§ 504.9 Environmental requirements for certifying powerplants.

Under §§501.52, 504.5 and 504.6 of these regulations, OFP may prohibit, in accordance with section 301 and section 303 (a) or (b) of FUA, as amended, the use of natural gas or petroleum, or both, as a primary energy source in any certifying powerplant. Under sections 301(c) and 303(a) of FUA, as amended, and §§501.52, 504.6, and 504.8 of
these regulations, OFP may prohibit the excessive use of natural gas or petroleum in a mixture with an alternate fuel as a primary energy source in a certifying powerplant.

(a) NEPA compliance. Except as provided in paragraph (c) of this section, where the owner or operator of a powerplant seeks to obtain an OFP prohibition order through the certification procedure, and did not hold either a proposed prohibition order under former section 301 of FUA or pending order under section 2 of ESECA, it will be responsible for the costs of preparing any necessary Environmental Assessment (EA) or Environmental Impact Statement (EIS) arising from OFP's obligation to comply with NEPA. The powerplant owner or operator shall enter into a contract with an independent party selected by OFP, who is qualified to conduct an environmental review and prepare an EA or EIS, as appropriate, and who does not have a financial or other interest in the outcome of the proceedings, under the supervision of OFP. The NEPA process must be completed and approved before OFP will issue a final prohibition order based on the certification.

(b) Environmental review procedure. Except as provided in paragraph (c) of this section, environmental documents, including the EA and EIS, where necessary, will be prepared utilizing the process set forth above. OFP, the powerplant owner or operator and the independent third party shall enter into an agreement for the owner or operator to engage and pay directly for the services of the qualified third party to prepare the necessary documents. The third party will execute an OFP prepared disclosure document stating that he does not have any conflict of interest, financial or otherwise, in the outcome of either the environmental process or the prohibition order proceeding. The agreement shall outline the responsibilities of each party and his relationship to the other two parties regarding the work to be done or supervised. OFP shall approve the information to be developed and supervise the gathering, analysis and presentation of the information. In addition, OFP will have the authority to approve and modify any statement, analysis, and conclusion contained in the third party prepared environmental documents.

(c) Financial hardship. Whenever the bona fide estimate of the costs associated with NEPA compliance, if borne by the powerplant owner or operator, would make the conversion financially infeasible, OFP may waive the requirement set forth in paragraphs (a) and (b) of this section and perform the necessary environmental review.

(Approved by the Office of Management and Budget under control number 1903–0077)


[47 FR 17046, Apr. 21, 1982]

APPENDIX I TO PART 504—PROCEDURES FOR THE COMPUTATION OF THE REAL COST OF CAPITAL

(a) The firm's real after-tax weighted average marginal cost of capital (K) is computed with equation 1.

$$
K = \frac{\hat{r}_d (1-t_d) }{1 - f_d} - \frac{\hat{r}_e }{1 - f_e} + \frac{P}{1 - f_p} - \frac{\hat{r}_d (1-t_d) }{1 - f_d} - \frac{\hat{r}_e }{1 - f_e} + \frac{P}{1 - f_p}
$$

\[\text{EQ 1}\]