

**COMMENTS BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
REGARDING THE PROPOSED WITHDRAWAL OF THE CONTROL TECHNIQUES
GUIDELINES FOR THE OIL AND NATURAL GAS INDUSTRY; EPA DOCKET ID NO.
EPA-HQ-OAR-2015-0216**

I. Summary of Notice

On March 9, 2018, the United States Environmental Protection Agency (EPA) issued a notice in the *Federal Register* concerning the proposed withdrawal of the Control Techniques Guideline (CTG) for the Oil and Natural Gas Industry. A CTG establishes the EPA's recommended reasonably available control technology (RACT) for sources covered by the CTG. States are required to address RACT for sources covered by a CTG in any ozone nonattainment area with a classification of moderate or higher. States in the Ozone Transport Region are also required to implement CTG RACT recommendations regardless of whether the state has an ozone nonattainment area. The CTG for the Oil and Natural Gas Industry was finalized on October 27, 2016.

II. Comments

The TCEQ supports the EPA's proposed withdrawal of the CTG for the Oil and Natural Gas Industry.

The TCEQ agrees that the EPA should withdraw the CTG for the Oil and Natural Gas Industry. Because the RACT recommendations in the CTG were derived from the data and conclusions in the 2012 and 2016 New Source Performance Standards (NSPS) currently being reconsidered, retaining this planning obligation could force states to adopt requirements that the EPA subsequently deems are not RACT upon conclusion of these NSPS reevaluations. While the EPA claims that the CTG is only guidance, the EPA's long-standing policy has been that CTGs establish presumptive RACT. Once the EPA adopts a CTG, states have very little flexibility and are required to implement the CTG recommendations or equivalent controls regardless of whether the CTG will actually result in ozone reductions in their nonattainment areas. Withdrawing the CTG discontinues the RACT CTG obligations for the oil and natural gas industry sector and eliminates the burden placed on states to prematurely implement such standards that may be determined invalid. Even if the CTG is withdrawn, states would still be required to conduct volatile organic compound (VOC) major source RACT determinations for this emission source category under the requirements in Federal Clean Air Act (FCAA), §182(b)(2), for ozone nonattainment areas classified as moderate or higher.

Furthermore, the TCEQ supports the withdrawal of the CTG for the Oil and Natural Gas Industry due to the lack of net ozone reduction benefit resulting from general VOC emission reductions in many nonattainment areas. The intent of a CTG document under FCAA, §172(c)(1) and §182(b)(2) is to provide states with available control technology information for the implementation of VOC RACT to help certain nonattainment areas attain the ozone National Ambient Air Quality Standard (NAAQS). For areas that have been demonstrated through photochemical modeling to be primarily nitrogen oxide (NO_x)-limited rather than VOC-limited, the CTG-recommended controls are unlikely to provide a net ozone reduction benefit at the design value

monitor and will not help contribute to attainment of the ozone NAAQS. Requiring states to implement the CTG recommendations in areas demonstrated to have low sensitivity to VOC emissions reductions in terms of ozone formation is inconsistent with the mandate in §172(c)(1) to provide for attainment of the NAAQS.

The FCAA intended for the EPA to develop CTG documents to reduce VOC emissions to help areas attain the ozone NAAQS. The EPA should never exercise authority granted expressly regarding the ozone NAAQS for the purposes of greenhouse gas reductions.

The CTG proposed for withdrawal is part of the EPA's Climate Action Plan to reduce greenhouse gas emissions, indicating that this CTG is not targeting VOC emission reductions, but serves to reduce methane emissions. Methane is not defined as a VOC under 40 Code of Federal Regulations (CFR) 51.100(s). The EPA's use of a CTG as the avenue to impose controls for reducing greenhouse gas methane emissions is inconsistent with the intent of FCAA, §172(c)(1) and §182(b)(2), which requires that all reasonably available control measures, including RACT, must be implemented to provide for attainment of the NAAQS for areas in which sources exist that are covered by a VOC CTG document and for all other VOC non-CTG major sources.

CTG recommendations constituting RACT should hinge on the benefit of VOC emissions reductions and the potential for ozone reduction, not on the reductions of other pollutants for which the FCAA does not prescribe CTG obligations. While FCAA, §183 grants the EPA the authority to issue additional CTGs at the Administrator's discretion, the purpose of FCAA, §183 is limited to federal ozone measures. Additionally, FCAA, §183(b)(2) gives the EPA clear direction regarding the agency's priorities when issuing CTGs, stating that "the Administrator shall give priority to those categories which the Administrator considers to make the most significant contribution to the formation of ozone air pollution in ozone nonattainment areas..." The EPA should not use VOC RACT requirements under the FCAA to achieve goals unrelated to ozone NAAQS attainment, such as greenhouse gas reductions.