

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING**Amendments to Tuning Deadline for Reasonably Available Control Technology
Addressing Nitrogen Oxides from Major Stationary Sources**

The Director of the Department of Energy and Environment (“DOEE”), in accordance with the authority set forth in Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984 (the “Air Pollution Control Act”), effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06); Section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4)); and Mayor’s Order 2006-61, dated June 14, 2006, hereby gives notice of his adoption of the following amendments to Chapter 8 (Air Quality - Asbestos, Sulfur, Nitrogen Oxides, Lead, and Carbon Dioxide) of Title 20 (Environment) of the District of Columbia Municipal Regulations (“DCMR”).

Summary of Final Rulemaking

This rulemaking amends Chapter 8 of Title 20 of the DCMR to extend the deadline for tuning the combustion process for fuel burning equipment with a heat input capacity of five million (5,000,000) British thermal units (BTU) per hour or greater. Currently, 20 DCMR § 805.5(b) requires owners or operators of this equipment to adjust the combustion process prior to November 1 of each year.

After the November 1 deadline was established, DOEE received comments from regulated facilities that, due to warmer temperatures in recent years during the fall and early winter, sources are unable to reach the heating load needed to perform complete combustion adjustments before the current November 1 deadline. DOEE proposed an amended tuning deadline of between October 1 and December 31 of each year to alleviate this challenge. *See* Notice of Proposed Rulemaking, 72 DCR 000610 (Jan. 24, 2025).

After reviewing the comments on DOEE’s Notice of Proposed Rulemaking, DOEE found that the extension to December 31 was warranted but that starting the tuning period on October 1 resulted in too constricted of a period for the regulated community. Therefore, the final rulemaking amends 20 DCMR § 805.5(b) to require tune-ups each year, no later than December 31, without a specific start date for the tuning window. The amended timeframe provides greater flexibility for sources to make combustion adjustments and reflects a practice that has become common in other jurisdictions in the eastern United States, as discussed below.

DOEE proposed to repeal paragraph (g) of § 805.5 in its Notice of Proposed Rulemaking because the paragraph is no longer applicable and is finalizing the repeal in this final rule. Paragraph (g) explained how a facility could demonstrate alternative compliance with NO_x RACT on the condition that the facility submitted a proposal by January 1, 2022. Since that date has passed, paragraph (g) is no longer applicable. However, in the Notice of Proposed Rulemaking, DOEE also erroneously proposed to amend subparagraph § 805.5 (f)(3)(B) to include an “; and” at the

end of that subparagraph. Because paragraph (g) is being repealed, DOEE is removing that erroneous proposed amendment to (f)(3)(B) from this final rule.

Discussion of Public Comment

A Notice of Proposed Rulemaking to adopt the amendments to the tuning deadline was published in the *District of Columbia Register* for a thirty (30) day public notice and comment period on January 24, 2025, at 72 DCR 000610. The public comment period ended on February 23, 2025, and no public hearing was requested. The Department received three (3) comment letters on the proposed rulemaking: from George Washington University, the Architect of the Capitol, and All4.

All three commenters expressed concern that the proposed tuning window between October 1 and December 31 was too restrictive due to the inability to tune the units during the months they are most frequently used. Certain units are used more during the summer, while others are used more during cold months at the beginning of the year. One commenter noted that they cannot rely on the consistency of the temperatures in these months, and therefore, there isn't a consistent "ideal time" to tune. Another commenter expressed that the short window would limit the availability of contractors to aid in tuning. DOEE also consulted with the Northeast States for Coordinated Air Use Management and several nearby states—Massachusetts, New Jersey, and New Hampshire—and found that other northeast jurisdictions require annual tune-ups once per calendar year at the source's discretion.

Therefore, DOEE is adjusting the tuning window to reflect that, starting in 2026, each boiler must be tuned once per year, no later than December 31 of that year, with no specific start date for the tuning window.

State Implementation Plan Amendment

In accordance with Section 172(c) of the Clean Air Act (42 U.S. C. § 7502(c)), the District will submit this rulemaking to the United States Environmental Protection Agency for approval as an amendment to the District's State Implementation Plan¹ following publication of this notice in the *District of Columbia Register*. Pursuant to Section 110(l) of the Clean Air Act (42 U.S.C. § 7410(l)), DOEE finds that the deadline adjustment meets the EPA's requirements and does not constitute backsliding.

The Director adopted this rule as final on January 8, 2026. The final rule shall become effective upon publication of this notice in the *District of Columbia Register*.

Chapter 8, AIR QUALITY — ASBESTOS, SULFUR, NITROGEN OXIDES, LEAD, AND CARBON DIOXIDE of Title 20 DCMR, ENVIRONMENT, is amended as follows:

Section 805, REASONABLY AVAILABLE CONTROL TECHNOLOGY FOR MAJOR STATIONARY SOURCES OF THE OXIDES OF NITROGEN, is amended as follows:

¹ Accessible at this link: <https://www.epa.gov/air-quality-implementation-plans/epa-approved-regulations-district-columbia-sip>

Paragraph (b) of Subsection 805.5 is amended to read as follows:

- (b) Beginning January 1, 2022, any fuel burning equipment with a heat input capacity of five million (5,000,000) BTU per hour or greater shall adjust the combustion process in accordance with the procedure and timeline for doing so set forth at § 805.9 and the following schedule:
 - (1) For calendar year 2022 through calendar year 2025, prior to November 1 of that year, and
 - (2) For the calendar year 2026, and subsequent calendar years, prior to December 31 of that year;

Paragraph (g) is repealed.