

February 1, 1994

Mr. Randall Mathis
Director
Arkansas Department of Pollution
Control and Ecology
P.O. Box 8913
Little Rock, Arkansas 72219-8913

Re: Whirlpool Corporation
Fort Smith, Arkansas

Dear Mr. Mathis:

This letter is in response to the question that we have been discussing at length regarding a project to substitute less ozone-depleting substances for those that have a greater ozone depleting potential. In this specific case, Whirlpool plans to substitute HCFC-141b for CFC-11 at its Fort Smith, Arkansas facility. Based on information provided to us, it appears that the physical changes necessary to accommodate HCFC-141b at the plant are not routine, and that these changes would result in a net increase in emissions of ozone depleting substances at the plant. Hence, in the first analysis, this project would appear to constitute a major modification subject to PSD review. For the reasons discussed below, however, we believe that this project is eligible for exclusion from PSD as a pollution control project.

It is our understanding that the proposed substitution of the HCFC-141b for CFC-11 is in response to the requirement to phase out of CFCs under title VI of the Clean Air Act, as amended in 1990. Under the Environmental Protection Agency's (EPA) regulations promulgated on December 10, 1993 (58 FR 65018), production and consumption¹ of CFCs will be cut to 25% of baseline limits in 1994 and 1995, and will be entirely phased out by 1996. While EPA's rules do not prohibit Whirlpool's use of CFCs, such users must find substitutes because CFCs will be unavailable shortly. Based on the available information, Region VI believes Whirlpool's project may appropriately be characterized as a pollution control project since its clear motivation is the need to respond to the title VI phaseout; it will be environmentally beneficial since, taking the ozone depleting potential and quantity of HCFC-141b and CFC-11 into

¹ Consumption is generally defined for these purposes as production plus exports minus imports.

account, the net ozone depleting potential of ozone depleting substances at the plant will decrease; and since this project will not result in an increase in production capacity of utilization at the plant.

EPA's current policy is to review proposed pollution control projects to determine whether they should be excluded from new source review based on a case-by-case assessment of the net emissions and overall impact on the environment. Such projects that are environmentally beneficial and meet certain safeguards may be excluded. See 57 FR 32314, 32320 (July 21, 1992). Based on our review of the information presented to date regarding the Whirlpool project, we have determined that the proposed substitution of HCFC-141b for CFC-11 in response to the CFC phaseout under title VI of the Clean Air Act will result in an overall environmental benefit. We understand that the annual emissions of HCFC-141b after the proposed switch will cause less stratospheric ozone depletion than current annual emissions of CFC-11. We also understand that the proposed switch will not increase emissions of any other pollutant which would impact a National Ambient Air Quality Standard, PSD increment, or air quality-related value. Further, we understand that the proposed switch will not cause any cross-media harm, and will not increase any risk associated with toxic or hazardous air pollutants. Finally, we understand that this project will not increase production capacity at the plant or result in increased utilization of existing capacity.

Consequently, based on these understandings, we believe that Whirlpool's proposed substitution of HCFC-141b for CFC-11 would qualify for a case-by-case exclusion from PSD review as a pollution control project. Please note, however, that this response is not intended to address PSD applicability where other concurrent changes would increase the production capacity or utilization of the source. In addition, nothing in this response voids any applicable State Implementation Plan (SIP) or minor source New Source Review (NSR) requirements. Consequently, Whirlpool must obtain any otherwise applicable minor NSR permits for the conversion project. Furthermore, the public must have an opportunity for notice and comment consistent with the requirements for minor source permitting contained in the applicable SIP.

EPA is currently developing proposed changes to its NSR rules to reflect changes in the 1990 Amendments to the Clean Air Act and the Agency intends to further consider in that rulemaking the appropriate treatment of ozone depleting substances under the federal PSD regulations. EPA also is currently developing guidance regarding NSR applicability to pollution control and

prevention projects. We expect that a policy memorandum on this issue will be available in the first half of 1994. In the interim, Region VI will provide assistance to States wishing to evaluate, on a case-by-case basis, proposed changes involving ozone depleting substances.

If you have any questions or comments, please contact me or Richard Barrett of my staff at (214) 655-7227.

Sincerely yours,
ORIGINAL SIGNED BY
A. Stanley Meiburg

A. Stanley Meiburg
Director
Air, Pesticides and Toxics Division (6T)