



Department of Energy

Washington, DC 20585

May 17, 2005

Attention Docket ID No. OAR-2004-0010
U.S. Environmental Protection Agency
Mailcode 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Sir or Madam:

The Department of Energy (DOE) has reviewed the Environmental Protection Agency's proposed rule, "Proposal to Exempt Area Sources Subject to NESHAP from Federal and State Operating Permit Programs," published in the March 25, 2005, *Federal Register* (70 FR 15250). Enclosed please find a copy of the Department's comments and recommendations on the proposed regulations based on our review of their potential impacts on DOE operations and sites.

The Department appreciates the opportunity to comment on the proposed rule. If there are any questions concerning the enclosure, please contact Ted Koss of my staff (202-586-7964; theodore.koss@eh.doe.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "A. Wallo".

Andrew Wallo
Director
Office of Air, Water and Radiation
Protection Policy and Guidance

Enclosure

United States Department of Energy
Comments on
“Proposal to Exempt Area Sources Subject to NESHAP
From Federal and State Operating Permit Programs”

Proposed Rule
(70 FR 15250; March 25, 2005)

1. **May States issue Title V operating permits to area sources that EPA has permanently exempted from Title V?** At p. 15253 of the proposed rule, the Environmental Protection Agency (EPA) requests comments on its position that States cannot issue Title V permits to owner/operators of area sources that EPA has permanently exempted from Title V, and that any existing permits for such sources must be terminated, revoked, or denied.

The Department of Energy (DOE) supports EPA’s position on this issue. As a basis for its position, EPA points out at p. 15252 that Section 502(a) of the Clean Air Act grants EPA the discretion to exempt area source categories from Title V requirements. DOE agrees with EPA that it would be inconsistent with the Clean Air Act for States to include area sources exempted by EPA in their Title V programs.

2. **EPA’s general approach to determine if area sources should be exempt from Title V permitting.** At p. 15255 EPA solicits comments on its general approach to determining if certain area sources of hazardous air pollutants should be exempt from Title V permitting. EPA also specifically requests comment on whether the factors set out in its general approach are the most appropriate to use.

EPA’s general approach for the proposed rule is in Section II.A of the preamble. In determining whether a particular area source should be exempted from Title V permitting requirements, EPA used four factors as described in Section II.A. DOE believes that EPA’s four factors and the general approach are well-thought-out and are consistent with the Clean Air Act and the legislative history to the Act. Accordingly, DOE supports EPA’s general approach as set out in Section II.A of the preamble. DOE also supports EPA’s position at p. 15252 that an area source would only be exempt from Title V permitting if the owner/operator of the source is not required to obtain a permit for other reasons.

3. **Use of general permits for areas sources in lieu of an exemption.** At p. 15259 EPA seeks comment on the option of requiring permitting authorities to issue general permits (*i.e.*, permits allowed under Title V which provides a streamlined process for issuing permits to a large number of similar sources) to the categories of area sources under consideration in the proposed rule.

DOE prefers the option discussed in Section II of the preamble of exempting the five area sources under consideration in the proposed rule from Title V permitting requirements. If EPA elects not to provide an exemption, DOE would support the option of requiring States to issue a general

permit for the area sources. A general permit process whereby owner/operators of individual sources would seek coverage under the general permit provisions would simplify the permit application process and reduce the cost to affected owner/operators of developing a permit application.