

Texas Campaign for the Environment | The Community In-Power and Development Association | Public Citizen's Texas Office | Dogwood Alliance | Environmental Integrity Project | Our Children's Earth | Partnership for Policy Integrity

April 26, 2018

The Honorable Greg Abbott
Texas Office of the Governor
P.O. Box 12428
Austin, Texas 78711-2428

Dear Governor Abbott:

We, the undersigned community and environmental groups who work to protect the health and wellbeing of Texas' citizens and environment, call on Texas officials to address the dangerous and unlawful air pollution emitted by wood pellet facilities in the state, including taking the specific steps set forth in this letter to address existing deficiencies and to take proactive measures in the future to address new facilities.

Today, Environmental Integrity Project (EIP) released a report, "Dirty Deception: How the Wood Biomass Industry Skirts the Clean Air Act," which reveals how the wood pellet manufacturing industry in the southern US, including in Texas, emits vast amounts of unlawful air pollution and systematically evades Clean Air Act requirements to reduce that pollution. These factories, including the massive German Pellets mill in Woodville, northeast of Houston, convert millions of tons of trees into wood pellets to be shipped to Europe, where they are burned for electricity under the false premise that doing so is carbon neutral. It turns out this emerging industry emits substantially more air pollution here in the US than anybody expected, but states—including Texas—are not doing enough to bring these facilities into compliance with the Clean Air Act.

First, Texas Must Refuse to Allow German Pellets to Operate Until It Obtains a Valid Permit.

When German Pellets decided to build a 578,000 ton per year wood pellet manufacturing facility in Woodville in 2012, the company agreed to limit volatile organic compound (VOC) emissions to 64 tons per year. Unfortunately, source testing following construction revealed that the facility actually emits 580 tons of VOCs each year, making it one of the most polluting wood pellet plants in the nation. These additional VOC emissions worsen ambient air quality and pose health risks for Woodville residents. Specifically, VOCs combine with sunlight to produce ground-level ozone, a major constituent of smog. Breathing ozone can trigger a variety of health problems, particularly for children, the elderly, and people of all ages who have lung diseases such as asthma.

TCEQ concedes that due to its high VOC emission rate, German Pellets should have been required to obtain a “major” New Source Review permit prior to construction. That permit would have required, among other things, that German Pellets utilize the “best available control technology” on all of the facility’s emissions units. To remedy this violation, Texas Commission on Environmental Quality (TCEQ) has proposed to issue German Pellets an (after the fact) construction permit. Yet, rather than requiring the facility to reduce emissions, TCEQ has proposed simply to raise the air pollution limits in German Pellets’ air pollution permit to the point where German Pellets can easily comply without doing anything additional to curb emissions. In particular, TCEQ proposes to allow German Pellets to continue operating without controlling VOCs from several units that collectively emit more than 500 tons of VOCs per year.

In proposing to allow German Pellets to continue operating without controlling air pollution from several of its large units, TCEQ disregards the fact that strikingly similar wood manufacturing plants in Georgia, Alabama and other states utilize highly effective VOC controls on these same units. For instance, Georgia Biomass, a pellet mill that produces more pellets than German Pellets, reduced its annual VOC emissions to just 130 tons per year by installing controls on all of its large units. If German Pellets followed suit, the facility would emit just 90 tons of VOCs per year.

Given that very similar wood pellet manufacturing facilities in other southern states are effectively controlling VOCs from all of their major units, TCEQ’s proposal to allow German Pellets to proceed without these same controls would contravene the Clean Air Act’s “best available control technology requirement.” More importantly, TCEQ’s proposal would continue to expose Woodville residents to elevated air pollution levels that can adversely impact their health. We urge TCEQ to change course and require German Pellets to fully control its VOC emissions as the Clean Air Act requires.

Due to the fire discussed below, German Pellets is currently not operating, but the company has publicly announced that it intends to restart operations in 2018. The undersigned groups call on TCEQ to refuse to allow German Pellets to operate until it has obtained a valid New Source Review permit that actually requires the best available control technology, the permit that the facility was legally obligated to acquire before beginning construction but failed to do.

Next, Texas Must Address German Pellets’ Terrible History of Fires and Explosions.

Since 2014, German Pellets has had at least five news-worthy fires or explosions at its two Texas facilities, by far the worst track record in an industry plagued by wood dust fires and blasts. This includes a 2017 silo fire at German Pellets’ Port Arthur storage facility that burned for more than 50 days, sickening dozens of nearby residents and leading to multiple lawsuits. Worse yet, a worker was killed during clean up. In fact, OSHA had fined the company more than \$260,000 in 2017 *before* the tragic death in October.

The Clean Air Act gives Texas a powerful tool to address wood dust explosions and fires. The Act contains a General Duty Clause which requires facilities producing or handling extremely hazardous substances to design, maintain, and operate their facilities in a safe manner. As the long list of fires and explosions at wood pellet facilities shows, wood dust clearly qualifies as an

extremely hazardous substance. Unfortunately, German Pellets' permit does not even reference the General Duty Clause. TCEQ must revise German Pellets' permit to specify that the General Duty Clause applies to the facility's handling of explosive dust and require the facility to perform specific steps that are sufficient to ensure that workers and others who live, work, recreate in the facility's vicinity are protected from the dangers posed by combustible dust. At a minimum, the permit should:

- (1) Identify the Clean Air Act's General Duty Clause as an applicable requirement with respect to the facility's handling of combustible dust.
- (2) Specifically require the facility to prepare a hazard analysis identifying the hazards associated with explosive dust and the facility's processes, potential fire and explosion scenarios, and the consequences of a fire or explosion.
- (3) Establish specific design and operation standards that the facility must meet to prevent a dust-related fire or explosion.
- (4) Establish recordkeeping and reporting requirements sufficient to demonstrate that the facility is meeting its General Duty Clause obligations.

Finally, Texas Must Issue Better Permits for Future Wood Pellet Mills.

Given the heavy burden this industry places on the citizens, environment, and first responders of Texas, the undersigned groups oppose the issuance of permits for new wood pellet mills. However, if the state does issue permits for new facilities or for expansions of existing facilities, officials must ensure new permits require facilities to comply with all Clean Air Act requirements. The undersigned groups call for the following specific actions in future permitting:

- 1. Require “major” sources of air pollution to install the best available control technology.** As EIP’s report reveals, many pellet mills with major source permits, including the proposed permit for German Pellets, evade using the best available control technology, or any control technology at all, while facilities with minor source permits, often the same size or larger, do utilize controls. Texas must not reward companies for refusing to install controls that would reduce facility emissions to minor levels. Rather, Texas must require new or modified major sources to reduce emissions using controls that are at least as effective as those utilized by the best-controlled minor sources. This includes using VOC controls that achieve at least 95% reductions on emissions on each of the major sources of pollution at the facility. If facilities in Georgia and Alabama can do this, so can Texas facilities.
- 2. Ensure Communities are Notified of and Able to Participate in Permitting Decisions.** Many of the air permits EIP surveyed from across the South were issued without any public notice or the ability to comment, including permits for the initial construction of facilities. This means communities were not informed of the decision to allow sources of air pollution to locate in their backyard. TCEQ should ensure that there is a meaningful opportunity for public involvement in any permitting action authorizing the construction or modification of a wood pellet manufacturing plant.

3. **Institute pellet production limits at facilities that claim to be too “minor” for the best available pollution controls.** If pollution controls will not keep emissions below legal limits when a facility is operated at full capacity, the facility’s permit must restrict maximum production to a level that ensures the facility will not exceed the major source threshold.

The Clean Air Act only works to protect health and the environment when state agencies are fully implementing all of the Act’s requirements. The undersigned groups call on Texas to address the errors and omissions identified in this letter and in EIP’s report, and to further make proactive moves to better understand and control emissions from this emerging industry in the future.

Please contact Patrick Anderson at panderson@powellenvironmentallaw.com or (470) 440-1124 to respond to our request or to obtain additional information. We thank you for your leadership on the environment and your concern for the health and well-being of Texas’ citizens.

Sincerely,

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