

organic compound, Oxides of nitrogen, Transportation conformity.

Dated: June 9, 2003.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart YY—Wisconsin**

■ 2. Section 52.2585 is amended by adding paragraph (s) to read as follows:

**§ 52.2585 Control strategy: Ozone.**

\* \* \* \* \*

(s) Approval—On January 31, 2003, Wisconsin submitted a revision to the ozone attainment plan for the Milwaukee severe ozone area and

maintenance plan for Sheboygan County. These plans revised 2007 motor vehicle emission inventories and 2007 Motor Vehicle Emissions Budgets (MVEB) recalculated using the emissions factor model MOBILE6. The plan also included a new 2012 projected MVEB for the Sheboygan County. The following table outlines the MVEB for transportation conformity purposes for the Milwaukee severe ozone area and the Sheboygan ozone maintenance area:

2007 AND 2012 MOTOR VEHICLE EMISSIONS BUDGETS

Area	2007		2012	
	VOC (tpd)	NO <sub>x</sub> (tpd)	VOC (tpd)	NO <sub>x</sub> (tpd)
Milwaukee Severe Area .....	32.20	71.40	na	na
Sheboygan Maintenance .....	3.24	6.40	1.99	3.97

na means not applicable

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R1-7218d; A-1-FRL-7513-2]

**Approval and Promulgation of Air Quality Implementation Plans; Connecticut, Massachusetts and Rhode Island; Nitrogen Oxides Budget and Allowance Trading Program**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving and promulgating State Implementation Plan (SIP) revisions submitted by the States of Connecticut, Massachusetts and Rhode Island. These SIP revisions make minor technical corrections to the nitrogen oxides (NO<sub>x</sub>) budget and trading programs in these states. Specifically, the SIP revision for each of the States adjusts the baseline and emissions budgets for highway mobile and non-electric generating unit (non-EGU) point sources such that they are consistent with those in EPA's March 2, 2000 (65 FR 11222) final rulemaking notice entitled "Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone." The technical revisions do not affect the regulatory programs in these states.

However, the changes are needed to fully approve the programs as meeting Phase I and II of the 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." The intended effect of this action is to approve the SIP revisions for the Connecticut, Massachusetts and Rhode Island NO<sub>x</sub> budget trading programs as meeting Phase I and II of the EPA's NO<sub>x</sub> SIP Call. This action is being taken in accordance with section 110 of the Clean Air Act (CAA).

**DATES:** This direct final rule will be effective August 19, 2003, unless EPA receives adverse comments by July 21, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ). Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA. Copies of the documents specific to the SIP approval for Connecticut are available at the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT

06106-1630. Copies of the documents specific to the SIP approval for Massachusetts are available at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108. Copies of the documents specific to the SIP approval for Rhode Island are available at the Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767.

**FOR FURTHER INFORMATION CONTACT:** Dan Brown at (617) 918-1532 or via E-mail at *brown.dan@epa.gov*.

**SUPPLEMENTARY INFORMATION:** This document is organized according to the following Table of Contents.

- I. What Action Is EPA Taking Today?
- II. Why Is EPA Taking This Action?
- III. What is Phase 2 of the NO<sub>x</sub> SIP Call and how Does it Relate to Today's Action?
- IV. What Did the States Submit?
- V. Why Are We Approving The NO<sub>x</sub> SIP Call Submittals from Connecticut, Massachusetts and Rhode Island Together?
- VI. What Are The Applicable Statutory and Executive Order Reviews?

**I. What Action Is EPA Taking Today?**

We are taking final action to fully approve revisions to the Connecticut, Massachusetts and Rhode Island SIP's as meeting Phase I and Phase II of the EPA's NO<sub>x</sub> SIP Call. Specifically, we are approving revisions to the SIP narratives for each of the state's NO<sub>x</sub> SIP Call programs. The narrative material was originally submitted by Connecticut, Massachusetts and Rhode Island as a SIP revision on September 30, 1999, November 19, 1999 and October 1, 1999,

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

submit their implementation plans to comply with Phase I of the strategy by October 30, 2000.

On February 22, 2002 (67 FR 8396), EPA published a proposed rulemaking in response to the March 3, 2000 D.C. Circuit ruling. This proposed rulemaking addresses Phase II of the NO<sub>x</sub> SIP Call, responding to the issues the court remanded back to the EPA. Two of the four remanded issues affect the NO<sub>x</sub> budgets for Connecticut, Massachusetts and Rhode Island: The rulings that the EPA failed to provide adequate notice of the change in the definition of EGU as applied to cogeneration units; and that EPA failed to provide adequate notice of the change in control level assumed for large stationary internal combustion engines.

The Phase II notice includes proposed Phase II NO<sub>x</sub> budgets based on two different levels of control for internal combustion engines, 82 and 91 percent. The revised NO<sub>x</sub> budgets submitted by Connecticut, Massachusetts and Rhode Island are more stringent than they would be using the 91 percent control level for internal combustion engines. Furthermore, the revised NO<sub>x</sub> budgets collectively meet both the Phase I and proposed Phase II budgets of EPA's NO<sub>x</sub> SIP Call. It should be noted that the Phase II budgets included in the February 22, 2002 notice for Connecticut, Massachusetts and Rhode Island are not adjusted to account for the reallocation of the EGU budgets according to the MOU (see discussion in section IV below).

In today's action, EPA is approving the SIP revisions from Connecticut, Massachusetts and Rhode Island as fully

meeting the NO<sub>x</sub> SIP Call requirements including both the Phase I and Phase II statewide NO<sub>x</sub> emissions budgets. The EPA recognizes that its Phase II rulemaking has not been completed but fully expects that the final statewide budgets promulgated in that rulemaking will be no more stringent than the NO<sub>x</sub> budgets submitted by the three states. However, once EPA finalizes the Phase II rule, should the Connecticut, Massachusetts or Rhode Island 2007 NO<sub>x</sub> emissions budgets being approved today exceed the EPA's final Phase II budgets, EPA will take appropriate action.

#### IV. What Did the States Submit?

On August 1, 2002, Connecticut submitted a SIP revision to revise the state's NO<sub>x</sub> SIP Call emissions budget for the non-EGU and highway mobile source categories (See Table 2). The revision was submitted, as requested by EPA, to make Connecticut's non-EGU and highway mobile emissions budgets consistent with EPA's March 2, 2000 technical revision to the NO<sub>x</sub> SIP Call budgets. The budget revisions affect only the SIP narrative material "Connecticut SIP Revision to Implement the NO<sub>x</sub> SIP Call," dated September 30, 1999, and originally submitted to EPA for approval on September 30, 1999. The revisions to the narrative material do not affect the regulatory program, which was also approved by EPA on December 27, 2000 (65 FR 81743) along with the SIP narrative material.

On August 10, 2002, Massachusetts submitted a SIP revision to revise the State's NO<sub>x</sub> SIP Call emissions budget for the non-EGU and highway mobile

source categories (See Table 2). The revision was submitted, as requested by EPA, to make Massachusetts' non-EGU and highway mobile emissions budgets consistent with EPA's March 2, 2000 technical revision to the NO<sub>x</sub> SIP Call budgets. The budget revisions affect only the SIP narrative material "Background Document and Technical Support for Public Hearings on the Proposed Revisions to State Implementation Plan for Ozone," dated July 1999, and originally submitted to EPA for approval on November 19, 1999. The revisions to the narrative material do not effect the regulatory program, which was also approved by EPA on December 27, 2000 (65 FR 81743) along with the SIP narrative material.

On September 20, 2001, Rhode Island submitted a SIP revision to revise the State's NO<sub>x</sub> SIP Call emissions budget for the non-EGU and highway mobile source categories (See Table 2). The revision was submitted, as requested by EPA, to make Rhode Island's non-EGU and highway mobile emissions budgets consistent with EPA's March 2, 2000 technical revision to the NO<sub>x</sub> SIP Call budgets. The budget revisions affect only the SIP narrative material "NO<sub>x</sub> State Implementation Plan (SIP) Call Narrative," dated September 22, 1999, and originally submitted to EPA for approval on October 1, 1999. The revisions to the narrative material do not effect the regulatory program, which was also approved by EPA on December 27, 2000 (65 FR 81743) along with the SIP narrative material.

TABLE 2.—STATE NO<sub>x</sub> BUDGETS FOR CT, MA AND RI WITH REVISED NO<sub>x</sub> BUDGETS FOR THE NON-EGU AND HIGHWAY MOBILE SOURCE CATEGORIES

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	5,216	4,821	10,736	19,424	44,761
MA .....	23,492*		11,048	20,166	28,190	82,896
RI .....	985	1,635	448	2,455	3,843	9,366

\*Massachusetts combines the EGU and Non-EGU sectors and the revised budget reflects the EPA's March 2, 2000 revision to the Non-EGU budget increasing it from 10,296 to 10,298.

#### V. Why Are We Approving the NO<sub>x</sub> SIP Call Submittals From Connecticut, Massachusetts and Rhode Island Together?

As discussed in our December 27, 2000 approval notice, Connecticut, Massachusetts, Rhode Island, and EPA signed a memorandum of understanding agreeing to redistribute the EGU portions of the three states' NO<sub>x</sub> budgets amongst themselves. Therefore, it is

necessary to consider the adopted 2007 NO<sub>x</sub> emission budgets and adopted NO<sub>x</sub> reducing measures in the three states together to approve any individual state SIP submittal as meeting the NO<sub>x</sub> SIP Call.

Under the MOU, the combined 2007 controlled emission levels did not change for the three states, only the individual state EGU allocations were redistributed to provide additional flexibility and consistency with existing

programs among these three states. EPA supports this concept because such a redistribution is no different than the effects of trading. For a detailed discussion of why EPA supports the concept that states can collectively redistribute their NO<sub>x</sub> SIP Call budgets, see the proposed notice dated, September 15, 1999 (64 FR 49989).

As indicated in Table 3, the budget revisions submitted by the states collectively achieve at least the same

NO<sub>x</sub> reduction as the EPA's Phase I and Proposed Phase II budgets. Therefore, EPA finds that the NO<sub>x</sub> SIP Call submittals from the three states collectively meet both Phase I and II of the NO<sub>x</sub> SIP Call as published to date.

TABLE 3.—STATE TOTAL NO<sub>x</sub> BUDGETS FOR CT, MA AND RI REFLECTING THE REVISIONS TO MEET BOTH PHASE I AND II OF THE EPA'S NO<sub>x</sub> SIP CALL

	NO <sub>x</sub> emission budget (tons)			
	SIP budgets approved 12/27/2000	Revised SIP budgets	EPA's phase I NO <sub>x</sub> SIP call budget	EPS's proposed phase II NO <sub>x</sub> call budget
CT .....	44,993	44,761	42,891	42,850
MA .....	83,345	82,896	85,871	84,838
RI .....	9,798	9,366	9,570	9,378
Total .....	138,136	137,023	138,332	137,066

**VI. What Are the Applicable Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255,

August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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 rule 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 August 19, 2003. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Intergovernmental relations, Nitrogen dioxide, Ozone.

Dated: June 2, 2003.

**Robert W. Varney,**  
*Regional Administrator, EPA New England.*

■ Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart H—Connecticut**

■ 2. Section 52.370 is amended by adding paragraph (c)(86)(ii)(C) and (D) to read as follows:

**§ 52.370 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

(86) \* \* \*  
 (ii) \* \* \*  
 (C) Letter from Connecticut Department of Environmental Protection dated August 1, 2002.  
 (D) The SIP narrative "Connecticut State Implementation Plan Revision to Revise the State's NO<sub>x</sub> Emissions Budget," dated July 22, 2002.

**Subpart W—Massachusetts**

■ 3. Section 52.1120 is amended by adding paragraph (c)(124)(ii)(E) and (F) to read as follows:

**§ 52.1120 Identification of plan.**  
 \* \* \* \* \*  
 (c) \* \* \*  
 (124) \* \* \*  
 (ii) \* \* \*  
 (E) Letter from the Commonwealth of Massachusetts, Executive Office of Environmental Affairs, Department of Environmental Protection dated April 10, 2002.  
 (F) The SIP narrative "Technical Support Document for Public Hearings on Revisions to the State Implementation Plan for Ozone for

Massachusetts, Amendments to Statewide Projected Inventory for Nitrogen Oxides," dated March 2002.

**Subpart OO—Rhode Island**

■ 4. Section 52.2070 is amended by adding new entries to the end of the table in paragraph (e) to read as follows:

**§ 52.2070 Identification of plan.**  
 \* \* \* \* \*  
 (e) \* \* \*

**RHODE ISLAND NON REGULATORY**

Name of non regulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date	Explanation
September 20, 2001 letter from Rhode Island Department of Environmental Management.	Statewide	Submitted September 20, 2001.	June 20, 2003 [Insert FR citation from published date]	Submitting the "NO <sub>x</sub> State Implementation Plan (SIP) Call Narrative," revised September 2001.
NO <sub>x</sub> State Implementation Plan (SIP) Call Narrative, revised September 2001.	Statewide	Submitted September 20, 2001.	June 20, 2003 [Insert FR citation from published date]	

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 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-7516-4]

**Virginia: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Final rule.

**SUMMARY:** Virginia applied to EPA for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has made a determination that all these revisions to the Virginia hazardous waste program, with the exception of the Hazardous Waste Lamps Rule, 64 FR 36466, (July 6, 1999), satisfy all requirements necessary for final authorization. Thus, with the exception of the Hazardous Waste Lamps Rule, EPA is authorizing the State's revisions to its hazardous waste program, subject to the limitations on its authority retained by EPA in accordance with RCRA, including the Hazardous and Solid Waste Amendments of 1984.

**EFFECTIVE DATE:** Final authorization for the revisions to Virginia's hazardous waste management program, with the exception of the Hazardous Waste Lamps Rule, shall be effective on June 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** Joanne Cassidy, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone number: (215) 814-3381.

**SUPPLEMENTARY INFORMATION:**

**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must revise their programs accordingly and apply to EPA to authorize the revisions. Revisions to State programs may be necessary when Federal or State statutory or regulatory authority is changed. For example, most commonly, States must revise their programs when EPA promulgates changes to its regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

Virginia received final authorization on December 4, 1984, effective December 18, 1984 (49 FR 47391), to

implement a hazardous waste management program in lieu of the Federal Program. EPA subsequently granted authorization for revisions to Virginia's program on June 14, 1993, effective August 13, 1993 (58 FR 32855); and July 31, 2000, effective September 29, 2000 (65 FR 46607).

On September 24, 2002, Virginia submitted to EPA a complete program revision application, in accordance with 40 CFR 271.21, seeking authorization of additional changes to its program. On March 13, 2003, EPA published an immediate final rule (68 FR 11981-11986) granting Virginia final authorization for these revisions to its federally-authorized hazardous waste program, along with a companion proposed rule announcing EPA's proposal to grant such final authorization (68 FR 12015). EPA announced in both notices that the immediate final rule and the proposed rule were subject to a thirty-day public comment period. The public comment period ended on April 14, 2003. Further, EPA stated in both notices that if it received adverse comments on its intent to authorize Virginia's program revisions that it would (1) withdraw the immediate final rule; (2) proceed with the proposed rule as the basis for the receipt and evaluation of such comments, and (3) subsequently publish a final determination responding to such comments and announce its final