watercraft and will not be significantly impacted. The drawbridge will open if at least 24-hours advance notice is given and will close for up to 72 hours provided 72-hours advance notice is given to the USCG District Eight Western Rivers Bridge Branch. This temporary deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 24, 2014.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2014–28842 Filed 12–8–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0206; FRL–9920–20-Region 5]

Approval and Promulgation of Implementation Plans; Wisconsin; Nitrogen Oxide Combustion Turbine Alternative Control Requirements for the Milwaukee-Racine Former Nonattainment Area

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 24, 2014, the Wisconsin Department of Natural Resources (WDNR) submitted revisions to the limits found in its nitrogen oxides (NO_X) combustion turbine rule for the Milwaukee-Racine area formerly nonattainment for the 1997 ozone standard. This revision is contained in ''2013 Wisconsin Act 91—Senate Bill 371,'' which provides for alternative NO_X requirements, subject to Environmental Protection Agency (EPA) approval on a case-by-case basis, to determine whether these alternative limits satisfy the reasonably available control technology (RACT) requirements of the Clean Air Act (CAA). EPA proposed to approve this rule as a revision to the State Implementation Plan (SIP) on April 30, 2014, and received adverse comments. EPA subsequently issued a supplemental proposal on October 9, 2014, to address the issue of whether the SIP revision satisfies certain anti-backsliding requirements of the CAA. EPA received an adverse comment on this supplemental proposal on October 23, 2014. After duly considering both this comment and the adverse comments received in response to the April 30, 2014, proposal, EPA is approving this rule because the process established will ensure that modified sources meet RACT and the revision meets the anti-backsliding requirements of the CAA. This final action addresses all of these adverse comments.

DATES: This final rule is effective on December 9, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2014–0206. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* 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 either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, at (312) 886–6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 866–6052, *rosenthal.steven@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for this final approval?

A detailed background for this approval is contained in the April 30, 2014, direct final rule (79 FR 24337), which can also be found in the docket for this action.

Under Wisconsin's current SIP-approved NO_X control program, NR 428, existing simple cycle combustion turbines larger than 84 megawatts (MW) that undergo a major modification after February 2001 must meet the emission limitations set forth in s. NR 428.04(2)(g)1.a. and 2.a. This provision sets NO_X emission limits of 12 or 25 parts per million dry volume (ppmdv) at 15% oxygen (O_2), on a 30-day rolling basis, when firing natural gas or distillate oil, respectively.

The WDNR originally set the NO_X emission limitations for combustion turbines, in NR 428.04(2)(g)1.a. and 2.a., based on the mistaken assumption that dry low NO_X (DLN) combustion technology was feasible and available for both new and modified combustion turbines and that such technology was capable of meeting the established emission limitations. As previously stated, the emission limitations in NR 428.04(2)(g)1.a. and 2.a. apply to simple cycle combustion turbines that are larger than 84 MW (of which there are only four in the Milwaukee-Racine maintenance area) and undergo a major modification. These four combustion turbines are the model 11N turbines that were manufactured by ASEA Brown-Boveri (ABB) and are operated by We Energies at its Paris generating facility. These four combustion turbines were designed and manufactured to use water injection instead of DLN technology to control NO_X emissions. Use of water injection limits NO_X emissions to the alternate levels provided by Wisconsin Act 91 (25 ppmdv, for natural gas and 65 ppmdv for oil), but cannot achieve the emission limits required by NR 428.04(2)(g), Wis. Admin. Code (12 and 25 ppmdv). These combustion turbines are all located in an area that is designated attainment for both the 1997 and 2008 ozone standards, although there is a monitor in the area with a design value that exceeds the 2008 ozone standard for the most recent three-year period for which certified data are available (2011–2013).

For reasons described in the April 30, 2014, direct final rule (79 FR 24337), WDNR has determined that the previously-approved SIP NO_X emission limits for simple cycle combustion turbines that undergo a major modification in the Milwaukee-Racine area are not feasible for the four existing combustion turbines to which these limits would apply. EPA agrees with this determination. The Wisconsin legislature adopted s. 285.27(3m), which became effective on December 15, 2013, to establish feasible RACT limits in the event of a major modification. EPA finds that these limits constitute RACT and issued both a direct final rule and a proposed rule to approve the rule into the SIP.

In response to EPA's rulemaking, the Sierra Club and Midwest Environmental Defense Center provided comments objecting to the proposed revision. One of their comments stated that because two of We Energies' units had undergone modifications in 2002, they were subject to the lower limits of s. NR 428.04(2)(g)1.a. and 2.a. and, as a result, the SIP revision was relaxing the limits for these units and that ''EPA has done no analysis of whether this increase would result in problems maintaining compliance with ozone standards or 1-hour NO_2 standards.''

In response to this comment, EPA withdrew the direct final rule and published a supplemental proposal on October 9, 2014, explaining its basis for concluding that the SIP revision satisfies the anti-backsliding requirements of section 110(l) of the CAA. The Midwest Environmental Defense Center submitted an adverse comment in response to this supplemental proposal.

II. What are EPA's responses to comments?

A. On May 30, 2014, David Bender provided the following comment on behalf of the Sierra Club and Midwest Environmental Defense Center.

Comment—The proposed SIP revision is an unlawful backslide that increases allowable emissions. Contrary to EPA's suggestion that Wis. Stat. section 285.27(3m) ''will not increase allowable NO_X emission rates above current levels for the affected combustion turbines,'' that the provisions of section 285.27(3m) ''are significantly more stringent than the ROP emission limitations'' and ''do not relax current allowable emission requirements,'' the statute is clearly a backslide from the limits that currently apply under the approved Wisconsin SIP.

The Paris Generating Station emission units P01 and P04 were modified in June 2002. Therefore, from June 2002, to the present, those units were subject to the 12 ppmdv and 25 ppmdv limits in NR 428.04(2)(g)1.a. and 2.a. when burning natural gas and oil, respectively. WDNR's submission incorrectly suggests that currently-applicable NO_X limits are higher than the proposed 25 ppm limit, when in fact the currently applicable NO_X limits are significantly lower than 25 ppm. The limits that EPA proposes to adopt would increase the allowable emissions from units P01 and P04 by more than 100 percent. This is an unlawful backslide. Moreover, EPA has done no analysis of whether this increase would result in problems maintaining compliance with ozone standards or 1-hour NO_2 standards.

EPA response—EPA notes the point raised by the commenters that, although the rule is not expected to result in any units operating at higher emissions rates than in the past, the rule would increase the emissions limits applicable to these sources under the SIP.[1] Section 110(l) of the CAA provides in part that, ''The Administrator shall not approve a revision of a [SIP] if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of [the Act].''

In order to avoid any potential for interference with attainment or maintenance of the NAAQS for ozone and nitrogen dioxide, Wisconsin has identified contemporaneous, offsetting emission reductions of NO_X from a different emission source to compensate for the change in the SIP limits for NO_X proposed in the rule at issue.[2] We explained in the supplemental proposal for this action (79 FR 61042) how Wisconsin calculated the appropriate amounts of offsets, and additional information on the source of the offsets.

Wisconsin submitted to EPA 54.6 tons per year of excess NO_X emission credits generated by the South Oak Creek (SOC) Unit 5 generating facility to be used to address potential backsliding under this SIP revision. Wisconsin also notes that a total of 61,970 tons of NO_X was emitted in the Milwaukee-Racine ozone area from all sources in 2011. The emission reductions of 54.6 tons per year being addressed here for anti-backsliding represents less than 0.07% of that total. Taking these offsets into account, EPA has concluded that approval of this SIP revision will not interfere with attainment or maintenance of the ozone or NO_2 NAAQS, or any other applicable CAA requirement.

B. On October 23, 2014, Karen J.T. Jansen, on behalf of the Midwest Environmental Defense Center, submitted the following comment in response to EPA's supplemental proposed rule.

Comment—The proposed rule constitutes impermissible backsliding under CAA Section 110(l) and the EPA should not approve the proposed rule.

The Paris Generating Station emission units P01 and P04 underwent a major modification in June 2002, which changed those units' NO_X emission limits to 12 ppmdv when burning gas and 25 ppmdv when burning oil. The proposed rule would raise these limits to 25/65 ppmdv. This is a huge increase. According to the WDNR, the amount of NO_X at issue is only .07% of the ozone area's total; however, each increase in NO_X emission limits contributes to SIP attainment or non-attainment. Increasing these NO_X limits by over 100% contributes, however incrementally, to unlawful backsliding.

While the WDNR has identified the SOC Unit 5 as an offsetting option, it assumes that the Paris Generating Station was meeting the 25 ppmdv limits, while it actually regularly exceeded 25 ppmdv. The station is currently shut down due to a compliance order from the WDNR, so its actual emissions are unknown. Based on its past history, it is likely that the Paris Generating Station will exceed the calculated 25 ppmdv. Because of the unlawful backsliding, the EPA must reject the proposed rule.

EPA response—As discussed above, EPA agrees that the rule would increase the emissions limits applicable to these sources under the SIP. In order to avoid any potential for interference with attainment or maintenance of the NAAQS for ozone and nitrogen oxide, Wisconsin has identified contemporaneous, offsetting emission reductions of NO_X from a different emission source to compensate for the change in the SIP limits for NO_X proposed in the rule at issue.

Wisconsin has identified enforceable emission reductions to be used in offsetting the 54.6 tons per year of excess emissions in order to offset any backsliding. These emission reductions are generated by enforceable emission limitations currently in place for the SOC Unit 5 electric generating facility, which operates in the Milwaukee-Racine former ozone nonattainment area.

There is no guarantee that any source will always comply with its SIP limit. However, if the Paris units exceed their SIP limits, they become subject to an enforcement action. Furthermore, Wisconsin has documented that the Paris combustion turbines have been in compliance with the 25 ppmdv limit since at least May 2009.

C. On May 30, 2014, David Bender also provided the following comment on behalf of the Sierra Club and Midwest Environmental Defense Center.

Comment—EPA relies on a best available control technology (BACT) determination by WDNR in 2008 for the Concord Generating Station to find that

[1] As noted above, EPA believes that the emissions rates in the SIP are technically infeasible for these sources to meet.

[2] As the offset is for NO_X emissions, the analysis is equally applicable to the NAAQS for ozone and nitrogen dioxide.

selective catalytic reduction (SCR) technology is too costly to be the basis for a RACT limit for the Paris plant. The only basis for finding 25/65 ppm is an appropriate RACT limit is the Concord BACT determination. But, because the Concord BACT determination was wrong, there is no basis to find that the 25/65 ppm limit constitutes RACT. The commenter goes on to criticize Wisconsin's BACT determination both for incorrectly determining the cost-effectiveness of an SCR to be $8,236 per ton of NO_X removed and also for its criteria in evaluating BACT.

EPA response—The purpose of our referring to the Concord BACT determination process was to explain how the State identified the issue that the emission limits in the approved SIP, which were based on DLN technology, were adopted in error. Based on the information submitted by the State, we agree that DLN is not feasible at this time for the four combustion turbines to which the limits that were promulgated in error might apply. This action is not reviewing or approving the BACT process for the Concord facility.

Once the State identified the infeasibility of the standards in the existing SIP, a determination of RACT was made. For purposes of meeting the RACT requirement of the CAA, the BACT determination is not dispositive as the two standards are different. RACT is ''reasonably available control technology'' and BACT is ''best available control technology.'' For purposes of determining whether the revised limits are RACT, the State looked at emission limits that apply to similar turbines at other facilities. None of those facilities were subject to limits tighter than those the State of Wisconsin has adopted and the commenter does not identify any sources subject to tighter RACT limits. Moreover, we note that before a turbine would be subject to the newly adopted, less stringent limits, the source would need to demonstrate that it was not technologically or economically feasible to meet the tighter limits and EPA would need to approve such demonstration.

III. What action is EPA taking?

EPA is approving Section 1.285.27(3m), into Wisconsin's NO_X SIP.

Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, APA section 553(d) allows an effective date less than 30 days after publication for a rule that ''that grants or recognizes an exemption or relieves a restriction.'' 5 U.S.C. 553(d)(1). Since today's action relieves a restriction (*i.e.,* NO_X emission limits of 12 or 25 ppmdv at 15% O_2, on a 30-day rolling basis) that prohibited these turbines from operating, EPA is making this action effective immediately upon publication.

IV. Statutory and Executive Order Reviews

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

This rule 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 as specified by Executive Order 13175, nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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).

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 February 9, 2015. 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 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Nitrogen oxides.

Dated: November 24, 2014.

Susan Hedman,

Regional Administrator, Region 5.

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.*

■ 2. Section 52.2570 is amended by adding paragraph (c)(133) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(133) On February 24, 2014, the Wisconsin Department of Natural Resources submitted revisions to its nitrogen oxide (NO_X) combustion turbine rule for the Milwaukee-Racine former nonattainment area for the 1997 ozone standard. This revision is contained in ''2013 Wisconsin Act 91—Senate Bill 371'' which allows alternative NO_X emission requirements for simple cycle combustion turbines, that undergo a modification on or after February 1, 2001, if dry low NO_X combustion is not technically or economically feasible. This revision is approvable because it provides for alternative NO_X requirements subject to EPA approval on a case-by-case basis and therefore satisfies the reasonably available control technology (RACT) requirements of the Clean Air Act (Act).

(i) *Incorporation by reference.* Wisconsin statute, Section 285.27(3m), Exemption from Standards for Certain Combustion Turbines, as revised by 2013 Wisconsin Act 91 enacted December 13, 2013. (A copy of 2013 Wisconsin Act 91 is attached to Section 285.27(3m) to verify the enactment date.)

[FR Doc. 2014–28727 Filed 12–8–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0968; FRL–9920–15–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Open Burning Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a November 14, 2011, request by Indiana to revise the state implementation plan (SIP) to update the open burning provisions in Title 326 of the Indiana Administrative Code (IAC), Article 4, Rule 1 (326 IAC 4–1), Open Burning Rule. This action applies statewide, with the exception of Clark, Floyd, Lake and Porter counties. EPA is approving this rule for attainment counties and is taking no action on the rule for Clark, Floyd, Lake and Porter counties which are nonattainment or maintenance areas for ozone (O_3) or particulate matter (PM).

DATES: This final rule is effective on January 8, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2011–0968. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* 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 either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886–6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is EPA addressing in this document?

On September 17, 2014 (79 FR 55641, 79 FR 55712), EPA published a direct final approval of revisions to 326 IAC 4–1, Indiana's open burning rule. The revisions improve and expand the applicability of open burning and its impact on air quality statewide.

On November 5, 2014, EPA withdrew the direct final approval because of an adverse comment (79 FR 65589). In this document EPA is responding to the comment and taking final action to approve Indiana's SIP revision request.

II. Public Comment Received and EPA's Response

EPA received one adverse comment on the September 17, 2014, proposed approval of this Indiana rule.

Comment: Commenter disagrees with approval of Indiana's open burning rule. Commenter says the wind in Indiana moves in an easterly direction and that fine PM emissions from Indiana contributes to the cause of serious health effects (lung cancer, heart attacks, strokes, asthma, pneumonia, and allergies) for all people breathing the polluted air from Indiana. The commenter also said that the allowance of open burning hurts the nation and raises the concern of huge health costs for people breathing dirty air from Indiana.

EPA Response: EPA agrees that exposure to fine PM may be linked to a number of health related problems. The revision to rule 326 IAC 4–1 strengthens Indiana's existing open burning rule by reducing the amount of open burning allowed to take place in Indiana, thereby reducing the exposure of the general population to PM emissions and minimizing health care costs.

III. What action is EPA taking?

EPA is approving the November 14, 2011, request by IDEM to revise Indiana's SIP to update 326 IAC 4–1, Indiana's Open Burning Rule, because reducing open burning will reduce PM, volatile organic compounds, and other pollutants. EPA's action applies statewide, with the exception of Clark, Floyd, Lake and Porter counties. EPA is taking no action in Clark, Floyd, Lake, and Porter counties which are nonattainment or maintenance areas for O_3 or PM.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);