

## (1) EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
<b>Subchapter 2D Air Pollution Control Requirements</b>				
*	*	*	*	*
<b>Section .0500 Emission Control Standards</b>				
*	*	*	*	*
Section .0544 .....	Prevention of Significant Deterioration Requirements for Greenhouse Gases.	9/1/2015	8/8/2019, [Insert citation of publication].	The July 20, 2011 incorporation by reference date of 40 CFR 51.166 found in paragraph (o) does not incorporate the text of the federal Biomass Deferral Rule at 51.166(b)(48)(ii)(a).
*	*	*	*	*

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[FR Doc. 2019-16781 Filed 8-7-19; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2019-0157; FRL-9997-59-Region 2]

### Approval of Air Quality Implementation Plans; New York; Cross-State Air Pollution Rule; NO<sub>x</sub> Ozone Season Group 2, NO<sub>x</sub> Annual, and SO<sub>2</sub> Group 1 Trading Programs

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve revisions to the New York State Implementation Plan (SIP) addressing requirements of the Cross-State Air Pollution Rule (CSAPR). Under the CSAPR, large electricity generating units in New York are subject to Federal Implementation Plans (FIPs) requiring the units to participate in CSAPR federal trading programs for ozone season emissions of nitrogen oxides (NO<sub>x</sub>), annual emissions of NO<sub>x</sub>, and annual emissions of sulfur dioxide (SO<sub>2</sub>). This action approves into New York's SIP the State's regulations that replace the default allowance allocation provisions of the CSAPR federal trading programs for ozone season NO<sub>x</sub>, annual NO<sub>x</sub>, and annual SO<sub>2</sub> emissions.

**DATES:** This final rule is effective on August 8, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket ID number EPA-R02-OAR-2019-0157. All documents in the docket are listed on

the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, e.g., confidential business information 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 [www.regulations.gov](http://www.regulations.gov), or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Fradkin, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3702, or by email at [fradkin.kenneth@epa.gov](mailto:fradkin.kenneth@epa.gov).

#### SUPPLEMENTARY INFORMATION

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#### I. Background

On May 21, 2019 (84 FR 22995 and 84 FR 22972), EPA simultaneously published a proposed rule and a direct final rule to approve New York's November 30, 2018 SIP submittal concerning CSAPR<sup>1</sup> trading programs for ozone-season emissions of NO<sub>x</sub>, annual emissions of NO<sub>x</sub>, and annual emissions of SO<sub>2</sub>. The proposed rule and direct final rule also acted to approve New York's revised list of

definitions that was submitted to the EPA on July 23, 2015.

The EPA received a public comment on the proposed rule and intended to withdraw the direct final rule prior to the effective date of June 20, 2019. However, the EPA inadvertently did not withdraw the direct final rule prior to that date and the rule prematurely became effective on June 20, 2019, revising the New York SIP to include revised versions of Title 6 of the New York Codes, Rules and Regulations (6 NYCRR), Part 200, Subpart 200.1; 6 NYCRR Part 200, Subpart 200.9; 6 NYCRR Part 243; 6 NYCRR Part 244; and 6 NYCRR 245 on that date. In this action, as described in more detail below, the EPA is responding to the public comment submitted on the proposed revisions to New York's SIP, approves the revised versions of these regulations in New York's SIP, and is amending the effective date of the regulations' inclusion into the SIP to correct our failure to withdraw the direct final rule prior to June 20, 2019.

Large Electric Generating Units (EGUs) in New York are subject to CSAPR FIPs that require the units to participate in the federal CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program, the federal CSAPR NO<sub>x</sub> Annual Trading Program, and the federal CSAPR SO<sub>2</sub> Group 1 Trading Program. CSAPR provides a process for the submission and approval of SIP revisions to replace certain provisions of the CSAPR FIPs while the remaining FIP provisions continue to apply. This type of CSAPR SIP is termed an abbreviated SIP.

The New York State Department of Environmental Conservation (DEC) amended portions of Title 6 of the New York Codes, Rules and Regulations to incorporate CSAPR requirements into

<sup>1</sup> Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48208 (August 8, 2011) (codified as amended at 40 CFR 52.38 and 52.39 and 40 CFR part 97).

the State's rules and allow the DEC to allocate CSAPR allowances to regulated entities in New York. 6 NYCRR Part 243, "Transport Rule NO<sub>x</sub> Ozone Season Trading Program," has been repealed and replaced in its entirety with a new rule, 6 NYCRR Part 243, "CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program." 6 NYCRR Part 244, "Transport Rule NO<sub>x</sub> Annual Trading Program," has been repealed and replaced in its entirety with a new rule, 6 NYCRR Part 244, "CSAPR NO<sub>x</sub> Annual Trading Program." 6 NYCRR Part 245, "Transport Rule SO<sub>2</sub> Group 1 Trading Program," has also been repealed and replaced in its entirety with a new rule, 6 NYCRR Part 245, "CSAPR SO<sub>2</sub> Group 1 Trading Program." Attendant revisions were made to 6 NYCRR Part 200, "General Provisions," to update the list of referenced materials at Subpart 200.9 that are cited in the amended New York regulations.

In the notice of proposed rulemaking, the EPA had proposed to approve into the New York SIP the revised versions of 6 NYCRR Parts 200 (Subpart 200.9), 243, 244, and 245 included in the November 30, 2018 submission. The EPA also proposed to repeal from the SIP previous versions of 6 NYCRR Part 243, 6 NYCRR Part 244, and 6 NYCRR Part 245 which implemented New York's discontinued Clean Air Interstate Rule (CAIR) trading program. New York adopted amendments to 6 NYCRR Part 243, 6 NYCRR Part 244, and 6 NYCRR Part 245 that repealed and replaced CAIR trading program rules with CSAPR trading rules on November 12, 2015. Subsequently, on November 11, 2018, New York adopted amendments to 6 NYCRR Part 243, 6 NYCRR Part 244, and 6 NYCRR Part 245 that repealed and replaced the November 12, 2015 adopted rules that implemented New York's CSAPR program with new versions of New York's CSAPR trading program rules. The rules proposed to be repealed from the SIP were 6 NYCRR Part 243, "CAIR NO<sub>x</sub> Ozone Season Trading Program," 6 NYCRR Part 244, "CAIR NO<sub>x</sub> Annual Trading Program," and 6 NYCRR Part 245, "CAIR SO<sub>2</sub> Trading Program."

The EPA also proposed to approve into the New York SIP a revised version of 6 NYCRR Part 200 (Subpart 200.1) to address updated definitions at Part 200.1(f) that were submitted to the EPA on July 23, 2015, and that were associated with a repeal of 6 NYCRR Part 203, "Indirect Sources of Air Contamination."

The revised versions of 6 NYCRR Parts 200 (Subpart 200.9), 243, 244, and 245 included in the November 30, 2018

SIP submission replace the previous versions of those rules that were included in a December 1, 2015 SIP submission. The EPA identified deficiencies in the December 1, 2015 submission but on November 20, 2017 conditionally approved those previous versions of Parts 200, 244, and 245 (but not Part 243) into the SIP (82 FR 57362, December 5, 2017). In a July 6, 2017 letter to the EPA, New York committed to submitting a SIP revision that addressed the identified deficiencies by December 29, 2017. However, New York's response to the conditional approval was not submitted to the EPA by December 29, 2017. The November 30, 2018 SIP submittal addresses the identified deficiencies, but was submitted approximately 11 months late, so the conditional approval is treated as a disapproval.

The EPA did not take action on the previous version of 6 NYCRR Part 243 included in New York's December 1, 2015 submission. Following that submission, the EPA finalized the CSAPR Update rule<sup>2</sup> to address Eastern states' interstate air pollution mitigation obligations with regard to the 2008 Ozone National Ambient Air Quality Standard (NAAQS). Among other things, starting in 2017 the CSAPR Update required New York EGUs to participate in the new CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program instead of the earlier CSAPR NO<sub>x</sub> Ozone Season Trading Program (now renamed the "Group 1" program) and replaced the ozone season budget for New York with a lower budget developed to address the revised and more stringent 2008 Ozone NAAQS. In a July 14, 2016 letter to the EPA, New York indicated that the State would revise 6 NYCRR Part 243 to conform with the final CSAPR Update. As indicated earlier in this section New York repealed 6 NYCRR Part 243 and replaced the rule in its entirety with a new rule, 6 NYCRR Part 243, "CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program".

In this action, the EPA is responding to the public comment submitted on the proposed revisions to New York's SIP, approves the revised versions of 6 NYCRR Part 200, Subpart 200.1; 6 NYCRR Part 200, Subpart 200.9; 6 NYCRR Part 243; 6 NYCRR Part 244; and 6 NYCRR Part 245 regulations in New York's SIP, and is amending the effective date of the regulations' inclusion into the SIP to correct our failure to withdraw the direct final rule (after the EPA received adverse public comments) prior to the June 20, 2019 effective date of the direct final rule.

<sup>2</sup> 81 FR 74504 (October 26, 2016).

This action approves into New York's SIP state-determined allowance allocation procedures for ozone-season NO<sub>x</sub> allowances that would replace EPA's default allocation procedures for the control periods in 2021 and beyond. Additionally, this action EPA approves into the New York's SIP state-determined allowance allocation procedures for annual NO<sub>x</sub> and SO<sub>2</sub> allowances that would replace EPA's default allocation procedures for the control periods in 2023 and beyond. The approval of this SIP revision does not alter any provision, other than the allowance allocation provisions, of either the CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program, the CSAPR NO<sub>x</sub> Annual Trading Program or the CSAPR SO<sub>2</sub> Group 1 Trading Program as applied to New York units. The FIP provisions requiring those units to participate in the programs (as modified by this SIP revision) remain in place.

## II. Public Comment and EPA Response

During the public comment period, the EPA received one relevant comment, which was submitted anonymously. The comment and the EPA's response are discussed in this section of this rulemaking action.

*Comment:* The commenter argues that EPA should disapprove New York's SIP revision because EPA's regulations do not allow for allocation to a separate account like the Energy Efficiency and Renewable Energy Technology (or EERET) account. The commenter states that New York has no authority to unilaterally designate emission credits to an account that is supposed to be for emission units to be able to operate and provide electricity generation to the citizens of New York and the surrounding states.

The commenter also states that the EPA must remove the FIP in place because the EPA has no authority to regulate electricity generation; the CSAPR Update FIPs are illegal and unauthorized as EPA has no authority to regulate beyond the fence line; and that multi-state and multi-facility emission control schemes are illegal. The commenter further states that the EPA must disapprove the SIP since it follows illegal rules and cites the EPA's June 19, 2019 Affordable Clean Energy (or ACE) rule as support for this position.

*Response:* The EPA disagrees with the commenter that EPA's regulations do not allow for allocation to a separate account like the EERET account, and that New York does not have the authority to designate emission credits to the EERET account. The commenter has not identified any provision of the

CSAPR regulations which they assert precludes New York's approach.

CSAPR includes provisions which allow states to submit, for approval into the SIP, revisions to modify or replace the CSAPR FIP requirements while allowing states to continue to meet their transport-related obligations.<sup>3</sup> Through such a SIP revision, a state may replace EPA's default provisions for allocating emission allowances among the state's units by employing any state-selected methodology to allocate or auction the allowances, subject to timing and other criteria. Additionally, EPA's CSAPR rule does not preclude the use of an energy efficiency set-aside by the state.

New York adopted amendments to 6 NYCRR Part 243, 6 NYCRR Part 244, and 6 NYCRR Part 245 on November 11, 2018. New York submitted amended 6 NYCRR Parts 243, 244, and 245 to the EPA as a SIP revision on November 30, 2018. The EPA reviewed and evaluated New York's submittal and proposed to find it approvable because it met CSAPR rule requirements. These requirements included: Meeting timeliness and completeness criteria for submission of the CSAPR SIP; New York's allocation methodology covered all allowances potentially requiring allocation by the state, including allocations to existing and new units, as well as provisions for the disposition of unallocated Indian country new-unit set-asides; New York's methodology provided assurance that state allocations do not exceed the state budget; New York's methodology provided for the submission of state determined allocations by CSAPR rule deadlines; New York's rules included no provisions allowing for alteration of allocations submitted to EPA or recorded; and New York's rules make no other substantive changes to the federal trading program regulations beyond the provisions addressing allowance allocations. The EPA's final approval of a State's rules would allow the state-selected methodology to replace EPA's default allocations, including allocating emissions allowances to an EERET account.

Because EPA's review of the SIP was only to evaluate compliance with the CSAPR regulations, the portions of the comment addressing the legality of the CSAPR Update FIPs are beyond the scope of this rulemaking. The rulemaking promulgating the CSAPR Update FIPs was separately finalized in 2016, and the EPA did not reopen the determinations made in the 2016 final action in its review of New York's SIP. Any comments on the legality the CSAPR Update should have been raised

during the public comment period in that rulemaking pursuant to CAA section 307(d)(7)(B), and any challenges to the determinations made in that action are properly raised pursuant to CAA section 307(b)(1) in legal challenges to that final action. Such challenges are currently pending in the D.C. Circuit, *see Wisconsin v. EPA*, No. 16-1406 (D.C. Cir.). Such issues are not appropriately raised in comment on EPA's review of a SIP submission merely to determine the state's compliance with EPA's CSAPR regulations.

### III. What action is EPA taking?

The EPA is approving the New York SIP revision submitted on November 30, 2018 concerning allocations to New York units of CSAPR NO<sub>x</sub> Ozone Season Group 2 allowances for the control periods in 2021 and beyond and of CSAPR NO<sub>x</sub> Annual allowances and CSAPR SO<sub>2</sub> Group 1 allowances for the control periods in 2023 and beyond. This rule approves into the New York SIP amendments to 6 NYCRR Parts 243, 244 and 245 that incorporate CSAPR requirements into the State rules and allows the DEC to allocate CSAPR allowances to regulated entities in New York. The EPA is also approving the attendant revisions to 6 NYCRR Part 200 (Subpart 200.9) to update the list of referenced materials cited in the amended New York regulations. The EPA is also approving the New York SIP revision submitted on July 23, 2015, which included a revised version of 6 NYCRR Part 200 (Subpart 200.1) to address updated definitions associated with a repeal of 6 NYCRR Part 203, "Indirect Sources of Air Contamination".

The EPA is also approving the repeal from the SIP previous versions of 6 NYCRR Part 243, 6 NYCRR Part 244, and 6 NYCRR Part 245 which implemented New York's discontinued CAIR trading program. The rules being repealed from the SIP are 6 NYCRR Part 243, "CAIR NO<sub>x</sub> Ozone Season Trading Program,"; 6 NYCRR Part 244, "CAIR NO<sub>x</sub> Annual Trading Program,"; and 6 NYCRR Part 245, "CAIR SO<sub>2</sub> Trading Program."

The EPA is also amending the effective date of the inclusion of these revisions to New York's SIP because the revisions were added to the SIP prematurely on June 20, 2019 when EPA failed to withdraw its direct final rule after receiving a comment on our proposed approval of New York's regulations that replace the default allocation provisions of the CSAPR federal trading programs. This rule which responds to the comment

received finalizes our approval and corrects the premature effective date for inclusion in New York's SIP of revised versions of 6 NYCRR Part 200, Subpart 200.1; 6 NYCRR Part 200, Subpart 200.9; 6 NYCRR Part 243; 6 NYCRR Part 244; and 6 NYCRR Part 245.

Following the approval into the SIP of the revisions to 6 NYCRR Parts 200, 243, 244, and 245, allocations of CSAPR NO<sub>x</sub> Ozone Season Group 2 allowances, CSAPR NO<sub>x</sub> Annual allowances, and CSAPR SO<sub>2</sub> Group 1 allowances will be made according to the provisions of New York's SIP instead of 40 CFR 97.411(a), 97.411(b)(1), 97.412(a), 97.611(a), 97.611(b)(1), 97.612(a), CFR 97.811(a), 97.811(b)(1), and 97.812(a). The EPA's action on this SIP revision does not alter any provisions of the federal CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program, the federal CSAPR NO<sub>x</sub> Annual Trading Program, and the federal CSAPR SO<sub>2</sub> Group 1 Trading Program as applied to New York units other than the allowance allocation provisions, and the FIPs requiring the units to participate in the programs (as modified by this SIP revision) remain in place. The EPA is approving Parts 200, 243, 244 and 245 because New York's rules meet the requirements of the CAA and the EPA's regulations for an abbreviated SIP revision and will replace EPA's default allocations of CSAPR emission allowances with state-determined allocations, as discussed in sections I and II above.

This final rule is effective immediately upon publication in the **Federal Register**. Section 553(d) of the Administrative Procedure Act (5 U.S.C. 553(d)), which generally provides that final rules may not take effect earlier than 30 days after publication in the **Federal Register** but allows exceptions where an agency finds good cause and publishes its finding with the rule, applies to this action. In this rule, in accordance with options CSAPR makes available to states, EPA is approving into New York's SIP the State's rules which include allocation provisions to replace the default federally-established allocations for control periods in 2021 and later years.<sup>4</sup> The sooner this rule is effective, the sooner allowances eligible for use for the 2021 control period can

<sup>4</sup> Under the CSAPR trading programs, allowance allocations are recorded up to four years in advance of the control periods for which the allowances are issued. New York's allowance allocation procedures for ozone season NO<sub>x</sub> allowances would replace EPA's default allocation procedures for the control periods in 2021 and beyond. New York's allowance allocation procedures for annual NO<sub>x</sub> and SO<sub>2</sub> allowances would replace EPA's default allocation procedures for the control periods in 2023 and beyond.

<sup>3</sup> See 40 CFR 52.38, 52.39.

be issued to affected sources in New York in the amounts determined under New York rules. EPA therefore finds good cause to make this final rule effective immediately upon publication in the **Federal Register**.

#### IV. Incorporation By Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of revisions to 6 NYCRR Parts 200, Subpart 200.1, entitled “General Provisions, Definitions,” adopted April 18, 2013; 6 NYCRR Part 200, Subpart 200.9, entitled “General Provisions, Referenced Material,” adopted on November 11, 2018; 6 NYCRR Part 243, entitled “CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program,” adopted November 11, 2018; 6 NYCRR Part 244, entitled “CSAPR NO<sub>x</sub> Annual Trading Program,” adopted November 11, 2018; and NYCRR Part 245, entitled “CSAPR SO<sub>2</sub> Group 1 Trading Program,” adopted November 11, 2018. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov), and at the EPA Region 2 Office. Copies of materials incorporated may be inspected at the Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, New York, New York 10007. Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update of the SIP compilation.<sup>5</sup>

#### V. 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 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 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
  - Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; 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, 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).
- 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 7, 2019. 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, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: July 22, 2019.

**Peter D. Lopez,**  
Regional Administrator, Region 2.

Part 52 chapter I, title 40 of the Code of Federal Regulations 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 A—General Provisions

##### § 52.38 [Amended]

- 2. In § 52.38, paragraph (b)(13)(iii) is amended by removing “[none].” and adding in its place “New York.”.

#### Subpart HH—New York

- 3. In § 52.1670, paragraph (c) is amended by revising the table entries “Title 6, Part 200, Subpart 200.1”, “Title 6, Part 200, Subpart 200.9”, “Title 6,

<sup>5</sup> 62 FR 27968 (May 22, 1997).

Part 243”, “Title 6, Part 244”, and “Title 6, Part 245” to read as follows:

**§ 52.1670 Identification of plan.**

(c) \* \* \*

**EPA-APPROVED NEW YORK STATE REGULATIONS AND LAWS**

State citation	Title/subject	State effective date	EPA approval date	Comments
* Title 6, Part 200, Subpart 200.1.	* General Provi- sions, Defini- tions.	* 05/19/2013	* 08/08/2019	* The word odor is removed from the Subpart 200.1(d) definition of “air contaminant or air pollutant.”  Redesignation of non-attainment areas to attainment areas (200.1(av)) does not relieve a source from compliance with previously applicable requirements as per letter of Nov. 13, 1981 from H. Hovey, NYSDEC. Changes in definitions are acceptable to EPA unless a previously approved definition is necessary for implementation of an existing SIP regulation. EPA is including the definition of “federally enforceable” with the understanding that (1) the definition applies to provisions of a Title V permit that are correctly identified as federally enforceable, and (2) a source accepts operating limits and conditions to lower its potential to emit to become a minor source, not to “avoid” applicable requirements. • EPA is approving incorporation by reference of those documents that are not already federally enforceable. • EPA approval finalized at [insert <b>Federal Register</b> citation].
* Title 6, Part 200, Subpart 200.9.	* General Provi- sions, Ref- erenced Mate- rial.	* 01/02/2019	* 08/08/2019	* • EPA is approving reference documents that are not Federally enforceable. • EPA approval finalized at [insert <b>Federal Register</b> citation].
* Title 6, Part 243 ..	* CSAPR NO <sub>x</sub> Ozone Season Group 2 Trad- ing Program.	* 01/02/2019	* 08/08/2019	* • EPA approval finalized at [insert <b>Federal Register</b> citation].
* Title 6, Part 244 ..	* CSAPR NO <sub>x</sub> An- nual Trading Program.	* 01/02/2019	* 08/08/2019	* • EPA approval finalized at [insert <b>Federal Register</b> citation].
* Title 6, Part 245 ..	* CSAPR SO <sub>2</sub> Group 1 Trad- ing Program.	* 01/02/2019	* 08/08/2019	* • EPA approval finalized at [insert <b>Federal Register</b> citation].

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[FR Doc. 2019-16789 Filed 8-7-19; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA-HQ-SFUND-1987-0002; FRL-9997-43-Region 7]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Shaw Avenue Dump Superfund Site**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 7 announces the deletion of Operable Unit 1—Chemical Fill and Contaminated Soil (OU1) of the Shaw Avenue Dump Superfund Site (Site) located in Charles City, Floyd County, Iowa, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This partial deletion pertains to Operable Unit (OU) 1—Chemical Fill and Contaminated Soil. OU 2—Groundwater will remain on the NPL and is not being considered for deletion as part of this action. The EPA and the State of Iowa, through the Iowa Department of Natural Resources,

determined that all appropriate response actions under CERCLA other than operations and maintenance and five-year reviews have been completed at OU1. However, this deletion does not preclude future actions under CERCLA.

**DATES:** This action is effective August 8, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket ID no. EPA-HQ-SFUND-1987-0002. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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