

US EPA ARCHIVE DOCUMENT

Formosa Plastics Corporation, Texas
Point Comfort Plant Expansion: Gas Turbines
Prevention of Significant Deterioration Permit for Greenhouse Gas Emissions
PSD-TX-760-GHG

Summary of Revisions in Final Permit

U.S. Environmental Protection Agency
July 31, 2014

Summary of the Formal Public Participation Process

The U.S. Environmental Protection Agency, Region 6 (EPA) proposed to issue a Prevention of Significant Deterioration (PSD) permit to the Formosa Plastics Corporation, Texas Point Comfort Plant Expansion: Gas Turbines on June 21, 2014. The public comment period on the draft permit began June 21, 2014 and closed on July 21, 2014. EPA announced the public comment period through a public notice published in the *Port Lavaca Wave* on June 21, 2014 and on Region 6's website. EPA also notified agencies and municipalities on June 19, 2014 in accordance with 40 CFR Part 124.

The Administrative Record for the draft permit was made available at EPA Region 6's office. EPA also made the draft permit, Statement of Basis and other supporting documentation available on Region 6's website, and available for viewing at the Calhoun County Branch Library in Point Comfort, TX.

EPA's public notice for the draft permit also provided the public with notice of the public hearing. The public notice stated that "Any request for a public hearing must be received by the EPA either by email or mail by July 14, 2014, and must state the nature of the issues proposed to be raised in the hearing...EPA maintains the right to cancel a public hearing if no request for a public hearing is received by July 14, 2014, or the EPA determines that there is not a significant interest. If the public hearing is cancelled, notification of the cancellation will be posted by July 18, 2014 on the EPA's Website <http://yosemite.epa.gov/r6/Apermit.nsf/AirP>. Individuals may also call the EPA at the contact number listed above to determine if the public hearing has been cancelled." EPA did not receive any written comments concerning the draft permit during the comment period, and did not receive any written requests for a public hearing. EPA posted its announcement that there would not be a hearing on July 18, 2014.

Update to Applicability Analysis

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of stationary source permitting requirements to greenhouse gases (GHG). *Utility Air Regulatory Group (UARG) v. Environmental Protection Agency (EPA)* (No. 12-1146). The Supreme Court said that the EPA may not treat greenhouse gases as an air pollutant for purposes of determining whether a source is a major source required to obtain a Prevention of Significant Deterioration (PSD) or title V permit. However, the Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of conventional pollutants, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT). Pending further EPA engagement in the ongoing judicial process before the District of Columbia Circuit Court of Appeals, the EPA is proceeding with this final permitting decision consistent with EPA's understanding of the Supreme Court's decision.

In this final permit decision, the EPA is continuing to apply the PSD BACT requirement to GHG emissions from Formosa Plastics Corporation, Texas Point Comfort Plant (Formosa). This project is otherwise subject to PSD because it emits a regulated NSR pollutant other than GHG (specifically CO, NO_x, VOC, and PM//PM₁₀/PM_{2.5}) above the major source thresholds. In addition, the proposed source emits or has the potential to emit 75,000 tons per year (tpy) or more of GHG on a carbon dioxide equivalent (CO₂e) basis (*see* 40 C.F.R § (49)(iv); *PSD and Title V Permitting Guidance for Greenhouse Gases* (March 2011) at 12-13). Formosa submitted three separate permit applications for the three different operational area expansions. The permits to be issued authorizes the construction of Olefins3/PDH Plant (PSD-TX-1383-GHG), LDPE Plant (PSD-TX-1384-GHG), and Gas Turbine Plant (PSD-TX-760-GHG). The total combined GHG emissions for the expansion project is 3,868,872 tpy.

Since the Supreme Court recognized EPA's authority to limit application of BACT to sources that emit GHGs in greater than *de minimis* amounts, EPA believes it may apply the 75,000 tons per year threshold in existing regulations at this time to determine whether BACT applies to GHGs at this facility. Accordingly, this project continues to require a PSD permit that includes limitations on GHG emissions based on application of BACT.

Revisions in Final Permit

The following is a list of administrative and clarifying changes for the *Formosa Plastics Corporation, Texas, Point Comfort Plant Expansion: Gas Turbines (PSD-TX-760-GHG) Prevention of Significant Deterioration Permit, Final Permit Conditions*.

1. Cover Sheet

The cover sheet titled "Prevention of Significant Deterioration Permit for Greenhouse Gas Emissions Issued Pursuant to the Requirements at 40 CFR §52.21" has been modified to state the following:

In accordance with 40 CFR §124.15(b)(3), this PSD Permit becomes effective ~~30 days after the service of notice of this final decision unless review is requested on the permit pursuant to 40 CFR §124.19~~ immediately upon issuance of this final decision.

This administrative change is made as a result of not receiving any comments during the comment period related to this action.

National Historic Preservation Act (NHPA)

On May 22, 2014, EPA sent a letter to the State Historic Preservation Officer (SHPO) requesting concurrence on EPA findings for Formosa's cultural survey. The SHPO sent a letter with concurrence to the EPA on July 7, 2014.

Endangered Species Act (ESA)

EPA has identified twenty-one (21) species as endangered or threatened in Calhoun and Jackson County, Texas by the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS) and the Texas Parks and Wildlife Department (TPWD). EPA has determined that issuance of the proposed permit to Formosa for the expansion project will have no effect on fifteen (15) of the twenty-one (21) federally-listed species, specifically the Northern aplomado falcon (*Falco femoralis septentrionalis*), red wolf (*Canis rufus*), Louisiana black bear (*Urus americanus luteolus*), jaguarundi (*Herpailurus yagouaroundi cacomitli*), ocelot (*Leopardus pardalis*), eskimo curlew (*Numenius borealis*), West Indian manatee (*Trichechus manatus*), smalltooth sawfish (*Pristis pectinata*), hawksbill sea turtle (*Eretmochelys imbricate*), blue whale (*Balaenoptera musculus*), finback whale (*Balaenoptera physalus*), humpback whale (*Megaptera novaeangliae*), sei whale (*Balaenoptera borealis*), sperm whale (*Physeter macrocephalus*) and leatherback sea turtle (*Dermochelys coriacea*). These species are either thought to be extirpated from these counties in Texas or not present in the action area.

The remaining three (3) federally-listed species are species that may be present in the Action Area and are under the jurisdiction of USFWS. As a result of this potential occurrence and based on the information provided in the draft biological assessment (BA), the issuance of the permit may affect, but is not likely to adversely affect the following species:

- Interior least tern (*Sterna antillarum alhalassos*)
- Piping plover (*Charadrius melodus*)
- Whooping crane (*Grus americana*)

On April 16, 2014, EPA submitted the final draft BA to the Southwest Region, Corpus Christi, Texas Ecological Services Field Office of the USFWS for its concurrence that issuance of the permit may affect, but is not likely to adversely affect these six federally-listed species. The USFWS concurred on July 25, 2014.

Three (3) of the twenty-three federally-listed species identified are marine species that may be present in the Action Area and are under the jurisdiction of NOAA. As a result of this potential occurrence and based on the information provided in the draft BA, the issuance of the permit may affect, but is not likely to adversely affect the following species:

- green sea turtle (*Chelonia mydas*)
- Kemp's ridley sea turtle (*Lepidochelys kempii*)
- loggerhead sea turtle (*Caretta caretta*)

On February 14, 2014, EPA submitted the final draft BA to the NOAA Southeast Regional Office, Protected Resources Division of NMFS for its concurrence that issuance of the permit may affect, but is not likely to adversely affect these three federally-listed species. NOAA provided concurrence and agreed with EPA's determinations on May 23, 2014.