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DEPARTMENT OF ENERGY

10 CFR Part 609

RIN 1901–AB21

Loan Guarantees for Projects That Employ Innovative Technologies

AGENCY: Office of the Chief Financial Officer, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today publishes a final rule to amend DOE's October 23, 2007 final rule concerning loan guarantees for projects employing innovative technologies. This final rule removes an extraneous paragraph, originally included in the proposed rule, that was inadvertently retained in the October 23 final rule.

DATES: This rule is effective January 11, 2008.

FOR FURTHER INFORMATION CONTACT: David G. Frantz, Director, Loan Guarantee Program Office, Office of the Chief Financial Officer, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–8336, e-mail: *lgprogram@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On October 23, 2007 (72 FR 60115), DOE promulgated a rule establishing procedures for the loan guarantee program authorized by Title XVII of the Energy Policy Act of 2005 (''Act'') (42 U.S.C. 16511–16514). Title XVII authorizes the Secretary of Energy, after consultation with the Secretary of the Treasury, to make loan guarantees for projects that ''(1) avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and (2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.'' (42 U.S.C. 16513(a)) Earlier, on May 16, 2007, the Department had published a Notice of Proposed Rulemaking and Opportunity for Comment (NOPR, 72 FR 27471) to establish regulations for the Title XVII loan guarantee program.

Prior to publication of the final rule, on August 8, 2006, DOE had issued Guidelines for Proposals Submitted in Response to the First Solicitation for loan guarantees. The Guidelines were published in the **Federal Register** on August 14, 2006 (71 FR 46451), and the First Solicitation was issued on August 8, 2006.

II. Discussion of Amendment

Today's final rule amends the October 23, 2007 final rule by removing a paragraph in section 609.1 regarding the application of the final rule to Pre-Applications, Applications, Conditional Commitments, and Loan Guarantee Agreements that were issued or entered into pursuant to the First Solicitation.

DOE proposed in the NOPR that in order to ensure that DOE complied with the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110–5) but did not prejudice Pre-Applicants that responded to the First Solicitation, the regulations would specify that they do not apply to the Pre-Applications, Applications, Conditional Commitments, and Loan Guarantee Agreements issued or entered into pursuant to the First Solicitation. Proposed § 609.1(c)(1). DOE proposed that the only exceptions to this would be the default, recordkeeping, and audit requirements proposed for inclusion in DOE's regulations. Proposed § 609.1(c)(2). DOE also proposed in the NOPR to permit DOE and an Applicant to agree in a Loan Guarantee Agreement entered into pursuant to the First Solicitation that additional provisions of DOE's regulations would apply to the particular project. Proposed § 609.1(c)(3).

DOE received and responded to public comments on these issues in the notice of final rulemaking (72 FR 60132–60133). In the final rule, DOE modified the application of part 609 to those who responded to the First Solicitation by providing that ''[e]xcept as specified in [section 609.1(c)(1)], these regulations apply to all projects and loan guarantees pursuant to Title XVII, including those pursuant to the First Solicitation.'' (72 FR 60133). Thus, the final rule provides that DOE's regulations apply to all projects pursuant to Title XVII, except for section 609.3 (''Solicitations''), section 609.4 (''Submission of pre-applications''), and section 609.5 (''Evaluation of pre-applications''). DOE, however, inadvertently left in the final rule proposed paragraph 609.1(c)(3), re-numbered as paragraph 609.1(c)(2) in the final rule, which would allow DOE and Applicants who submitted Pre-Applications pursuant to the First Solicitation to agree to make additional provisions of Part 609 applicable to their projects. The change in coverage makes this paragraph of section 609.1 superfluous, and DOE removes paragraph (c)(2) with today's final rule.

III. Issuance of a Final Rule

DOE has determined, pursuant to 5 U.S.C. 553(b)(B) and (d)(3), that prior notice and an opportunity for public comment on this rule are unnecessary and there is good cause to waive the requirement for a 30-day delay in effective date. DOE has determined that the revision DOE is making to Part 609 is a technical change or correction about which the public would have no particular interest in providing comments. As explained earlier in this preamble, DOE is revising section 609.1 to remove a paragraph allowing DOE and Applicants who submitted Applications pursuant to the First Solicitation to agree to make other provisions of part 609 applicable to those projects. This paragraph was included inadvertently in the final rule, and is superfluous because 609.1(c)(1) specifies which sections of part 609 do not apply to such Applications.

Based on the foregoing, DOE finds that good cause exists to waive both the requirement to provide prior notice and an opportunity to comment on this rulemaking and the requirement for a 30-day delay in effective date.

IV. Procedural Review Requirements

A. Executive Order 12866

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action is not subject to review under that Executive Order by the Office of Information and Regulatory

Affairs (OIRA) of the Office of Management and Budget (OMB).

B. National Environmental Policy Act of 1969

DOE has determined that this final rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.5 of Appendix A to Subpart D, 10 CFR, part 1021, which applies to a rulemaking that amends an existing rule or regulation which does not change the environmental effect of the rule or regulation being amended.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. DOE has found that prior notice and opportunity for public comment are not required for this rulemaking. Therefore, the analytical requirements of the Regulatory Flexibility Act do not apply to today's rule. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking.

D. Paperwork Reduction Act

This rule does not impose any new collection of information subject to review and approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. This final rule does not impose a Federal mandate on State, local or tribal governments. The rule would not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

F. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any rulemaking that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

G. Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. DOE has determined that this rule would not preempt State law and would not have a substantial direct effect on the 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. No further action is required by Executive Order 13132.

H. Executive Order 12988

DOE has determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

I. Treasury and General Government Appropriations Act, 2001

DOE has reviewed today's rule under OMB and DOE guidelines concerning dissemination of information to the public and has concluded that it is consistent with applicable policies in those guidelines.

J. Executive Order 13211

Today's rule would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Congressional Notification

As required by 5 U.S.C. 801, the Department will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this 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).

V. Approval by the Office of the Secretary of Energy

Issuance of this rule has been approved by the Office of the Secretary.

List of Subjects in 10 CFR Part 609

Administrative practice and procedure, Energy, Loan programs, and Reporting and recordkeeping requirements.

Issued in Washington, DC, on January 7, 2008.

Steve Isakowitz,

Chief Financial Officer.

■ For the reasons set out in the preamble, DOE amends part 609 of subchapter H of chapter II of title 10 of the Code of Federal Regulations as set forth below:

PART 609—LOAN GUARANTEES FOR PROJECTS THAT EMPLOY INNOVATIVE TECHNOLOGIES

■ 1. The authority citation for part 609 continues to read as follows:

Authority: 42 U.S.C. 7254, 16511–16514.

§ 609.1 [Amended]

■ 2. Section 609.1 is amended by removing paragraph (c)(2) and redesignating paragraph (c)(1) as paragraph (c).

[FR Doc. E8–325 Filed 1–10–08; 8:45 am]

BILLING CODE 6450–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

RIN 3245–AF68

Seals and Insignia

AGENCY: U.S. Small Business Administration.

ACTION: Direct final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is revising its regulations specifying the description and authorized use of its official seal. These revisions will further define the authorized and unauthorized use of the official seal by SBA and add criteria for approving and denying requests to use the official seal.

SBA believes that this rule is non-controversial, and the Agency anticipates no significant adverse comment. If SBA receives a significant adverse comment, it will withdraw the rule.

DATES: This rule is effective February 25, 2008 without further action, unless significant adverse comment is received by February 11, 2008. If significant adverse comment is received, SBA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by RIN 3245–AF68, by one of the following methods: (1) Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments; or (2) Mail/Hand Delivery/Courier: Julie Clowes, Attorney Advisor, Office of