFUDC shall be determined as follows: If financing plans associate a specific new borrowing with an asset, the rate on that borrowing may be used for the asset; if no specific new borrowing is associated with an asset or if the average accumulated expenditures for the asset exceed the amounts of specific new borrowing associated with it, the capitalization rate to be applied to such excess shall be weighted average of the rates applicable to other borrowing of the enterprise. The amount of interest cost capitalized in an accounting period shall not exceed the total amount of interest cost incurred by the company in that period.

* * * * *

3. Section 32.2003 is amended by revising the section heading and paragraphs (a) and (c) to read as follows:

§ 32.2003 Telecommunications plant under construction.

(a) This account shall include the original cost of construction projects. (Note also § 32.2000(c).)

* * * * *

(c) If a construction project has been suspended for six months or more, the cost of the project included in this account shall be transferred to Account 2006, Nonoperating Plant, without further direction or approval of this Commission. If a project is abandoned, the cost included in this account shall be charged to Account 7370, Special Charges.

* * * * *

§ 32.2004 [Removed]

4. Section 32.2004 is removed.

5. Section 32.7340 is revised in its entirety to read as follows:

§ 32.7340 Allowance for funds used during construction.

This account shall be credited with amounts charged to the telecommunications plant under construction account. (See § 32.2000(c)(2)(x).)

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. Secs. 151, 154 (i) and (j), 205, 221(c), 403 and 410.

2. Section 36.101 is revised to read as follows:

§ 36.101 Section arrangement.

(a) This subpart is arranged in sections as follows:

General

- Telecommunications Plant in Service—Account 2001—36.101 and 36.102.
- General Support Facilities—Account 2110—36.111 and 36.112.
- Central Office Equipment—Accounts 2210, 2220, 2230—36.121 thru 36.126.
- Information Origination/Termination Equipment—Account 2310—36.141 and 36.142.
- Cable and Wire Facilities—Account 2410—36.151 thru 36.157.
- Amortization Assets—Accounts 2680 and 2690—36.161 and 36.162.
- Telecommunications Plant—Other Accounts 2002 thru 2005—36.171.
- Rural Telephone Bank Stock—36.172.
- Material and Supplies—Accounts 1220, and Cash Working Capital—36.181 and 36.182.
- Equal Access Equipment—36.191.

3. Section 36.171 is revised to read as follows:

§ 36.171 Property held for future telecommunications use—Account 2002; Telecommunications plant under construction—Account 2003; and Telecommunications plant adjustment—Account 2005.

The amounts carried in Accounts 2002, 2003, and 2005 are apportioned among the operations on the basis of the apportionment of Account 2001, Telecommunications Plant in Service.

4. Section 36.222(c) is revised to read as follows:

§ 36.222 Nonoperating income and expenses—Account 7300.

* * * * *

(c) The portion reflecting allowance for funds used during construction is apportioned on the basis of the cost of Telecommunications Plant Under Construction—Account 2003. The portion reflecting costs for social and community welfare contributions and fees is apportioned on the basis of the apportionment of corporate operations expenses.

PART 65—INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND METHODOLOGIES

1. The authority citation for part 65 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat., 1066, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 65.450(d) is revised to read as follows:

§ 65.450 Net income.

* * * * *

(d) Except for the allowance for funds used during construction, reasonable charitable deductions and interest related to customer deposits, the amounts recorded as nonoperating income and expenses and taxes (Accounts 7300-7450) and interest and related items (Accounts 7500-7540) and extraordinary items (Accounts 7600-7640) shall not be included unless this Commission specifically determines that particular items recorded in those accounts shall be included.

3. Section 65.820(a) is revised to read as follows:

§ 65.820 Included items.

(a) *Telecommunications Plant.* The interstate portion of all assets summarized in Account 2001 (Telecommunications Plant in Service) and Account 2002 (Property Held for Future Use), net of accumulated depreciation and amortization, and Account 2003 (Telecommunications Plant Under Construction), and, to the extent such inclusions are allowed by this Commission, Account 2005 (Telecommunications Plant Adjustment), net of accumulated amortization. Any interest cost for funds used during construction capitalized on assets recorded in these accounts shall be computed in accordance with the procedures in § 32.2000(c)(2)(x) of this chapter.

[FR Doc. 95-5187 Filed 3-3-95; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Part 107**

[Docket No. HM-207D; Amdt. No. 107-33]

RIN 2137-AC60

Hazardous Materials Regulations; Penalty Guidelines

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: In this final rule, RSPA is publishing its hazardous material transportation enforcement civil penalty guidelines. This action provides the regulated community and the general public with guidance as to the factors RSPA considers in its hazmat penalty assessment process.

EFFECTIVE DATE: This rule is effective April 7, 1995.

FOR FURTHER INFORMATION CONTACT: John J. O'Connell, Jr., Office of Hazardous Materials Enforcement, (202) 366-4700; or Edward H. Bonekemper, III, Office of Chief Counsel, (202) 366-4400, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:**I. Background**

In response to a request contained in Senate Report 103-150 that accompanied the Department of Transportation and Related Agencies Appropriations Act, 1994, RSPA is publishing its hazardous material transportation (hazmat) enforcement civil penalty guidelines as an appendix to its regulations. This action will provide the regulated community and the general public with information concerning how RSPA generally begins its hazmat penalty assessment process and types of information that respondents in enforcement cases should provide to justify reduction of proposed penalties.

RSPA enforcement personnel and attorneys use these guidelines as a partial means of determining a baseline civil penalty for selected violations of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), or the Federal hazardous material transportation law (Federal hazmat law), 49 U.S.C. 5101 *et seq.* (formerly the Hazardous Materials Transportation Act (HMTA), 49 App. U.S.C. 1801 *et seq.*).

Because these guidelines are non-binding and are periodically updated, they are being published as an informational appendix to the enforcement regulations, Subpart D of Part 107 in Title 49 of the Code of Federal Regulations (CFR). They are being published without public notice or comment because they are merely informational, are not finally determinative of any issues or rights, and do not have the force of law. Because these guidelines are merely a general statement of agency policy and practice and because they impose no requirements, no notice of proposed rulemaking is necessary.

This rule publishes the guidelines as they existed on January 18, 1995. In any particular case, the Office of Hazardous Materials Enforcement will use the version of the guidelines in effect at the time of its referral of a matter to the Office of the Chief Counsel for possible issuance of a notice of probable violation (NOPV). However, since the guidelines are not legally binding, later changes in the guidelines may be

considered in a particular case before a final order is issued.

On November 16, 1990, Congress amended the HMTA by passing the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA; Public Law 101-615); in HMTUSA, Congress increased the maximum penalties for HMTA and HMR violations from \$10,000 to \$25,000 per violation per day. The guidelines reflect the culmination of a five-year program under which RSPA increased the baseline penalty for most violations by 20 percent per year (on November 16 of each year between 1990 and 1994) to effect Congress' 1990 increase of the maximum penalty for hazmat violations.

These guidelines are a preliminary assessment tool used by RSPA personnel, and they create no rights in any party. They contain baseline amounts or ranges for violations that frequently have been cited in RSPA hazmat NOPVs. When a violation not described in the guidelines is encountered, it sometimes is possible to determine a baseline penalty by analogy to a similar violation in the guidelines.

Even when the guidelines are applicable to a violation, the use of the guidelines is only a starting point. They promote consistency and generally are used to provide some standard for imposing similar penalties in similar cases. However, no two cases are identical, and ritualistic use of the guidelines would produce arbitrary results and, most significantly, would ignore the statutory mandate to consider several specific assessment criteria. Therefore, regardless of whether the guidelines are used to determine a baseline amount for a violation, RSPA enforcement and legal personnel must apply the statutory assessment criteria to all relevant information in the record concerning any alleged violation and the apparent violator. These criteria are in 49 U.S.C. 5123 and 49 CFR 107.331.

The criteria that RSPA applies are the nature, extent, circumstances, and gravity of each violation; the degree of the violator's culpability; the violator's history of prior violations (if any); the violator's ability to pay; any effect of the penalty on the violator's ability to continue to do business, and other matters that justice requires. The baseline amount or range is an initial reflection of the nature, extent, circumstances, and gravity of the violation as compared with other types of violations. This amount then may be modified on the basis of case-specific information on nature, extent, circumstances, and gravity, as well as information with respect to the other enumerated factors.