



Department of Energy
Washington, DC 20585

March 10, 2008

Mr. Peter Tsirigotis
Director, Sector Policies and Programs Division
Mail Code: D205-01
U.S. Environmental Protection Agency
Research Triangle Park, North Carolina 27711

Re: Docket ID No. EPA-HQ-OAR-2004-0491

Dear Mr. Tsirigotis:

The Department of Energy (DOE) has reviewed the Environmental Protection Agency's (EPA) proposed rule, "Revisions to the General Conformity Regulations" published in the January 8, 2008, Federal Register (73 FR 1402).

DOE supports the proposed rule, in particular its focus on clarifying the general conformity process, deleting outdated requirements, authorizing flexible approaches to compliance, reducing paperwork burdens, and clarifying the general conformity regulations.

DOE's comments on specific provisions of the proposed rule are included in the enclosure.

DOE appreciates the opportunity to comment on the proposed rule. If you have any questions concerning these comments, please contact Mr. Emile Boulos at emile.boulos@hq.doe.gov; 202-586-1306.

Sincerely,

A handwritten signature in black ink that reads "Andrew C. Lawrence".

Andrew C. Lawrence
Director
Office of Nuclear Safety
and Environment
Office of Health, Safety and Security

Enclosure

**DOE Comments on the EPA Proposed Clean Air Act Rule:
Revisions to the General Conformity Regulations
(73 FR 1402; January 8, 2008)**

Re: Docket ID No.EPA-HQ-OAR-2004-0491

1. At 73 FR 1406 and 1408, the Environmental Protection Agency (EPA) requests comments on whether to exempt emissions from short-term construction projects from the general conformity regulations as well as the appropriate definition of a short-term project.

DOE recommends that emissions from short-term construction projects be exempted from the general conformity regulations, and that EPA define “short-term” to be consistent with the definition used in the transportation conformity regulations [40 CFR 93.123(c)(5)]. Emissions from construction projects are temporary and do not have long-term impacts on the attainment of national ambient air quality standards (NAAQS). Even with such an exemption, DOE sites will continue to consider air quality impacts from construction projects in the NEPA process, and would continue to manage any short-term air quality impacts from construction projects through the use of “best management practices,” in coordination with their state and local air regulatory authorities.

2. At 73 FR 1405 and 1412 [40 CFR 93.153(i)(2)], EPA requests comment on allowing Federal agencies to presume that emissions from prescribed burns will conform to an applicable state implementation plan (SIP) provided the burning is conducted under a State certified smoke management program (SMP).

DOE supports allowing Federal agencies to presume that prescribed burns will conform to an applicable SIP. Prescribed burns serve an important safety objective at many DOE sites. EPA proposed two alternatives at 73 FR 1424 regarding conformity of prescribed burns. DOE prefers alternative 2 for paragraph (i)(2) of 73 FR 1424 because it provides additional flexibility to Federal agencies when a State does not have a certified SMP.

3. At 73 FR 1415 [40 CFR 93.158(a)(5)(i)], EPA solicits comment on whether demonstrating conformity to a budget in a milestone plan (in the absence of an attainment demonstration) is adequate to ensure that emissions from a proposed action will not interfere with the timely attainment of the NAAQS.

DOE recommends that EPA allow Federal agencies to make a conformity determination based on a State or Tribe’s determination that emissions from the proposed action would not cause the emission budget in the applicable SIP or tribal implementation plan to be exceeded. DOE believes that revising the affected paragraph in accordance with EPA’s proposal will provide needed flexibility to Federal agencies without adversely affecting the timely attainment of NAAQS.