

6450-01-P

DEPARTMENT OF ENERGY

10 CFR Part 300

RIN 1901-AB23

**Corrections and Updates to Technical Guidelines for Voluntary Greenhouse Gas
Reporting**

AGENCY: Office of Policy and International Affairs, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) published an interim final rule on January 31, 2007, to correct, update, and make clarifying changes to Technical Guidelines used for reporting under the Voluntary Reporting of Greenhouse Gases Program authorized by section 1605(b) of the Energy Policy Act of 1992. The Technical Guidelines were incorporated by reference in final program guidelines that were published on April 21, 2006, and placed in the Code of Federal Regulations (CFR). In accordance with the rules governing incorporation by reference in the CFR, DOE is required to amend its program regulations to reflect any update of the Technical Guidelines. DOE now discusses the comments received in response to the interim final rule, and adopts that rule as final without change.

DATES: Effective Date: The interim final rule became effective March 2, 2007.

FOR FURTHER INFORMATION CONTACT: Stephen Eule, PI-63, Office of Policy and International Affairs, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington DC 20585, or e-mail: 1605bguidelines.comments@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Summary and Response to Comments
- III. Congressional Notification
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I. Background

Section 1605(b) of the Energy Policy Act of 1992 directed DOE to issue guidelines establishing a voluntary greenhouse gas reporting program (42 U.S.C. 13385(b)). On February 14, 2002, the President directed DOE, together with other involved Federal agencies, to recommend reforms to enhance the Voluntary Reporting of Greenhouse Gases Program established by DOE in 1994. On April 21, 2006, following a lengthy public review process, DOE published revised final General Guidelines for Voluntary Greenhouse Gas Reporting (71 FR 20784). Those guidelines incorporated by reference detailed Technical Guidelines, dated March 2006, that are needed to fully implement the revised Voluntary Reporting of Greenhouse Gases Program.

Subsequent to the April 21, 2006 publication of the revised final General Guidelines and during preparation of new forms and instructions for reporting, DOE identified a number of errors and inconsistencies in the Technical Guidelines that warranted correction or clarification. To ensure that any revision of the March 2006 Technical Guidelines addressed as many of these problems as possible, on August 3, 2006, DOE sent a message by electronic mail to all persons who had previously expressed an interest in the guidelines and requested that they identify any needed technical corrections, clarifications, interpretations or other changes to the guidelines.

Subsequently, DOE received communications that recommended additional corrections and other changes for consideration.

Following a careful review of the recommended corrections and other suggested changes, DOE made those modifications to the Technical Guidelines that it believed were necessary to correct all the identified errors and inconsistencies or other ambiguities, while adhering to the essential language and intent of the March 2006 version of the Technical Guidelines. The updated version of the Technical Guidelines is dated January 2007. As required by the regulations of the Administrative Committee of the Federal Register, DOE sent the January 2007 update of the Technical Guidelines to the Director of the Federal Register and obtained his approval of the incorporation by reference of the January 2007 Technical Guidelines in the regulations for the section 1605(b) program that are published in the Federal Register and the Code of Federal Regulations. On January 31, 2007, DOE published an interim final rule with opportunity for comment that changed the date of the Technical Guidelines incorporated by 10 CFR 300.13 from March 2006 to January 2007. (72 FR 4411.)

II. Summary and Response to Comments

DOE received six sets of comments in response to the interim final rule. All of the comments are posted on the internet at the following website: <http://www.pi.energy.gov/enhancingGHGregistry/comments2007.html>. None of the comments identified errors or inconsistencies in the January 2007 Technical Guidelines that would impair their implementation by the Energy Information Administration (EIA). DOE has decided not to adopt changes at this time so that EIA can complete the forms,

instructions, and software expeditiously to permit reporting under the new guidelines in 2007 for the 2006 reporting year. However, some of the comments did identify further corrections or updates that may be warranted some time in the future. The specific comments provided fall into four main categories; those that:

- Identified inconsistencies, drafting errors or clarity problems in the Technical Guidelines that may warrant further corrections.
- Proposed to add or reference new measurement methods or calculation tools.
- Sought to reopen some issues that had been previously resolved during the development of the guidelines published on April 21, 2006.
- Proposed changes that exceed the DOE's statutory authority.

Possible Further Corrections: The comments submitted by the Edison Electric Institute and supported by comments from Ameren identified a number of additional, but comparatively minor inconsistencies, drafting errors or clarity problems in the January 2007 Technical Guidelines that may warrant further corrections. Comments by the American Forest and Paper Association (AFPA) also identified a reference in the Forestry appendix that requires updating as well as an inconsistency between the terminology used in the Technical Guidelines and that used by the industry to refer to “spent pulping liquors”.

DOE sees the value of making most of the changes that fall into this category, although none of these changes are necessary to enable the EIA to initiate reporting under the corrected Technical Guidelines dated January 2007. Since making these changes at this time could cause some confusion among prospective reporters and may further delay

EIA's efforts to finalize its revised reporting forms and instructions, DOE has decided not to implement these changes at this time. Instead, DOE plans to address these changes when DOE proposes its first substantive amendments to the guidelines pursuant to 10 CFR 300.1(f).

Measurement Methods or Calculation Tools Comments submitted by Beta Analytic, Inc, proposed that the guidelines be amended to recognize a new method for measuring biogenic or carbon-neutral CO₂ or methane emissions which represent part, but not all, of various emission streams.

Similarly, AF&PA's comments recommended that a specific calculation tool developed by the International Council of Forests and Paper Associations be referenced in the Technical Guidelines as an acceptable model for estimating the harvested wood products pool.

While the amendments proposed by Beta Analytic, Inc., and AF&PA may be worthwhile, they are outside the scope of this rulemaking, which is limited to correcting factual and drafting errors, eliminating inconsistencies, updating certain existing references, clarifying intent, and modifying or eliminating certain inappropriate calculation methods. Those organizations may formally propose that DOE adopt these methods when it undertakes to make substantive revisions to the guidelines pursuant to 10 CFR 300.1(f). Proposed calculation methods should be submitted in writing to the Assistant Secretary for Policy and International Affairs, 1000 Independence Ave., S.W., Washington, D.C., 20585, with an electronic copy sent to 1605bguidelines.comments@hq.doe.gov. DOE will consider all such proposed methods.

Any such proposal will be subject to public review and comment. If adopted, new calculation methods would be implemented as soon as practicable.

Issues Previously Resolved The comments submitted by AF&PA also raised two issues that were previously considered and resolved during the development of the revised General Guidelines and Technical Guidelines that were published in April 2006. One issue concerns the treatment of carbon harvested from sustainably managed forests that is ultimately included in various long lived wood products. AF&PA proposed a change that would enable such carbon to be counted toward an entity's emission reductions, although the initial March 2006 Technical Guidelines and the January 2007 revised Technical Guidelines exclude such treatment. The other issue concerns the value to be used to represent the transmission and distribution losses associated with off-site combined heat and power plants. This value was also set by the March 2006 Technical Guidelines and was not changed in the January 2007 Technical Guidelines.

Section 300.1(f) of the General Guidelines indicates that DOE intends to periodically review and update the General Guidelines and Technical Guidelines, and that it anticipates that these reviews will occur approximately every three years. During these periodic reviews, DOE may reconsider any of the issues initially resolved by the April 2006 guidelines. DOE will solicit stakeholder input at the start of any such review process.

Changes that Exceed DOE's Statutory Authority One commenter recommended that DOE change this program from a voluntary reporting program to one that is mandatory. Such a change would clearly exceed DOE's existing statutory authority under section 1605(b) of the Energy Policy Act of 1992.

Conclusion Based on a review of the six comments received, DOE has decided not to make any changes at this time to the January 2007 Technical Guidelines, which became effective on March 2, 2007. When DOE proposes amendments to add new measurement methods or calculation tools to the January 2007 Technical Guidelines, it may incorporate some of the corrections suggested in the public comments summarized above.

III. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 801(2).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved the publication of this final rule.

List of Subjects in 10 CFR part 300

Administrative practice and procedure, Energy, Gases, Incorporation by reference, Reporting and recordkeeping requirements.

Issued in Washington, D.C. on March 27, 2007

Katharine A. Fredriksen,

Acting Assistant Secretary for Policy and International Affairs.

Accordingly, the interim final rule revising part 300 of title 10, chapter II, subchapter B of the Code of Federal Regulations, that was published at 72 FR 4411 on January 31, 2007, is adopted as a final rule without change.