

19103 at (215) 814-3335 or by e-mail at: kotsch.martin@EPA.gov. The finding is available at EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/currsips.htm>.

SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us", or "our" refer to EPA. The word "budgets" refers to the motor vehicle emission budgets for volatile organic compounds (VOCs) and nitrogen oxides (NO_x). The word "SIP" in this document refers to the RFP Plans for the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City Ozone Nonattainment Area submitted to EPA as SIP revisions on August 29, 2007.

Today's notice is simply an announcement of a finding that EPA has already made. EPA Region III sent a letter to PADEP on November 20, 2008 stating that the MVEBs in the RFP Plan are adequate for transportation conformity purposes. As a result of EPA's finding, the State of Pennsylvania must use the MVEBs from the August 29, 2007 RFP Plan for future conformity determinations for the 8-hour ozone standard. This finding has also been announced on EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/pastsips.htm>. The adequate MVEBs are provided in the following table:

TABLE 1—PENNSYLVANIA MOTOR VEHICLE EMISSIONS BUDGETS

Nonattainment area	2008 Reasonable Further Progress	
	VOC (tpd)	NO _x (tpd)
Philadelphia	61.09	108.78

Transportation conformity is required by section 176(c) of the Clean Air Act, as amended in 1990. EPA's conformity rule requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria and procedure 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 also 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 have described our process for determining the adequacy of submitted SIP budgets in 40 CFR 93.118(f), and have followed this rule in making our adequacy determination.

Dated: December 5, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8-30206 Filed 12-18-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2008-0790; FRL-8754-4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed approval and request for comments.

SUMMARY: This action provides notice and an opportunity for public hearing, and solicits written comments on EPA's proposed waiver of the requirements of the Federal asbestos-in-schools program for the State of New Hampshire. A waiver request will be granted if EPA determines that the State of New Hampshire 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 provides notice and an opportunity for a public hearing, and solicits written comments on the waiver request submitted by the State of New Hampshire.

DATES: Written comments under Docket ID Number EPA-HQ-OPPT-2008-0790 must be received by February 17, 2009. Each comment must include the name and address of the submitter. Any request for a public hearing must be in writing, and be received on or before February 17, 2009, and detail specific objections to the grant of the waiver. If, during the comment period, EPA receives such a request for a public hearing, EPA will schedule a public hearing in New Hampshire following the comment period. EPA will announce the date of the public hearing in the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-HQ-OPPT-2008-0790, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* bryson.jamesm@epa.gov.

3. *Fax:* (617) 918-0563.

4. *Mail:* Docket ID Number EPA-HQ-OPPT-2008-0790, Asbestos Coordinator, Region 1—New England, Environmental Protection Agency, One Congress Street, Suite 1100 Mailcode SEP, Boston, MA 02114-2023.

5. *Hand Delivery or Courier:* James M. Bryson, Asbestos Coordinator, Region 1—New England, Environmental Protection Agency, One Congress Street, Suite 1100 Mailcode SEP, Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 5, excluding Federal holidays.

Instructions: Direct your comments to Docket ID Number EPA-HQ-OPPT-2008-0790. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov> including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected.

The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., 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 in <http://www.regulations.gov> or in hard copy with the Asbestos Coordinator, Region 1—New England, Environmental Protection Agency, One Congress Street, Suite 1100 Mailcode SEP, Boston, MA 02114–2023. 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 5 excluding Federal 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.

For technical information contact: James M. Bryson, Asbestos Coordinator, Region 1—New England, Environmental Protection Agency, One Congress Street, Suite 1100 Mailcode SEP, Boston, MA 02114–2023; telephone number: (617) 918–1524; e-mail address: bryson.jamesm@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. What Action Is the Agency (EPA) Taking?

EPA is considering granting a waiver of the asbestos-in-schools program to the State of New Hampshire. This notice is issued, and the waiver, if granted, would be 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.

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

In 1987, under TSCA section 203, at 15 U.S.C. 2643, 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.

C. When Did New Hampshire Submit Its Request for a Waiver and How Is EPA Proposing To Respond?

On July 15, 2008, Governor John H. Lynch submitted to the EPA Region 1 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 1 Administrator indicated to New Hampshire, by letter dated July 31, 2008, that the request was received. On September 30, 2008, the Manager of EPA's Toxics and Pesticides Unit submitted comments to the New Hampshire Department of Environmental Service's Air Resources Division regarding the AHERA waiver request. The State provided EPA with a response, dated October 10, 2008, in which each of EPA's comments was addressed.

EPA is hereby issuing this notice in the **Federal Register** announcing receipt of the complete New Hampshire waiver request and an opportunity for public comment and a hearing (if necessary) and, also, making the request and supporting documentation available in the public record for this notice. The Agency is also describing the information submitted by New Hampshire and EPA's preliminary determination as to how the waiver request meets the criteria for granting a waiver.

D. What Was EPA's Determination With Regard to the Completeness of New Hampshire's Waiver Request?

The New Hampshire waiver request was deemed complete 30 days after receipt by EPA with regard to the required contents of a waiver request, as specified at 40 CFR 763.98. In particular, the State's waiver request contains the following information from, and representations by, New Hampshire:

1. A copy of the New Hampshire regulatory provisions relating to its program. These consist of the following, as well as other supporting documentation: (a) A copy of the proposed New Hampshire regulatory provisions related to its program of asbestos inspection and management in Schools RSA 141–E:4, I and II, Chapter Env-A 1800 Asbestos Management And Control Regulations, (b) A comparison of the New Hampshire School Program RSA 141–E:4, I and II, Chapter Env-A 1800 Asbestos Management And Control Regulations, to the EPA program at 40 CFR part 763, Subpart E, (c) an assurance of Legal Authority from New Hampshire Attorney General, and (d) a reference to the New Hampshire Compliance Assurance Response Policy (CARP) at <http://des.nh.gov/organization/commissioner/legal/carp/index.htm> which describes New Hampshire's approach to enforcement, relevant legal authorities, and penalty calculations. New Hampshire intends to use as guidance EPA's January 31, 1989 AHERA Enforcement Response Policy (ERP) to calculate penalties based on determinations of the circumstance level and extent of severity applicable to specific violations.

2. The agency that is responsible for administering and enforcing the requirements for which a waiver is requested is the New Hampshire Department of Environmental Services (DES), Division of Air Resources, Compliance Bureau. The officials within the Compliance Bureau who are responsible for New Hampshire's asbestos-in-schools program are: Pamela G. Monroe, Compliance Bureau Administrator; Barbara L. Hoffman, Compliance and Enforcement Programs Manager; Stephen G. Cullinane, Asbestos Program Manager; Marjorie Yin, AHERA Specialist; and Elizabeth Nixon, Enforcement Section Supervisor.

3. Detailed reasons, supporting papers, and rationale for concluding that New Hampshire's asbestos inspection and management programs, for which the waiver request is made, are at least as stringent as the

requirements of the AHERA Schools Rule (40 CFR part 763, subpart E).

4. New Hampshire neither highlighted nor discussed any special situations, problems, and needs pertaining to the State's waiver request. Accordingly, no explanation of how the State would handle the issues was provided.

5. A statement of the resources that New Hampshire intends to devote to the administration and enforcement of the provisions relating to the waiver request.

6. Copies of any specific or enabling New Hampshire laws and regulations relating to the request, including provisions for assessing criminal and/or civil penalties.

7. Assurance from the Governor, that DES has the legal authority necessary to carry out the requirements relating to the waiver request, as indicated in the July 15, 2008, letter from Governor Lynch of New Hampshire to the EPA Region *TSCA-Hotline@epa.gov* 1 Regional Administrator.

E. What Are the Criteria for EPA's Grant of the Waiver?

EPA may waive some or all of the requirements of the Agency's asbestos-in-schools program if the Agency determines that New Hampshire has met the criteria set forth at 40 CFR 763.98. The specific criteria and EPA's preliminary determination for each relative to the grant of the waiver to New Hampshire are set forth below:

1. The State's lead agency has the legal authority necessary to carry out the provisions of asbestos inspection and management in schools relating to the waiver request.

Preliminary Determination—EPA has determined preliminarily that the statutory and regulatory provisions cited at Section I.D.1 of this notice gives DES' Division of Air Resources the legal authority necessary to carry out the provisions of asbestos inspection and management in schools relating to the waiver request.

2. The State's program of asbestos inspection and management in schools and its implementation of the program are or will be at least as stringent as the requirements of the AHERA Schools Rule.

Preliminary Determination—EPA has determined preliminarily that New Hampshire's program is at least as stringent as EPA's program. On October 10, 2008, New Hampshire addressed the EPA recommended revisions as provided in EPA's September 30, 2008 correspondence. On October 16, 2008 New Hampshire's Joint Legislative Committee on Administrative Rules approved the New Hampshire RSA 141-

E:4, I and II, Chapter Env-A 1800 Asbestos Management and Control Regulations.

3. The State has an enforcement mechanism to allow it to implement the program described in the waiver request.

Preliminary Determination—EPA has determined preliminarily that the compliance and enforcement provisions of New Hampshire's asbestos-in-schools program are adequate to run the program. DES is authorized by RSA 141-E to implement a program of asbestos licensing, inspection and management. DES has the authority to enter any public building, facility, school, or rental dwelling to "cause inspections to be carried out" if the agency has reason to suspect the presence of regulated asbestos-containing material RSA 141-E:8. DES has authority to enter any asbestos abatement worksite, obtain samples for air testing and monitoring, procure and examine licenses issued under RSA 141-E:10 and certificates issued under RSA 141-E:11, and to request, inspect, and record information or test results relating to school asbestos abatement planning activities. RSA 141-E:13.

DES has the authority to enforce the state's asbestos laws and rules through orders and notices of abatement. RSA 141-E:14. DES has the authority to impose administrative fines up to \$2,000 per violation. RSA 141-E:16. Through the NH Attorney General, DES can seek civil penalties up to \$25,000 per day as well as injunctive relief for violations of RSA 141-E and any rule adopted thereunder. RSA 141-E:17. Any person who knowingly and willfully violates any provisions of RSA 141-E or any rule adopted thereunder, or who violates any term or condition of a license, certification or order issued under RSA 141-E, or who makes or certifies a material false statement relative to any document or information required under RSA 141-E is guilty of a class B felony and can be fined \$25,000 per day per violation. RSA 141-E:15. To help ensure compliance with its asbestos regulations, DES will revise their Neutral Administrative Inspection Scheme (NAIS) for targeting compliance inspections. By focusing on activities where problems are most likely to occur, the NAIS is designed to maximize the effectiveness of DES' inspection/enforcement efforts toward preventing and controlling asbestos-related risks to human health and the environment.

4. The State has or will have qualified personnel to carry out the provisions relating to the waiver request.

Preliminary Determination—EPA has determined preliminarily that New Hampshire has qualified personnel to carry out the provisions of the waiver. The existing program staff includes 2 employees trained to enforce the requirements of 40 CFR part 763, subpart E. The program will be carried out by staff in the DES' Division of Air Resources, Compliance Bureau. New Hampshire commits approximately 2 persons each year to AHERA compliance monitoring and enforcement activities under the EPA TSCA Asbestos Enforcement Grant. Staff is fully trained and certified as Contractor/Supervisor, Inspector, and Management Planner.

5. The State will devote adequate resources to the administration and enforcement of the asbestos inspection and management provisions relating to the waiver request.

Preliminary Determination—EPA has determined preliminarily that the resources developed by DES' Division of Air Resources are adequate to effectively administer and enforce the provisions of the asbestos program in New Hampshire. In particular, New Hampshire is currently expected to receive funding through an EPA grant in the amount of \$100,000 annually which, when combined with State matching funds of approximately \$33,000, results in a total funding level of \$133,000 for this FY 2009.

6. The State has responded to EPA and addressed all of the Agency's concerns in numbers 2 through 4 above.

Preliminary Determination—EPA will grant a full waiver as long as New Hampshire continues its asbestos-in-schools implementation and enforcement strategy utilizing adequate resources. EPA may evaluate periodically the adequacy of New Hampshire's program under 40 CFR 763.98, and under circumstances set forth in the regulation.

F. What Recordkeeping and Reporting Burden Approvals Apply to the New Hampshire Waiver Request?

The recordkeeping and reporting burden associated with waiver requests was approved by the Office of Management and Budget (OMB) under OMB control number XXXX-XXX. This document simply announces the Agency's receipt of the New Hampshire waiver request and therefore it imposes no additional burden beyond that covered under existing OMB control number XXXX-XXXX.

II. Materials in the Official Record

The official record, under Docket ID Number EPA-HQ-OPPT-2008-0790,

contains the New Hampshire waiver request and other supporting, relevant documents underlying the State's request and EPA's proposed approval in response to the request.

Dated: November 30, 2008.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. E8-30201 Filed 12-18-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8754-8; Docket ID No. EPA-HQ-ORD-2007-0517]

Draft Integrated Science Assessment for Particulate Matter

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Comment Period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the availability of its "First External Review Draft Integrated Science Assessment for Particulate Matter" (EPA/600/R-08/139 and EPA/600/R-08/139A). The document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development as part of the review of the national ambient air quality standards (NAAQS) for particulate matter.

EPA is releasing this draft document to seek review by the Clean Air Scientific Advisory Committee (CASAC) and the public (meeting date and location to be specified in a separate **Federal Register** notice). The draft document does not represent, and should not be construed to represent, any final EPA policy, viewpoint, or determination. EPA will consider any public comments submitted in response to this notice when revising the document.

DATES: The public comment period begins on or about December 19, 2008. Comments must be received on or before March 13, 2009.

ADDRESSES: The "First External Review Draft Integrated Science Assessment for Particulate Matter" will be available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and Publications menus at <http://www.epa.gov/ncea>. A limited number of CD-ROM or paper copies will be available. Contact Ms. Debbie Wales by phone (919-541-4731), fax (919-541-5078), or e-mail (wales.deborah@epa.gov) to request

either of these, and please provide your name, your mailing address, and the document title, "First External Review Draft Integrated Science Assessment for Particulate Matter" (EPA/600/R-08/139 and EPA/600/R-08/139A) to facilitate processing of your request.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Dr. Lindsay Wichers Stanek, NCEA; telephone: 919-541-7792; facsimile: 919-541-2985; or e-mail: stanek.lindsay@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Information About the Document

Section 108(a) of the Clean Air Act directs the Administrator to identify certain pollutants which, among other things, "cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare" and to issue air quality criteria for them. These air quality criteria are to "accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air * * *". Under section 109 of the Act, EPA is then to establish national ambient air quality standards (NAAQS) for each pollutant for which EPA has issued criteria. Section 109 (d) of the Act subsequently requires periodic review and, if appropriate, revision of existing air quality criteria to reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. EPA is also to revise the NAAQS, if appropriate, based on the revised air quality criteria.

Particulate matter (PM) is one of six principal (or "criteria") pollutants for which EPA has established NAAQS. Periodically, EPA reviews the scientific basis for these standards by preparing an Integrated Science Assessment (ISA) (formerly called an Air Quality Criteria Document). The ISA and supplementary annexes, in conjunction with additional technical and policy assessments, provide the scientific basis for EPA decisions on the adequacy of the current NAAQS and the appropriateness of possible alternative standards. The Clean Air Scientific Advisory Committee (CASAC), an independent science advisory committee whose existence and whose review and advisory functions are mandated by Section 109 (d) (2) of the Clean Air Act, is charged (among other things) with independent scientific review of EPA's air quality criteria.

On June 28, 2007 (72 FR 35462), EPA formally initiated its current review of

the air quality criteria for PM, requesting the submission of recent scientific information on specified topics. A draft of EPA's "Integrated Review Plan for the National Ambient Air Quality Standard for Particulate Matter" (EPA/452/P-08/006) was made available in October 2007 for public comment and was discussed by the CASAC via a publicly accessible teleconference consultation on November 30, 2007 (72 FR 63177). EPA finalized the plan and made it available in March 2008 (EPA/452/R-08/004; http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_2007_pd.html). In June 2008 (73 FR 30391), EPA held a workshop to discuss, with invited scientific experts, initial draft materials prepared in the development of the PM ISA and its supplementary annexes.

The first external review draft ISA for PM will be discussed at a public meeting for review by CASAC, and public comments received will be provided to the CASAC review panel. A future **Federal Register** notice will inform the public of the exact date and time of that CASAC meeting.

II. How to Submit Technical Comments to the Docket at <http://www.regulations.gov>

Submit your comments, identified by Docket ID No. EPA-HQ-ORD-2007-0517, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* ORD.Docket@epa.gov.

- *Fax:* 202-566-1753.

- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202-566-1752.

- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202-566-1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.