

Mr. Mike Hazel  
Site Manager  
INEOS Olefins & Polymers USA  
Chocolate Bayou Works  
P.O. Box 1488  
Alvin, TX 77512

Dear Mr. Hazel:

This letter is in response to your July 7, 2015 request for a rescission of EPA-issued Prevention of Significant Deterioration (PSD) permit for greenhouse gases (GHGs) associated with the INEOS Olefins & Polymers USA, Chocolate Bayou Plant (PSD-TX-97769-GHG). The rescission request was received by the EPA Region 6, Air Permitting Section on July 21, 2015. EPA has reviewed the information contained in your rescission request and, with this letter, approves the rescission of the GHG PSD permit for the INEOS Olefins & Polymers USA, Chocolate Bayou Plant issued by EPA on October 5, 2012. Please be aware that this rescission approval does not offer relief from other statutory or regulatory provisions that may apply to any GHG constituent gases<sup>1</sup>.

The public notice for EPA's approval of your rescission request will begin on August 16, 2015 and will end October 15, 2015. A copy of the public notice and basis of decision are enclosed for your information. The public notice will be published in *The Facts* newspaper and will also be posted to the EPA Region 6 website (see: <http://yosemite.epa.gov/r6/Apermit.nsf/AirP>). The rescission will automatically become effective 60 days after the publication of the rescission.

You requested a rescission of the GHG PSD permit because you were 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 requirements for such sources to obtain PSD and title V permits until Step 2 of its phase-in of 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 United States 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. In order to begin the process of rescinding Step 2 permits in response to the Supreme Court's decision, on April 30, 2015, 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.

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<sup>1</sup> Memorandum from Cynthia Giles, Assistant Administrator for Enforcement and Compliance Assurance, for Janet McCabe, Acting Assistant Administrator for Air and Radiation (December 19, 2014), <http://www.epa.gov/earth1r6/6pd/air/pd-r/ghg/oeca-noaction-assurance-memo121914.pdf>.

EPA Region 6 issued the GHG PSD permit based on the applicability provisions described, at the time of permit issuance, at 40 CFR § 52.21(b)(49)(v)(b). In accordance with the permit rescission regulations at 40 CFR § 52.21(w)(2), this PSD permit is rescinded effective 60 days after publication of the rescission announcement. If you have any questions regarding this matter, please contact Mr. Jeff Robinson, Chief, Air Permits Section at (214) 665-6435.

Sincerely,

Wren Stenger  
Director  
Multimedia Planning and  
Permitting Division

Enclosures

cc: Mr. Mike Wilson, P.E., TCEQ, Director, Air Permits Division

**INEOS Olefins & Polymers USA,  
Chocolate Bayou Plant GHG PSD PERMIT (PSD-TX-97769-GHG)  
INEOS's Request to EPA for PSD Permit Rescission  
Basis of Decision  
July 27, 2015**

In a letter dated July 7, 2015, INEOS Olefins & Polymers USA (INEOS) 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 October 5, 2012. The rescission request was received by EPA, Region 6, Air Permitting Section on July 21, 2015. The permit was issued based on the applicability provisions described, at the time of permit issuance, at 40 CFR § 52.21(b)(49)(v)(b).

### **Background**

INEOS requested rescission of its GHG PSD permit because its Chocolate Bayou Plant, Additional Furnace Project was classified as a Step 2 source. Generally speaking, Step 2 sources are sources that were classified as major, and 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 requirements for such sources to obtain PSD and title V permits until Step 2 of its phase-in of 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.

The newly effective 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 to 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 recent final SIP and FIP actions (November 10, 2014) for Texas GHG PSD permitting. Under this authority, EPA Region 6 reviews and issues rescissions for approvable EPA Region 6-issued Step 2 GHG PSD permits. From January 2, 2011 until November 10, 2014, EPA issued GHG PSD permits for facilities in the State of Texas. 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 permits applies only to GHG PSD permits that were issued by EPA between January 2, 2011 and November 10, 2014.

## REVIEW

INEOS has included in the July 7, 2015 rescission request information to demonstrate:

1) At the time of issuance of the EPA GHG PSD permit, the modification at the existing major source did not result in an increase in emissions of any regulated New Source Review (NSR) pollutant other than GHGs in an amount equal to or greater than the applicable significance level for that pollutant. The Texas Commission on Environmental Quality (TCEQ), as the current permitting authority for non-GHG and GHG pollutants, has issued a minor modification to the existing major source permit associated with the project EPA issued the GHG PSD permit. The permit special conditions and the maximum allowable emission rate table (MAERT) associated with the TCEQ minor modification 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 significant level(s) for all other regulated pollutants.

Project Emission Summary Table<sup>2</sup>

Air Contaminant	TCEQ Permitted Non-GHG Emissions Pre-Project (TPY)	New Allowable Emission Rates (TPY)	Change in Allowable Emission Rates (TPY)	TCEQ Permitted Non-GHG Emissions Project Emission Increase/Decreases (TPY)	PSD Significant Emission Rate Level, 40 CFR 51.166(b)(23)(i) (TPY)	PSD Review Required?
Ozone (VOC)*	0	15.53	15.53	15.53	40	No
NO <sub>x</sub>	0	21.68	21.68	21.68	40	No
CO	0	97.88	97.88	97.88	100	No
SO <sub>2</sub>	0	1.69	1.69	1.69	40	No
PM	0	12.48	12.48	12.48	25	No
PM <sub>10</sub>	0	9.85	9.85	9.85	10	No
PM <sub>2.5</sub>	0	5.61	5.61	5.61	10	No
HAPs	0	0.17	0.17	0.17	NA	NA

<sup>2</sup> Project emissions are based on the review and analysis contained in the MAERT and TCEQ Construction Permit Source Analysis & Technical Review document written by Mr. Daniel Smothers, TCEQ, for INEOS USA LLC, No 2 Olefins Unit, RN100238708 and CN602817884.

\*The INEOS plant is located in Brazoria County, Texas. At the time of this permitting action, the area was classified as being in attainment for all NAAQS with the exception of the 8-hour Ozone standard, for which it was classified as a serious non-attainment area. In serious ozone nonattainment areas, the “major stationary source” threshold as defined in 40 CFR § 51.165(iv)(A) is 50 TPY of VOC and 50 TPY of NOx. TCEQ’s review states that non-attainment netting was triggered for Ozone precursors, project contemporaneous changes were summed and contemporaneous NOx changes are -94.49 TPY and contemporaneous changes in VOC are 19.78 TPY.

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

## **RECOMMENDATION**

Based on the information provided to EPA Region 6 on July 7, 2015, INEOS 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 authorize publication of the public notice announcing the approval of the rescission.