



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

NOV 20 2009

Mr. Richard A Hyde, P.E., Deputy Director
Office of Permitting and Registration
Texas Commission on Environmental Quality (MC 122)
P.O. Box 13087
Austin, TX 78711-3087

Re: Objection to Federal Part 70 Operating Permit, Westlake Longview Corporation, P1
Polyethylene No 1/Epolene (TCEQ Permit No. O1983), Harrison County, Texas

Dear Mr. Hyde:

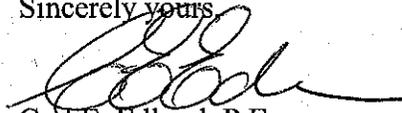
We received the proposed renewal for the Federal Operating Permit (FOP) for the Westlake Longview Corporation P1 Polyethylene No 1/Epolene facility in our office on October 5, 2009. The EPA's 45-day review period will end on November 20, 2009. The proposed permit incorporates a Qualified Facility permit into the FOP.

In accordance with 40 CFR 70.8(c), EPA is objecting to the proposed permit action. Section 505(b)(1) of the federal Clean Air Act (Act) and 40 CFR § 70.8(c) require EPA to object in writing to the issuance of a proposed Title V permit within 45 days of receipt of the proposed permit (and all necessary supporting information) if EPA determines that the permit is not in compliance with applicable requirements of the Act or requirements under 40 CFR Part 70. Specific reasons for each objection and a description of the terms and conditions that the permit must include to respond to the objections are enclosed.

Section 505(c) of the Act and 40 CFR § 70.8(c)(4) provide that if the permitting authority fails, within 90 days of the date of the objection, to submit a permit revised to meet the objections, then EPA will issue or deny the permit in accordance with the requirements of 40 CFR Part 71. Because the objection issues must be fully addressed within 90 days, we suggest that the revised permit be submitted with sufficient advance notice so that any outstanding issues may be resolved prior to the expiration of the 90-day period. We also note concerns related to the adequacy of permitting associated with the incorporation by reference of Permits by Rule (PBR) and Standard Permits that may not meet the requirements of the federally-approved Texas State Implementation Plan (Texas SIP) have been raised in two citizen petitions filed with EPA, dated August 28, 2009, and January 5, 2009. Should the Title V permit be issued without resolving these concerns, EPA may reopen the Title V permit for cause, pursuant to 40 CFR § 70.7(f) and (g).

We are committed to working with the TCEQ to ensure that the final Permit is consistent with the all applicable requirements, including the federally-approved Texas SIP and the Texas FOP program. If you have questions or wish to discuss this further, please contact Jeff Robinson, Chief, Air Permits Section at 214-665-6435, or Stephanie Kordzi, Texas Permit Coordinator at (214) 665-7520. Thank you for your cooperation.

Sincerely yours,



Carl E. Edlund, P.E.

Director

Multimedia Planning and Permitting Division

Enclosure

cc: Manager, Environmental Affairs
Westlake Longview Corporation

Mr. Steve Hagle, Director
Air Permits Division
Texas Commission on Environmental Quality (MC-163)

Enclosure

- 1. Objection to the Incorporation of Permit No. 18104 into the Title V permit.** The *New Source Review (NSR) Authorization References* table in the draft Title V permit incorporates by reference Permit No. 18104. Available information indicates that on July 8, 2009 Westlake Longview Corporation forwarded a Form PI-E to TCEQ (Notification of Changes to Qualified Facilities). Based upon TCEQ's review of the information, TCEQ had no objection to the proposed change. This change affects Permit No. 18104¹ under Texas Qualified Facilities Program. This program authorizes facilities to become "qualified" to net out of NSR SIP permitting requirements under 30 TAC § 116.118 (pre-change qualification).² To date EPA has not approved the Texas Qualified Facilities Program revisions into the Texas SIP, pursuant to Section 110 of the federal Clean Air Act (CAA), 42 U.S.C. § 7410.³ EPA published in the Federal Register an action that proposed disapproval of the State's new requirements for modifications of existing Qualified Facilities found in Texas Administrative Code Chapter 116.10, 116.116, 116.617, and 116.118 on September 23, 2009, because it does not meet certain provisions of the federal CAA and EPA's new source review (NSR) regulations (*See* 74 Fed. Reg. 48450). Therefore, pursuant to 40 CFR § 70.8(c)(1), EPA must object to the issuance of this Title V permit because physical or operational changes made under the Qualified Facility rule cannot be determined to be in compliance with the applicable requirements of the Texas SIP. The failure to have submitted information necessary to make this determination constitutes an additional basis for this objection, pursuant to 40 CFR § 70.8(c)(3)(ii). In response to this objection, TCEQ must revise the draft Title V permit to include a condition that specifically requires the source to prepare and submit to TCEQ a written analysis of any future change/modification to ensure that minor and/or major new source review requirements under the federally-approved Texas SIP have not been triggered. This source must comply with *both* the requirements of the approved SIP *and* with any requirements of the State.
- 2. Objection to General Recordkeeping Provision.** Under the *General Terms and Conditions* provision of the draft Title V permit, reference is made to 30 TAC § 122.144 of the Texas FOP program which requires records be kept for 5 years; however, Special Condition 2 and 3 of NSR Permit No. 6509 (revised May 11, 2009) and Special Condition 3 and 4 of NSR Permit No. 48592 (amended February 3, 2006) only requires records be kept for two years. This condition is inconsistent with the 5 year recordkeeping requirements of 40 CFR § 70.6(a)(3)(ii)(B) and cannot be carried forward into the Title V permit. Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit since the recordkeeping requirements of NSR Permit No. 6509 and NSR Permit No. 48592

¹ See information on this Qualified Facility at <https://webmail.tceq.state.tx.us/gw/webpub>.

² See also 30 TAC §§ 116.10; 116.116(e); and § 116.117.

³ The currently approved SIP regulation is 30 TAC 116.160 adopted by the Texas Natural Resource Conservation Commission (renamed the Texas Commission on Environmental Quality) on October 10, 2001, effective November 1, 2001, which was approved by EPA on July 22, 2004 (69 FR 43752), effective September 20, 2004.

are not in compliance with the requirements of 40 CFR § 70.6(a)(3)(ii)(B). In response to this objection, TCEQ must revise the Title V permit to include a condition that states that records of monitoring data and supporting information must be maintained for a minimum of five years from the date of monitoring, notwithstanding the requirements of any other permit conditions or applicable requirements.

3. **Objection to Special Permit Condition 3.** Under the *Special Terms and Conditions* provisions of the draft Title V permit, Condition 3 requires stationary vents with certain flow rates comply with identified provisions of 30 TAC Chapter 111 of the Texas SIP. However, there is no identification of the specific stationary vents that are subject to those requirements. As such, this condition fails to meet the requirement of 40 CFR § 70.6(a)(1), in that the condition lacks the specificity to ensure the compliance with the applicable requirements associated with those unidentified emission units. In addition, the Statement of Basis document for the draft Title V permit does not provide the legal and factual basis for Condition 3, as required by 40 CFR § 70.7(a)(5). Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit since Condition 3 is not in compliance with the requirements of 40 CFR § 70.8(c)(1) and 70.7(a)(5). In response to this objection, TCEQ must revise Condition 3 of the draft Title V permit to list the specific stationary vents that are subject to the specified requirements of 30 TAC Chapter 111 and provide an explanation in the Statement of Basis for the legal and factual basis for Condition 3.

Additional Concerns:

1. **Table *New Source Review Authorization References*** - Some of the permits that are incorporated by reference in the draft permit (e.g., NSR Permit 1243) may actually be old or outdated underlying permits. EPA recognizes that underlying permits are revised from time to time. Nonetheless, the most recent revision of the underlying permit (and the issuance date) must be stated in the table when incorporated by reference in the Title V permit so the public may properly comment on the Title V permit. TCEQ must confirm that the version of the underlying permit that is incorporated in the title V permit is readily available in the public records. Please see page 5, Section IV.A.2. of the EPA Administrator's decision regarding requirements per the Premcor Title V Petition responses issued on May 28, 2009.
2. **Permit Condition 8** – In accordance with 40 CFR Section 70.6(a)(1)(i), permit conditions must define and provide regulatory citations referencing proper authority allowing TCEQ to grant special exemptions.
3. **The Title V permit incorporates by reference NSR permit no. 1243.** The TCEQ New Source Review Air Permits database shows this permit to be void. It also shows this permit was issued to International Paper Co. in Grimes County. It is important for TCEQ to verify that all incorporated permits are valid.

4. The Title V permit incorporates by reference forty-six PBRs. PBRs 106.263, 106.373, and 106.452 require registration with TCEQ. TCEQ's New Source Review Air Permits database does not show any registrations for those PBRs for Regulated Entity Number RN105138721. Fourteen PBRs incorporated by reference are old standard exemption numbers 6, 7, 10, 51, 53, 58, 86, 103, 106, and 118. No registrations are shown in the TCEQ database for these old standard exemptions. TCEQ needs to ensure that all incorporated permits in a Title V are valid.