

adequately address the environmental justice issue raised by Petitioners as is required by state and federal environmental justice executive orders; and (6) the DEP did not adequately address issues raised by Petitioners during the public hearing. On November 30, 2006, the Administrator issued an order granting on the issue of Statement of Basis and denying on the other issues. The order explains EPA's reasons for granting on the Statement of Basis issue and for denying the remaining issues.

Dated: January 4, 2007.

**Alan J. Steinberg,**

*Regional Administrator, Region 2.*

[FR Doc. E7-818 Filed 1-22-07; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[MI-88-1; FRL-8272-8]

**Adequacy Status of Motor Vehicle Emissions Budgets for Four Areas in Michigan for Transportation Conformity Purposes**

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

**ACTION:** Notice of adequacy.

**SUMMARY:** In this action, EPA is notifying the public that EPA has found that the motor vehicle emissions budgets (MVEBs) for four areas across the state of Michigan are adequate for conformity purposes. On March 2, 1999, the D.C. Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, the Flint (consisting of Genesee and Lapeer Counties), Muskegon County, Berrien County, and Cass County areas can use the (MVEBs) for future conformity determinations. These budgets are effective February 7, 2007. The finding and the response to comments will be available at EPA's conformity Web site: <http://www.epa.gov/otaq/transp.htm>, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

**FOR FURTHER INFORMATION CONTACT:** Anthony Maietta, Life Scientist, Criteria Pollutant Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West

Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, [Maietta.anthony@epa.gov](mailto:Maietta.anthony@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever "we", "us" or "our" is used, we mean EPA.

**Background**

Today's action is simply an announcement of a finding that we have already made. EPA Region 5 sent a letter to the Michigan Department of Environmental Quality on November 29, 2006, stating that the 2018 (MVEBs) in the Flint, Muskegon County, Berrien County, and Cass County areas are adequate. Michigan submitted the budgets as part of the 8-hour ozone redesignation requests and maintenance plans for these areas. This finding was announced on EPA's conformity Web site, and received no comments: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>, (once there, click on "What SIP submissions are currently under EPA adequacy review?").

The 2018 (MVEBs), in tons per day, for volatile organic compounds and oxides of nitrogen for these areas are as follows:

Area	2018 VOC MVEB (tpd)	2018 NO <sub>x</sub> MVEB (tpd)
Flint .....	25.68	37.99
Muskegon County .....	6.67	11.00
Berrien County .....	9.16	15.19
Cass County .....	2.76	3.40

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision"). We followed this guidance in making our adequacy determination.

Dated: January 11, 2007.

**Mary A. Gade,**

*Regional Administrator, Region 5.*

[FR Doc. E7-919 Filed 1-22-07; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[IL228-2; FRL-8272-7]

**Notice of Prevention of Significant Deterioration Final Determination for Indeck-Elwood, LLC**

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

**ACTION:** Notice of withdrawal action.

**SUMMARY:** This notice announces that EPA is withdrawing the Notice of Final Agency Action of November 22, 2006 (71 FR 67560), for the Indeck-Elwood, LLC Prevention of Significant Deterioration (PSD) permit, because the Environmental Appeals Board (EAB) remanded the permit in part. On September 27, 2006, the EAB of the EPA denied in part, and remanded in part, a petition for review of a federal PSD permit issued to Indeck-Elwood, LLC by the Illinois Environmental Protection Agency. According to 40 CFR part 124, a final permit decision shall be issued by the Regional Administrator when the EAB issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings. Because the EAB's decision on this permit appeal included a partial remand, there is not yet a final agency action subject to review.

**ADDRESSES:** The documents relevant to the above action are available for public inspection during normal business hours at the following address: Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604. To arrange viewing of these documents, call Constantine Blathras at (312) 886-0671.

**FOR FURTHER INFORMATION CONTACT:** Constantine Blathras, Air and Radiation Division, Air Programs Branch, Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard (AR-18J), Chicago, Illinois 60604. Anyone who wishes to review the EAB decision can obtain it at <http://www.epa.gov/eab/>.

Dated: January 17, 2007.

**Bharat Mathur,**

*Deputy Regional Administrator, Region 5.*

[FR Doc. E7-920 Filed 1-22-07; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2005-0051; FRL-8272-1]

### Asbestos-Containing Materials in Schools; State Request for Waiver From Requirements

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

**ACTION:** Notice of final approval.

**SUMMARY:** EPA is approving a waiver of the requirements of the Federal asbestos-in-schools program for the Commonwealth of Kentucky. A waiver request can be granted if EPA determines that the Commonwealth of Kentucky is implementing or intends to implement a state program of asbestos inspection and management that is at least as stringent as the federal program. This action approves the waiver request submitted by Governor Paul E. Patton, on January 4, 1999. On June 1, 2006, EPA published a notice of proposed approval and request for comments, and on August 31, 2006, published a reopening of comment period and correction. A detailed description of this waiver request and EPA's rationale for approving it was provided in the notice of proposed approval and request for comments and will not be restated here. No significant or adverse comments were received on EPA's proposal.

**EFFECTIVE DATE:** This final approval is effective on February 22, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-HQ-OPPT-2005-0051. All documents in the docket

are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. 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 materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Asbestos Coordinator, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, GA 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** For general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8182; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

For technical information contact: John Hund, Asbestos Coordinator, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303-8960; telephone number: (404) 562-8978; e-mail address: [hund.john@epa.gov](mailto:hund.john@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. What Action Is the Agency Taking?

EPA is granting a waiver of the asbestos-in-schools program to the Commonwealth of Kentucky. This waiver is issued under section 203(m) of the Toxic Substances Control Act (TSCA) and 40 CFR 763.98. Section 203 is within Title II of TSCA, the Asbestos Hazard Emergency Response Act (AHERA). The Agency recognizes that a waiver granted to any State would not encompass schools operated under the defense dependents' education system (the third type of local education agency (LEA) defined at TSCA section 202(7) and 40 CFR 763.83), which serve dependents in overseas areas, and other elementary and secondary schools outside a State's jurisdiction, which generally includes schools in Indian country. Such schools would remain subject to EPA's asbestos-in-schools program.

On June 1, 2006, (71 FR 31183) EPA published a notice of proposed approval and request for comments. A detailed description of this waiver request and EPA's rationale for approving it was provided in the notice of proposed approval and request for comments and will not be restated here. On August 31, 2006, (71 FR 51816) EPA published a reopening of comment period and correction notice. No significant or adverse comments were received on EPA's proposal.

##### II. What Is the Agency's Authority for Taking This Action?

In 1987, under TSCA section 203, the Agency promulgated regulations that require the identification and management of asbestos-containing material by LEAs in the nation's elementary and secondary school buildings: The "AHERA Schools Rule" (40 CFR part 763, subpart E). Under section 203(m) of TSCA and 40 CFR 763.98, upon request by a State Governor and after notice and comment and opportunity for a public hearing in the State, EPA may waive, in whole or in part, the requirements of the asbestos-in-schools program (TSCA section 203 and the AHERA Schools Rule) if EPA determines that the State has established and is implementing or intends to implement a program of asbestos inspection and management that contains requirements that are at least as stringent as those in the Agency's asbestos-in-schools program. A State seeking a waiver must submit its request to the EPA Region in which that State is located.

##### III. When Did Kentucky Submit Its Request for a Waiver?

On January 4, 1999, Governor Paul E. Patton, submitted to the EPA Region 4 Regional Administrator, a letter with supporting documentation requesting a full waiver of the requirements of EPA's asbestos-in-schools program pursuant to the AHERA statute and 40 CFR 763.98. The EPA Region 4 Administrator indicated by letter dated February 19, 1999, to Kentucky that the request was complete. A subsequent letter dated August 21, 2000, from the Director of Kentucky Division for Air Quality, corrected an inadvertent error in the January 4, 1999, letter.

##### IV. Materials in the Official Record

The official record, under Docket ID Number EPA-HQ-OPPT-2005-0051, contains the Kentucky waiver request, and any other supporting or relevant documents.