6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2025-0243; FRL 12785-01-R2]

Air Plan Approval; New York; Athens Generating Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the State of New York's State Implementation Plan (SIP) for the ozone National Ambient Air Quality Standard (NAAQS) related to a Source-specific SIP (SSSIP) revision for the Athens Generating Plant, located at 9300 US Route 9 West, Athens, NY 12015 ("Athens" or "the Facility"). The EPA is proposing to find that the control options in this SSSIP revision implement Reasonably Available Control Technology (RACT) with respect to Oxides of Nitrogen (NOx) emissions from the relevant Facility sources, which are identified as three combined-cycle Westinghouse model 501G combustion turbines with associated heat recovery steam generators and steam turbines (identified as Emission Units U-00001, U-00002, and U-00003 in the Facility's Title V permit and New York's submission). This SSSIP revision is intended to implement NOx RACT for the relevant Facility sources in accordance with the requirements for implementation of the 2008 and 2015 ozone NAAQS. The EPA proposes to determine that this action will not interfere with ozone NAAQS requirements and that it meets all applicable requirements of the Clean Air Act (CAA).

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

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R02-OAR- 2025-0243 at *https://www.regulations.gov*. Although listed in the index, some

information is not publicly available, e.g., Controlled Unclassified Information (CUI) (formerly referred to as 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 electronically through *https://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be CUI 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. The 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, the full EPA public comment policy, information about CUI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Nicholas Ferreira, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, at (212) 637-3127, or by email at *ferreira.nicholas@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information on regulatory background and the EPA's technical findings relating to the Facility RACT, the reader can refer to the Technical Support Document (TSD) that is contained in the EPA docket assigned to this *Federal Register* document.

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I. Background

Ground level ozone is a secondary air pollutant that is created by the chemical reactions that occur when ozone precursors, including nitrogen oxides (NO_X) and volatile organic compounds (VOC), chemically react in the presence of sunlight.[1] Emissions from industrial facilities are anthropogenic sources of ozone precursors. The EPA regulates criteria pollutants, such as ozone, by establishing NAAQS. With respect to this proposed action, there are two relevant ozone NAAQS. First, on March 12, 2008, the EPA promulgated a revision to the ozone NAAQS, setting both the primary and secondary standards at 0.075 parts per million (ppm), averaged over an 8-hour time frame ("The 2008 8-hour Ozone Standard"). *See* 73 FR 16436 (March 27, 2008). Second, on October 1, 2015, the EPA lowered these standards to 0.070 ppm, averaged over an 8-hour time frame ("The 2015 8-hour Ozone Standard"). *See* 80 FR 65292 (October 26, 2015).

The State of New York has two ozone nonattainment areas.[2] CAA section 182 requires states with ozone NAAs to include in their SIPs, among other things, provisions to require the implementation of RACT. In addition, under CAA section 184, the State of New York is located within the Ozone Transport Region (OTR), which means that all major sources of VOC and NOx within the State are subject to statewide RACT requirements. RACT is defined as the lowest emission limit that a source is capable of

[1] ***Primary standards*** provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. ***Secondary standards*** provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

[2] The two ozone nonattainment areas in New York are: (1) Jamestown, and (2) the New York Metro Area, consisting of the Bronx County, Kings County, Nassau County, New York County, Queens County, Richmond County, Rockland County, Suffolk County, Westchester County.

meeting through the application of control technology that is reasonably available considering technological and economic feasibility.[3]

CAA section 184(b)(2) and 182(f)(1) set forth the requirements to establish control measures to implement RACT for major sources of VOC and/or NOx located in the OTR. RACT for a particular source is determined on a case-by-case basis, considering the technological and economic circumstances of the individual source. The New York State Department of Environmental Conservation (NYSDEC) RACT regulations require applicable facilities to meet certain requirements, referred to as "presumptive RACT requirements." These presumptive requirements generally require sources to implement emission limits, control efficiency requirements, specific control technologies, averaging plans, and/or fuel/raw material switching practices.

Under existing NYSDEC RACT regulations, facilities are required to assess all technologically feasible control options that meet the State's cost threshold. The cost threshold for NYSDEC RACT requirements is found under NYSDEC 2013 policy, "DAR-20 Economic and Technical Analysis for Reasonably Available Control Technology (RACT)." Under this policy, facilities must consider in their RACT determinations control technologies that remove VOC or NOx emissions up to a certain cost threshold, expressed in a dollar amount per ton of VOC or NOx removed, which includes an inflation-adjusted economic threshold.[4]

In some instances, the presumptive RACT requirements may not be technologically or economically feasible for a certain source, and the State can make a

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[3] See, EPA, "Guidance for determining acceptability of SIP regulations in non-attainment areas," memo 1976, Roger Strelow, *https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/19761209_strelow_ract.pdf*.

[4] The DAR-20 cost threshold is based on 1994 dollars. State of New York relies on the U.S. Department of Labor, Bureau of Labor Statistics inflationary calculator to adjust the RACT economic feasibility threshold over time for inflation. *See* https://www.bls.gov/data/inflation_calculator.htm.

source-specific RACT determination, which is submitted to the EPA as a SSSIP. A SSSIP should include a facility's RACT plan that demonstrates how a facility will implement RACT; as well as the applicable CAA Title V operating permit conditions that address RACT requirements. Upon the EPA's final approval of a SSSIP, the relevant RACT permit conditions for a Facility become part of the Federally enforceable SIP.

II. The EPA's Evaluation of New York's Submission

This action relates to a SSSIP revision that concerns Athens Generating Plant ("Athens" or "the Facility"), which is combined-cycle power plant that generates 1,080 megawatts (MW) of electricity for sale to New York State's electricity grid system. The sources at issue in this action are the Facility's three combined-cycle Westinghouse 501G combustion turbines, each with a base load of 245 MW, with associated heat recovery steam generators (HRSGs) and steam turbines, each with a base load of 115MW used to generate electricity (Emission Units U-00001, U-00002, and U-00003).

Emission Units U-00001, U-00002, and U-00003 are characterized as combined-cycle combustion turbines with a maximum heat input rate of 10 million Btu per hour or greater, as specified under 6 NYCRR subpart 227-2, "Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NOx)." Although combined-cycle combustion turbines produce NOx emissions while generating electricity, they are more efficient than simple-cycle turbines because they utilize both fuel and steam to power turbines. Specifically, they generate electricity by igniting a mixture of either natural gas or No. 2 distillate fuel oil (oil firing is limited to 1,080 hours annually per unit at Athens) with compressed air and using the resulting hot, expanding exhaust gases, to spin turbine blades that drive a generator to convert the spinning turbine energy into electricity. In addition, rather than allowing for exhaust gases that would have otherwise been released to the atmosphere, they are directed to a HSRG to produce steam, which then spins a steam turbine to generate additional electricity.

NYSDEC's RACT regulations establish RACT requirements for combustion turbines in 6 NYCRR subpart 227-2" last approved by the EPA, into the New York SIP, on July 12, 2013. *See* 78 FR 41846. Specifically, 6 NYCRR 227-2.4(e)(3) requires that the owner or operator of all combustion turbines operating after July 1, 2014, to submit a proposal for RACT to be implemented that includes descriptions of: (1) The available NOx control technologies, the projected effectiveness of the technologies considered, and the costs for installation and operation for each of the technologies; and (2) The technology and the appropriate emission limit selected as RACT considering the costs for installation and operation of the technology.

Because the NYSDEC's RACT regulations at 6 NYCRR 227-2.4(e)(3) require that a source-specific RACT proposal for combustion turbines operating after July 1, 2014, be submitted to the NYSDEC, such source-specific proposals must be submitted to the EPA as a SSSIP. This SSSIP was submitted by the NYSDEC on April 22, 2024, to satisfy such requirements. The EPA has reviewed the RACT determinations in the SSSIP submittal for Emission Units U-00001, U-00002, and U-00003 in a manner that is consistent with the CAA and the EPA's regulations, as interpreted through the EPA's actions and guidance.

As required by 6 NYCRR 227-2.4(e)(3), the Facility submitted a RACT plan, dated October 2020, detailing emission limit requirements for Emission Units U-00001, U-00002, and U-00003. The NYSDEC approved the specified emission limits as adequately implementing RACT for the applicable emission units and submitted them for the EPA's approval. Upon the EPA's final approval of this SSSIP, the RACT variance emission limits for the Facility will become part of the Federally enforceable SIP.

The Facility's RACT plan stated that the existing controls of using a Dry Low NOx (DLN) combustion system when firing natural gas, and water or steam injection when firing distillate fuel oil, both in combination with a Selective Catalytic Reduction

(SCR) are consistent with the best available control technologies (BACT) and Lowest Achievable Emission Rate (LAER) requirements for NOx. Because BACT requirements are more stringent than the applicable NOx RACT requirements,[5] the NYSDEC determined that these emission units comply with the State's applicable NOx RACT requirements under 6 NYCRR part 227-2.4(e).

The NYSDEC reviewed the Facility's RACT plan and determined that the case-by-case emission limits implement RACT for Emission Units U-00001, U-00002, and U-00003. Specifically, the NYSDEC approved the following case-by-case emission limit: (1) The NOx emission limits for the applicable units, as listed under conditions #82 and #83 of the Title V permit, are restricted to 9.0 parts per million by volume (ppmv) corrected to 15% oxygen when firing fuel oil and 2.0 ppmv corrected to 15% oxygen when firing natural gas; (2) Dry Low NOx (DLN) combustion system, when firing natural gas, and water or steam injection, when firing distillate fuel oil, in combination with a Selective Catalytic Reduction (SCR) are considered BACT/LAER; (3) emissions are effectively monitored via Continuous Emissions Monitoring Systems (CEMS), reported on a semi-annual basis, and maintained for up to five years.

The intended effect of New York's SSSIP submission is to establish emission limits for Emission Units U-00001, U-00002, and U-00003. The EPA proposes to determine that the emission limits for Emission Units U-00001, U-00002, and U-00003 implement RACT because: (1) it was demonstrated that no additional control technologies beyond what are currently used at the Facility are technically and economically feasible; (2) the EPA's review of the RBLC indicated that the current existing controls are consistent with BACT/LAER requirements and more stringent than

[5] See TSD, "Background on the Facility," p,.3 for further explanation of how BACT and LAER differ from RACT and why the existing controls at the facility are considered sufficient to satisfy RACT.

RACT requirements; (3) the provisions adequately restrict emissions of NOx and implement sufficient monitoring, reporting, and recordkeeping requirements.

In order to determine what NOx control technologies could be economically and technologically feasible for Emission Units U-00001, U-00002, and U-00003, the EPA reviewed the Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse (RBLC).[6] The EPA's review of the RBLC consisted of searching for controls on existing large combined-cycle combustion turbines permitted in the ten years prior to the Facility's RACT plan. The RBLC confirmed that existing controls at the Facility are representative of BACT/LAER; therefore, these controls are also representative of RACT. In addition, the EPA's review of the RBLC revealed that no similar combined-cycle combustion turbine has NOx controls technologies that are economically feasible, aside from the controls that the Facility has already implemented. Further detail on the RBLC results is provided in the TSD that is available in the docket for this rulemaking.

The NOx RACT emission limits for Emission Units U-00001, U-00002, and U-00003 are specified in Conditions #38, 54, 62, 82, and 83 of the facility's Title V operating permit, which also include monitoring, reporting, and recordkeeping requirements. The state's submittal requests that these portions of the Title V permit be incorporated into the SIP. With this rulemaking, the EPA is proposing to determine that the emission limits for the units, as submitted by the NYSDEC with this SSSIP submittal, represent the lowest limits achievable with reasonably available control technologies, considering technological and economic feasibility. Further detail on the EPA's analysis is provided in the TSD available in the docket for this rulemaking.

III. Proposed Action

[6] The RBLC contains case-specific information on the best available air pollution technologies that have been required to reduce the emission of air pollutants from stationary sources. *See* https://cfpub.epa.gov/rblc/index.cfm?action=Search.BasicSearch&lang=en.

The EPA is proposing to approve this current Source-specific SIP revision because the emission limits included in the SSSIP are demonstrated to implement RACT for Emission Units U-00001, U-00002, and U-00003, that represent three combined-cycle combustion turbines with associated HRSGs and steam turbines. Based on information provided by the NYSDEC in its April 22, 2024 submission, the EPA's review of the RBLC for similar sources and facilities, and an analysis of this SSSIP revision, the EPA proposes to approve the NOx emission limits for Emission Units U-00001, U-00002, and U-00003 located at Athens Generating Plant.

Specifically, the EPA proposes to approve the following limits and associated requirements as implementing RACT: The Facility must: (1) continue to implement the current combined-cycle combustion turbine NOx emission controls of SCR and Dry Low NOx burners for natural gas and SCR and water injection for distillate fuel oil (Condition #38); (2) control emission of NOx to less than 23.4 lbs/hour when firing natural gas and 101.9 lbs/hour when firing fuel oil, as averaged over a 3-hour block via CEMS and reported on a semi-annual basis (Conditions #54 and 62); and (3) limit NOx emissions to 9.0 ppmv corrected to 15% oxygen when firing fuel oil and 2.0 ppmv corrected to 15% oxygen when firing natural gas, as averaged over a 3-hour block via CEMS and reported on a semi-annual basis (Conditions #82 and 83).

IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to Athens Generating Plant's Title V operating permit conditions #38, 54, 62, 82, and 83 as described in section II and III of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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 Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements.

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

Michael Martucci,
Regional Administrator,
Region 2.

[FR Doc. 2025-20499 Filed: 11/19/2025 8:45 am; Publication Date: 11/20/2025]