

**INITIAL COMMENTS OF
EDISON ELECTRIC INSTITUTE
ON DEPARTMENT OF ENERGY PROPOSAL
TO REVISE GENERAL GUIDELINES FOR
SECTION 1605(b) VOLUNTARY REPORTING
UNDER ENERGY POLICY ACT**

February 17, 2004

Table of Contents

	<u>Page</u>
Summary	1
Introduction.....	5
I. A Number Of Significant Procedural Concerns Must Be Addressed.....	7
A. No Key Policy Decisions Should Be Taken Until After the Conclusion of the Final Comment Period on the Technical Guidelines and the Re-proposed General Guidelines	7
B. The Designation of the Guidelines as a “Proposed Rule” and Their Addition to the Code of Federal Regulations Appear To Be Inappropriate, Unwise and Inconsistent with the Statute and Legislative History.....	10
C. EEI Incorporates by Reference Prior Comments by the Power Sector	21
II. The DOE Proposal Is Inconsistent With Section 1605(b) And Presidential Policy And Fails To Serve And Reflect The Multiple Purposes Of The EIA Data Base.....	22
A. The DOE Proposal Is Inconsistent with Section 1605(b) and Presidential Climate Policy Statements	22
B. The DOE Proposal Fails to Serve and Reflect the Multiple Purposes of the EIA 1605(b) Data Base	29
III. A Unitary Reporting Data Base That Encompasses Both Entity-wide And Project- based Reports Is Preferable To A Tiered Reporting And “Registry” System	32
A. A Tiered Reporting and “Registry” System Is Inconsistent with EPAct and Raises a Host of Problems.....	32
1. It is inappropriate for DOE to narrowly focus on large entities who can report net annual emissions reductions	34
2. It is inappropriate for DOE to transform the 1605(b) voluntary data base into a tiered reporting program with multiple classes.....	35
B. Project-based Activities Should Receive Equal Treatment with Entity-wide Actions in a Unitary Reporting Data Base.....	36

	<u>Page</u>
1. The statute specifically authorizes and focuses on the reporting of projects.....	38
2. A project-based approach recognizes that a ton is a ton.....	38
3. A project-based reporting approach is more consistent with company actions that focus on reducing greenhouse gases than an entity-wide reporting approach is	39
4. GHG emissions trading market realities support project-based reporting.....	40
5. Project-based activities can be appropriately “registered” or recognized within a unitary data base	41
IV. The DOE Proposal Lacks Incentives And Meaningful Recognition And Thus Is Inconsistent With The President’s Policy As Well As The Four-Agency Letter	42
A. The Proposal Utterly Fails to Respond to the President’s Call and Four-Agency Letter’s Recommendations for Transferable Credit and Baseline Protection.....	42
B. An Explanation of the Nature of “Special Recognition” for the EIA “Registry”/Data Base Is Conspicuously Absent.....	49
C. The Proposal Fails to Provide Credit for Past Action or Similar Recognition	55
1. The proposal fails to provide credit for past action	56
2. The proposal is unclear about the status of past actions reported under the current guidelines.....	57
V. A Tiered Reporting And “Registry” System With No Incentives Could Jeopardize The Success Of Voluntary Programs	58
VI. The Entity-wide Reporting Rules Are Unduly Prescriptive And Unworkable For The Electric Power Sector.....	60
A. The Metrics for Reporting Entity-wide Emissions Reductions Are Skewed and Need Modification.....	60
1. The bias against entity-wide emissions reporting based on absolute tons should be corrected.....	60
2. The bias against, or exclusion of, certain types of emissions reductions activities should be eliminated	62
a. Plant or facility closings, and state or federal requirements	63

b.	Acquisitions, divestitures or changes in products.....	64
3.	The “offsets reductions rule” would create barriers to “registration” or recognition of entity wide emissions reductions and disincentives to participation in voluntary program	65
4.	Additional technical guidance is needed to calculate reductions and intensity	69
B.	The Rules Governing Entity-wide Emissions Inventories Are Unduly Rigid and Onerous	70
1.	Further flexibility is needed	70
a.	<i>Defining reporting entities</i>	70
b.	<i>Defining operational boundaries</i>	72
2.	The burdensome <i>de minimis</i> rules should be eased	74
3.	Reporting of all six greenhouse gases should not be required.....	78
4.	Trade associations are legitimate reporting entities.....	79
5.	The bias in allowing small entities to “register” without meeting the same requirements as large entities should be eliminated	80
C.	Other Entity-wide Reporting Problems Should Be Rectified	81
1.	DOE should not require reporting of carbon storage or sinks	81
2.	DOE should not require reporting of mobile source emissions.....	81
VII.	The Treatment Of Direct Emissions And Direct Emissions Reductions, Purchased Power Emissions, And Avoided Emissions Needs Modification	82
A.	Reporting Should Focus on Direct Emissions and Direct Emissions Reductions	82
B.	Reporting of Purchased Power Emissions Should Be Optional	86
C.	Avoided Emissions Are Generally a Form of Direct Emissions Reductions	87

VIII. Certain Structural And Implementation Provisions Need Modification.....	90
A. The Effective Date for the Revised Guidelines and Reporting of Emissions Reductions Should Be Guided by the Statute and Practical Considerations	90
B. The Base Year and Baselines Need Flexibility.....	92
C. The Definitions Section Needs One Addition and Some Clarification or Modification	95
D. The Double Counting Provisions Are Both Impractical and Unreasonable	100
IX. International Projects Should Receive The Same Treatment As Domestic Projects And Entity-wide Actions	103
X. Several Other Reporting Provisions Need Clarification Or Modification.....	108
A. The Reporting and Record-keeping Provisions Raise Some Concerns	108
B. Certification in Accordance with the Current Guidelines Is Sufficient Under the Statute	111
C. Independent Third-party Verification Should Continue To Be Optional, and Not Prescribe Requirements for Verifier Independence and Qualifications.....	114
D. Concerns about Public Accessibility and Confidentiality Need To Be Addressed	116
E. The Provisions on Acceptance of Reports Need To Be Modified.....	117
F. DOE Should Strive to Minimize Transaction Costs.....	121