Department of Energy
Washington, DC 20585

April 14, 2005

Attention Docket ID No. OAR-2004-0013
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, "Prevention of Significant Deterioration for Nitrogen Oxides," published in the February 23, 2005, *Federal Register* (70 FR 8880). 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. As our principal comment 1 indicates, we support the implementation of proposed option 2, which would allow States to use a cap and trade emissions program in place of the existing increment system for nitrogen dioxide, because we believe this option would be cost-effective and environmentally advantageous.

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,

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

Enclosure

cc: Dan deRoeck (w enclosure)

United States Department of Energy
Comments on
"Prevention of Significant Deterioration for Nitrogen Oxides"

Proposed Rule
(70 FR 8880; February 23, 2005)

1. **Options to Promulgate Pollutant-Specific Regulations to Prevent Significant Deterioration (PSD) of Air Quality from Emissions of Oxides of Nitrogen (NO_x). At p. 8882 of the proposed rule, the Environmental Protection Agency (EPA) states that it is seeking public comment on options for pollutant-specific regulations to prevent significant deterioration of air quality from emissions of NO_x and to preserve, protect, and enhance the air quality in our national parks and other areas of special interest. EPA proposes three options to achieve these objectives: retention of the existing increment system for nitrogen dioxide (NO_2), allowing States to use a cap and trade program in lieu of the increment system, and allowing States flexibility to use a State planning approach in lieu of the increment system.**

The Department of Energy (DOE) supports the implementation of option 2 as described at pages 8882 and 8904 of the proposed rule. DOE believes that the cap and trade program proposed in option 2 can satisfy EPA's obligations under Section 166 of the Clean Air Act and provide benefits comparable to those that have been achieved in other cap and trade programs such as the acid rain program and the Regional Clean Air Incentives Market (RECLAIM) program in the Los Angeles area. In particular, the cap and trade program has the advantages of protecting the environment at a relatively low compliance and administrative cost. Moreover, sources must find ways to keep emissions beneath the cap as the economy grows. Most importantly, in eliminating the need for case-by-case dispersion modeling analyses to assess whether a proposed new or modified major source would cause or contribute to an exceedance of the NO_2 increment, the cap and trade program will substantially reduce resources and time required by both the source applicant and the State reviewing agency to meet preconstruction permitting requirements.

We agree with EPA's cogent arguments on pp. 8906-8909 on the advantages of the cap and trade program over the increment system for NO_2. EPA's statement on p. 8906[1] concerning the expected significant improvement in NO_2 ambient air quality that the cap and trade program will produce, and its expected cost-effectiveness, provide a strong rationale for the Agency's selection of this option.

2. **Approaches under the Cap and Trade Option for Areas that have not had a PSD Permit Submitted. At p. 8909 EPA requests comment regarding whether the existing increment system should be maintained in areas where the first PSD permit**

[1] "By participating in this program and establishing a cap on NO_x emissions from electric generating units (EGUs) at such a level, we believe States could achieve emissions reductions that produce ambient air quality levels equivalent to or better than the air quality allowed by the existing NO_2 increments and associated regulations."

application has not been submitted. EPA indicates that in these areas, it is not immediately clear that a cap and trade program is at least as effective as the existing NO_2 increment system.

DOE believes that retaining the increment system in areas where a PSD permit application has not yet been submitted would be a reasonable approach given that a baseline NO_2 concentration would not have been established for such areas. Use of the NO_2 increment system in these areas will prevent significant deterioration due to emissions of NO_x.

3. **<u>Need for a Limited Source-Specific Analysis</u>. At p. 8909 EPA points out the possibility of localized impacts of proposed sources and modifications even where Statewide emissions are shown to be declining. EPA solicits comments on whether there is any need for a limited source-specific analysis under certain circumstances.**

DOE believes that there may be a need for a limited source-specific analysis in cases where a group, individual, or agency can point to a valid reason for conducting such an analysis. Location near a Class I area, as EPA points out, may be a valid reason.

4. **<u>Role of the Federal Land Manager in the PSD Permitting Process</u>. EPA requests comment on the example at p. 8910 whereby a Federal land manager could call for an analysis of source impacts when a proposed new or modified source locates within a specified distance of a Class I area, and air quality in the area has shown little or no improvement after implementation of a cap and trade program.**

   DOE believes that it would be a reasonable approach for a Federal land manager to be able to call for an analysis of source impacts when a proposed new or modified source is to be located within 150 km of a Class I area for which the manager is responsible, and air quality in the area has shown little or no improvement since implementation of a cap and trade program. This would offer some protection against the possibility of local adverse impacts near Class I areas.