

respectively. While we approved the original SIP revisions on December 27, 2000 (65 FR 81743), we identified technical corrections the states needed to make to the NO<sub>x</sub> budgets for non-electric generating units and highway mobile sources. Today's action approves those technical corrections into the SIP for each state.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This action will be effective August 19, 2003 without further notice unless the EPA receives adverse comments by July 21, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments

are received, the public is advised that this rule will be effective on August 19, 2003 and no further action will be taken on the proposed rule.

## II. Why Is EPA Taking This Action?

On December 27, 2000 (65 FR 81743) we published a Final Rulemaking Notice (FRN) for the States of Connecticut, Massachusetts and Rhode Island, approving each state's SIP revision for a Nitrogen Oxides Budget and Allowance Trading Program. Each state submitted its SIP revision in response to EPA's October 27, 1998 (63 FR 57356) regulation "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." While we approved the SIP revisions as SIP strengthening measures meeting the air quality objectives of the NO<sub>x</sub> SIP Call, we noted that we could not fully approve the SIP revisions as meeting the NO<sub>x</sub> SIP Call because of an inconsistency with the non-electric generating unit (non-EGU) and highway mobile source NO<sub>x</sub> budgets for these three states.

Connecticut, Massachusetts and Rhode Island submitted their NO<sub>x</sub> SIP

Call revisions in September 1999, November 1999, and October 1999, respectively. The three states adopted the baseline NO<sub>x</sub> emissions and NO<sub>x</sub> budgets established by EPA in its technical amendments to the NO<sub>x</sub> SIP Call budgets published on May 14, 1999 (64 FR 26298). Baseline NO<sub>x</sub> emissions and NO<sub>x</sub> budget were included for the following categories; electric generating units (EGU), non-EGUs, area sources, non-road mobile sources and highway mobile sources. The state NO<sub>x</sub> budgets for each category, except the EGU category, were adopted directly from the EPA's May 14, 1999 **Federal Register** notice. The EGU NO<sub>x</sub> budgets were adopted from the Memorandum of Understanding (MOU) between Massachusetts, Connecticut, Rhode Island and EPA. The MOU redistributed the EGU portions of the state NO<sub>x</sub> budgets to better reflect each state's existing EGU NO<sub>x</sub> budget under the Ozone Transport Commission's NO<sub>x</sub> control program. See the September 15, 1999 (64 FR 50036) notice of proposed rulemaking for more information on the MOU. The resulting NO<sub>x</sub> budgets for each state were submitted as part of the supporting NO<sub>x</sub> SIP Call narrative material. See table 1 for NO<sub>x</sub> budgets submitted by the states in 1999.

TABLE 1.—STATE NO<sub>x</sub> BUDGETS FOR CT, MA AND RI APPROVED BY EPA ON DECEMBER 27, 2000

State NO <sub>x</sub> budgets	EGU point sources	Non-EGU point sources	Area sources	Non-road mobile sources	Highway mobile sources	Total
CT .....	4,564	4,970	4,821	10,736	19,902	44,993
MA .....	23,490*		11,048	20,166	28,641	83,345
RI .....	985	2,031	448	2,455	3,879	9,798

\*Massachusetts combines the EGU and Non-EGU sectors.

Subsequent to the states submission of the NO<sub>x</sub> SIP Call revisions, the EPA issued additional technical amendments to the NO<sub>x</sub> SIP call on March 2, 2000 (65 FR 11222) further revising the baseline NO<sub>x</sub> emissions and NO<sub>x</sub> budgets for each state's non-EGU and highway mobile source categories (the EGU, area and non-road mobile source NO<sub>x</sub> budgets remained unchanged). As a result, the state NO<sub>x</sub> budgets that were submitted in 1999 were not consistent with the EPA's March 2, 2000 revised baseline NO<sub>x</sub> emissions and NO<sub>x</sub> budgets for non-EGU and highway mobile sources. Therefore, we requested that Connecticut, Massachusetts and Rhode Island submit a SIP revision amending the SIP narrative to adopt the EPA's March 2, 2000 non-EGU and highway mobile source NO<sub>x</sub> budgets.

Connecticut, Massachusetts and Rhode Island submitted SIP revisions to revise their NO<sub>x</sub> SIP Call emissions budgets for the non-EGU and highway mobile source categories on August 1, 2002, August 10, 2002 and September 20, 2001, respectively. The budget revisions affect only the SIP narrative material and we have determined that the revised NO<sub>x</sub> budgets are consistent with the EPA's March 2, 2000 (65 FR 11222) technical revision to the NO<sub>x</sub> SIP Call budgets. In revising the non-EGU and highway mobile source NO<sub>x</sub> budgets, the states have responded to the only issues raised in our December 27, 2000 (65 FR 81743) notice and, therefore, we are approving the SIP revisions as meeting the NO<sub>x</sub> SIP Call.

## III. What Is Phase 2 of the NO<sub>x</sub> SIP Call and How Does It Relate to Today's Action?

On March 3, 2000, the D.C. Circuit Court issued a ruling that supported most portions of EPA's NO<sub>x</sub> SIP Call Rule. However, the court remanded three issues for the Agency to re-examine before moving ahead. In response, EPA separated the NO<sub>x</sub> SIP Call Rule into two phases. Under Phase I of the rule, EPA moved ahead with those aspects of the rule supported by the Court for 19 States and the District of Columbia. The EPA requires these areas to submit SIPs showing how they will reduce air emissions of NO<sub>x</sub> from industrial facilities except for stationary internal combustion engines and a small subclass of facilities that generate electricity, known as cogenerators. EPA required states subject to the rule to