



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2019-0207; FRL-10004-84-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: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the District of Columbia. This revision satisfies the nitrogen oxides (NO_x) reasonably available control technology (RACT) requirements under the 2008 8-hour ozone national ambient air quality standard (2008 ozone NAAQS). The District of Columbia's NO_x RACT submittal 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 conforming definitions; includes a source specific NO_x RACT determination for four specific emissions units at one major stationary source of NO_x; includes a certification that, for other categories of sources, controls already approved by EPA into the District of Columbia's SIP to meet NO_x RACT for previous ozone NAAQS are based on technically and economically feasible controls and continue to represent NO_x RACT for 2008 8-hour ozone NAAQS implementation purposes; and

in an effort to clean-up its SIP, removes carbon monoxide (CO) 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: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2019-0207. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Becoat, 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) 814-2036. Mr. Becoat can also be reached via electronic mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: On August 29, 2018, and as supplemented on December 19, 2018, the District of Columbia's Department of Energy and Environment (DOEE) submitted a SIP revision to address all of the RACT requirements for NO_x set forth by the CAA under the 2008 ozone NAAQS. The SIP revision also included amendments to its NO_x control

regulations and an operating permit setting RACT for certain specific emissions units at one major stationary source of NO_x (hereafter 2008 NO_x RACT Submission).¹

I. Background

On August 29, 2018 and supplemented on December 19, 2018, DOEE submitted a SIP revision to address all the requirements of NO_x RACT set forth by the CAA under the 2008 ozone NAAQS (the 2008 NO_x RACT Submission). On September 11, 2019, EPA published a notice of proposed rulemaking (NPRM) for the District of Columbia's SIP revision. (84 FR 47914). Detailed information on the District's 2008 NO_x RACT Submission and EPA's review of the submission, can be found in the NPRM, which is also available on line at www.regulations.gov, Docket number EPA-R03-OAR-2019-0207.

II. Summary of the District of Columbia's SIP Revision and EPA's Proposed Actions

A. New Emissions Limits for Combustion Turbines and Conforming Amendments

The District of Columbia's NO_x RACT SIP revision contained a final rule amending Title 20 of the District of Columbia Municipal Regulations (20 DCMR), Chapter 8, section 805.4 to amend the District of Columbia's NO_x emission limits for combustion turbines and for any duct burners or associated heat recovery steam generators.

The amendments also included 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.

¹ Also, on August 29, 2018 the District of Columbia submitted a separate SIP revision to address all the volatile organic compound (VOC) RACT requirements under the 2008 ozone NAAQS both for VOC sources covered by a control techniques guideline (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 54507, October 10, 2019.

After evaluating the SIP revision submittal, EPA proposed finding that the District's SIP revision satisfied the 2008 8-hour ozone NAAQS RACT requirements for NO_x. EPA found 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 the categories of combustion turbines. EPA found that the District of Columbia has set presumptive RACT emissions limits for stationary combustion turbines for existing major stationary sources of NO_x in the District of Columbia. EPA found that revising section 805.4 with the regulatory changes of the 2008 NO_x RACT Submission strengthens the SIP with respect to oil-fired stationary combustion turbines of greater than 100 million British Thermal Units per hour (mmBTU per hour) heat input capacity and can be approved.

B. District of Columbia Water Blue Plains Advanced Wastewater Treatment Plant Source Specific NO_x RACT

The District of Columbia's NO_x RACT SIP Submission included an evaluation of a permit issued by the DOEE to District of Columbia Water and Sewer Authority (DC Water) to construct and operate new biosolids handling facilities located at the Blue Plains Advanced Wastewater Treatment Plant (BPAWTP), which included four sources that are subject to the NO_x RACT source specific determination requirements.

After evaluating the SIP revision submittal, EPA proposed finding 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 the BPAWTP emissions units. EPA concluded that source specific limits for the digester gas-fired auxiliary boiler and

three flares 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 lowest achievable emission rate (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

The District of Columbia's NO_x RACT SIP Submission included a certification that the NO_x 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 are still RACT for purposes of meeting requirements for the 2008 8-hour ozone NAAQS, except for those sources for which the District of Columbia submitted new NO_x RACT emissions limits in the 2008 NO_x RACT Submission. These sources are: (1) combustion turbines; and (2) the digester gas equipment at one major NO_x source regarding the BPAWTP.

After evaluating the SIP revision submittal, EPA proposed finding that the previously adopted RACT controls continue to represent NO_x RACT for the 2008 ozone NAAQS as required under sections 184(b)(2) and 182(f) except for the combustion turbine source-category and the source-specific limits at the BPAWTP.

D. Setting Stricter NO_x Emissions Limits for Combustion Turbines and Removing CO Emissions Limits for Combustion Turbines over 100 mmBTU per Hour

As explained in more detail in the NPRM, since 1990, the District of Columbia implemented numerous RACT requirements under the 1-hour and the 1997 ozone standards. Many of those requirements are contained in section 805 of Title 20 of the DCMR. The District of Columbia's current NO_x RACT SIP Submission included an amendment to section 805.4 to remove a NO_x

emissions limit for oil-fired, combustion turbines with a heat input over 100 mmBTU per hour and replace it with a lower NO_x limit for any combustion turbine with heat input rating greater than 50 mmBTU per hour burning any combination of liquid fuels. As detailed in the NPRM, the revised section 805.4 sets a lower NO_x emissions limits for a greater universe of combustion turbines by lowering the capacity threshold of eligible units and expanding coverage of the types of fuel burned by those units. The revised section 805.4 also removes the exemption for low utilization turbines – those operated for less than 500 hours per year. Thus, the NO_x limits set in section 805.4 now apply to these sources.

The NPRM also explained that the revised section 805.4, in an effort to clean-up its SIP, removed CO emissions limits for combustion turbines of over 100 mmBTU heat input burning fuel oil because there are no longer any units over 100 mmBTU per hour heat input in the District of Columbia. The subject CO limits were initially included in the ozone RACT to ensure optimum combustion to reduce NO_x emissions. See 64 FR 9272 (February 25, 1999) and 65 FR 81369 (December 26, 2000). As there are no longer any sources in the District of Columbia subject to the CO limits at issue, the revised section 805.4 will not result in relaxing an existing emissions limitation applicable to any existing emissions unit at a major stationary source.

On the potential impact on NO_x emissions due to the removal of the subject CO limits and the siting of any new combustion turbines of over 100 mmBTU heat input burning fuel oil in the District of Columbia, the NPRM went on to note that for any such combustion turbines with a potential to emit increase over 25 tons per year (tpy) of NO_x, the District of Columbia's SIP major source permitting program would require LAER and offsetting NO_x 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 the reasons detailed in the NPRM, EPA proposed finding that the lower NO_x limits applicable to stationary combustion turbines burning any combination of liquid fuels along with the lower regulatory threshold and the removal of the CO limits for combustion turbines of over 100 mmBTU heat input burning fuel oil will be as protective of the ozone and NO_x NAAQS and not hinder or impede attainment or maintenance of the those NAAQS in the District of Columbia as required by section 110(l) of the CAA.

Finally, the NPRM addressed the removal of the CO limits for combustion turbines of over 100 mmBTU heat input burning fuel oil in relationship to the CO NAAQS. The NPRM detailed that there are no longer any such units in the District of Columbia and that the CO levels in the Washington-Arlington-Alexandria (DC-VA-MD) area are well below the CO NAAQS. Further, in the event that any new stationary combustion turbine or turbines are located within the District of Columbia in the future that are 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), the new major stationary combustion turbine would be required to obtain a prevention of significant deterioration (PSD) permit under 40 CFR 52.21 and 52.499. The PSD permit would require best available control technology.

For the reasons detailed in the NPRM, EPA proposed finding that removal of the CO limits will not hinder or impede attainment or maintenance of the CO NAAQS in the District of Columbia as required by section 110(l) of the CAA.

E. Conclusion

In the NPRM, EPA proposed finding that the District of Columbia's 2008 NO_x RACT

Submission was reasonable and demonstrated that the District had 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_x in the District in accordance with CAA requirements and the 2008 Ozone SIP Requirements Rule (80 FR 12264), and the latest available information. EPA proposed finding that the District of Columbia's SIP implements RACT for purposes of the 2008 ozone NAAQS with respect to all existing major stationary sources of NO_x.

EPA also proposed finding that the revisions to previously SIP approved RACT requirements would result in equivalent or additional reductions in NO_x emissions and should not interfere with any applicable requirement or reasonable further progress with the NAAQS or interfere with other applicable CAA requirements as required by section 110(l) of the CAA. EPA received comments which are addressed in Section III of this rulemaking action.

III. Response to Comments

EPA received comments from two anonymous commenters during the comment period for the proposed rulemaking action.

Comment 1: A commenter stated: "No! We do not want weakening of air control standards, which are detrimental to human health and survival of the human race. EPA's job is ENVIRONMENTAL PROTECTION, as your name says. Why are you commenting on COSTS TO THE PUBLIC? Your name is not ECONOMIC PROTECTION AGENCY. We do not care what your organization thinks about SAVING PEOPLE MONEY. Your job is to do what is best for our ENVIRONMENT. We are tired of hearing about how you are involved in protecting our pocketbooks. I am demanding that you do your job, and protect our air, water and land. I am demanding that you stop letting our President damage our country. Do your duty to live up to the

NAME ON YOUR DOOR.”

Response 1: Portions of this comment are not relevant to EPA’s rulemaking action regarding the District of Columbia’s 2008 NO_x RACT Submission and need not be addressed. The Administrative Procedures Act requires that “that the agency ... respond to ‘relevant’ and ‘significant’ public comments.” *City of Portland v. E.P.A.*, 507 F.3d 706 (D.C. Cir. 2007).

While we recognize the commenter’s concern for environmental protection, it is important to note that EPA’s approval of the District of Columbia’s 2008 NO_x RACT Submission is controlled by statutory and regulatory requirements. Among those requirements is the definition of RACT that requires an analysis of technical and economic feasibility. 40 CFR 51.100(o). It is also important to note that the approved 2008 NO_x RACT SIP Revision does not weaken any existing environmental standard. By approving this SIP submittal, the required pollution controls for NO_x from certain sources in the District of Columbia will remain the same or become more stringent, and consequently, approval of this SIP submittal should not interfere with any applicable requirement or reasonable further progress with the NAAQS or interfere with other applicable CAA requirements.

Comment 2: A commenter stated: “While DC has successfully, through its state implementation plan (SIP), achieved marginal attainment of Nitrogen Oxides (NO_x) under the 2008 8-hour Ozone standard in 2019, the issue being raised is that with the implementation of Reasonably Available Control Technology (RACT), Washington D.C. was only just now able to achieve a standard of Ozone levels that was set eleven years ago. According to the EPA, in November of 2017, 2,646 counties across the United States were in attainment of the 70 parts per billion ozone level specified in the 2015 NAAQS (Govinfo 2018). This provides proof that attainment is achievable through available means and any other course of action knowingly puts American

citizens health at risk. Though the U.S. has made great strides in reducing gasses to blame for ground level ozone such as nitrogen oxides, the health effects will remain a detriment to American citizens as long as it remains in the air. By not holding Washington D.C. to the 2015 8-hour ozone NAAQS standards, the government, in specific, the EPA is allowing at least 75 parts per billion of ground level ozone to damage the lungs of children resulting in aggravated asthma, which leads to a lower attendance in schools, and even premature deaths, which occur [more] in infants and the elderly (EPA 2018). RACT is available that will allow less Nitrogen Oxides to be emitted into the air, resulting in lower levels of ground level Ozone. Retrofitting the largest emitters of NOx will cost money, but the result would be clearer skies and healthier citizens who can then contribute to American society and its economy.”

Response 2: While EPA agrees that the District of Columbia must continue to take efforts in attaining and maintaining all ozone NAAQS (including the 2015 ozone NAAQS), it is important to note that District of Columbia is addressing only requirements related to the 2008 ozone NAAQS in this SIP revision, and that EPA has concluded that the District is currently meeting all requirements for NOx RACT set forth by the CAA under the 2008 ozone NAAQS. As previously discussed, the District of Columbia’s 2008 NOx RACT Submission demonstrated 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 NOx in the District in accordance with the CAA, the 2008 Ozone SIP Requirements Rule, and the latest available information.

Comment 3: A commenter stated: “Although emissions limits are tied to power plant combustion turbines that are no longer in use and relevant, that should not end the EPA’s push to lower CO emissions. The combustion turbines that the CO emission limits in this amendment

refer to are ones that burn fuel oil at 100mmBTU per hour or more, compared to those in use which burn at 50mmBTU (Federal Register 2019). Turbine combustion and cogeneration technology has advanced to the point where we have reached previous emission limit goals. While this accomplishment is promising, halting CO limits because the emission output is lower should not be an option. CO emission limits should be seriously considered for stationary sources with turbine combustion and cogeneration technology that utilizes turbines burning 50mmBTU of oil fuel per hour. The emissions may be less than what 100mmBTU turbines produce, but the lowest achievable emission rate (LAER) should be considered and emission limits implemented once more (EPA 2007). By not striving for the lowest available emission rates for both Nitrogen Oxides and Carbon Monoxide the EPA is allowing citizens to be exposed to an invisible threat that leads to higher rates of asthma, upper respiratory infections, cardiovascular diseases, and weighs heavily on the economic output of a plethora of Americans. The cons far outweigh the pros in regards to the two issues presented above, and should be amended in a new rendition of Washington D.C.s State Implementation Plan.”

Response 3: As noted in the comment, there are no longer any combustion turbine units over 100 mmBTU per hour heat input in the District of Columbia, thus the deletion of CO emissions limits for such sources will not result in relaxing an existing emissions limitation applicable to any existing emissions unit at a major stationary source. As explained in the NPRM, the current CO levels in the Washington-Arlington-Alexandria, DC-VA-MD area are well below the CO NAAQS specified in 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) CO NAAQS and less than 8 percent of the 35 ppm (1-hour average) CO NAAQS. It is, however, important to note that although there

are no longer any units over 100 mmBTU per hour heat input in the District of Columbia, the CO NAAQS must continue to be met even with the removal of CO limits from section 805. In the event that the District of Columbia is found to be no longer attaining the CO NAAQS, a process would begin such that the District would implement SIP-approved contingency measures outlined in the Carbon Monoxide Maintenance Plan for the Metropolitan Washington, DC Area. See 70 FR 16958 (April 4, 2005).

Additionally, in the event that any new stationary combustion turbine or turbines are located within the District in the future that are 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), the new major stationary combustion turbine would be required to obtain a prevention of significant deterioration (PSD) permit under 40 CFR 52.21 and 52.499. 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.

In response to the commenter's concern that the area is not striving for the lowest available emission rates for nitrogen oxides, we note that as a nonattainment area for ozone, the District of Columbia is required to follow nonattainment new source review requirements for new major stationary sources of NO_x or volatile organic compounds, which includes a LAER requirement.

IV. Final Action

EPA is approving the District of Columbia's 2008 RACT Submission on the basis that the District of Columbia has met the NO_x RACT requirements for the 2008 8-hour ozone NAAQS per CAA sections 182(f) and 184(b)(2). EPA is also approving source-specific NO_x RACT determinations for the BPAWTP and the amendments to sections 199.1, 199.2, 805.1 and 805.4

of 20 DCMR.

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; (3) source specific emissions limits set for flares and an auxiliary boiler serving the BPAWTP and (4) the removal of CO emission limits for combustion turbines of over 100 mmBTU heat input burning fuel oil. EPA is approving the removal, in accordance with section 110 of the CAA, of provisions setting carbon monoxide emission limits for a category of stationary combustion turbines.

V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing for certain categories of NO_x emissions at major stationary sources of NO_x emissions to incorporate by reference both regulations adopted by the District of Columbia and 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 preamble; the source specific information is provided in Section V.B. of this preamble.

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 incorporating 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. These amendments would include:

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

b. Revising section 805.1(a)(1) to remove NO_x emissions limits for stationary combustion turbines which have an energy input capacity of one hundred million (100,000,000) BTU and adding NO_x 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;

c. 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_x 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;

d. Adding a new section 805.1(a)(3) to set NO_x 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;

e. Adding a new section 805.1(a)(4) to set NO_x 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;

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

g. 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 sections 199 and 805 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 incorporating 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_x 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_x 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

A. General Requirements

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 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 it is not a significant action 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 rule 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.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication

of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action, regarding the NO_x RACT SIP for the District of Columbia under the 2008 ozone NAAQS, may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

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.

Dated: January 21, 2020.

Cosmo Servidio,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart J—District of Columbia

2. Amend § 52.470 by:

a. In paragraph (c) table, revising the entries “Section 199” and “Section 805”; and

b. In paragraph (d), adding an entry for “Blue Plains Advanced Wastewater Treatment” at the end of the table.

The revisions and addition read as follows:

§ 52.470 Identification of plan.

* * * * *

(c)* * *

EPA-APPROVED REGULATIONS AND STATUTES IN THE DISTRICT OF COLUMBIA SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
District of Columbia Municipal Regulations (DCMR), Title 20—Environment				
Chapter 1 General				
* * * * *				
Section 199	Definitions and Abbreviations	12/14/18	<u>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</u>	Revised Sections 199.1 and 199.2. Added six definitions to Section 199.1 and an abbreviation for “ppmvd” to read “(Parts Per Million by Volume Dry Basis)” to Section 199.2. Prior Approval was 5/1/17.
* * * * *				

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Chapter 8 Asbestos, Sulfur and Nitrogen Oxides				
*	*	*	*	*
Section 805	Reasonably Available Control Technology for Major Stationary Sources of Oxides of Nitrogen	12/14/18	<u>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</u>	Revised paragraphs 805.1(a), 805.1(a)(1), 805.1(a)(2) and 805.4(b). Added paragraphs 805.1(a)(3) through (7).
*	*	*	*	*

(d)***

EPA-APPROVED DISTRICT OF COLUMBIA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit number	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Blue Plains Advanced Wastewater Treatment Plant	No.6372-C2/O	04/20/18	<u>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</u>	See § 52.479(a) for further explanation.

* * * * *

3. Add §52.479 to read as follows:

§ 52.479 Source-specific requirements.

(a) Approval of source-specific requirements for the Blue Plains Advanced Wastewater

Treatment Plant includes EPA incorporating by reference into § 52.470(d) certain redacted

portions of Permit No. 6372-C2/0 approved by the District of Columbia on April 20, 2018 to Construct and Operate New Biosolids Handling Facilities issued to the District of Columbia Water and Sewer Authority and as approved on **insert date 30 days after date of publication in the Federal Register**].

(1) Specifically, EPA is incorporating by reference into § 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:

(i) 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.

(ii) The NO_x 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_x 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.

(iii) 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)”.

(2) This permit was issued April 20, 2018.

(b) [Reserved]

[FR Doc. 2020-02006 Filed: 2/21/2020 8:45 am; Publication Date: 2/24/2020]