

Diseases Society of America and American Gastroenterological Association). What impact has this had on patient recruitment and conduct of clinical trials?

#### 4. Future and Path Forward

- What additional scientific information is needed to determine the safety and effectiveness of FMT for *C. difficile* infection not responsive to standard therapies?
- How generalizable are the existing safety and effectiveness data on use of a specific FMT product for *C. difficile* infection not responsive to standard therapies to other FMT products for which safety and effectiveness data are not available?
- Please comment on how FDA can facilitate patient access, protect patient safety, and include enough flexibility to support innovation for the development and licensure of safe and effective FMT products for *C. difficile* infection not responsive to standard therapies.

### III. Participating in the Public Hearing

*Registration and Requests to Speak and for Formal Oral Presentations:* The FDA Conference Center at the White Oak location is a Federal facility with security procedures and limited seating. Attendance will be free. An agenda for the hearing and any other background materials will be made available on October 25, 2019, at <https://www.fda.gov/vaccines-blood-biologics/news-events-biologics/workshops-meetings-conferences-biologics>. If you need special accommodations because of a disability, please contact Sherri Revell or Loni Warren Henderson at 240-402-8010 at least 7 days before the hearing.

For those interested in speaking at the hearing or presenting at the hearing with a formal oral presentation, please register at <https://www.eventbrite.com/e/use-of-fecal-microbiota-for-transplantation-to-treat-clostridium-difficile-infection-not-responsive-tickets-63906239282> as “In-person presenter.” Speaker and presenter registrations are due October 8, 2019.

FDA will try to accommodate all persons who wish to make a formal oral presentation. Formal oral presenters may use an accompanying slide deck. Individuals wishing to present should identify their name, which stakeholder group they represent (e.g., patient, clinician, research scientist, industry, stool bank), and the number of the specific question, or questions, they wish to address. FDA will consider this information when organizing the agenda. Individuals and organizations with common interests should consider

consolidating or coordinating their presentations and request time for a joint presentation. Individual organizations are limited to a single presentation slot. FDA will notify registered presenters of their scheduled presentation times on October 21, 2019. The time allotted for each presentation will depend on the number of individuals who wish to speak. If registered presenters are using an accompanying slide deck, those presenters must submit an electronic copy of their presentation (PowerPoint or PDF) to [CBERPPublicEvents@fda.hhs.gov](mailto:CBERPPublicEvents@fda.hhs.gov) on or before October 28, 2019. Persons registered to present are encouraged to arrive at the hearing room early and check in at the onsite registration table to confirm their designated presentation time. Actual presentation times, however, may vary based on how the hearing progresses in real time.

*In-person attendance:* For those who would like to attend in-person, but who are not making a formal presentation, please register at <https://www.eventbrite.com/e/use-of-fecal-microbiota-for-transplantation-to-treat-clostridium-difficile-infection-not-responsive-tickets-63906239282> as “In-person attendee—no participation.” Seating is limited, and early registration is recommended to allow for broad participation.

*Streaming Webcast of the Public Hearing:* For those unable to attend in person, FDA will provide a live webcast of the hearing. Please register at <https://www.eventbrite.com/e/use-of-fecal-microbiota-for-transplantation-to-treat-clostridium-difficile-infection-not-responsive-tickets-63906239282> as “online (webcast only)”.

*Media:* Please register at <https://www.eventbrite.com/e/use-of-fecal-microbiota-for-transplantation-to-treat-clostridium-difficile-infection-not-responsive-tickets-63906239282> as “Media” by October 28, 2019.

*Transcripts:* Please be advised that as soon as a transcript is available, it will be accessible at <https://www.fda.gov/vaccines-blood-biologics/news-events-biologics/workshops-meetings-conferences-biologics> and <https://www.regulations.gov>. It may be viewed at the Dockets Management Staff (see **ADDRESSES**).

### IV. Notification of Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with part 15 (21 CFR part 15). The hearing will be conducted by a presiding officer, who will be accompanied by FDA senior

management officials. Under § 15.30(f) (21 CFR 15.30(f)), the hearing is informal and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation. Public hearings under part 15 are subject to FDA’s policy and procedures for electronic media coverage of FDA’s public administrative proceedings (21 CFR part 10, subpart C).

Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA’s public administrative proceedings, including presentations by participants. Persons attending FDA’s public hearings are advised that the Agency is not responsible for providing access to electrical outlets.

The hearing will be transcribed as stipulated in § 15.30(b) (see section III of this document). To the extent that the conditions for the hearing, as described in this notification, conflict with any provisions set out in part 15, this notification acts as a waiver of those provisions as specified in § 15.30(h).

Dated: September 5, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

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**BILLING CODE 4164-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2019-0207; FRL-9999-64-Region 3]

### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Reasonably Available Control Technology State Implementation Plan for Nitrogen Oxides Under the 2008 Ozone National Ambient Air Quality Standard

**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 District of Columbia. This revision pertains to reasonably available control technology (RACT) requirements for nitrogen oxides (NO<sub>x</sub>) under the 2008 8-hour ozone national ambient air quality standard (2008 ozone NAAQS). The District of Columbia’s submittal for the NO<sub>x</sub> RACT

for the 2008 ozone NAAQS: Amends existing regulatory provisions to add new or more stringent regulations or controls that represent RACT control levels for combustion turbines and associated heat recovery steam generators and duct burners, amends the applicability provisions of these regulations to include all combustion turbines and associated heat recovery steam generators and duct burners, and adds definitions; includes a source specific NO<sub>x</sub> RACT determination for four specific emissions units at one major stationary source of NO<sub>x</sub>; includes a certification that, for other categories of sources, NO<sub>x</sub> RACT controls already approved by EPA into the District of Columbia's SIP for previous ozone NAAQS are based on currently available technically and economically feasible controls and continue to represent NO<sub>x</sub> RACT for 2008 8-hour ozone NAAQS implementation purposes; and (4) removes carbon monoxide emissions limits for combustion turbines that no longer exist in the District of Columbia. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before October 11, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2019-0207 at <https://www.regulations.gov>, or via email to [spielberger.susan@epa.gov](mailto:spielberger.susan@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *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://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Cripps, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2179. Mr. Cripps can also be reached via electronic mail at [cripps.christopher@epa.gov](mailto:cripps.christopher@epa.gov).

**SUPPLEMENTARY INFORMATION:** On August 29, 2018, and as supplemented on December 19, 2018, the District of Columbia's Department of Energy and Environmental (DOEE) submitted a revision to its SIP that addresses the requirements of NO<sub>x</sub> RACT under the 2008 ozone NAAQS ("Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO<sub>x</sub>) Determination for the 2008 8-Hour Ozone National Ambient Air Quality Standards (NAAQS)—Final") dated August 29, 2018 with amendments to its NO<sub>x</sub> control regulations and an operating permit setting RACT for certain specific emissions units at one major stationary source of NO<sub>x</sub> (hereafter 2008 NO<sub>x</sub> RACT Submission).<sup>1</sup>

## I. Background

### A. 1-Hour, 1997, and 2008 Ozone NAAQS

Ground level ozone is not emitted directly into the air but is created by chemical reaction between NO<sub>x</sub> and volatile organic compounds (VOCs) in the presence of sunlight. Emissions from industrial facilities, electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO<sub>x</sub> and VOC. 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. Ground level ozone can also have harmful effects on sensitive vegetation and ecosystems.

CAA sections 108 and 109 require EPA to set primary and secondary NAAQS. Primary NAAQS are those that the attainment and maintenance of which, allowing an adequate margin of safety, are requisite to protect the public health. Secondary NAAQS specify a level of air quality the attainment and maintenance of which is requisite to protect the public welfare from any known or anticipated adverse effects

<sup>1</sup> Also, on August 29, 2018 the District of Columbia submitted a separate SIP revision to address all the VOC RACT requirements under the 2008 ozone NAAQS both for VOC sources covered by a CTG and for other major stationary sources of VOC. This VOC RACT SIP revision is the subject of a separate rulemaking action. See 84 FR 33032, July 11, 2019.

associated with the presence of such air pollutant in the ambient air. Section 109(d) of the CAA requires EPA to complete a thorough review of each NAAQS and make revisions to existing NAAQS and promulgate new NAAQS as may be appropriate. Since 1977, EPA has revised the NAAQS for ozone in 1979, 1997, 2008, and 2015. To date, the primary and secondary ozone NAAQS have been set at the same level. See 40 CFR 50.9, 50.10, 50.15, and 50.19 and appendices thereto.

The CAA sets forth a comprehensive regime for implementation of the ozone NAAQS through Federal and state regulation of VOC and NO<sub>x</sub> emissions. The requirements for ozone SIPs are found in sections 172 and 182 through 185 of the CAA.

Under the 1-hour ozone NAAQS, promulgated in 1979, the District of Columbia had been designated as nonattainment for ozone prior to November 15, 1990 and was designated as part of the multi-state Washington Area ozone nonattainment area. This area was initially classified as serious and was later reclassified as severe. See 56 FR 56694 (November 6, 1991); 68 FR 5246 (January 24, 2004); and 40 CFR 81.309.

On July 18, 1997, EPA promulgated a revised NAAQS for ground level ozone based on 8-hour average concentrations. 62 FR 38856. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm (1997 ozone NAAQS). On April 30, 2004, EPA designated the District of Columbia under the 1997 ozone NAAQS as a part of the Washington, DC-MD-VA moderate nonattainment area. See 69 FR 23858 and 40 CFR 81.309.

On March 12, 2008, EPA promulgated the 2008 ozone NAAQS to strengthen the 8-hour ozone standards, by revising its level to 0.075 ppm averaged over an 8-hour. On May 21, 2012, EPA designated, under the 2008 ozone NAAQS, the District of Columbia as a part of the Washington, DC-MD-VA marginal nonattainment area. 77 FR 30088 and 40 CFR 81.309. Subsequently, EPA redesignated the District of Columbia portion of this area to attainment of the 2008 ozone NAAQS. See 84 FR 33855 (July 16, 2019).

On March 6, 2015, EPA announced its revocation of the 1997 ozone NAAQS for all purposes and for all areas in the country, effective on April 6, 2015. EPA has determined that certain nonattainment planning requirements continue to be in effect under the revoked standard for nonattainment

areas under the 1997 ozone NAAQS, including RACT. See 80 FR 12264.

#### B. RACT Requirements for Ozone

The CAA regulates emissions of NO<sub>x</sub> and VOC to prevent photochemical reactions that result in ozone formation in areas designated nonattainment for the ozone NAAQS. All nonattainment areas under any NAAQS are subject to the general nonattainment planning requirements of CAA section 172. Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM) for demonstrating attainment of all NAAQS, including emissions reductions from existing sources through the adoption of RACT. Further, section 182(b)(2) of the CAA sets forth additional RACT requirements for ozone nonattainment areas classified as moderate or higher.

Section 182(b)(2) of the CAA sets forth requirements regarding RACT for the ozone NAAQS for VOC sources. Section 182(f) requires major stationary sources of NO<sub>x</sub> be subject to the same RACT requirements applicable to major stationary sources of VOC. A “major stationary source” is defined based on the source’s potential to emit (PTE) of NO<sub>x</sub> or VOC, and the applicable thresholds for RACT. These thresholds differ based on the classification of the nonattainment area in which the source is located. See sections 182(c)–(f) and 302 of the CAA. Section 302(j) sets a general threshold of 100 tons per year (tpy) which may be lowered under section 182 depending upon an area’s nonattainment classification. For example, in a severe ozone nonattainment area, the major stationary source threshold for NO<sub>x</sub> is lowered to 25 tpy from 100 tpy.

Section 184(a) of the CAA established the current Ozone Transport Region (OTR) comprised of 12 eastern states, including the District of Columbia. Section 184(b)(2) of the CAA applies the RACT requirements in section 182(b)(2)(C) (relating to RACT on other major stationary sources of VOC and pursuant to CAA section 182(f) to major stationary sources of NO<sub>x</sub>) for moderate nonattainment areas to nonattainment areas classified as marginal and to attainment areas located within the OTR. This requirement is referred to as OTR RACT. As noted previously, a “major stationary source” is defined based on the source’s PTE of NO<sub>x</sub>, VOC, or both pollutants, and the applicable thresholds differ based on the classification of the nonattainment area in which the source is located and in some cases being located within the OTR. See sections 182(c)–(f), 184(b) and

302(j) of the CAA. In the case of a marginal or moderate nonattainment area located in the OTR, the major stationary source threshold for NO<sub>x</sub> emissions is the same as the OTR threshold of 100 tpy or more PTE.

Since the 1970’s, EPA has consistently defined RACT as the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility. See 44 FR 53762 (September 17, 1979) and 57 FR 55620, 55624 (November 25, 1992). Although EPA historically has recommended source-category-wide presumptive RACT limits and plans to continue that practice, decisions on RACT may be made on a case-by-case basis, that is, on an emissions unit specific basis, considering the technological and economic circumstances of the individual source. See 57 FR 55620, 55624 (November 25, 1992). A presumptive RACT emissions limit is an emissions standard that applies to a category of emissions sources unless the source seeks a case-by-case determination of RACT.

EPA has provided more substantive RACT requirements through implementation rules for each ozone NAAQS as well as through guidance. In 2004 and 2005, EPA promulgated an implementation rule for the implementation of the 1997 ozone NAAQS in two phases (“Phase 1 of the 1997 Ozone Implementation Rule” and “Phase 2 of the 1997 Ozone Implementation Rule”). See 69 FR 23951 (April 30, 2004) and 70 FR 71612 (November 29, 2005), respectively. The Phase 2 Ozone Implementation Rule addressed RACT statutory requirements under the 1997 ozone NAAQS. See 70 FR 71652.

On March 6, 2015, EPA issued its final rule for implementing the 2008 ozone NAAQS (“the 2008 Ozone SIP Requirements Rule”). 80 FR 12264. At the same time, EPA revoked the 1997 ozone NAAQS, effective on April 6, 2015. The 2008 Ozone SIP Requirements Rule provided comprehensive requirements to transition from the revoked 1997 ozone NAAQS to the 2008 ozone NAAQS, as codified in 40 CFR part 51, subpart AA, following revocation.

Consistent with previous policy, EPA determined that areas designated nonattainment for both the 1997 and 2008 ozone NAAQS at the time of revocation, must retain implementation of certain nonattainment area requirements (*i.e.*, anti-backsliding requirements) for the 1997 ozone NAAQS as specified under section 182

of the CAA, including RACT. See 40 CFR 51.1100(o). An area remains subject to the anti-backsliding requirements for a revoked NAAQS until EPA determines that the five statutory requirements of CAA section 107(d)(3)(E) are met for a revoked NAAQS.<sup>2</sup> There are no effects on applicable OTR requirements for areas within the OTR, as a result of the revocation of the 1997 ozone NAAQS. Thus, the District of Columbia, as a state within the OTR, remains subject to RACT requirements for both the 1997 ozone NAAQS and the 2008 ozone NAAQS.

In addressing RACT, the 2008 Ozone SIP Requirements Rule continued most of the RACT provisions and policy for RACT requirements under section 182 and 184 of the CAA issued in the Phase 2 of the 1997 Ozone Implementation Rule. In the 2008 Ozone SIP Requirements Rule, EPA required RACT measures to be implemented by January 1, 2017 for areas classified as moderate nonattainment or above and all areas of the OTR. EPA also provided in the 2008 Ozone SIP Requirements Rule that RACT SIPs must contain adopted RACT regulations, certifications that existing provisions continue to meet RACT, and/or negative declarations stating that there are no sources in the nonattainment area covered by a specific Control Technique Guideline (CTG) source category. States must submit appropriate supporting information for their RACT submissions, in accordance with Phase 2 of the 1997 Ozone Implementation Rule. Adequate documentation must support that states have considered control technology that is economically and technologically feasible in determining RACT, based on information that is current at the time of development of the RACT SIP. EPA also recognized that states may conclude in some cases that sources already addressed by RACT determinations for the 1-hour and/or 1997 ozone NAAQS may not need to implement additional controls to meet the 2008 ozone NAAQS RACT requirement. See 80 FR 12278–12279 (March 6, 2015).

#### C. Applicability of RACT Requirements in the District of Columbia

Since 1990, the District of Columbia implemented numerous RACT controls throughout the District of Columbia to

<sup>2</sup> On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir. Court) issued an opinion on the 2008 Ozone SIP Requirements Rule. *South Coast Air Quality Management District v. EPA*, 882 F.3d 1138 (D.C. Cir. 2018) (“*South Coast II*”). The D.C. Cir. Court found certain parts unreasonable and vacated those provisions accordingly.

meet the CAA RACT requirements under the 1-hour and the 1997 ozone standards. The District of Columbia was first subject to NO<sub>x</sub> RACT requirements as a serious (later reclassified to severe) ozone nonattainment area under the 1-hour ozone NAAQS and as a moderate nonattainment area under the 1997 ozone NAAQS. The District of Columbia's first NO<sub>x</sub> RACT rules were adopted and codified as Section 805 (Section 805) under Title 20 of the District of Columbia Municipal Regulations (20 DCMR), Chapter 8—Asbestos, Sulfur and Nitrogen Oxides, and adopted other supporting provisions in 20 DCMR Chapter 1 (relating to definitions and abbreviations) and in Chapter 5 (relating to source monitoring and reporting). Section 805 was originally effective in 1993 with amendments in 2000 and 2004. See 65 FR 81369 (December 26, 2000); 69 FR 77645 (December 28, 2004); and 69 FR 77647 (December 28, 2004). For the 1997 ozone NAAQS, the District of Columbia revised and promulgated its RACT regulations and demonstrated that it complied with the CAA RACT requirements in a SIP revision (1997 RACT SIP) approved by EPA on June 16, 2009 (74 FR 28447). The District of Columbia has no outstanding ozone RACT requirements for the 1-hour and 1997 ozone NAAQS.

Under the 2008 ozone NAAQS, the District of Columbia is classified as marginal nonattainment and therefore has no RACT requirements due to its designation and classification as an ozone nonattainment area. However, because the District of Columbia is part of the OTR established under section 184 of the CAA, the District of Columbia has obligations under the OTR RACT requirements of CAA sections 184(b) and 182(f).

RACT applies to major stationary sources of NO<sub>x</sub> and VOC under each ozone NAAQS or any VOC sources subject to CTG RACT. Because the District of Columbia's NO<sub>x</sub> RACT SIP revision is the only subject of this notice of proposed rulemaking, the VOC RACT requirements in the District of Columbia will not be discussed further.

## II. Summary of the District of Columbia's SIP Revision

### A. Overview

On August 29, 2018 and supplemented on December 19, 2018, DOEE submitted a revision to the District of Columbia's SIP to address all the requirements of NO<sub>x</sub> RACT set forth by the CAA under the 2008 ozone NAAQS (the 2008 NO<sub>x</sub> RACT Submission). This SIP revision includes

amendments to 20 DCMR, Chapter 8, sections 805.1 (Section 805.1, relating to applicability), and 805.4 (Section 805.4, emissions limits for stationary combustion turbines) and to 20 DCMR Chapter 1, Section 199 (Section 199, relating to definitions).

### B. Main Components of the SIP Revision

The District of Columbia's 2008 NO<sub>x</sub> RACT Submission includes:

1. New regulations for certain stationary combustion turbine-cogeneration (or combined heat and power (CHP) systems) emissions sources that have come on line at four major stationary sources of NO<sub>x</sub> in the District of Columbia since the 1997 RACT SIP was developed.<sup>3</sup> The new regulations also set NO<sub>x</sub> RACT emissions limits for any additional combustion turbine in the categories regulated beyond those existing in the District of Columbia on the date, December 14, 2018, the new emissions limits in the 2008 NO<sub>x</sub> RACT Submission were adopted. These regulatory changes include changes in the applicability provisions of Section 805 and include the addition of new definitions needed by the addition of or revisions to the NO<sub>x</sub> emission limits for the recently installed categories of combustion turbines. The former Section 805.4 only set NO<sub>x</sub> emissions limits for combustion turbines of over 100 million British Thermal Units per hour (mmBTU per hour) heat input burning fuel oil; the new regulations in the 2008 NO<sub>x</sub> RACT Submission for stationary combustion turbines set NO<sub>x</sub> limits for turbines over 50 mmBTU per hour burning fuel oil which are as stringent or more stringent than the prior limits. Specifically, these amendments to 20 DCMR, Chapter 8, include changes to applicability in Section 805.1, emissions limits for stationary combustion turbines in Section 805.4, and definitions in Section 199;

2. Source-specific RACT determinations for three flares and one auxiliary boiler that are located at the Blue Plains Advanced Wastewater Treatment Plant (BPAWTP) that are unique to the District of Columbia. The DOEE opted to set the NO<sub>x</sub> RACT limits for those sources by adding to the District of Columbia SIP those specific NO<sub>x</sub> emission limitations, which the

DOEE has determined are NO<sub>x</sub> RACT, in an operating permit;

3. For all other sources at major stationary sources of NO<sub>x</sub> in the District of Columbia, a certification that the NO<sub>x</sub> emissions limits found in Section 805, which were implemented and approved into the District of Columbia's SIP under the 1-hour and the 1997 ozone NAAQS, are still RACT with the exception of: (a) The revised emissions limits for stationary combustion turbines found in Section 805.4; (b) the source-specific RACT determinations at the BPAWTP; and (c) the other new regulatory provisions relating to definitions and source monitoring; and

4. Amendments to the existing Section 805.4 to remove carbon monoxide (CO) emissions limits relating to combustion turbines of over 100 mmBTU per hour heat input burning fuel oil because there are no longer any such emissions units in the District of Columbia.

## III. EPA's Evaluation of the District of Columbia's SIP Revision

### A. New Emissions Limits for Combustion Turbines and Conforming Amendments

The District of Columbia's NO<sub>x</sub> RACT SIP revision contains a final rule amending 20 DCMR, Chapter 8, Section 805.4 to amend the District of Columbia's NO<sub>x</sub> emission limits for combustion turbines and for any duct burners or associated heat recovery steam generators. Emissions limits are set for combustion turbines depending upon the peak heat input rating of the combustion turbine and type of fuel burned. The amendments also include the addition of conforming definitions and abbreviations to the applicability provisions of Section 805.1 to clarify that any associated heat recovery steam generators and duct burners were subject to Section 805. Further, the amendments amend Section 199 "Definitions And Abbreviations" to add definitions for new terms found in Section 805.4 and to remove CO emissions limits for combustion turbines of over 100 mmBTU per hour heat input burning fuel oil (discussed further in section III. D. of this document).

### 1. Amendments to Section 805.1 Applicability of Section 805

Section 805.4, prior to the 2008 NO<sub>x</sub> RACT Submission, established NO<sub>x</sub> RACT standards for combustion turbines with heat input capacities of 100 mmBTU per hour or more. Since the final rulemaking of Section 805 published on April 16, 2004, all

<sup>3</sup> Hereafter, "combustion turbine" will mean "stationary combustion turbine." As used in Section 805.4 and defined in 20 DCMR Chapter 1, Section 199, a "stationary combustion turbine" means that the combustion turbine is not self-propelled or intended to be propelled while performing its function. It may, however, be mounted on a vehicle for portability.

combustion turbines located in the District of Columbia with heat input capacities of 100 mmBTU per hour or more have been decommissioned. Volume 65, No. 30 of the District of Columbia Register (DCR), page 007876, July 27, 2018. However, several new combustion turbines with heat input capacities less than 100 mmBTU per hour and in some cases associated heat recovery steam generators and duct burners have been installed at major stationary sources of NO<sub>x</sub> since that time. The amendments to Section 805.4 in the 2008 NO<sub>x</sub> RACT Submission set NO<sub>x</sub> emission limits for such smaller units, and the DOEE now seeks to include the amendments into the District of Columbia's SIP.

Sections 805.1(a) and 805.1(a)(2) regarding applicability of Section 805 were amended to specify that Section 805 also applies to any heat recovery steam generators and duct burners associated with combustion turbines which are part of a turbine and to combustion turbines of any size at a major stationary source of NO<sub>x</sub>. EPA believes this change is approvable as the amended applicability provisions clearly specify that all combustion turbines and any associated heat recovery steam generators and duct burners at major stationary sources of NO<sub>x</sub> are covered by the NO<sub>x</sub> emission limits now set by Section 805.4.

## 2. New Emissions Limits for Combustion Turbines and Associated Heat Recovery Steam Generators and Duct Burners

The DOEE amended Section 805.4 to establish presumptive NO<sub>x</sub> RACT emissions limits for combustion turbines with heat input capacities less than 100 mmBTU per hour. The DOEE set NO<sub>x</sub> RACT limits for stationary combustion turbines based on a review of emission levels achieved in practice at existing stationary combustion turbines in the District of Columbia, emission limits set by preconstruction permits, the new source performance standards (NSPS) in Title 40 of the Code of Federal Regulations (40 CFR), Part 60, subpart KKKK Standards of Performance for Stationary Combustion Turbines (NSPS subpart KKKK) and upon recommendations in an Ozone Transport Commission (OTC) model rule.<sup>4</sup> The DOEE revised 20 DMC Section 805.4 to establish these levels achieved in practice, NSPS or permit

limits as presumptive NO<sub>x</sub> RACT emission limits for the District of Columbia's SIP. Most of the emissions limits are set in parts per million by volume dry basis (ppmvd) corrected to 15 percent excess oxygen (@15% O<sub>2</sub>) or (ppmvd @15% O<sub>2</sub>).

Section 805.4 specifies that the applicability of its NO<sub>x</sub> emissions limits shall be determined therein solely upon the peak heat input rating of the combustion turbine without inclusion of any additional heat input from associated heat recovery steam generators or duct burners when determining the peak heat input to the combustion turbine. Restricting applicability based solely on the combustion turbine's heat input rating is the same as the applicability provisions of the NSPS subpart KKKK. See 40 CFR 60.4305. The applicable emissions limit depends on the date that construction, modification, or reconstruction commenced, and whether duct burners of associated heat recovery steam generators are used.

Under the revised Section 805.4 submitted in the 2008 NO<sub>x</sub> RACT Submission the NO<sub>x</sub> emission limits for combustion turbines are 25 ppmvd @ 15% O<sub>2</sub> when burning gaseous fuels except for combustion turbines under 10 mmBTU per hour heat input capacity burning only natural gas. For units with heat input ratings of less than or equal to 50 mmBTU per hour, the Section 805.4 limits are 25 ppmvd @15% O<sub>2</sub> when burning gaseous fuels and of 42 ppmvd @15% O<sub>2</sub> when burning liquid fuels; these limits are more stringent than the NSPS subpart KKKK standards when burning natural gas and when burning "fuels other than natural gas," respectively. For units with heat input ratings of greater than 50 mmBTU per hour, the NO<sub>x</sub> emission limit is 74 ppmvd @15% O<sub>2</sub> when burning liquid fuels which is the same as that found in NSPS subpart KKKK. When construction, modification, or reconstruction commenced on or after February 18, 2005, this 74 ppmvd limit also applies. For any combustion turbine of greater than 50 mmBTU per hour heat input capacity for which construction, modification, or reconstruction commenced before February 18, 2005, the emission limit is twenty hundredths (0.20) pounds per million BTU heat input (calendar day average) when burning any fuel or combinations if the duct burners are in use.

The NO<sub>x</sub> emission limits in Section 805.4 before adoption of the limits in the 2008 NO<sub>x</sub> RACT submission were 75 ppmvd @15% O<sub>2</sub> and applied to oil-fired, combustion turbines with a heat

input over 100 mmBTU per hour. The amended Section 805.4 sets a NO<sub>x</sub> emission limit of 74 ppmvd @15% O<sub>2</sub> for stationary combustion turbines of greater than 50 mmBTU per hour heat input capacity when burning liquid fuels. Oil would constitute a liquid fuel under the new definition (discussed in the next section of this document) found in Section 199. Therefore, the amended Section 805.4 sets a limit which is slightly more stringent for oil-fired stationary combustion turbines of greater than 100 mmBTU per hour heat input capacity than what existed before adoption of the 2008 NO<sub>x</sub> RACT Submission. EPA finds that revising Section 805.4 with the regulatory changes of the 2008 NO<sub>x</sub> RACT Submission strengthens the SIP with respect to oil-fired stationary combustion turbines of greater than 100 mmBTU per hour heat input capacity.

When burning a mixture of fuels, the gaseous fuels limit applies if the percentage of heat input from gaseous fuels is greater than or equal to 50 percent; if the heat input from liquid fuels is greater than 50 percent, the liquid fuel limit applies. This provision is analogous to the NSPS subpart KKKK provisions for mixed fuel firing (40 CFR 60.4325) except when Section 805.4 specifies "gaseous fuels" and "liquid fuels" the NSPS specifies "natural gas" and "fuels other than natural gas," respectively.

The District of Columbia has one facility with combustion turbines that can burn "digester gas" which is made by treating sewage. Under the NSPS subpart KKKK such a unit would have to comply with the NSPS limits for "fuels other than natural gas" when burning "digester gas." Under the revised Section 805.4 a combustion turbine burning "digester gas" must meet the same NO<sub>x</sub> limits for combustion turbines burning natural gas or any other gaseous fuel due to the definition adopted for "gaseous fuel."

## 3. Definitions Added to Section 199

The amended regulations also add definitions to Section 199 "Definitions and Abbreviations" for "duct burner," "gaseous fuel," "heat recovery steam generating unit," "liquid fuel," "natural gas" and "combustion turbine." See Section 199.1. EPA believes that these definitions are necessary to define what exact sources are subject to Section 805.4 and when specific limits apply by fuel type.

With two exceptions, the definitions added to Section 199.1 are the same as those found in the NSPS subpart KKKK (40 CFR 60.4420). The two exceptions are the definitions for "gaseous fuel"

<sup>4</sup> The OTC recommendations are found in a "model rule" available on-line at <https://otcair.org/upload/Documents/Model%20Rules/OTC%20Model%20Rule%20-%20HEDD%20Turbines%20Final.pdf> (last accessed and downloaded March 27, 2019).

and “liquid fuel.” The NSPS subpart KKKK needs to define “natural gas” because the NSPS subpart KKKK distinguishes NO<sub>x</sub> emissions limits for stationary combustion turbines burning only natural gas from units burning “fuels other than natural gas.” Section 199.1 defines “gaseous fuel” with the criterion of a fuel that is in “a gaseous state at standard atmospheric temperature and pressure under ordinary conditions.” This definition includes fuels that under the NSPS Subpart KKKK would be a fuel other than natural gas and subject to higher limits than those applicable to units burning natural gas. Under the Section 199.1 amendment, “natural gas” is a subset of “gaseous fuel.” Section 199.1 defines “liquid fuel” as “any fuel that maintains a liquid state at standard atmospheric temperature and pressure.” The net effect of these differences in definitions is that Section 805.4 sets more stringent limits than NSPS subpart KKKK for some fuels other than natural gas. The amended regulations in the 2008 NO<sub>x</sub> RACT Submission also add to Section 199.2 the abbreviation “ppmvd” to mean “Parts Per Million by Volume Dry Basis.”

#### 4. Applicable Affected Source Threshold

EPA only requires that when implementing a revised ozone NAAQS, a state must review and update NO<sub>x</sub> RACT only for those stationary sources of NO<sub>x</sub> that are “major threshold” with an area’s classification under the revised ozone NAAQS. Because the District of Columbia has been designated as a marginal nonattainment area in the OTR the RACT obligation for the 2008 ozone NAAQS applies only to major stationary sources of 100 tpy PTE or more of NO<sub>x</sub>. The District of Columbia’s emissions limitations for stationary combustion turbines in the 2008 NO<sub>x</sub> RACT Submission apply to combustion turbines at stationary sources with a PTE of 25 tpy or more of NO<sub>x</sub> because the District of Columbia retains the 25 tpy PTE applicability threshold found in Section 805.1 required under the District of Columbia’s severe classification under the 1-hour NAAQS. In the preamble to the proposed rule for the amendments to Section 805, the District of Columbia provided notice that then proposed (now final) combustion turbine emissions limits would apply to any combustion turbines located at a stationary source with the PTE of 25 tpy or more of NO<sub>x</sub>. Volume 65, No. 30, of the District of Columbia Register, Page 007877, July 27, 2018. This makes the 2008 NO<sub>x</sub> RACT

Submission more stringent than that required for the 2008 ozone NAAQS.

#### 5. Other Provisions

Section 805.4 sets a maintenance standard for combustion turbines with a heat input rating less than or equal to 10 mmBTU per hour and fired exclusively on natural gas. Section 805.4 also has a requirement that any combustion turbine subject to Section 805 shall always be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions, including during startup, shutdown, and malfunction.

Additionally, Section 805.4 prohibits any combustion turbine fired on coal or a synthetic fuel derived from coal and requires any combustion turbine designed to be fired on any solid fuel other than coal or a synthetic fuel derived from any other solid than coal to have a case-by-case RACT determined pursuant to Section 805.7 (already in the SIP) for approval by EPA as a revision to the District of Columbia’s SIP.

#### 6. EPA Analysis

The DOEE NO<sub>x</sub> RACT regulation is based on current technologies for combustion turbines, without the addition of add-on controls such as selective catalytic reduction (SCR). DOEE’s review was based on a review of emission levels achieved in practice by the existing sources within the District of Columbia and by sources subject to the NSPS subpart KKKK or by sources subject to a lowest achievable emission rate (LAER) determination limits set by a preconstruction permit.<sup>5</sup> The District of Columbia’s limits were set based upon the comparability to those established for new units according to the NSPS Subpart KKKK or permits for units with heat input ratings exceeding 50 mmBTU per hour. For units with heat input ratings less than or equal to 50 mmBTU per hour, the DOEE set limits more stringent than the NSPS Subpart KKKK standards based upon 2010 recommendations made by the OTC.

The DOEE evaluated technically feasible add-on controls, such as SCR, as

<sup>5</sup>CAA section 171 defines LAER as the most stringent rate of emissions based on the following: (1) The most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or (2) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable NSPS.

RACT for this source category but determined that heavy investment in additional end-of-pipe controls to this level is not economically feasible or cost effective with respect to the 2008 ozone NAAQS. The Department estimated a cost per ton of NO<sub>x</sub> reductions of \$13,794 for small turbines (in the 5-megawatt range) currently found in the District of Columbia.

EPA finds that the RACT determination provided by the District of Columbia is reasonable and appropriately considered technically and economically feasible controls while setting lowest achievable limits to adequately meet RACT under the 2008 8-hour ozone NAAQS for these categories of combustion turbines. EPA finds that the District of Columbia has set presumptive RACT emissions limits for stationary combustion turbines for existing major stationary sources of NO<sub>x</sub> in the District of Columbia. EPA finds that revising Section 805.4 with the regulatory changes of the 2008 NO<sub>x</sub> RACT Submission strengthens the SIP with respect to oil-fired stationary combustion turbines of greater than 100 mm BTU per hour heat input capacity and can be approved.

#### *B. District of Columbia Water Blue Plains Advanced Wastewater Treatment Plant Source Specific NO<sub>x</sub> RACT*

The DOEE issued a permit to District of Columbia Water and Sewer Authority (DC Water) to construct and operate new biosolids handling facilities located at the BPAWTP. The equipment to be installed and operated included: (1) A main process train that includes four thermal hydrolysis process trains (for thermally hydrolyzed sludge digestion) and two emergency flares rated at 126 mmBTU per hour heat input for each firing digester gas, and (2) a CHP system that includes three stationary combustion turbines each with a duct burner, one auxiliary boiler of 62.52 mmBTU per hour heat input, and one “siloxane destruction flare” rated at 6.14 mmBTU per hour. The two emergency flares of the main process train and the auxiliary boiler and the siloxane destruction flare in the CHP system emit NO<sub>x</sub> and are subject to the NO<sub>x</sub> RACT source specific determination requirements

For the CHP system and the two emergency flares of the main process train, DOEE issued the BPAWTP a permit to operate on April 20, 2018 (April 20, 2018 operating permit) pursuant to 20 DCMR Section 200.2. The equipment covered by the April 20, 2018 operating permit covered the combustion turbines and associated duct burners plus the auxiliary boiler

and flares that burn digester gas.<sup>6</sup> The NO<sub>x</sub> emission limits for the permitted equipment were established through a non-attainment new source review process in 2011/2012 and the installed emission controls were determined to be LAER at that time. Prior to issuing the final April 20, 2018 operating permit, the DOEE conducted a review of the emissions limits and determined that these combustion turbines, heat recovery steam generators with duct burners (covered under the amended Section 805.4), and an auxiliary boiler are still among the best performing units in EPA’s RACT/BACT/LAER Clearinghouse for broadly similar applications and are therefore at least as stringent as RACT.<sup>7</sup>

Part of the review of the April 20, 2018 operating permit included a reevaluation of the NO<sub>x</sub> limits for the digester gas-fired auxiliary boiler and the three flares at the facility based upon actual performance. The DOEE

concluded that, due to higher concentrations of ammonia in the digester gas compared to that resulting from other sewage digester systems, the three flares and the boiler would each inherently emit more NO<sub>x</sub> than the typical flares and auxiliary boilers fired with digester gas. The DOEE concluded that this is due to the difference in digestion processes. The BPAWTP uses a different digestion technology—thermally hydrolyzed sludge digestion—which is the first of its kind in the United States. As such, even though the BPAWTP uses a flare used in other digester gas applications, the NO<sub>x</sub> levels exiting the flare are higher due to the increased fuel-bound nitrogen. Based upon this 2018 review of the performance of the auxiliary boiler and the three flares, the DOEE concluded that the NO<sub>x</sub> emission limits and associated control technologies in the April 20, 2018 permit for the digester gas-fired auxiliary boiler and

the three flares at the facility meet or exceed RACT requirements because these limits were based upon the DOEE’s LAER, which by definition cannot be less stringent than RACT and often results in more stringent control than RACT.

With the 2008 NO<sub>x</sub> RACT Submission, the DOEE submitted a redacted version of the April 20, 2018 operating permit, which includes only those provisions related to the NO<sub>x</sub> RACT determination. A copy of the redacted April 20, 2018 operating permit is in the docket for this proposed action. The emissions limits, testing or reporting requirements for other pollutants such as particulate matter, sulfur dioxide, carbon monoxide have been redacted so as not to be submitted for inclusion in the SIP. The following Table 1 provides a summary of the NO<sub>x</sub> emission limits.

TABLE 1—NO<sub>x</sub> LIMITS FOR BPAWTP AUXILIARY BOILER AND FLARES

	Auxiliary boiler (AB)	Siloxane destruction flare (SF)	Emergency flares (each)
Heat Input capacity—mmBTU per hour .....	62.52 on DG ..... 61.79 on NG .....	6.14 on DG .....	126 on DG.
NO <sub>x</sub> limit (pounds NO <sub>x</sub> /mmBTU) .....	0.034 on DG ..... 0.032 on NG .....	0.06 on DG .....	0.101 on DG.
Mass limit NO <sub>x</sub> pounds per hour .....	2.11 on any percentage of DG .....	0.37 .....	12.72.

“DG” means digester gas; “NG” means natural gas.

EPA finds that the RACT determination provided by the District of Columbia is reasonable and appropriately considered technically and economically feasible controls while setting lowest achievable limits to adequately meet RACT on a source specific basis under the 2008 8-hour ozone NAAQS for these emissions units. EPA finds that source specific limits are appropriate because the source category, related to municipal wastewater treatment, is unique within the District of Columbia. These limits were set on technology consistent with LAER which essentially reflects the lowest rate in any SIP or achieved in practice and are based upon the actual performance of the emissions units.

*C. Certification of Other Provisions in Section 805*

Prior to the amendments submitted with the 2008 NO<sub>x</sub> RACT Submission,

Section 805 contained the District of Columbia’s NO<sub>x</sub> RACT controls as amended in 2004 for implementation and approval into the District of Columbia SIP under the 1-hour and the 1997 ozone NAAQS. The District of Columbia’s 2008 NO<sub>x</sub> RACT Submission includes a certification that the controls of the 2004 version of Section 805 are still RACT except for those sources for which the District of Columbia submitted new NO<sub>x</sub> RACT emissions limits in the 2008 NO<sub>x</sub> RACT Submission. These sources are: (1) The new limits for combustion turbines at several major NO<sub>x</sub> sources (see section III. A. in this document); and (2) the digester gas equipment at one major NO<sub>x</sub> source (see section III. B. in this document regarding the BPAWTP).

Section 805 was originally adopted in 1993 and amended in 2000 and 2004. The District of Columbia’s NO<sub>x</sub> RACT

emissions limits are specified by source groups. Table 2 lists the rulemaking history of District of Columbia’s previously adopted NO<sub>x</sub> RACT controls, and Table 2 lists the source groups covered by Section 805. In the 2008 RACT Submission, the District of Columbia is certifying that with certain exceptions (the amendments to Section 805.4 and the unit specific limits at the BPAWTP), Section 805 continues to represent the lowest emission limits based on currently available and economically feasible control technology for the source categories and, therefore, meets the RACT requirements for the 2008 ozone NAAQS for major NO<sub>x</sub> stationary sources as required by CAA sections 184(b)(2) and 182(f).

<sup>6</sup>NO<sub>x</sub> RACT for the three 46.3 mmBTU per hour combustion turbines and heat recovery steam generators each equipped with a 21 mmBTU per

hour heat input duct burner is set under the revised Section 805.4.

<sup>7</sup>BACT stands for best available control technology and is a requirement for certain preconstruction permits under CAA Title I, Part C (prevention of significant deterioration).



TABLE 2—DISTRICT OF COLUMBIA’S NO<sub>x</sub> RACT CONTROLS—RULEMAKING HISTORY OF SIP APPROVED PROVISIONS

Regulation 20 DCMR	Submittal	State effective date	Federal Register date	Federal Register notice
805 .....	Original 1-hour ozone submittal .....	Nov. 19, 1993 and Dec. 8, 2000.	Dec. 26, 2000 .....	65 FR 81369.
805 .....	Minor clarifications .....	April 16, 2004 .....	Dec. 28, 2004 .....	69 FR 77645.
805 and 199.1 .....	Set applicability threshold to 25 tpy NO <sub>x</sub> —severe nonattainment area under 1-hour NAAQS.	April 16, 2004 .....	Dec. 28, 2004 .....	69 FR 77647.
805 .....	Certify as RACT under 1997 ozone NAAQS	September 22, 2008	June 16, 2009 .....	74 FR 28447.

TABLE 3—DISTRICT OF COLUMBIA’S NO<sub>x</sub> RACT CONTROLS—RULEMAKING HISTORY OF SIP APPROVED PROVISIONS BY SOURCE CATEGORY

Regulation 20 DCMR	Title of regulation	State effective date #	Federal effective date #	Federal Register notice #
805.1 .....	Fuel-burning equipment with an input capacity of 100 mmBTU per hour or greater.	April 16, 2004 .....	Dec. 28, 2004 .....	69 FR 77645.
805.5 & 805.8 .....	Fuel-burning equipment with an input capacity equal to or greater than 20 mmBTU per hour, but less than 50 mmBTU per hour.	April 16, 2004 .....	Dec. 28, 2004 .....	69 FR 77645.
805.1 & 805.8 .....	Fuel-burning equipment with an input capacity equal to or greater than 50 but less than mmBTU per hour.	April 16, 2004 .....	Dec. 28, 2004 .....	69 FR 77645.
805.4 .....	Combustion turbines .....	Nov. 27, 2018 .....	See Sections D.1. above and D.4. below ##.	See Sections D.1. above and D.4. below ##.
805.1 .....	Asphalt concrete plant with a PTE 25 tpy or greater.	April 16, 2004 .....	Dec. 28, 2004 .....	69 FR 77645.
805.1 .....	All other fuel burning equipment with a PTE of 25 tpy of NO <sub>x</sub> or greater.	April 16, 2004 .....	Dec. 28, 2004 .....	69 FR 77645.
805.1 .....	Stationary internal combustion engines .....	April 16, 2004 .....	Dec. 28, 2004 .....	69 FR 77645.

# Most recent revision or amendment.

## The revisions to Section 805.4 discussed in sections D.1. above and D.4. below completely revise Section 805.4. EPA action of these revisions is the subject of this action.

Section 805 (as amended) provides presumptive NO<sub>x</sub> limits for major stationary sources of NO<sub>x</sub> but also provides for a case-by-case RACT determination process. The DOEE evaluated their stationary source inventory and current controls against RACT emission limits of other States. The DOEE compared the SIPs of other similarly-situated States in the Eastern United States (Virginia, Maryland, North Carolina, Delaware, New Jersey, New York, Connecticut, and Massachusetts) to the District of Columbia’s current emissions limits and found that DOEE’s Section 805 limits were in the same range. Based upon such considerations, the DOEE concluded that, when combined with the amendments to Section 805 and the source specific NO<sub>x</sub> RACT determination for the BPAWTP, that no further controls were needed to meet RACT.

In combination with the amendments to Sections 199 and 805 regarding certain combustion turbines and related equipment (evaluated in sections III.A of this document) and with the source-

specific NO<sub>x</sub> RACT determinations for the flares and auxiliary boiler at BPAWTP (evaluated in sections III.B of this document), EPA proposes to find that the previously adopted RACT controls continue to represent NO<sub>x</sub> RACT for the 2008 ozone NAAQS required under sections 184(b)(2) and 182(f).

*D. Removal of Prior Emissions Limits for Combustion Turbines Over 100 mmBTU per Hour*

The District of Columbia’s amendment to Section 805.4 removes emission limits of 75 ppmvd NO<sub>x</sub>, corrected to 15% excess oxygen for oil-fired, combustion turbines with a heat input over 100 mmBTU per hour from the SIP in the former Section 805.4(a); the former Section 805.4 also restricted CO emissions not to exceed 50 ppmvd @15% O<sub>2</sub> at any operating condition, for a one (1) hour average.

Regarding NO<sub>x</sub> emissions, the revised Section 805.4 sets a lower emissions limit for stationary combustion turbines of this size. The revised Section 805.4(a) sets a lower NO<sub>x</sub> limit of 74 @15% O<sub>2</sub>

for any combustion turbine with heat input rating greater than 50 mmBTU per hour burning any combination of liquid fuels.

The revised rule also removes the exemption for low utilization turbines—those operated for less than 500 hours per year. Thus, the NO<sub>x</sub> limits set in Section 805.4 apply. If any combustion turbines over 100 mmBTU per hour are installed in the District of Columbia in the future such that the PTE increase is over 25 tpy NO<sub>x</sub>, the District of Columbia SIP major source permitting program requires an emissions rate of LAER and offsetting NO<sub>x</sub> emissions at a ratio of 1.3:1. See 20 DCMR Chapter 2, Section 204 (Permit Requirements for Sources Affecting Non-attainment Areas), which is approved into the SIP at 40 CFR 52.470(c).

For CO emissions, there are no longer any units over 100 mmBTU per hour heat input in the District of Columbia. Therefore, this change will not result in relaxing an existing emissions limitation applicable to any existing emissions unit at a major stationary source. Furthermore, the CO levels in the



Washington-Arlington-Alexandria, DC-VA-MD area are well below the CO NAAQS of 40 CFR 50.8. The maximum value recorded at any ambient air quality monitor in the Washington-Arlington-Alexandria, DC-VA-MD core based statistical area is only 27 percent (2.6 ppm CO) of the 9.5 ppm (8-hour average) NAAQS and less than 8 percent of the 35 ppm (1-hour average) NAAQS.

For CO, any new stationary combustion turbine or turbines added in the future that are by themselves a major stationary source of CO or would constitute a significant net emissions increase at an existing major stationary source of CO (or nitrogen dioxide) would be required to obtain a prevention of significant deterioration (PSD) permit under 40 CFR 52.499 and 52.21. The PSD permit would require best available control technology.

EPA finds that removal of the CO limits will not hinder or impede attainment or maintenance of the CO NAAQS in the District of Columbia. As far as the ozone or nitrogen dioxide NAAQS, EPA concludes that the replacement of the former 75 ppmvd NO<sub>x</sub> limits with the 74 ppmvd limits applicable to liquid fuel fired stationary combustion turbines will be as protective of these NAAQS.

#### E. Summary

EPA finds that the District of Columbia's 2008 NO<sub>x</sub> RACT Submission is reasonable and demonstrates that the District has adopted air pollution control strategies that represent RACT for the purposes of compliance with the 2008 8-hour ozone standard for all major stationary sources of NO<sub>x</sub> in the District in accordance with the Phase 2 Ozone Implementation Rule, the 2008 Ozone SIP Requirements Rule, and the latest available information. EPA finds that the District of Columbia's SIP implements RACT with respect to all existing major stationary sources of NO<sub>x</sub>.

EPA also finds that the proposed revisions to previously SIP approved RACT requirements will result in equivalent or additional reductions in NO<sub>x</sub> emissions and should not interfere with any applicable requirement or reasonable further progress with the NAAQS or interfere with other applicable CAA requirements in section 110(l) of the CAA.

#### IV. Proposed Action

EPA is proposing to approve the District of Columbia's 2008 RACT Submission on the basis that the District of Columbia has met the NO<sub>x</sub> RACT requirements under the 2008 8-hour ozone NAAQS per CAA sections 182(f)

and 184(b)(2) for the reasons explained in this notice. EPA is proposing to approve source specific NO<sub>x</sub> RACT determinations for the BPAWTP and the amendments to sections 199.1, 199.2, 805.1 and 805.4 of 20 DCMR discussed in sections III. A. III. D. and V. A. of this document.

The District of Columbia's SIP revision is based on: (1) Certification that for certain categories of sources, previously adopted RACT controls in the District of Columbia's SIP that were approved by EPA under the 1-hour ozone NAAQS and 1997 ozone NAAQS continue to be technically and economically feasible controls, and continue to represent RACT for the 2008 ozone NAAQS implementation purposes; (2) the adoption of new or more stringent regulations or controls into the District of Columbia's SIP that represent presumptive RACT control levels for certain categories of sources; and (3) source specific emissions limits set for flares and an auxiliary boiler serving the BPAWTP. EPA is proposing to remove, in accordance with section 110 of the CAA, provisions setting carbon monoxide emission limits for a category of stationary combustion turbines. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

#### V. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing for certain categories of NO<sub>x</sub> emissions at major stationary sources of NO<sub>x</sub> emissions to incorporate by reference both regulations adopted by the District of Columbia and a source-specific RACT determinations under the 2008 8-hour ozone NAAQS found within a preconstruction permit. The amendments to and revision of 20 DCMR Chapters 1 and 8 are specified in Section V. A. of this document; the source specific information is provided in Section V. B of this document.

EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

##### A. Amendments to 20 District of Columbia Municipal Regulations (20 DCMR)

1. Specifically, EPA is proposing to incorporate by reference into 40 CFR

52.470(c): Amendments to 20 District of Columbia Municipal Regulations, Chapter 1, sections 199.1 and 199.2. These amendments include adding definitions in Section 199.1 for "Duct burner," "Gaseous fuel," Heat recovery steam generator," "Liquid fuel," "Natural gas," and "Stationary combustion turbine," and include an amendment to Section 199.2 to define the abbreviation "ppmvd."

2. Amendments to 20 District of Columbia Municipal Regulations, Chapter 8, sections 805.1 and 805.4 adopted by the District of Columbia on November 14, 2018 and effective December 14, 2018 as published in Volume 65, Number 51 of the District of Columbia Register on December 14, 2018. These amendments would include:

(1) Revising sections 805.1(a) and Section 805.1(a)(1);

(2) Revising Section 805.1(a)(1) to remove NO<sub>x</sub> emissions limits for stationary combustion turbines which have an energy input capacity of one hundred million (100,000,000) BTU and adding NO<sub>x</sub> emissions limitations for any stationary combustion turbine which commenced construction, modification, or reconstruction after February 18, 2005 and has a heat input rating greater than fifty million (50,000,000) BTU per hour;

3. Revising Section 805.1(a)(2) to remove CO emissions limits for stationary combustion turbines which have an energy input capacity of one hundred million (100,000,000) BTU per hour and adding NO<sub>x</sub> emissions limitations for any stationary combustion turbine which commenced construction, modification, or reconstruction on or before February 18, 2005 and has a heat input rating greater than fifty million (50,000,000) BTU per hour;

4. Adding a new Section 805.1(a)(3) to set NO<sub>x</sub> emission limitations for any stationary combustion turbines with a heat input rating less than or equal to fifty million (50,000,000) BTU per hour;

5. Adding a new Section 805.1(a)(4) to set NO<sub>x</sub> emission limitations for certain stationary combustion turbines with a heat input rating less than or equal to ten million (10,000,000) BTU per hour;

6. Adding new sections 805.1(a)(5)-(7) to add new restrictions on stationary combustion turbines;

7. Amending Section 805.4(b) to replace requirements for stationary combustion turbines with an energy input capacity of one hundred million (100,000,000) BTU per hour or greater which is operated for less than five hundred (500) hours per year with testing and continuous monitoring

requirements for any person required to comply with Section 805.4.

These regulatory changes to Section 805.4 and Section 199 were adopted on November 27, 2018 and effective on the date of publication, December 14, 2018, in the District of Columbia Register (Vol. 65, Number 51, page 013499, December 14, 2018).

#### *B. Source Specific Provisions for the BPAWTP*

Specifically, EPA is proposing to incorporate by reference into 40 CFR 52.470(d) certain portions of Permit (No. 6372-C2/O) to Construct and Operate New Biosolids Handling Facilities issued to District of Columbia Water and Sewer Authority as redacted by the District of Columbia:

1. The first paragraph citing the pertinent permitting regulations and listing (redacted) the following significant components: One (1) Auxiliary Boiler (AB) rated at 62.52 mmBTU per hour (HHV) heat input, firing DG, One (1) Siloxane Destruction Flare (SF) rated at 6.14 MMBTU per hour heat input, firing DG; and Two (2) Emergency Flares rated at 126 mmBTU per hour heat input each, firing DG.

2. The NO<sub>x</sub> emissions limits listed in the table found in permit condition “j.” for the Auxiliary Boiler (AB), Siloxane Destruction Flare (SF) and Two (2) Emergency Flares. The hourly NO<sub>x</sub> emission limits for the Auxiliary Boiler (AB), Siloxane Destruction Flare (SF) and Two (2) Emergency Flares listed in Table 2 (as redacted) found under Condition III.

3. Conditions III.b.1.A.; III.b.3. A. and B.; III.b.3. C.i., iii and iv.; III.b.3.D.; III.b.3.E. except that relating to carbon monoxide/CO; III.b.3.F. except “and CO”; III.b.3.G. iv. and v. except the provision “Failure to demonstrate compliance through the testing may result in enforcement action.”; III.b.4.A.; III.b.4.B. iv. and v.; III.b.5. as redacted to strike “in addition to complying with Condition II(f)”; III.d., III.d.1.A.; III.d.2.D; III.d.3.A. only the portion “Within 60 days of initial startup and once every five years thereafter, the Permittee shall conduct a Department-approved compliance source test at multiple loads of EF-1, EF-2, and SF in accordance with 40 CFR 60.8 or a similar protocol acceptable to the Department, to demonstrate compliance with the emissions limitations contained in Condition III(d)(1) of this permit;” III.d.3.B as redacted to exclude “though additional testing may be required at other times pursuant to Condition II(d)(2)”; III.d.3.C. (i), (iii) and (iv); III.d.3.D.; III.d.3.H.(iv); III.d.3.H.(v) except “Failure to demonstrate

compliance through the test may result in enforcement action.”; III.d.4.A. except “including records of visual inspections;”; III.d.4.B. (ii) except “and CO”; III.d.4.B. (iv); and, III.d.5.A. as redacted to exclude “in addition to complying with Condition II(f)”.

4. This permit was issued April 20, 2018.

#### **VI. 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 (Pub. L. 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, regarding the NO<sub>x</sub> RACT SIP for the District of Columbia under the 2008 ozone NAAQS, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: August 29, 2019.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

[FR Doc. 2019-19669 Filed 9-10-19; 8:45 am]

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 721**

[EPA-HQ-OPPT-2019-0495; FRL-9999-27]

**RIN 2070-AB27**

#### **Significant New Use Rules on Certain Chemical Substances (19-5.B)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 6 chemical substances which are the subject of premanufacture notices (PMNs). This action would require persons to notify EPA at least 90 days before commencing manufacture (defined by statute to include import) or processing of any of these 6 chemical substances for an activity that is designated as a significant new use by this proposed rule. This action would further require that persons not commence manufacture or processing for the significant new use until they have submitted a Significant New Use Notice, and EPA has conducted a review of the notice, made an appropriate determination on the notice under TSCA 5(a)(3), and has taken any risk