

US EPA ARCHIVE DOCUMENT

Occidental Chemical Corporation
Ingleside Chemical Plant
Prevention of Significant Deterioration Permit for Greenhouse Gas Emissions
PSD-TX-1338-GHG

Responses to Public Comments

U.S. Environmental Protection Agency
May 23, 2014

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I. 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 Occidental Chemical Corporation (OxyChem), Ingleside Chemical Plant on March 26, 2014. The public comment period on the draft permit began March 26, 2014 and closed on April 25, 2014. EPA announced the public comment period through a public notice published in *The Ingleside Index* on March 26, 2014 and on Region 6's website. EPA also notified agencies and municipalities on March 24, 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 Ingleside Public Library in Ingleside, TX.

EPA's public notice for the draft permit also provided the public with notice of the public hearing. The public notice stated:

Any request for a public hearing must be received by the EPA either by email or mail by April 23, 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 April 23, 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 April 25, 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.

During the comment period, EPA did not receive any written requests for a public hearing. EPA posted its announcement that there would not be a hearing on April 25, 2014. EPA received one comment letter from a citizen on April 30, 2014 that was postmarked on April 25, 2014.

II. EPA's Response to Public Comments

This section summarizes the public comments received by EPA and provides our responses to the comments. EPA received one comment letter from a citizen.

Comment: We are against the issuing of a permit to Occidental Chemical Corporation, Ingleside Chemical Plant. Greenhouse gas is harming our planet as a whole and this must be stopped, not allowed and excused on a one by one basis. This significant deterioration of our area and planet must no longer be permitted. Cancers already occur in a greater number in this area and this has been true for years. We do not have the right to decrease the life span and health of this generation or future generations. HEALTH comes first. Let us remember our children's health and the health of future generations of little ones. Children have to live here. They go outside and play here. Please protect them.

Response: Impacts on public health are primarily evaluated in the PSD program by examining whether a source will cause or contribute to an exceedance of ambient air quality standards, which are set by EPA at a level requisite to protect public health¹. This permit action is to address greenhouse gas (GHG) emissions only – a pollutant for which there is no national ambient air quality standard (NAAQS). Non-GHG pollutants and their levels of control and corresponding health effects (if any) are not addressed by this permitting action.² The Texas Commission on Environmental Quality (TCEQ) is the permitting authority for non-GHG pollutants, and as part of a separate permitting action for the project is the responsible authority for determining that the project will be protective of human health as required by the NAAQS for criteria pollutants such as CO, NO_x, SO₂, lead, and particulate matter, when the PSD requirements are determined to be applicable to those pollutants. Based on our research, it appears that TCEQ is addressing emissions of pollutants other than GHG emissions, for which NAAQS have been established, in its proposed permit that was public noticed on March 18, 2014 (TCEQ Permit PSD-TX-1338). The final TCEQ permit was issued on May 16, 2014. Because there is no NAAQS for GHGs, we have not required the applicant to model or conduct ambient monitoring for GHGs. Accordingly, for our purposes in permitting the project, we do not specifically require that this demonstration be made, because it is not needed to set the Best Available Control Technology (BACT) requirement for GHGs.

Furthermore, as recommended in Section IV of EPA's guidance document, "PSD and Title V Permitting Guidance for Greenhouse Gases" (available here: <http://www.epa.gov/nsr/ghgpermitting.html>), we have not required any assessment of the impacts of GHGs in the context of additional impacts analysis and Class I area requirements. Instead, EPA has determined that compliance with BACT is the best technique that can be employed at present to satisfy the additional impacts analysis and Class I area

¹ In regards to children's health, EPA provides the following websites dedicated to children's health:

<http://yosemite.epa.gov/ochp/ochpweb.nsf/content/homepage.htm>

<http://www.epa.gov/epahome/children.htm>

<http://www2.epa.gov/aboutepa/about-office-childrens-health-protection-ochp>

² GHGs are not specifically noted for having direct impacts on human health at this time. The endangerment finding was based on the GHG contributions to climate change. A detailed explanation of climate change and its impact on health, society, and the environment is provided in EPA's "Technical Support Document for Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act," available at:

http://epa.gov/climatechange/Downloads/endangerment/Endangerment_TSD.pdf. Research into the effects of GHGs on the environment is ongoing.

requirements of the rules as they relate to GHGs. More information regarding this issue may be found in Section V of the Statement of Basis. (The Statement of Basis is available here: <http://yosemite.epa.gov/r6/Apermit.nsf/AirP>). The Statement of Basis is the document that accompanies the proposed permit, and it explains EPA's reasoning for the requirements found in the proposed permit.

III. Revisions in Final Permit

The following is a list of administrative and clarifying changes for the *Occidental Chemical Corporation, Ingleside Chemical Plant (PSD-TX-1338-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.

IV. National Historic Preservation Act (NHPA)

On March 28, 2014, EPA sent a letter to the State Historic Preservation Officer (SHPO) requesting concurrence on EPA findings for OxyChem's cultural survey. The SHPO sent a letter with concurrence to the EPA on April 29, 2014.

Although OxyChem has been able to conduct cultural resource survey on a majority of the project, there remain three (3) tracts of land along a proposed pipeline corridor, approximately 1.86 miles total in length, which OxyChem has been unable to secure access for purposes of conducting survey work. In conjunction with issuance of OxyChem's GHG permit, EPA, Texas's State Historic Preservation Officer ("SHPO") and OxyChem have signed a Programmatic Agreement (PA) requiring a pre-construction survey of these three remaining parcels. Once this survey has been completed, OxyChem will provide the results to EPA and the SHPO, and will work in consultation with the EPA and the SHPO to take any additional actions to ensure that all conditions under the PA are met to satisfy all obligations under Section 106 of the NHPA.

V. Endangered Species Act (ESA)

EPA has identified twenty-three (23) species as federally endangered or threatened in San Patricio, Refugio, Calhoun, Aransas, Victoria, Jackson and Matagorda Counties by the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS) and the Texas Parks and Wildlife Department (TPWD). Eighteen (18) of these species fall under the jurisdiction of USFWS. EPA has determined that issuance of the proposed permit to OxyChem will have no effect on seven (7) of these listed species, specifically the red wolf (*Canis rufus*), slender rush-pea (*Hoffmannseggia tenella*),

interior least tern (*Sternula antillarum athalassos*), eskimo curlew (*Numenius borealis*), South Texas ambrosia (*Ambrosia cheiranthifolia*), Black lace cactus (*Echinocereus reichenbachii* var. *albertii*), West Indian manatee (*Trichechus manatus*). These species are either thought to be extirpated from the county or Texas or not present in the action area.

The remaining eleven (11) may be present in the action area in certain circumstances. As a result of this potential occurrence and based on the information provided in the biological assessment, the issuance of the permit may affect, but is not likely to adversely affect these six (6) species. Consequently, EPA submitted a letter 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 the following species:

- Attwater's prairie chicken (*Tympanuchus cupido attwateri*)
- Gulf Coast jaguarundi (*Herpailurus yagouaroundi cacomitli*)
- Ocelot (*Leopardus pardalis*)
- Northern Aplomado falcon (*Falco femoralis septentrionalis*)
- Piping plover (*Charadrius melodus*)
- Whooping crane (*Grus americana*)
- Leatherback sea turtle (*Dermochelys coriacea*)
- Green sea turtle (*Chelonia mydas*)
- Kemp's ridley sea turtle (*Lepidochelys kempii*)
- Loggerhead sea turtle (*Caretta caretta*)
- Hawksbill sea turtle (*Eretmochelys imbricate*)

The USFWS concurred on May 21, 2014.

Six (6) marine species fall under the jurisdiction of National Marine Fisheries Service (NMFS). EPA determined that all 6 species may be present in the action area in certain circumstances. As a result of this potential occurrence and based on the information provided in the biological assessment, the issuance of the permit may affect, but is not likely to adversely affect these species. Consequently, EPA submitted a letter to the NMFS for its concurrence that issuance of the permit may affect, but is not likely to adversely affect the following species:

- leatherback sea turtle (*Dermochelys coriacea*)
- green sea turtle (*Chelonia mydas*)
- Kemp's ridley sea turtle (*Lepidochelys kempii*)
- loggerhead sea turtle (*Caretta caretta*)
- Hawksbill sea turtle (*Eretmochelys imbricate*)
- Smalltooth sawfish (*Pristis pectinata*)

NMFS concurred on our effects determinations on May 23, 2014.