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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

16 MAY 1979

OFFICE OF ENFORCEMENT

Mr. Jerry L. Phillips
Environmental Specialist
Burns & McDonnell
P.O. Box 173
Kansas City, Missouri 64141

Dear Mr. Phillips:

Mr. Barber has asked that I respond to your letter of March 1, 1979, concerning the applicability of the PSD regulations to power plants that are certified by DOE as "peakload power plants the term "peakload power plant" being defined in the Power Plant and Industrial Fuel Use Act as "a power plant which, over any 12 calendar month period, generates electricity not in excess of the power plant's design capacity multiplied by 1,500 hours". In your letter you ask whether for PSD purposes the potential emission rate of such a plant may be calculated based on a maximum of 1,500 hours of operation per year.

The PSD regulations state in Section 52.21(b)(3) that the annual potential emissions of a source "shall be based on its maximum annual rated capacity unless the source is subject to enforceable permit conditions which limit the annual hours of operation". See 43 FR 26404, June 19, 1978. In the absence of an enforceable limitation on hours of operation we would normally base the potential emission rate of a source on 8,760 hours of operation per year (24 hours/day x 365 days/year).

At issue in this case is the question of whether a combustion turbine certified by DOE as a "peakload power plant" under the Power Plant and Industrial Fuel Use Act of 1978 is "subject to enforceable permit conditions which limit the annual hours of operation". In order to qualify as an "enforceable permit condition" for purposes of PSD, operating limitations would have to be enforceable by EPA. The purpose of the provision which allows potential emissions to be limited by operating limitations is to exclude from PSD coverage those sources which, although capable of emitting

pollutants in excess of the PSD cutoff levels, are effectively prevented from doing so. In order to carry out our responsibility of protecting the PSD air quality increments, EPA must require that any operating limitations which serve to exempt a source from PSD, be enforceable by EPA.

I would suggest that the owner/operator of the proposed combustion turbine ask the appropriate State Air Pollution Control Agency to incorporate, as part of the State permit, a limitation on operating hours. The State permit would be enforceable by EPA, if issued under the State Implementation Plan's new source review requirements (Section 51.18) and would serve as the basis for calculating potential emissions for PSD purposes.

Certification of the power plant by DOE as a peakload power plant is not, in and of itself, a sufficient basis for limiting potential emissions because it does not constitute an EPA enforceable requirement.

Should you have any further questions on this issue, please contact Libby Scopino at (202) 755-2564.

Sincerely yours,

Edward E. Reich, Director
Division of Stationary
Source Enforcement

cc: Richard Rhoads, CPDD
Mike Trutna, CPDD
Peter Wyckoff, OGC
Dave Joseph, Region VIII
Walter Barber, OAQPS

