

December 16, 1994

Mr. James M. Lents, Ph.D.  
Executive Officer  
South Coast Air Quality Management District  
21865 E. Copley Drive  
Diamond Bar, California 91765-4182

Dear Mr. Lents:

This letter is in response to your letter dated August 31, 1994 to Mary D. Nichols. In your letter the South Coast Air Quality Management District (SCAQMD) requests the Environmental Protection Agency's (EPA) interpretation of Section 182(e)(2) of the Clean Air Act (Act) regarding emission offset requirements and the replacement of ozone depleting compounds (ODC) with volatile organic compounds (VOC).

In many nonattainment areas, including the SCAQMD, stationary sources are converting from the use of ozone depleting compounds to alternatives as a result of requirements to phase out ODC found in title VI of the Act. Your letter states that the replacement of ODC with VOC will, in many instances, result in an increase in VOC emissions. The SCAQMD would like to propose amendments to its new source review rules to allow VOC emissions increases from discrete permit units without the requirement to provide emissions offsets, where such VOC emissions increases are a direct result from the replacement of ODC with lower ozone-depleting substances. Also, SCAQMD believes that any adverse environmental impacts arising from the replacement of ODC with VOC will be mitigated by enforcing the guidelines for replacements established pursuant to the federal Significant New Alternatives Policy (SNAP) program and similar protocols. The objective of SNAP is to expedite the movement away from ODC.

Section 182(e)(2) of the Act reads:

"...The offset requirements of this part shall not be applicable in Extreme Areas to a modification of an existing source if such modification consists of installation of equipment required to comply with the applicable implementation plan, permit, or this Act."

The section 182(e)(2) offset exemption appears to apply only when the modification itself is equipment required to comply with applicable requirements. Thus, a material switch from ODC to VOC would not be considered an equipment Change required to comply with any plan permit, or Act requirement. Even though a switch to a VOC may be the most desirable option to the

source, it is the EPA's understanding that there are other control options besides switching to a VOC for sources changing from a higher to a lower ODC. In addition, the Act does not specifically require a switch to a VOC in lieu of other options (i.e, choosing non-VOC compounds). Consequently, since the use of a low ozone depleting VOC as a replacement for a high ODC is not the only option open to the source and is not necessarily "required to comply with the applicable implementation plan, permit, or this Act.", EPA believes that Section 182(e)(2) does not apply in this situation.

On July 24, 1994, EPA issued the attached memorandum, entitled "Pollution Control Projects and New Source Review" that is suited to the national issue of NSR applicability to ODC phase-outs. This memorandum addresses the applicability of NSR and emissions offsets to pollution control projects, such as switches from higher to lower ODC that result in increased VOC emissions. This memorandum specifies the type of projects that may qualify for a conditional exclusion from NSR as a pollution control project, the safeguards that are to be met, and the procedural steps that permitting authorities should follow in issuing an exclusion. Projects that do not meet these safeguards and procedural steps do not qualify for an exclusion from NSR under the policy. The policy specifically addresses pollution control projects that will result in significant increases of some pollutants. Also, in the case of nonattainment areas, including Extreme ozone nonattainment areas, the State or the source must provide offsetting emissions reductions for any significant increase in a nonattainment pollutant from a pollutant control project. In contrast to the Section 182(e)(1) offset provisions for Extreme ozone nonattainment areas, offsets for pollution control projects need only be provided for the projected actual increase and at a 1 to 1 offset ratio.

Questions concerning this issue should be directed to Mr. Matt Haber of EPA Region IX at (415) 744-1254. I appreciate this opportunity to be of service and trust this information will be helpful to you.

Sincerely,

John S. Seitz  
Director  
Office of Air Quality Planning  
and Standards

Attachment

cc: Matt Haber, Region IX