

TO: Distribution

FROM: Mark Boese, Deputy APCO

DATE: April 9, 1992

RE: POLICY ON THE INTERPRETATION OF THE DEFINITION OF SHUTDOWN (RULE 230.1, SECTION III.L)

PURPOSE: The purpose of this policy is to establish District-wide uniformity Of interpretation of the definition of Shutdown as it appears in Rule 230.1, Emission Reduction Credit Banking, Section III.L.

INTERPRETATION:

For unpermitted sources, the date of the shutdown shall be the date of the last emissions from the emissions unit.

For permitted sources, the date of the shutdown shall be the date of the surrender of the operating permit, unless the Control Officer determines that:

- a) the unit has been removed or has fallen into an inoperable and unmaintained condition such that start-up would require an investment exceeding 50% of the current replacement cost; and,
- b) the owner cannot demonstrate to the satisfaction of the Control Officer that the owner intended to operate again. Evidence of "intent to operate again" may include valid production contracts, orders, other agreements, or any economically based reasons which would require the operation of the emissions unit.

Should the Control Officer make determinations a) and b), the date of the shutdown shall be the date of the last emissions from the emissions unit.

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Tulare County Zone
San Joaquin Valley Unified Air Pollution Control district

MEMO

To: Mark Boese, Deputy APCO

From: Dave Warner, Tulare Zone

Subject:: Attached Draft Policy on Interpretation of the Definition of Shutdown (Rule 230.1, Section III.L)

RECOMMENDATION:

It is the recommendation of the Valley Engineers that the attached draft policy be implemented for the purpose of unifying the interpretation of the definition of Shutdown (Rule 230.1, Section III.L).

We further recommend that the definition be changed, by rule amendment, at the first opportunity. The wording of the attached interpretation may be appropriate for such an amendment.

REASONS FOR RECOMMENDATION:

The first and second sentences of this definition may be considered to conflict, leading to some confusion in zone offices and in the regulated industry:

“L. Shutdown: shall mean either the earlier of the permanent cessation of emissions from an emitting unit or the surrender of that unit’s operating permit. If, prior to the surrender of the operating permit, the Control Officer determines that: (a) the unit has been removed or fallen into an inoperable and unmaintained condition such that start-up would require an investment exceeding 50% of the current replacement cost; and (b) the owner cannot demonstrate to the satisfaction of the Control Officer that the owner intended to operate again ...”

A cotton gin in the Tulare Zone has presented the case that the date of the “shutdown” of their gin was the date they submitted an application for emission reduction credits and surrendered their permit. They argued that the second sentence in the definition requires the District to determine the date of “permanent cessation of emissions” prior to the surrender of the operating permit.

Tulare Zone disagreed with this interpretation, stating that the first sentence provides the over-riding definition while the following sentences were intended to provide clarification and procedural guidance. However, we recognize that some ambiguity exists.

These recommendations are being made to unify the interpretation of the current definition, and secondly, to provide guidance for a future rule revision.