

Docket No. TC85-15-000, Texas Eastern
Transmission

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-26338 Filed 10-31-85; 11:55 am]

BILLING CODE 6717-01-M

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FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Thursday, November 7, 1985, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-26336 Filed 10-31-85; 11:55 am]

BILLING CODE 6210-01-M

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FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, November 7, 1985. (Please call 452-3206 on Wednesday, November 6 for possible change in meeting time.)

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment on two proposals concerning the elimination or recovery of float attributable to nonstandard holidays.

Discussion Agenda

2. Proposed revision of regulation B (Equal Credit Opportunity). (Proposed earlier for public comment; Docket No. R-0541)

3. Proposed adoption of revisions to reporting requirements for domestic bank holding companies (FR Y-6, FR Y-9, and FR 2352). (Proposed earlier for public comment; Docket No. R-0548)

4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-26337 Filed 10-31-85; 11:55 am]

BILLING CODE 6210-01-M

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NATIONAL MEDIATION BOARD

REVISED TIME AND DATE: 2:00 p.m., Wednesday, November 13, 1985.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of October, 1985.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Director, Tel: (202) 523-5920.

Date of notice: October 29, 1985.

Mr. Rowland K. Quinn, Jr.,

Executive Director, National Mediation Board.

[FR Doc. 85-26335 Filed 10-31-85; 11:55 am]

BILLING CODE 7550-01-M

6

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1359]

TIME AND DATE: 2:00 p.m. (CST), Wednesday, November 6, 1985.

PLACE: Joe Wheeler State Part Resort Lodge, River Room, Rogersville, Alabama.

STATUS: Open.

Agenda

Approval of minutes of meetings held on October 16, 18, and 22, 1985.

Discussion Item

1. Progress report on a cooperative project with the Agricultural Stabilization and Conservation Service and the Soil Conservation Service to demonstrate the use of animal waste management systems to improve water quality.

Action Items

Old Business Items

1. TVA policy code relating to minority economic and community development.

New Business Items

B—Purchase Awards

B1. Negotiation JJ-452227—Low-pressure turbine rotor rebuild for Sequoyah Nuclear Plant.

B2. Amendment to Contract 71C82-54114-1 with Westinghouse Electric Corporation covering the nuclear steam supply systems for Watts Bar Nuclear Plant, units 1 and 2.

D—Personnel Items

D1. Personal services contract with Consultants & Designers, Inc., New York, New York, for provision of engineering and related services, requested by Power and Engineering (Nuclear).

D2. Personal services contract with CDI Corporation, Philadelphia, Pennsylvania, for provision of engineering and related services, requested by Power and Engineering (Nuclear).

D3. Personal services contract with AIDE Management Resources Corporation, Richmond, Virginia, for provision of engineering and related services, requested by Power and Engineering (Nuclear).

*D4. Relocation incentive for Charles C. Mason.

E—Real Property Transactions

E1. Reconveyance to TVA by the city of Guntersville, Alabama, of certain landrights—Tract Nos. XGR-592SP and -594SP; and grant of a permanent easement by TVA to city of Guntersville, Alabama, for public recreation purposes affecting 5.94 acres of Guntersville Reservoir land located in Marshall County, Alabama—Tract Nos. XTGR-147RE and -148RE.

*E2. Delegation of authority to the Manager of Power and Engineering (Supply and Use) or his designee to approve and execute an agreement or agreements among TVA, Muhlenberg County, Kentucky, and Green River Coal Company providing for the relocation of an existing county road in order to facilitate coal deliveries by rail at the Paradise Fossil Plant and for transfer to Muhlenberg County of an easement for a road right of way for the relocated section of road.

F—Unclassified

*F1. Interagency Agreement No. TV-68155A between U.S. Environmental Protection Agency and TVA for research to determine the contribution of acidic deposition to contaminants in cistern water supply.

*F2. Interagency Agreement No. TV-68154A between U.S. Environmental Protection Agency and TVA for research on the effects of pH and aluminum on life stages of smallmouth bass and rainbow trout.

F3. Agreement No. TV-67796A between the University of Maine at Orono and TVA covering arrangements for TVA to conduct research on aluminum biogeochemistry in forested watersheds.

F4. Supplement to Agreement No. TV-64685A with Oak Ridge Operations, U.S. Department of Energy covering arrangements for TVA to analyze macrobenthos samples

from Bear Creek, East Fork Poplar Creek, White Oak Creek, and several control streams near Oak Ridge, Tennessee.

F5. Interagency Agreement No. TV-68161A between the Department of Energy, Western Area Power Administration and TVA covering arrangements for TVA to provide shop detail and erection drawings and modification steel for modifying a double-circuit 230-kV transmission line tower to operate as a single-circuit 500-kV tower.

F6. Cooperative Agreement No. TV-65181A between The American Welding Institute (AWI) and TVA covering arrangements for TVA to provide AWI with certain welding and testing equipment, workspace, office space, secretarial services, and office equipment and supplies for a two-year period in exchange for a 15-year membership.

F7. Contract No. TV-64000A between Bear Creek Development Authority and TVA

covering arrangements for the continuation of a cooperative effort for the development and management of the Bear Creek Project.

*Items approved by individual Board members. This would give formal ratification to the Board's action.

CONTACT PERSON FOR MORE

INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 832-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: October 29, 1985.

W.F. Willis,

General Manager.

[FR Doc. 85-26309 Filed 10-31-85 10:22 am]

BILLING CODE 8120-01-M

Register

Monday
November 4, 1985

Part II

Environmental Protection Agency

40 CFR Part 35

Grants for Construction of Treatment
Works; Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[OW-FRL-2879-9]

Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule.

SUMMARY: This rule amends the construction grant regulation, 40 CFR Part 35, Subpart I, published as a final rule on February 17, 1984 (49 FR 6224), and the construction grants program State delegation regulation, 40 CFR Part 35, Subpart J, published as a final rule on August 19, 1983 (48 FR 37814). These revisions clarify provisions in the regulation, provide consistency within the regulations, correct grammatical and spelling errors, and provide information that was unavailable at the time of publication. EPA is making these revisions in response to comments and questions.

DATES: This regulation is effective December 4, 1985. Comments must be received on or before January 3, 1986.

ADDRESS: Comments should be addressed to: Central Docket Section (LE-131), Attention: Docket No. G-85-01, Environmental Protection Agency, Washington, D.C. 20460.

The public may inspect the comments received on this rule between 8 a.m. and 4 p.m. on business days at: Central Docket Section, Gallery 1 West Tower Lobby, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Patricia A. Power, Office of Municipal Pollution Control (WH-546), Environmental Protection Agency, Washington, D.C. 20460, 202-382-2287.

SUPPLEMENTARY INFORMATION: On February 17, 1984, the Environmental Protection Agency (EPA) published final and interim final regulations governing grants for construction of treatment works authorized under Title II of the Clean Water Act, as amended. The main body of the construction grants regulation (§ 35.2000 et seq.), and Appendix B (Allowance for Facilities Planning and Design), were published as a final rule while Appendix A (Determinations of Allowable Costs) was published as a revised interim final rule.

The following amendments are revisions in response to various questions and comments on the regulation and Appendix A. These

amendments clarify EPA policy and intent, clarify ambiguities in the language, and correct typographical errors. The following paragraphs discuss EPA's responses to those comments received.

In addition, a review of the regional disputes resolution procedure prompted the revision of Subpart J of Part 35. The amendment to § 35.3030 provides clarification to the procedure and consistency within the assistance disputes provisions in the general grant regulation, 40 CFR Part 30, Subpart L.

Alternative Technologies for Small Communities

Several commentors have asked whether it is proper to include alternative conveyance systems and onsite systems under the unrestricted definition of alternative technology (§ 35.2005(b)(4)). We did not intend to make alternative sewers and onsite systems eligible as alternative technology for any size community. Alternative sewers and onsite systems are eligible as alternative technology for small communities only.

Therefore, in order to clarify the definitions, the last phrase of § 35.2005(b)(4), the definition of alternative technology, concerning onsite and alternative collector sewers, has been moved to § 35.2005(b)(5), the definition of alternative to conventional treatment works for a small community. The amendment also is consistent with § 35.2005(b)(10)(iii), the definition of collector sewer, regarding the eligibility of alternative conveyance systems as alternative technology for small communities only.

In addition, we are adding a new sentence to § 35.2005(b)(5). This sentence also appears in § 35.2005(b)(18), the definition of individual systems. This change will clarify that "small diameter gravity sewers carrying raw wastewater to cluster systems" are eligible as alternative technology for publicly owned systems as well as privately owned systems.

Finally, we are correcting a typographical error in § 35.2005(b)(40) by changing "large" to "larger." This will clarify that the highly dispersed sections of a municipality larger than 3,500 in population may be deemed a "small community."

Reallotment

Section 35.2010 provides the rules for allotment and reallotment of construction grant funds. Paragraph (b) provides that funds allotted to a State are available for obligation to a specific project for the balance of the fiscal year

of the appropriation and the following fiscal year, after which the funds are reallotted if not obligated. The amendment to paragraph (b) clarifies the method of determining reallotment ratios by stressing that a State that failed to obligate its allotment is not considered in the determination of the ratio used to reallot unobligated funds.

Combined Sewer Overflow

We have identified two Marine CSO issues since the publication of the final regulation in February 1984. Both issues concern the Federal share applied to Marine CSO Fund projects under section 201(n)(2) of the Act and § 35.2024(a) of the regulations. The first issue is how to determine the prevailing Federal share applied to Marine CSO Fund projects. Under § 35.2152(a), the Federal share that applies to Marine CSO Fund projects is the program-wide Federal share prevailing at the time of the grant award. The regulations are clear on this point and, therefore, will not be amended.

However, an amendment is required to clarify the second issue, which is whether a State's uniform lower Federal share applies to a Marine CSO Fund project. The amendment to § 35.2152(c) provides that the State's uniform lower Federal share does not apply to a Marine CSO Fund project in that State, because the funds appropriated under section 201(n)(2) of the Act are not part of the State's allotment and the Marine CSO Fund projects are not processed through the State priority system.

Phased or Segmented Treatment Works

It is EPA policy that when a municipality simultaneously files an application for a grant to construct treatment works necessary to achieve secondary treatment and an application for a section 301(h) waiver, a grant may be awarded for a phase or segment providing less than secondary treatment. A subsequent segment, which will be required if the waiver is denied, would provide the required secondary treatment whether or not Federally funded. To make this policy clear, we are amending § 35.2108(b) by adding a new paragraph (b)(4).

Revised Water Quality Standards

We received several requests to clarify § 35.2111, the provision which prohibits award of a grant pursuant to section 24 of the 1981 Amendments to the Act. The sanction is imposed if a State fails to review and revise, as appropriate, its water quality standards pursuant to section 303(c) of the Act.

The first issue raised was when and how often the sanction applies. If the State has not, since December 29, 1981, reviewed and revised, as appropriate, the water quality standards for the stream into which the wastewater treatment works applying for a construction grant will discharge, the sanction applies. The sanction is effective for construction grants awarded after December 29, 1984. Section 303(c) of the Act requires that at least once every three years the State review its water quality standards and, if appropriate, revise the standards. The requirements of section 303(c) of the Act are continuous; however, the sanction imposed by section 24 of the 1981 Amendments is not. That is, the section 24 sanction will not apply to every section 303(c) water quality standards review violation. Section 24 of the Amendments was not intended to be a surrogate for section 303(c) of the Act. Section 35.2111 has been amended accordingly. Although the section 24 sanction applies only once, this does not affect the State's responsibility under section 303(c) to ensure that adequate review and revision of water quality standards are completed in the future.

The second issue raised was whether the section 24 grant sanction applies to all grants awarded under Title II of the Act or only to grants for the construction of treatment works. The grants subject to this sanction are construction grants. Funding for State programs authorized by sections 205(g) and 205(j) of the Act and for non-discharging land treatment and containment ponds are not affected. Therefore, § 35.2111 is amended by adding new paragraphs (b) and (c).

Infiltration/Inflow (I/I)

Section 35.2120(b) requires a grantee to perform a study of its sewer system and to propose a rehabilitation program if rainfall-induced peak flows result in chronic operational problems related to hydraulic overloading during storms. Based on a study which was to identify a more quantitative criterion, and that was underway at the time the current regulation was published, we have determined that flow rates less than 275 gallons per capita per day (gpcd) during storms generally indicate that inflow is not excessive. The study evaluated the results of sewer system evaluation surveys in numerous communities in seven EPA Regions to determine: (1) Below what flow further I/I correction was unlikely to be cost-effective compared to providing increased hydraulic capacity at the plant and (2) the units of measure in which to describe the flow. The study found a significant statistical correlation

between population size and nonexcessive inflow (gallons per capita) and a maximum average peak flow of 275 gallons per capita per day in the studied systems. This figure provides a simplified and straightforward standard for determining whether maximum flow rates from an existing system are excessive and further I/I study and analysis are necessary.

Therefore, we are revising § 35.2120(b) to require a study if during rain events (which are deemed by the State to be locally representative and significant, for example in terms of storm frequency and intensity) inflow results in chronic operational problems related to hydraulic overloading or the total daily flow rate exceeds 275 gpcd. We are making a corresponding change to the definition of nonexcessive inflow, § 35.2005(b)(29).

Determination of Allowable Costs

Several provisions of Appendix A are amended to provide clarity and consistency. First, a new paragraph is added to Appendix A(b)A.1. to clarify that specific and unique costs associated with an onsite or off-site Innovative or Alternative (I/A) field test are allowable. Congress intended to encourage I/A field testing of innovative or alternative technologies by making the field tests grant eligible. Included in this eligibility is construction of the field test treatment works as well as the costs of conducting the study and reporting the results. The amendment will allow the costs specific and unique to the field test aspects of the project. However, we stress that normal operation and maintenance costs as defined in § 35.2005(b)(30) are not allowable as construction costs of a field test.

Second, Appendix A(b)A.2.a. is clarified to reflect the Congressional intent behind section 202(a)(3) of the Act which states that the Administrator is authorized to make a grant to fund all the costs of the modification or replacement of an I/A technology project that received an increased Federal share grant and that failed to meet its design performance specifications. The amendment clarifies that the actual planning and design costs of an I/A modification or replacement project are allowable costs.

Third, Appendix A(b)A.2.e. is revised for consistency with § 35.2212(b). The amendment clarifies that incremental costs due to the award of a subagreement for building significant elements of the project more than 12 months after Step 3 grant award or Step 2+3 final approvals are unallowable unless specified in the project schedule

approved by the Regional Administrator at the time of grant award.

Fourth, a new paragraph is added to Appendix A(b)B.2., a section that addresses the unallowable costs related to mitigation of environmental impacts. The new paragraph, b., makes clear that the cost of land acquired to mitigate adverse environmental effects as identified pursuant to an environmental review under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, is an unallowable cost. This amendment responds to a recent EPA Board of Assistance Appeals (BAA) decision, *City of Merced, California* (EPA Docket No. 82-74), which took a position, contrary to the long-standing Agency policy, that the cost of land to mitigate adverse environmental effects identified under NEPA is allowable. The Agency policy is based on section 212(2) of the Act which provides for only two categories and land in the definition of treatment works: Land that will be used as an integral part of the treatment process and land that will be used for the ultimate disposal of residues resulting from such treatment. Because land acquired to mitigate adverse environmental effects is not included in the definition of treatment works and because NEPA does not provide independent funding authority, the cost of that land purchase is not allowable. The amendment to Appendix A explicitly states that it is an unallowable cost. However, providing that the cost of land purchased to mitigate adverse environmental impacts is unallowable does not affect the requirement to mitigate. 40 CFR Part 6 requires that effective mitigation measures be developed and implemented. Also, the applicant must provide in the facilities plan a cost-effectiveness analysis of the feasible alternatives, including an analysis of the ineligible land purchase.

Fifth, on March 1, 1985, the BAA issued a decision in the case of *County of Ventura, California* (EPA Docket No. 83-121). The BAA determined that for this particular publicly-owned small alternative system, the cost of sewer pipe installed between the foundations of homes and the septic tanks (house laterals) was eligible for Federal funding. Agency policy is that for small systems, as for conventional treatment works, the cost of house laterals is not eligible. As indicated by the legislative history underlying section 211 of the Clean Water Act, this policy is consistent with the intent of Congress: "Sewer lines financed under this authority (Title II) are to be limited to the main lines constructed by the public

agency and does not include the connection to such lines by households and others." H.R. Report No. 92-911, 92nd Cong. 2nd Sess. (1972). House laterals were explicitly excluded from the applicable definition of a sewage collection system in previous regulations, 40 CFR 354.905. House laterals are likewise explicitly excluded from the present definition of collector sewer, 40 CFR 35.2005(10)(iii), and are specifically made ineligible for funding under small system projects pursuant to Appendix A(b)C.2.b.

To some it was unclear whether the costs of conveyance pipes from a user's house to the property line were allowable if the treatment unit was not located on that user's property. Therefore, Appendix A(b)C.2.b. has been modified to make it clear that this cost is unallowable.

Finally, Appendix A(b)D. is amended to clarify the Agency's longstanding policy that the grantee must satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) in acquiring land, easements, and rights-of-way for sewer lines which are necessary for a Federally funded project even though Federal funds are not used to buy the land. Columbia, South Carolina sued the EPA over this issue. The Fourth Circuit in *City of Columbia v. Costle*, 710 F.2d 1009 (4th Cir. 1983), upheld EPA's determination that if real property must be acquired for a Federally assisted project the acquisition must be in accordance with the URA regardless of whether the Federal funds contribute to the cost of the real property.

Regional Disputes Resolution

The amendment to § 35.3030 revises the procedures for conducting Regional review of delegated State decisions pursuant to 40 CFR Part 30, Subpart L, which governs disputes arising under EPA assistance programs.

To be consistent with EPA guidance, the amendment provides that a request for review of a State decision should be submitted to the Region, rather than the Regional Administrator (RA), for a decision under Subpart L. The Region should determine whether the State's review is comparable to a dispute decision official's (DDO) review under Subpart L. If the State's review is comparable, the only Regional review will be conducted by the RA. If the State's review is not comparable, the DDO will review the State's decisions and issued written decisions. Review of either RA or DDO decisions may be requested pursuant to Subpart L.

The amendment also revises the description of the documents that must be submitted with a request for review of a State decision and the requirements for filing a request for review. These revisions also are intended to make § 35.3030 consistent with Subpart L.

Minor Clarifications and Corrections

The balance of the amendments clarify regulatory language and correct typographical errors.

Regulation Development Process

Executive Order 12291

These rules have been reviewed under Executive Order (E.O.) 12291 and do not meet the criteria for a major regulation. This regulation will not result in: An annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or U.S. enterprises operating domestic or foreign markets. Since this regulation is not a major rule, a Regulatory Impact Analysis is not required.

Paperwork Reduction Act

The information collection requirements contained in the regulation that these rules revise are being reviewed by OMB under previously assigned control numbers 2040-0027 and 2040-0095. The amendments to information collection provisions §§ 35.2040 and 35.3030 do not impose any additional information requirement but simply further describe an existing requirement. Therefore, the amendments to §§ 35.2040 and 35.3030 contained in this interim final rule will not have any impact on the paperwork burden already imposed by the cleared regulation. This rule will also carry the control numbers 2040-0027 and 2040-0095.

List of Subjects in 40 CFR Part 35

Air pollution control, Grant programs—environmental protection, Indians, Pesticides and pests, Reporting and recordkeeping, Waste treatment and disposal, Water pollution control.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Lee M. Thomas,

Administrator.

October 10, 1985.

Accordingly, EPA is amending 40 CFR Part 35, Subparts I and J as follows:

PART 35—[AMENDED]

1. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 101(e), 109(b), 201 through 205, 207, 208(d), 210 through 212, 215 through 217, 304(d)(3), 313, 501, 511, and 516(d) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

2. In § 35.2005, paragraphs (b) (4), (5), (22), (29), and (40) are revised to read as follows:

§ 35.2005 Definitions.

* * * * *

(b) * * *

(4) *Alternative technology.* Proven wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, productively recycle wastewater constituents or otherwise eliminate the discharge of pollutants, or recover energy. Specifically, alternative technology includes land application of effluent and sludge; aquifer recharge; aquaculture; direct reuse (non-potable); horticulture; revegetation of disturbed land; containment ponds; sludge composting and drying prior to land application; self-sustaining incineration; and methane recovery.

(5) *Alternative to conventional treatment works for a small community.* For purposes of §§ 35.2020 and 35.2032, alternative technology used by treatment works in small communities include alternative technologies defined in paragraph (b)(4), as well as, individual and onsite systems; small diameter gravity, pressure or vacuum sewers conveying treated or partially treated wastewater. These systems can also include small diameter gravity sewers carrying raw wastewater to cluster systems.

* * * * *

(22) *Initiation of operation.* The date specified by the grantee on which use of the project begins for the purpose for which it was planned, designed, and built.

* * * * *

(29) *Nonexcessive inflow.* The maximum total flow rate during storm events which does not result in chronic operational problems related to hydraulic overloading of the treatment works or which does not result in a total flow of more than 275 gallons per capita per day (domestic base flow plus infiltration plus inflow). Chronic operational problems may include surcharging, backups, bypasses, and overflows. (See §§ 35.2005(b)(16) and 35.2120).

* * * * *

(40) *Small Community*. For purposes of §§ 35.2020(b) and 35.2032, any municipality with a population of 3,500 or less or highly dispersed sections of larger municipalities, as determined by the Regional Administrator.

3. In § 35.2010, paragraph (b) is amended by adding the phrase, "adjusted for the States which failed to obligate any of the fiscal year funds being reallocated," following the words "then-current fiscal year" in the second sentence. As revised, paragraph (b) reads as follows:

§ 35.2010 Allotment; reallocation.

(b) Unless otherwise provided by Congress, all sums allotted to a State under section 205 of the Act shall remain available for obligation until the end of the one year after the close of the fiscal year for which the sums were appropriated. Except as provided in § 35.2020(a), sums not obligated at the end of that period shall be subject to reallocation on the basis of the same ratio as applicable to the then-current fiscal year, adjusted for the States which failed to obligate any of the fiscal year funds being reallocated, but none of the funds reallocated shall be made available to any State which failed to obligate any of the fiscal year funds being reallocated. Any sum made available to a State by reallocation under this section shall be in addition to any funds otherwise allotted to such State for grants under this subpart during any fiscal year and the reallocated funds shall remain available for obligation until the last day of the fiscal year following the fiscal year in which the reallocated funds are issued by the Comptroller to the Regional Administrator.

4. Section 35.2020(a) and (c) are amended by revising the reference to "Subpart F" to "Subpart A" in the first sentence of (a); adding the word "not" between "are" and "obligated" in the third sentence of (a); and italicizing the heading of (c). As revised, paragraphs (a) and the heading of (c) read as follows:

§ 35.2020 Reserves.

(a) *Reserve for State management assistance grants*. Each State may request that the Regional Administrator reserve, from the State's annual allotment, up to 4 percent of the State's allotment based on the amount authorized to be appropriated, or \$400,000, whichever is greater, for State management assistance grants under Subpart A of this part. Grants may be

made from these funds to cover the costs of administering activities delegated or scheduled to be delegated to a State. Funds reserved for this purpose that are not obligated by the end of the allotment period will be added to the amounts last allotted to a State. These funds shall be immediately available for obligation to projects in the same manner and to the same extent as the last allotment.

(c) *Reserve for innovative and alternative technologies.*

5. In § 35.2021, paragraphs (a) and (c) are revised to read as follows:

§ 35.2021 Reallocation of reserves.

(a) Mandatory portions of reserves under § 35.2020(b) through (e) shall be reallocated if not obligated during the allotment period (§ 35.2010(b) and (d)). Such reallocated sums are not subject to reserves. The State management assistance reserve under § 35.2020(a) is not subject to reallocation.

(c) Sums deobligated from the mandatory portion of reserves under paragraphs (b) through (e) of § 35.2020 which are reissued by the Comptroller to the Regional Administrator before the initial reallocation date for those funds shall be returned to the same reserve. (See § 35.2010(c)).

6. Section 35.2040 is amended by revising paragraphs (a)(3) and (4), adding paragraph (a)(5), and revising the heading of paragraph (f) to read as follows:

§ 35.2040 Grant application.

- (a) * * *
- (3) Notification of any advance received under § 35.2025(b);
- (4) Evidence of compliance with all application limitations on award (§ 35.2100 through § 35.2127); and
- (5) The project schedule.

(f) *Marine CSO Fund Project.*

7. Section 35.2108 is amended by revising paragraphs (a) and (b)(2) and (3), and adding paragraph (b)(4) to read as follows:

§ 35.2108 Phased or segmented treatment works.

(a) The grant agreement requires the recipient to make the treatment works of which the phase or segment is a part operational and comply with the enforceable requirements of the Act according to a schedule specified in the

grant agreement regardless of whether grant funding is available for the remaining phases and segments; and

(b) * * *

(2) The period to complete the building of the treatment works will cover three years or more;

(3) The treatment works must be phased or segmented to meet the requirements of a Federal or State court order; or

(4) The treatment works is being phased or segmented to build only the less-than-secondary facility pending a final decision on the applicant's request for a secondary treatment requirement waiver under section 301(h) of the Act.

8. Section 35.2111 is revised to read as follows:

§ 35.2111 Revised water quality standards.

After December 29, 1984, no grant can be awarded for projects that discharge into stream segments which have not, at least once since December 29, 1981, had their water quality standards reviewed and revised or new standards adopted, as appropriate, under section 303(c) of the Act, unless:

(a) The State has in good faith submitted such water quality standards and the Regional Administrator has failed to act on them within 120 days of receipt;

(b) The grant assistance is for the construction of non-discharging land treatment or containment ponds; or

(c) The grant assistance is a State program grant awarded under section 205(g) or 205(j) of the Act.

9. Section 35.2120(b) is amended by adding the phrase "or the rainfall induced total flow rate exceeds 275 gpcd during storm events," to the first sentence of the paragraph. As revised, paragraph (b) reads as follows:

§ 35.2120 Infiltration/Inflow.

(b) *Inflow*. If the rainfall induced peak inflow rate results or will result in chronic operational problems during storm events, or the rainfall-induced total flow rate exceeds 275 gpcd during storm events, the applicant shall perform a study of the sewer system to determine the quantity of excessive inflow and to propose a rehabilitation program to eliminate the excessive inflow. All cases in which facilities are planned for the specific storage and/or treatment of inflow shall be subject to a cost-effectiveness analysis.

10. Section § 35.2152 is amended by adding paragraph (c)(3) to read as follows:

§ 35.2152 Federal share.

(c) * * *

(3) The uniform lower Federal share established by the Governor does not apply to projects funded under § 35.2024(b).

11. Appendix A of Subpart I is amended by adding paragraph k. to (b)A.1 to read as follows:

Appendix A—Determination of Allowable Costs

(b) * * *

A. Costs Related to Subagreements

1. Allowable costs related to subagreements include:

k. The specific and unique costs of field testing an innovative or alternative process or technique, which may include equipment leasing costs, personnel costs, and utility costs necessary for constructing, conducting, and reporting the results of the field test.

12. Appendix A of Subpart I is amended by revising paragraph (b) A.2.a. to read as follows:

Appendix A—Determination of Allowable Costs

(b) * * *

A. Costs Related to Subagreements

2. Unallowable costs related to subagreements include:

a. The costs of architectural or engineering services incurred in preparing a facilities plan and the design drawings and specifications for a project. This provision does not apply to planning and design costs incurred in the modification or replacement of an innovative or alternative project funded under § 35.2032(c).

13. Appendix A of Subpart I is amended by revising paragraph (b)A.2.e. to read as follows:

Appendix A—Determination of Allowable Costs

(b) * * *

A. Costs Related to Subagreements

2. Unallowable costs related to subagreements include:

(e) All incremental costs due to the award of any subagreements for building significant elements of the project more than 12 months after the Step 3 grant award or final Step 2+3 approvals unless specified in the project schedule approved by the Regional Administrator at the time of grant award.

14. Appendix A of Subpart I is

amended by adding paragraph (b)B.2.b. to read as follows:

Appendix A—Determination of Allowable Costs

(b) * * *

B. Mitigation

2. Unallowable costs include:

b. The cost of land acquired for the mitigation of adverse environmental effects identified pursuant to an environmental review under NEPA.

15. Appendix A of Subpart I is amended by revising paragraph (b)C.2.b. to read as follows:

Appendix A—Determination of Allowable Costs

(b) * * *

C. Privately or Publicly Owned Small and Onsite Systems

2. Unallowable costs for small and onsite systems include:

b. Conveyance pipes from the house to the treatment unit located on user's property or from the house to the property line if the treatment unit is not located on that user's property.

16. Appendix A of Subpart I is amended by revising paragraphs (b)D. 1.b. and 2.a. to read as follows:

Appendix A—Determination of Allowable Costs

(b) * * *

D. Real Property

1. Allowable costs for land and rights-of-way include:

b. The cost of complying with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621 et seq., 4651 et seq.), under Part 4 of this chapter for land necessary for the building of treatment works.

2. Unallowable costs for land and rights-of-way include:

a. The costs of acquisition (including associated legal, administrative and engineering etc.) of sewer rights-of-way, waste treatment plant sites (including small system sites), sanitary landfill sites and sludge disposal areas except as provided in paragraphs 1. a. and b. of this section.

17. Paragraphs (b)E.1.f.(3) of Appendix A of Subpart I is amended by revising the words "septic tanks" to "seepage tanks" in the first sentence.

18. Paragraphs (b) F.1. and F.2.

introductory text of Appendix A of Subpart I are amended by adding the words "treatment works serving" before "industrial and Federal facilities" in the first sentences.

19. Section 35.3030 is revised to read as follows:

§ 35.3030 Right of review of State decision.

(a) Any construction grant application or grantee who has been adversely affected by a State's action or omission may request Regional review of such action or omission, but must first submit a petition for review to the State agency that made the initial decision. The State agency will make a final decision in accordance with procedures set forth in the delegation agreement. The State must provide, in writing, normally within 45 days of the date it receives the petition, the basis for its decision regarding the disputed action or omission. The final State decision must be labeled as such and, if adverse to the applicant or grantee, must include notice of the right to request Regional review of the State decision under this section. A State's failure to address the disputed action or omission in a timely fashion, or in writing, will not preclude Regional review.

(b) Requests for Regional review must include:

(1) a copy of any written State decision.

(2) a statement of the amount in dispute.

(3) a description of the issues involved, and

(4) a concise statement of the objections to the State decision.

The request must be filed by registered mail, return receipt requested, within thirty days of the date of the State decision or within a reasonable time if the State fails to respond in writing to the request for review.

(c) The Region shall determine whether the State's review is comparable to a dispute decision official's (DDO) review pursuant to 40 CFR Part 30, Subpart L. If the State's review is comparable, Regional review of the State's decision will be conducted by the Regional Administrator. If the State's review is not comparable, the DDO will review the State's decision and issue a written decision. Review of either a Regional Administrator or DDO decision may be requested pursuant to Subpart L.

(Approved by the Office of Management and Budget under control number 2040-0095)

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