

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
324 EAST ELEVENTH STREET
KANSAS CITY, MISSOURI - 64106

October 9, 1979

Mr. Harvey D. Shell
Shell Engineering and Associates
P.O. Box 1091
Columbia, Missouri 65205

Dear Mr. Shell:

As discussed by Mr. Charles W. Whitmore of my staff on October 5, 1979, a source which has permanently ceased operation would be subject to prevention of significant air quality deterioration (PSD) review before it could be reactivated. As stated in my letter of September 25, 1979, the Environmental Protection Agency (EPA) presumes that any source shut down for two years or more has permanently ceased operation. However, the EPA also gives the source owner or operator the right to rebut this presumption by demonstrating the shutdown was never intended to be and, in fact, was not a permanent shutdown.

I have included three documents which establish the basis for the two-year presumption of permanency. They are the PSD regulations of June 19, 1978, the proposed revisions to the PSD regulations, dated September 5, 1979, and a determination by the Division of Stationary Source Enforcement, designated as PSD 67.

Section 52.21(k) of the PSD regulations of June 19, 1978, exempts from air quality impact analysis emissions which are of a temporary nature. The preamble of these regulations at the bottom of the first column of page 26394 discusses the definition of "temporary" and establishes that emissions occurring for less than two years in one location would generally be considered temporary.

The PSD 67 discusses a source which was shut down for four years due to an industrial accident and now proposes to reopen. The conclusion is made in this discussion that the source would be subject to a PSD review if the source had been shut down permanently. This decision also states that a shutdown lasting for two years or more, or which results in removing the source from the emissions inventory of the state is presumed to be permanent.

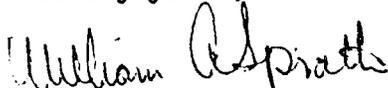
In the preamble of the proposed revisions to the PSD regulations, published September 5, 1979, page 51935 discusses the application of offsets within a major source complex to avoid an increase of emissions from the complex. The first full paragraph in the second column of the page states that emissions from the source over the last one to two year period may be considered in determining creditable offset. The preceding paragraph states that an obsolete unit which has been shut down for several years would not offer any credit for offsets.

The items discussed above establish EPA policy that temporary emissions and temporary shutdowns are considered to be of two-year duration or less. It also establishes that the credit which can be given for offset purposes must be the emissions of the last one or two year period. Thus, a source which has been shut down for more than that length of time could not be used for offset although it might physically be capable of operating. It then follows that a source which has not operated for in excess of two years and is not in the air quality baseline would be considered a new source if operation is commenced.

As stated in my letter of September 25, 1979, the owner or operator may rebut the presumption of permanent shutdown by demonstrating that the source was never intended to be a permanent shutdown. This could include such things as procedures which were taken to maintain the source in operating conditions, maintaining an emissions inventory in the state inventory file, or actively pursuing the repair or reconstruction of the source.

If you wish to discuss this further, please call Mr. Whitmore at (816)374-3791.

Sincerely yours,



William A. Spratlin, Jr., P.E.
Chief, Air Support Branch
Air and Hazardous Materials Division

Enclosures

cc: Robert J. Schreiber, Jr., P.E.
Staff Director, Air Quality Program
Jefferson City, Missouri

Ms. Libby Scopino
Division of Stationary Source Enforcement
Washington, D.C.