

Kinder Morgan Crude & Condensate LLC (PSD-TX-101199-GHG)
(formerly KM Liquids Terminals LLC)
Request to EPA for PSD Permit Rescission
Basis of Decision
March 27, 2020

In a letter dated February 7, 2020, Kinder Morgan Crude & Condensate (KMCC) requested that the U.S. Environmental Protection Agency, Region 6 rescind the EPA-issued Prevention of Significant Deterioration (PSD) greenhouse gas (GHG) permit issued on May 22, 2013. The permit was issued to Kinder Morgan Liquids Terminals LLC (KMLT) based on the applicability provisions described at the time of issuance at 40 CFR § 52.21(b)(49)(v). KMLT notified EPA Region 6 of a transfer in ownership of all operations covered in PSD-TX-10199-GHG except the Marine Loading Vapor Combusting Units to KMCC in a letter dated February 24, 2014.

BACKGROUND

KMCC requested rescission of its GHG PSD permit because it is classified as a Step 2 source. Generally speaking, Step 2 sources are sources that were classified as major and were required to obtain a PSD or title V permit based solely on GHG emissions. Such sources are generally known as Step 2 sources because EPA deferred the requirement for such sources to obtain PSD and title V permits until Step 2 of its phase-in permitting requirements for GHG under the PSD and title V GHG Tailoring Rule, 75 FR 31514, 35569-71 (June 3, 2010); 40 CFR § 52.21(b)(49)(v). In *Utility Air Regulatory Group (UARG) v. Environmental Protection Agency*, 134 S. Ct. 2427 (2014), the Supreme Court held that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD or title V permit and thus invalidated regulations implementing that approach. EPA issued a direct final rule to narrowly amend the permit rescission provisions in the federal PSD regulations and the rulemaking became effective on July 6, 2015.

As effected, the federal rescission rule allows for the rescission of EPA-issued Step 2 PSD Permits and generally applies to new and modified stationary sources that obtained an EPA-issued Step-2 PSD permit under the federal PSD regulations found at 40 CFR 52.21 solely because the source or a modification of the source was expected to emit or increase GHG emissions over the applicable thresholds. This includes (1) sources classified as major for PSD purposes solely on the basis of their potential GHG emissions; and (2) sources emitting major amounts of other pollutants that experienced a modification resulting in an increase of only GHG emissions above the applicable levels in the EPA regulations.

EPA expects GHG PSD permit-holders that are interested in qualifying for the rescission of an EPA-issued Step 2 PSD permit under 40 CFR 52.21(w) to provide information to demonstrate that either (1) the source did not, at the time the source obtained its EPA-issued Step 2 PSD permit, emit or have the potential to emit any regulated pollutant other than GHGs above the major source threshold applicable to that type of source; or (2) a modification at a source emitting major amounts of a regulated NSR pollutant other than GHGs did not result in an increase in emission of any regulated pollutant other than GHGs in an amount equal or greater than the applicable significance level for that pollutant. EPA also considers in its evaluation if the source intends to rely on the EPA-issued Step 2 PSD permit for any other regulatory purpose.

For EPA-issued Step 2 PSD permits for Texas industry, EPA Region 6 retained the permitting authority for those sources in the final SIP and FIP actions (November 10, 2014) for Texas GHG PSD permitting. Under this authority, EPA Region 6 reviews and issues rescissions for EPA Region 6-issued Step 2 GHG PSD permits. EPA issued GHG PSD permits for facilities in the State of Texas from January 2, 2011 until November 10, 2014. EPA approved the Texas GHG Permitting program on November 10, 2014, and Texas is currently the permitting authority for GHG PSD permits. EPA's action to rescind Step 2 PSD permit applies only to GHG PSD permits that were issued by EPA between January 2, 2011 and November 10, 2014.

EPA REVIEW

KMCC has included in the February 7, 2020 rescission request information to demonstrate the following:

- 1) At the time of issuance of the EPA GHG PSD permit, the new stationary source did not have the potential to emit emissions of any regulated New Source Review (NSR) pollutant other than GHGs in an amount greater than the nonattainment major source threshold for the marginal classification of the 2008 eight-hour ozone standard designation¹ or an amount that is equal to or greater than the applicable PSD major source level for that pollutant. The Texas Commission on Environmental Quality (TCEQ), as the current permitting authority for non-GHG and GHG pollutants, issued a minor NSR permit (No. 101199) on June 12, 2013, associated with the project for which EPA issued the GHG permit. The permit special conditions and maximum allowable emission rate table (MAERT) associated with the TCEQ minor NSR permit demonstrate that the project has been reviewed for the maintenance of the National Ambient Air Quality Standards (NAAQS), federal, state and local requirements, and the non-GHG emission levels associated with the project are below the applicable level(s) for all other regulated pollutants.

¹ On March 27, 2008, the EPA lowered the primary and secondary eight-hour ozone National Ambient Air Quality Standards (NAAQS). Harris County was included in the Houston-Galveston-Brazoria marginal nonattainment classification.

Project Emissions Summary Table²

Air Contaminant	Project Allowable Emission Rates (TPY)	Project Changes at Major Sources (Baseline Actual to Allowable) (TPY)	Nonattainment NSR Applicability		PSD Applicability	
			Nonattainment major source threshold for marginal ozone classification, 30 TAC 116.12, Table 1 (TPY)	Nonattainment NSR Review Required?	PSD Significant Emission Rate Level, 40 CFR 51.166(b)(23)(i) (TPY)	PSD Review Required?
CO	79.01	79.01	-	-	100	No
SO ₂	12.55	12.55	-	-	40	No
PM	9.15	9.15	-	-	25	No
PM ₁₀	9.15	9.15	-	-	15	No
PM _{2.5}	9.15	9.15	-	-	10	No
Ozone: (VOC)	100.23	105.23	40	Yes	40	No
Ozone: (NOx)	18.1	18.1	40	Yes	40	No

² Project emissions are based on the review and analysis contained in the TCEQ Technical Review document written by Dr. Kurt Kind, Ph.D., P.E., TCEQ, for Kinder Morgan Liquids Terminals LLC, RN100237452, CN603254707 and Project Number 174745.

- 2) On February 24, 2014, KMLT notified EPA Region 6 of a transfer in ownership of all operations covered in PSD-TX-10199-GHG except the Marine Loading Vapor Combusting Units to KMCC. TCEQ subsequently revised NSR permit No. 101199 to reflect:
- a. the transfer in ownership of equipment to KMCC (CN 603254707), and
 - b. the removal of the Marine Loading Vapor Combustion Units (EPN MAR-VCU), which corresponded to the following emission points (EPNs) in the GHG permit: SD4-VCU, VCU-1A, VCU-1B, VCU-2A, VCU-2B, VCU-2C.

TCEQ amended the permit to reflect as-built conditions on October 8, 2014. Subsequently the permit was altered on June 24, 2016, which is the current permit. The permit special conditions and MAERT associated with the current NSR permit demonstrate that the project has been reviewed for the maintenance of NAAQS, federal, state and local requirements, and the non-GHG emission levels associated with the project are below the applicable level(s) for all other regulated pollutants.

Current Emission Summary Table³

Air Contaminant	Project Allowable Emission Rates (TPY)	Project Changes at Major Sources (Baseline Actual to Allowable) (TPY)	Nonattainment NSR Applicability		PSD Applicability	
			Nonattainment major source threshold for severe ozone classification ⁴ , 30 TAC 116.12, Table 1 (TPY)	Nonattainment NSR Review Required?	PSD Significant Emission Rate Level, 40 CFR 51.166(b)(23)(i) (TPY)	PSD Review Required?
CO	80.16	-	-	-	100	No
SO ₂	13.29	-	-	-	40	No
PM	9.04	-	-	-	25	No
PM ₁₀	9.04	-	-	-	15	No
PM _{2.5}	9.04	-	-	-	10	No
Ozone: (VOC)	14.54	-	40	No	40	No
Ozone: (NOx)	48.67	-	40	No	40	No

³ Project emissions are based on the review and analysis contained in the TCEQ Technical Review document written by Jesse Lovegren Ph.D., TCEQ, for Kinder Morgan Crude & Condensate LLC, RN100237452, CN603935248 and Project Number 233351. TCEQ represented in its analysis for alteration of the minor NSR permit (101199) that neither PSD nor NNSR were triggered for the project.

⁴ The Kinder Morgan Liquids Terminal LLC is located in Galena Park, Harris County, Texas. At the time of EPA's permitting action, the area was classified as marginal nonattainment for ozone.

- 3) KMCC has asserted that the EPA-issued GHG PSD permit is not used, or planned to be used, for any other regulatory or compliance purpose and that the information contained in the rescission request is factual and correct.

EPA RECOMMENDATION

Based on the information provided on February 7, 2020, KMCC has provided sufficient information to support the required rescission elements outlined in 40 CFR § 52.21(w)(2). EPA's recommendation is to approve the rescission request and public notice approval of the rescission of PSD-TX-101199-GHG.