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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1770

RIN 0572-AB77

Accounting Requirements for RUS Telecommunications Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS), an agency delivering the U.S. Department of Agriculture's Rural Development Utilities Programs, is amending its regulations on accounting policies and procedures for RUS Telecommunications Borrowers as set forth in RUS's regulations concerning Accounting System Requirements for RUS Telecommunications Borrowers. This final rule adopts some recent accounting changes made by the Federal Communications Commission (FCC). These changes include increasing the expense limit for some assets excluding personal computers, allowing tools and test equipment located in the central office to be expensed under the new limitation. This final rule affirms the use of Class A accounts by RUS borrowers; maintains the expense matrix requirements; maintains the requirement that borrowers request prior approval to record extraordinary items, prior period adjustments, and contingent liabilities; establishes policies and procedures to permit RUS borrowers to follow Prudent Utility Practice regarding the storage and retention of business records; and eliminates certain Telecommunications Plant Under Construction accounts. This final rule also adds three new accounting interpretations on Allowance for Funds Used During Construction, Reporting Comprehensive Income, and Disclosures About

Pensions and Other Postretirement Benefits.

DATES: Effective June 15, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Diana C. Alger, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, Stop 1523, Room 2221—South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 720-5227.

SUPPLEMENTARY INFORMATION

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted, no retroactive effort will be given to this rule, and, in accordance with Section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeal procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

RUS has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS telecommunications program provides loans to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

This rule implements provisions of the loan documents between RUS and those telecommunications utilities that borrow from RUS and represents an update of existing record retention requirements. The requirements reflect due diligence standards of both public

and private lenders for borrowers in the telecommunications industry. Moreover, the requirements reflect generally accepted telecommunications industry standards and are consistent with requirements imposed by many State and Federal utility regulatory bodies. The rule is not expected to materially change the current practices of most RUS borrowers and consequently will not have a significant impact on the affected entities.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state or local governments. Therefore, consultation with states is not required.

Information Collection and Recordkeeping Requirements

This rule contains no new reporting or recordkeeping burdens under OMB control number 0572-0003 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act Certification

The Administrator of RUS has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require a consultation with State and local officials. See the final rule related notice titled, "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034).

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance Program under No. 10.851, Rural Telephone Loans and Loan Guarantees; No. 10.852, Rural

Telephone Bank Loans; No. 10.857, Rural Broadband Access Loans and Loan Guarantees; and No. 10.854, Distance Learning and Telemedicine Loans and Grants. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402. Telephone: (202) 512-1800.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) (2 U.S.C. 1501 *et seq.*) for State, local, and tribal governments for the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Background

In order to facilitate the effective and economic operation of a business, adequate and reliable financial records must be maintained. Accounting records must provide a clear, accurate picture of current economic conditions from which management can make informed decisions in charting the company's future. The rate regulated environment in which a telecommunications carrier operates causes an even greater need for financial information that is accurate, complete, and comparable with that generated by other carriers. For this reason, the Federal Communications Commission (FCC) prescribes a Uniform System of Accounts (USoA) for the telecommunications industry.

RUS, as a Federal lender and mortgagee, and in furthering the objectives of the Rural Electrification Act (RE Act) (7 U.S.C. 901 *et seq.*) has a legitimate programmatic interest and a substantial financial interest in requiring adequate records to be maintained. In order to provide RUS with financial information that can be analyzed and compared with the operations of other borrowers in the RUS program, all RUS borrowers must maintain financial records that utilize uniform accounts and uniform accounting policies and procedures. The standard RUS security instrument, therefore, requires borrowers to maintain their books, records, and accounts in accordance with methods and principles of accounting prescribed by RUS in the RUS USoA for its telecommunications borrowers.

The RUS USoA parallels the USoA prescribed by the FCC for telecommunications utilities and, as such, is consistent with the standards of financial accounting in the

telecommunications industry as a whole. As FCC amends its USoA, RUS reviews the appropriateness and applicability of each amendment and proposes revisions, as necessary, to the RUS USoA.

In Docket 95-60, published in the **Federal Register** on July 23, 1997, at 62 FR 39451, the FCC raised the expense limit on accounts 2112, 2113, 2114, 2115, 2116, 2122, 2123, and 2124 (excluding personal computers) from \$500 to \$2000. RUS adopts this change.

The FCC published Docket 98-81 in the **Federal Register** on September 15, 1999, at 64 FR 50002. This order entailed a number of items that RUS has incorporated into its USoA.

RUS is combining accounts 2114 through 2116 into a single new account 2114, Tools and Other Work Equipment. Because the assets recorded in these accounts are similar in nature and use similar depreciation rates, we believe that combining them would not adversely impact loan security issues or the consistent and comparable reporting of financial information to RUS. Nor would it affect reporting for ratemaking purposes.

RUS is eliminating account 5010 and requiring that all nonregulated revenues be recorded in account 5280, Nonregulated Operating Revenue. This change requires carriers to maintain subsidiary record categories for each nonregulated revenue item recorded in this account. Our interest is in ensuring that nonregulated revenues be segregated from regulated revenues.

Docket 98-81 also eliminated the requirement in 47 CFR 32.16 for filing projected future effects of an accounting change (revenue requirement study) and the requirement in 47 CFR 32.2000(b) that borrowers submit for approval, journal entries to record telecommunications plant acquisitions of more than \$1 million Class A companies and more than \$250,000 for Class B companies. Because the need for this level of approval no longer exists, RUS eliminates these requirements.

The FCC published Docket 99-253 in the **Federal Register** on March 28, 2000, at 65 FR 16328. This docket eliminated the 30-day notification requirement for establishment of temporary or experimental accounts found in 47 CFR 32.13(a)(3), eliminated the reclassification requirement for property held for more than 2 years in account 2002, Property Held for Future Telecommunications Use, and eliminated the reclassification requirement for projects held in account 2003, Telecommunications Plant Under Construction, and suspended for more

than 6 months. RUS adopts these changes.

The FCC has also eliminated the requirement for carriers to obtain prior approval before recording extraordinary items, contingent liabilities, and prior period adjustments as previously required in 47 CFR 32.25. RUS is retaining this requirement for borrowers of the RUS Telecommunications Program.

Additionally, this docket eliminated the expense matrix requirement found in 47 CFR 32.5999. The information provided by this matrix is invaluable for RUS in its analysis of the financial condition of borrowers. RUS, therefore, is retaining the expense matrix requirement.

Because account 2004 has been eliminated from the FCC USoA, RUS is deleting accounts 2004.1, 2004.2, and 2004.3 from the accounts required under 7 CFR 1770.15 and renaming and redefining accounts 2003.1, 2003.2, and 2003.4.

In response to a change by the FCC of its revenue threshold for classification of Class A carriers, RUS is requiring that all borrowers using the Class A system of accounts as of May 10, 2004, are required to continue using this system and all new borrowers shall adopt the Class A system of accounts. RUS shall continue to require financial information that can be analyzed and compared with the operations of all other borrowers in the RUS program. For this reason, RUS borrowers must continue to maintain financial records that utilize uniform accounts and uniform accounting policies and procedures.

To ensure that borrowers consistently report their financial operations and keep pace with the changing environment in which they operate, RUS is setting forth accounting interpretations that establish the reporting and disclosure requirements for Reporting Comprehensive Income and Disclosures about Pensions and Other Postretirement Benefits.

RUS is revising 7 CFR part 1770 to change the word "companies" to "borrowers" in all instances to better reflect the current nature of the industry. RUS is also specifically identifying the organizational unit within RUS to which requests for approval and interpretations should be addressed. This revision should assist borrowers in filing requests and should expedite the review process within RUS.

On November 5, 2001, the FCC released its "Report and Order in CC Docket NOS. 00-199, 97-212, and 80-286 Further Notice of Proposed

Rulemaking in CC Docket NOS. 00–199, 99–301, and 80–286” addressing: (1) The 2000 Biennial Regulatory Review—Comprehensive Review of the Accounting Requirements and Automated Reporting Management Information System (ARMIS) Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2, (2) Amendments to the Uniform System of Accounts for Interconnection, (3) Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, and (4) Local Competition and Broadband reporting. This order contains a number of items that RUS is incorporating into its USoA.

The FCC created new subaccounts for accounts 2212, 2232, 6212, 6232, and 6620. Account 2212, Digital Electronic Switching, will have subaccounts 2212.1, Circuit, and 2212.2, Packet. Account 2232, Circuit Equipment, will have subaccounts 2232.1, Electronic, and 2232.2, Optical. Account 6212, Digital Electronic Switching Expense, will have subaccounts 6212.1, Circuit, and 6212.2, Packet. Account 6232, Circuit Equipment Expense, will have subaccounts 6232.1, Electronic, and 6232.2, Optical. Account 6620, Services, will have subaccounts 6620.1, Wholesale, and 6620.2, Retail. RUS adopts these changes.

The FCC revised Sections 32.1220(h) and 32.2311(f) of 47 CFR part 32 and eliminated the annual inventory requirement for materials and supplies, and station apparatus in stock. Borrowers would be allowed the latitude to determine the appropriate inventory validation methodology based on risk assessment and existing controls. RUS adopts this change.

Additionally, under 7 CFR part 32, Section 32.4999(L) the FCC eliminated the “treated traditionally” requirement from incidental activities. Revenues from minor nontariffed activities that are an outgrowth of the borrower’s regulated activities may be recorded as regulated revenues under certain conditions. However, the FCC maintained the other three requirements to provide safeguards to prevent misuse of the incidental activities exception. RUS adopts this change.

The FCC addressed the affiliate transaction rules under Section 32.27 in five distinct areas by: (1) Eliminating the requirement that carriers make a fair market value comparison for asset transfers when the total annual value of that asset is less than \$500,000; (2) giving carriers flexibility in valuing certain transactions by allowing the higher or lower of cost or market valuation to operate as either a floor or ceiling, depending on the direction of

the transaction; (3) lowering the percent of sales of assets or services to third parties, from greater than 50 percent to 25 percent, in order to qualify for prevailing price treatment in valuing affiliate transactions; (4) maintaining the narrowly defined exception that provides when an incumbent carrier purchases services from an affiliate that exists solely to provide services to members of the carrier’s corporate family, the carrier may record the services at fully distributed cost rather than applying the cost or market rule; and (5) maintaining the affiliate transaction rules and not exempting nonregulated from nonregulated transactions from the affiliate transaction rules. RUS shall not adopt these changes.

The FCC modified § 32.5280(c) so that incumbent local exchange carriers (ILEC’s) may group their nonregulated revenues into two groups: One subsidiary record for all the revenues from regulated services treated as nonregulated for federal accounting purposes pursuant to the FCC order, and the second for all other nonregulated revenues. RUS shall not adopt these changes.

Additionally, the FCC streamlined many of its accounting rules and reporting requirements by reducing the number of Class A accounts from 296 to 164, and the number of Class B accounts from 113 to 82 accounts. RUS shall not adopt this change.

On November 12, 2002, the FCC released an Order that suspended implementation of four accounting and recordkeeping rule modifications they previously adopted: (1) The consolidation of Accounts 6621 through 6623 into Account 6620, with subaccounts for wholesale and retail; (2) the consolidation of Account 5230, Directory Revenue into Account 5200, Miscellaneous Revenue; (3) the consolidation of the depreciation and amortization expense accounts (Accounts 6561 through 6565) into Account 6562, Depreciation and Amortization Expense; and (4) the revised “Loop Sheath Kilometers” data collection in Table II of ARMIS Report 43–07. RUS agrees with this suspension.

The suspension will allow the recently established Federal-State Joint Conference on Accounting Issues to review these rules before carriers are required to implement them. However, those reforms included in the FCC’s November 5, 2001, Report and Order and Further Notice of Proposed Rulemaking, took effect January 1, 2003.

Comments

A proposed rule entitled Accounting Requirements for RUS Telecommunications Borrowers, published in the **Federal Register**, May 10, 2004, at 69 FR 25848, invited interested parties to submit comments on or before July 9, 2004. No comments were received.

The following is supplemental information for use by broadband providers, and in particular, the recipients of loans made under the Rural Broadband Access Loans and Loan Guarantees Program (Pub. L. 101–171). This information will be included in RUS Bulletin 1770B–1, “Part 32, Uniform System of Accounts, and Supplementary Accounts Required of REA Telephone Borrowers,” as an appendix. This appendix provides an overview of the Uniform System of Accounts required for all RUS Telecommunications and Broadband Borrowers, along with items listed for pertinent plant, revenue, and expense accounts.

List of Subjects in 7 CFR Part 1770

Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications, Uniform System of Accounts.

■ For the reasons set out in the preamble, Chapter XVII of Title 7 of the Code of Federal Regulations, part 1770, is amended to read as follows:

■ 1. The authority citation for part 1770 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 1921 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

PART 1770—ACCOUNTING REQUIREMENTS FOR RUS TELECOMMUNICATIONS BORROWERS

■ 2. The heading for part 1770 is revised to read as set out above.

■ 3. Subpart A (§§1770.1–1770.9) is added to read as follows:

Subpart A—Preservation of Records

Sec.	
1770.1	General.
1770.2	Designation of a supervisory official.
1770.3	Index of records.
1770.4	Record storage media.
1770.5	Periods of retention.
1770.6–1770.9	[Reserved]

Subpart A—Preservation of Records

§ 1770.1 General.

(a) This subpart establishes RUS policies and procedures for the preservation of records of telecommunications borrowers.

(b) The regulations prescribed in this part apply to all books of account, contracts, records, memoranda, documents, papers, and correspondence prepared by or on behalf of the borrower as well as those which come into its possession in connection with the acquisition of property by purchase, consolidation, merger, etc.

(c) The regulations prescribed in this part shall not be construed as excusing compliance with any other lawful requirements for the preservation of records.

§ 1770.2 Designation of a supervisory official.

Each borrower shall designate one or more officials to supervise the preservation of its records.

§ 1770.3 Index of records.

(a) Each borrower shall maintain a master index of records. The master index shall identify the records retained, the related retention period, and the locations where the records are maintained. The master index shall be subject to review by RUS and RUS shall reserve the right to add records, or lengthen retention periods upon finding that retention periods may be insufficient for its purposes.

(b) At each office where records are kept or stored the borrower shall arrange, file, and index the records currently at that site so that they may be readily identified and made available to representatives of RUS.

§ 1770.4 Record storage media.

Each RUS borrower has the flexibility to select its own storage media subject to the following conditions:

(a) The storage media must have a life expectancy at least equal to the applicable retention period provided for in the master index of records, unless there is quality transfer from one media to another with no loss of data. Each transfer of data from one media to another must be verified for accuracy and documented.

(b) Each borrower is required to implement internal control procedures that assure the reliability of, and ready access to, data stored on machine-readable media. Internal control

procedures must be documented by a responsible supervisory official.

(c) The records shall be indexed and retained in such a manner that they are easily accessible.

(d) The borrower shall have the hardware and software available to locate, identify, and reproduce the records in readable form without loss of clarity.

(e) At the expiration of the retention period, the borrower may use any appropriate method to destroy records.

(f) When any records are lost or destroyed before the expiration of the retention period set forth in the master index, a certified statement shall be added to the master index listing, as far as may be determined, the records lost or destroyed and describing the circumstances of the premature loss or destruction.

§ 1770.5 Periods of retention.

(a) Except as provided for in paragraphs (b), (c), and (d) of this section, record retention shall be consistent with Prudent Utility Practice. Prudent Utility Practice shall mean any of the practices, methods, and acts which, in the exercise of reasonable judgment, in light of the facts, including but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the telecommunications industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result consistent with cost effectiveness, reliability, safety, and expeditiousness. It is recognized that Prudent Utility Practice is not intended to be limited to optimum practice, method, or act to the exclusion of all others, but rather is a spectrum of possible practices, methods, or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with cost effectiveness, reliability, safety, and expedition.

(b) Records supporting construction financed by RUS shall be retained until audited and approved by RUS.

(c) Records related to plant in service must be retained until the facilities are permanently removed from utility service, all removal and restoration activities are completed, and all costs

are retired from the accounting records unless accounting adjustments resulting from reclassification and original costs studies have been approved by RUS or other regulatory body having jurisdiction.

(d) Life and mortality study data for depreciation purposes must be retained for 25 years or for 10 years after plant is retired whichever is longer.

§§ 1770.6—1770.9 [Reserved]

Subpart B—Uniform System of Accounts

■ 4. Amend § 1770.11 by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 1770.11 Accounting system requirements.

* * * * *

(b) * * *

(1) RUS borrowers maintaining the accounts prescribed in 47 CFR part 32 for Class A companies as of June 15, 2005, shall continue to do so. RUS suspends implementation of the reduced number of Class A and B accounts, until the Federal-State Joint Conference has reviewed them.

(2) New borrowers under the RUS telecommunications program shall maintain the accounts prescribed in 47 CFR part 32 for Class A companies.

* * * * *

■ 5. Amend § 1770.13 by revising paragraph (d) to read as follows:

§ 1770.13 Accounting requirements.

* * * * *

(d) Interpretations of RUS accounting requirements shall be referred to the Assistant Administrator, Program Accounting and Regulatory Analysis, Rural Utilities Service.

- 6. Section 1770.15 is amended by:
 - A. Removing account entries 2004.1, 2004.2, and 2004.3;
 - B. Revising account entries 2003.1, 2003.2, and 2003.3; and
 - C. Adding new subaccount entries 2212, 2232, 6212, 6232, and 6620.

This revision and addition are to read as follows:

§ 1770.15 Supplementary accounts required of all borrowers.

Class of company		Account title	
Account No.			
A	B		
2003.1	2003.1	<i>Telecommunications Plant Under Construction—Contract</i>	This account shall include all costs incurred in the construction of telecommunications plant performed under contract and the cost of software development projects that are not yet ready for their intended use. Included among these costs are contractor payments and charges for engineering, supervision, taxes, insurance, transportation, and other costs incurred in contract construction. This account shall be maintained such that the various items of cost are readily identifiable.
2003.2	2003.2	<i>Telecommunications Plant Under Construction—Force Account</i>	This account shall include all costs incurred in the construction of telecommunications plant performed by the borrowers' own employees and the cost of software development projects performed by the borrowers' own employees that are not yet ready for their intended use. Included among these costs are charges for material, labor, engineering, supervision, taxes, insurance, transportation, supply expense, and other costs incurred in the construction. This account shall be maintained such that the various items of cost are readily identified. Specific subaccounts should be maintained to distinguish individual projects.
2003.3	2003.3	<i>Telecommunications Plant Under Construction—Work Orders</i>	This account shall include all costs incurred in the construction of telecommunication plant performed under a work order system or line extension contract. This type of construction generally includes service installations, subscriber extensions, and minor plant improvements after the completion of the initial system. Included among these costs are charges for labor, material and supplies, transportation, payroll taxes, insurance, supervision, and other costs incurred in the construction. Subsidiary records shall be maintained to reflect the cost of the individual jobs. These records shall be reconciled periodically with the general ledger control account. Specific subaccounts should be maintained to accumulate costs incurred under line extension contracts.
2212.1	2212.1	Digital Electronic Switching—Circuit.	
2212.2	2212.2	Digital Electronic Switching—Packet.	
2232.1	2232.1	Circuit Equipment—Electronic.	
2232.2	2232.2	Circuit Equipment—Optical.	
6212.1	6212.1	Digital Electronic Switching Expense—Circuit.	
6212.2	6212.2	Digital Electronic Switching Expense—Packet.	
6232.1	6232.1	Circuit Equipment Expense—Electronic.	
6232.2	6232.2	Circuit Equipment Expense—Optical.	
6620.1	6620.1	Services—Wholesale.	
6620.2	6620.2	Services—Retail.	

■ 7. Section 1770.17 is added to read as follows:

§ 1770.17 Expense matrix.

The expense accounts shall be maintained by the following subsidiary record categories, as appropriate to each account. Such subsidiary record categories shall be reported as required by 47 CFR part 43.

(a) *Salaries and wages.* This subsidiary record category shall include compensation to employees, such as wages, salaries, commissions, bonuses, incentive awards, and termination payments.

(b) *Benefits.* This subsidiary record category shall include payroll related

benefits on behalf of employees such as the following:

- (1) Pensions;
- (2) Savings plan contributions (company portion);
- (3) Worker's compensation required by law;
- (4) Life, hospital, medical, dental, and vision plan insurance, and
- (5) Social Security and other payroll taxes.

(c) *Rents.* (1) This subsidiary record category shall include amounts paid for the use of real and personal operating property. Amounts paid for real property shall be included in Account 6121, Land and Buildings Expense. This category includes payments for

operating leases but does not include payments for capital leases.

(2) This subsidiary record category is applicable only to the Plant Specific Operations Expense accounts. Incidental rents, *e.g.*, short-term rental car expense, shall be categorized as Other Expenses (see paragraph (d) of this section) under the account which reflects the function for which the incidental rent was incurred.

(d) *Other expenses.* This subsidiary record category shall include costs which cannot be classified to the other subsidiary record categories. Included are material and supplies, including provisioning (*note also* Account 6512, Provisioning Expense); contracted services; accident and damage

payments, insurance premiums; traveling expenses and other miscellaneous costs.

(e) *Clearances*. This subsidiary record category shall include amounts transferred to Construction accounts (see 47 CFR 32.2000(c)(2)(iii)), other Plant Specific Operations Expense accounts and/or Account 3100, Accumulated Depreciation (cost of removal; see 47 CFR 32.2000(g)(1)(iii)), as appropriate, from Accounts 6112, Motor Vehicles Expense, 6114, Tools and Other Work Equipment Expense, 6534, Plant Operations and Administration Expense, and 6535, Engineering Expense. There shall also be transfers to Construction or other Plant Specific Operations Expense accounts, as appropriate, from Account 6512, Provisioning Expense. With respect to these expenses, companies may establish such clearing accounts as they deem necessary to accomplish substantially the same results, provided that within thirty (30) days of the opening of such accounts, companies shall notify the FCC of the nature and purpose thereof. Additional clearing accounts affecting other expense areas may be established with prior approval of the FCC. Should companies elect, the initial incurred subsidiary record category identification may be carried through to the final accounts without FCC approval.

■ 8. Section 1770.25 is added to read as follows:

§ 1770.25 Unusual items and contingent liabilities.

Extraordinary items, prior period adjustments and contingent liabilities shall be submitted to RUS for review before being recorded in the company's books of account. The materiality of corrections of errors in prior periods shall be measured in relation to the summary account level used for reporting purposes for Class A companies, or in relation to total operating revenues or total operating expenses for Class B companies. For Class A companies, no correction in excess of one percent of the aggregate summary account dollars or one million dollars, whichever is higher, may be recorded in current operating accounts without prior approval. For Class B companies, no correction which exceeds one percent of total operating revenues or one percent of total operating expenses, depending on the nature of the item, may be recorded in current operating accounts without prior approval.

Subpart C—Accounting Interpretations

- 9. The Appendix to Subpart C is amended by:
 - A. Adding under “Numerical Index” and “Number and Title”, in numerical order, the new numbers and their respective titles;
 - B. Adding under “Subject Matter Index”, in alphabetic order, new subjects and their respective number, and
 - C. Add at the end of this Appendix, the new numbers and descriptions.

These additions are to read as follows:

Appendix to Subpart C to Part 1770—Accounting Methods and Procedures Required of All Borrowers

* * * * *

Numerical Index

Number and Title

* * * * *

107 Allowance for Funds Used During Construction

108 Reporting Comprehensive Income

109 Disclosures About Pensions and Other Postretirement Benefits

Subject Matter Index

A

AFUDC—107

C

* * * * *

Comprehensive Income—108

* * * * *

D

Disclosures—109

* * * * *

I

Income, Other Comprehensive—108

O

Other Postretirement Benefits—109

P

Pensions—109

* * * * *

107 Allowance for Funds Used During Construction

A. Statement of Financial Accounting Standard No. 34, Capitalization of Interest Cost, established the standards for capitalizing interest cost as a part of the historical cost of acquiring certain assets. In order to capitalize interest, the asset must require a period of time to complete or to get it ready for its intended use. This standard applies to all entities that construct facilities for their own use and should be applied by RUS Telecommunications borrowers as follows:

1. Only actual interest costs incurred on external borrowings qualify to be capitalized. The interest rate used to calculate the amount of interest to be capitalized is based on the companies external borrowings. If a

construction project is associated with specific debt, the interest rate on that debt is used to calculate interest cost to be capitalized. If the project is not associated with a specific debt, a weighted average of the rates of all existing debt shall be applied to expenditures for the project. There is no materiality threshold for adoption of this standard (47 CFR 32.26).

2. If a borrower is involved in a joint construction project, all determinations as to the amount of interest incurred and qualified for capitalization must be based on individual financing arrangements with regard to the Interest During Construction rules.

3. The capitalization period shall end when the asset is substantially complete and ready for its intended use.

Disclosures

A. The following information with respect to interest cost shall be disclosed in the financial statements or related notes:

1. For an accounting period in which no interest cost is capitalized, the amount of interest cost incurred and charged to expense during the period.

2. For an accounting period in which some interest cost is capitalized, the total amount of interest cost incurred during the period and the amount thereof that has been capitalized.

108 Reporting Comprehensive Income

A. In June 1997, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 130, Reporting Comprehensive Income. This statement requires that all items that meet the definition of the components of comprehensive income be reported in the financial statements for the period in which they are recognized. Statement 130 establishes a distinction between *comprehensive income* and *other comprehensive income*.

1. *Comprehensive income* is composed of net income and *other comprehensive income*. The net income is the result of operations resulting from the aggregation of revenues, expenses, gains and losses that are not items that comprise other comprehensive income.

2. *Other comprehensive income* is composed of the following:

- (a) Foreign currency items,
- (b) Minimum pension liability adjustments, and

- (c) Unrealized gains and losses on certain investments in debt and equity securities. Gains or losses on investment securities included in the net income of the current period that also had been included in other comprehensive income as unrealized holding gains or losses in a prior period must be adjusted (called reclassification adjustments) in the presentation of other comprehensive income in the current period.

B. *Comprehensive income* expressed as a formula would be:

$$\text{Net Income} \pm \text{items of other comprehensive income} = \text{comprehensive income}$$

While Statement 130 requires that comprehensive income should be divided into two broad display classifications, net income and other comprehensive income, it

does not prescribe a specific format for displaying comprehensive income in the financial statements.

C. RUS Telecommunications borrowers that present a single Statement of Operations and Patronage Capital should present the components of *other comprehensive income* below the total for net income and then present the reconciliation of patronage capital (Retained Earnings). Borrowers that present a separate Statement of Patronage Capital (or Retained Earnings) should display the beginning balance of patronage capital (or retained earnings), net income for the period, other items of comprehensive income and total comprehensive income before the presentation of other items of patronage capital (or retained earnings) for the period.

109 Disclosures about Pensions and Other Postretirement Benefits

A. Statement of Financial Accounting Standards (SFAS) No. 132, Employers' Disclosures about Pensions and Other Postretirement Benefits, issued in February 1998, is effective for fiscal years beginning after December 15, 1998. This statement revises employers' disclosure requirements for pension and other postretirement benefit plans. It does not change the measurement or recognition of those plans. The statement also permits reduced disclosures for nonpublic entities, which are defined as any entity other than one:

1. Whose debt or equity securities trade in a public market either on a domestic or foreign stock exchange or in the over-the-counter market, including securities quoted only locally or regionally,
2. That makes a filing with a regulatory agency in preparation for the sale of any class of debt or equity securities in a public market, or
3. That is controlled by an entity covered by 1 or 2 above.

Public Entities and Those Controlled by Public Entities

A. A commercial RUS Telecommunications borrower that meets the definition of a public entity and sponsors one or more defined benefit pension or postretirement benefit plan shall provide the following information on a comparative basis for the statements presented:

1. A reconciliation of beginning and ending balances of the benefit obligation showing separately, if applicable, the effects during the period attributable to each of the following:

- (a) Service cost,
- (b) Interest cost,
- (c) Contributions by plan participants,
- (d) Actuarial gains and losses,
- (e) Foreign currency exchange rate changes,
- (f) Benefits paid,
- (g) Plan amendments,
- (h) Business combinations,
- (i) Divestitures,
- (j) Curtailments,
- (k) Settlements, and
- (l) Special termination benefits.

2. A reconciliation of beginning and ending balances of the fair value of plan assets showing separately, if applicable, the effects

during the period attributable to each of the following:

- (a) Actual return on plan assets,
- (b) Foreign currency exchange rate changes,
- (c) Contributions by the employer,
- (d) Contributions by plan participants,
- (e) Benefits paid,
- (f) Business combinations,
- (g) Divestitures, and
- (h) Settlements.

3. The funded status of the plans, the amounts not recognized in the statement of financial position, and the amounts recognized in the statement of financial position, including:

- (a) The amount of any unamortized prior service cost.
- (b) The amount of any unrecognized net gain or loss (including asset gains and losses not yet reflected in market-related value).
- (c) The amount of any remaining unamortized, unrecognized net obligation or net asset existing at the initial date of application of SFAS No. 87, Employers' Accounting for Pensions, or SFAS No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions.
- (d) The net pension or other postretirement benefit prepaid assets or accrued liabilities.
- (e) Any intangible asset and the amount of accumulated other comprehensive income recognized pursuant to paragraph 37 of SFAS No. 87, as amended.

4. The amount of net periodic benefit cost recognized, showing separately:

- (a) The service cost component,
- (b) The interest cost component,
- (c) The expected return on plan assets for the period,
- (d) The amortization of the unrecognized transition obligation or transition asset,
- (e) The amount of recognized gains and losses, the amount of prior service cost recognized, and
- (f) The amount of gain or loss recognized due to a settlement or curtailment.

5. The amount included within other comprehensive income for the period arising from a change in the additional minimum pension liability recognized pursuant to paragraph 37 of SFAS No. 87, as amended.

6. On a weighted-average basis, the following assumptions used in the accounting for the plans:

- (a) Assumed discount rate,
- (b) Rate of compensation increase (for pay-related plans), and
- (c) Expected long-term rate of return on plan assets.

7. The assumed health care cost trend rate(s) for the next year used to measure the expected cost of benefits covered by the plan (gross eligible charges) and a general description of the direction and pattern of change in the assumed trend rates thereafter, together with the ultimate trend rate(s) and when that rate is expected to be achieved.

8. The effect of a one-percentage-point increase and the effect of a one-percentage-point decrease in the assumed health care cost trend rates on (for purposes of this disclosure, all other assumptions shall be held constant, and the effects shall be measured based on the substantive plan that is the basis for the accounting):

(a) The aggregate of the service and interest cost components of net periodic postretirement health care benefit cost, and

(b) The accumulated postretirement benefit obligation for health care benefits.

9. If applicable, the amounts and types of securities of the employer and related parties included in plan assets, the approximate amount of future annual benefits of plan participants covered by insurance contracts issued by the employer or related parties, and any significant transactions between the employer or related parties and the plan during the period.

10. If applicable, any alternative amortization method used to amortize prior service amounts or unrecognized net gains and losses pursuant to paragraphs 26 and 33 of SFAS No. 87 or paragraphs 53 and 60 of SFAS No. 106.

11. If applicable, any substantive commitment, such as past practice or a history of regular benefit increases, used as the basis for accounting for the benefit obligation.

12. If applicable, the cost of providing special or contractual termination benefits recognized during the period and a description of the nature of the event.

13. An explanation of any significant change in the benefit obligation or plan assets not otherwise apparent in the other disclosures.

B. RUS Telecommunications borrowers that sponsor two or more pension or postretirement plans may aggregate the required disclosures. If the disclosures are aggregated, the aggregate benefit obligation and aggregate fair value of plan assets for plans with benefit obligations in excess of plan assets must be disclosed.

C. RUS Telecommunications borrowers sponsoring defined contribution plans shall disclose the amount of cost recognized for defined contribution pension or other postretirement benefit plans during the period separately from the amount of cost recognized for defined benefit plans. The disclosures shall include a description of the nature and effect of any significant changes during the period affecting comparability, such as a change in the rate of employer contributions, a business combination, or a divestiture.

Nonpublic Entities

A. RUS commercial and cooperative type borrowers that meet the definition of a nonpublic entity, as previously defined, may elect to meet the following reduced disclosure requirements:

1. The benefit obligation.
2. Fair value of plan assets.
3. Funded status of the plan.
4. Employer contributions.
5. Participant contributions.
6. Benefits paid.

7. The amounts recognized in the statement of financial position, including the net pension and other postretirement benefit prepaid assets or accrued liabilities and any intangible asset and the amount of accumulated other comprehensive income recognized pursuant to paragraph 37 of SFAS No. 87, as amended.

8. The amount of net periodic benefit cost recognized and the amount included within

other comprehensive income arising from a change in the minimum pension liability recognized pursuant to paragraph 37 of SFAS No. 87, as amended.

9. On a weighted-average basis, the following assumptions used in the accounting for the plans: Assumed discount rate, rate of compensation increase (for pay-related plans), and expected long-term rate of return on plan assets.

10. The assumed health care cost trend rate(s) for the next year used to measure the expected cost of benefits covered by the plan (gross eligible charges) and a general description of the direction and pattern of change in the assumed trend rates thereafter, together with the ultimate trend rate(s) and when that rate is expected to be achieved.

11. If applicable, the amounts and types of securities of the employer and related parties included in plan assets, the approximate amount of future annual benefits of plan

participants covered by insurance contracts issued by the employer or related parties, and any significant transactions between the employer or related parties and the plan during the period.

12. The nature and effect of significant nonroutine events, such as amendments, combinations, divestitures, curtailments, and settlements.

B. The majority of RUS Telecommunications borrowers will fall within the definition of nonpublic entities with exception of those held by publicly traded holding companies.

Multiemployer Plans

A. An RUS Telecommunications borrower shall disclose the amount of contributions to multiemployer plans during the period. The borrower may disclose total contributions to multiemployer plans without disaggregating the amounts attributable to pensions and

other postretirement benefits. The disclosures shall include a description of the nature and effect of any changes affecting comparability, such as a change in the rate of employer contributions, a business combination, or a divestiture.

B. In some cases, withdrawal from a multiemployer plan results in an obligation to the plan for a portion of the plan's unfunded accumulated postretirement benefit obligation. If it is either probable or reasonably possible that (a) an employer would withdraw from the plan under circumstances that would give rise to an obligation or (b) an employer's contribution to the fund would be increased during the remainder of the contract period to make up a shortfall in the funds necessary to maintain the negotiated level of benefit coverage, the employer shall apply the provisions of SFAS No. 5, Accounting for Contingencies.

DISCLOSURE MATRIX

	Public entities	Nonpublic entities
<i>Change in benefit obligation:</i>		
Benefit obligation beginning of year	X	.....
Service Cost	X	.....
Interest Cost	X	.....
Actuarial Gain	X	.....
Plan Amendments	X	.....
Benefits Paid	X	.....
Benefit obligation at end of year	X	X
<i>Change in plan assets:</i>		
Fair value of plan assets beginning of year	X	.....
Actual return on plan assets	X	.....
Employer Contribution	X	X
Contributions by plan participants	X	X
Benefits Paid	X	X
Fair value of plan assets at end of year	X	X
<i>Funded status:</i>		
Unrecognized net actuarial loss (gain)	X	X
Unamortized prior service cost	X	X
Unrecognized transition obligation	X	X
Prepaid (Accrued) benefit cost	X	X
<i>Weighted-average assumptions as of December 31:</i>		
Discount rate	X	X
Expected return on plan assets	X	X
Rate of compensation increase	X	X
<i>Components of net periodic benefit cost:</i>		
Service cost	X	.....
Interest cost	X	.....
Expected return on plan assets	X	.....
Amortization of prior service cost	X	X
Amortization of transition obligation	X	X
Recognized net actuarial loss	X	X
Net periodic benefit cost	X	X

Dated: April 25, 2005.

Curtis M. Anderson,

Acting Administrator, Rural Utilities Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 63, and 65

[Docket No.: FAA-2003-14293; Amendment Nos. 61-108, 63-32, 65-44]

RIN 2120-AH84

Ineligibility for an Airman Certificate Based on Security Grounds

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Disposition of comments on final rule.

SUMMARY: On January 24, 2003, the FAA adopted eligibility standards that disqualify a person from holding an airman certificate, rating, or authorization when the Transportation Security Administration has advised the FAA in writing that the person poses a security threat. The rule was adopted to prevent a possible imminent hazard to aircraft, persons, and property within the United States. This action is a summary and disposition of comments received on the final rule.

FOR FURTHER INFORMATION CONTACT:

Peter J. Lynch, Enforcement Division, AGC-300, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone No. (202) 267-3137.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);
- (2) Visiting the Office of Rulemaking's Web page at <http://www.faa.gov/avr/arm/index.cfm>; or
- (3) Accessing the Government Printing Office's Web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.dms.dot.gov>.

Background

On January 24, 2003, the FAA published new regulations that expressly disqualify persons found by the Transportation Security Administration (TSA) to pose a security threat from holding airman certificates (68 FR 3772). The FAA added new §§ 61.18, 63.14 and 65.14 to 14 CFR.

The FAA explained in the final rule that it was relying on threat assessments made by the TSA based on the broad statutory authority and responsibility that Congress placed in the TSA when it enacted the Aviation and Transportation Security Act (ATSA). ATSA directs the TSA to receive, assess, and distribute intelligence information related to transportation security and to assess threats to transportation. It also charges the TSA with the responsibility to assess intelligence and other information to identify individuals who pose a threat to transportation security and to coordinate countermeasures with other Federal agencies, including the FAA, to address such threats. The law specifically directs the TSA to establish procedures for notifying the FAA of the identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety.

Congressional Action

Congress has enacted a law that has largely codified the FAA's rulemaking action. On December 12, 2003, the President signed the Vision 100—Century of Aviation Reauthorization Act. Section 601 of that act contained in section 46111 of Title 49 of the U.S. Code provides, in part:

The Administrator of the Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator is notified by the Under Secretary of Border and Transportation Security of the Department of Homeland Security that the holder poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline and passenger safety.

This statute requires the same result as the FAA's rules—if the Department of

Homeland Security notifies the FAA that a certificate holder poses, or is suspected of posing, a security threat, the FAA must take action against the certificate. The new law also provides administrative and judicial review procedures for certificate holders that are U.S. citizens.

Litigation

Several labor associations and two individuals sought judicial review of the rules in the United States Court of Appeals for the District of Columbia Circuit. The following cases were consolidated for consideration by the court: *Coalition of Airline Pilots Associations v. FAA and TSA*, No. 03-1074, and *Air Line Pilots Association, International, et al. v. FAA and TSA*, No. 03-1076. The cases involving the two individuals were also consolidated: *Jifry and Zarie v. FAA and TSA*, No. 03-1085; *Jifry and Zarie v. NTSB*, Nos. 03-1144 and 03-1282, which involved certificate action taken by the FAA and reviewed by the National Transportation Safety Board.

In *Jifry and Zarie v. FAA et al.*, 370 F.3d 1174 (June 11, 2004), the court addressed the FAA's and TSA's rules as applied to non-resident aliens. It rejected Jifry and Zarie's challenges to the rule, including their contentions that the rules were invalid because they were promulgated without prior notice and violated the due process clause of the Fifth Amendment to the U.S. Constitution. On February 22, 2005, the Supreme Court declined to review the court of appeals' decision.

In *Coalition of Airline Pilots Associations, et al. v. FAA and TSA*, 370 F.3d 1184 (D.C. Cir. June 11, 2004), the court dismissed as moot the challenge to the FAA's and the TSA's rules posed by several unions representing aviation workers. The court explained that the new section 46111 directs the FAA to take certificate action when notified by the Under Secretary of Border and Transportation of a security threat—the same result that occurred under the FAA's rules. Furthermore, as to citizens the new law provides a more robust set of procedural protections than available under the FAA's and the TSA's rules. With regard to resident aliens, the court noted that the Government had represented that the agencies would not be enforcing their rules and would be undertaking notice-and-comment rulemaking.

Summary of Comments

General

The FAA received about 700 comments on the final rule. Most