



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2018-0795; FRL-9992-13-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Delaware; Negative Declaration for the Oil and Natural Gas Industry Control Techniques
Guidelines**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Delaware. This revision pertains to a negative declaration for the October 2016 Oil and Natural Gas Control Techniques Guidelines (CTG) (2016 Oil and Gas CTG). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2018-0795 at <https://www.regulations.gov>, or via email to Spielberger.susan@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission

(i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Erin Trouba, (215) 814-2023, or by e-mail at trouba.erin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The revision consists of the State of Delaware’s negative declaration for the October 2016 Oil and Natural Gas CTG. On October 27, 2016, EPA published in the Federal Register the “Release of Final Control Techniques Guidelines for the Oil and Natural Gas Industry.” 81 FR 74798. The CTG provided information to state, local, and tribal air agencies to assist them in determining reasonably available control technology (RACT) for volatile organic compounds (VOC) emissions from select oil and natural gas industry emission sources. Section 182(b)(2)(A) of the CAA requires that for ozone nonattainment areas classified as Moderate, states must revise their SIPs to include provisions to implement RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment. Section 184(b)(1)(B) of the CAA extends this requirement to states in the Ozone Transport Region (OTR). States with no applicable sources for a specific CTG may submit as a SIP revision a negative declaration stating that there are no applicable sources in the state.

II. Summary of SIP Revision and EPA Analysis

On June 28, 2018, Delaware’s Department of Natural Resources and Environmental Control

(DNREC) submitted to EPA a SIP revision concerning a negative declaration for the 2016 Oil and Gas CTG. In its submittal, DNREC stated that the State has no sources applicable to this CTG. This conclusion is based in part on Delaware's investigation of three companies identified through an EPA information collection request (ICR) letter, as facilities in Delaware where the 2016 Oil and Gas CTG was potentially applicable. DNREC investigated the status of the three facilities. The results of the investigation are detailed in Delaware's submittal which demonstrates that the 2016 Oil and Gas CTG is not applicable to the three facilities in question. Delaware stated that it also reviewed State air permits, emissions inventory files, and business listings and found no applicable facilities in the State. DNREC asserts that there are no facilities in the State that are currently involved in oil and gas production and processing activities covered by the 2016 Oil and Gas CTG.

III. Proposed Action

EPA is proposing to approve the Delaware SIP revision concerning the negative declaration for the 2016 Oil and Gas CTG, which was submitted on June 28, 2018. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those

imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, Delaware's negative declaration for the 2016 Oil and Gas CTG, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: April 1, 2019

Cecil Rodrigues
Acting Regional Administrator,
Region III.

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