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DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Environmental Cleanup & Brownfields

Land Recycling Program Concepts for Potential Regulatory Changes for the Chapter 250 Rulemaking

**Cleanup Standards Scientific Advisory Board Meeting
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**presented by
Michael Maddigan
PADEP**

Tom Wolf, Governor

Patrick McDonnell, Secretary

Concepts Overview

Today's Discussion

- Summary and discussion of potential minor changes.
- Discussion of potential substantive changes.
- Next steps in rulemaking process.

Minor Changes Summary

- Updating document references and section references.
- Updating medium-specific concentration (MSC) tables by adding new chemicals, correcting footnotes, correcting Chemical Abstract Service (CAS) number errors, etc.
- Minor text clarifications and updates.

Minor Changes

- Update US Environmental Protection Agency (EPA) Exposure Factors Handbook (EFH) reference.
- Add conversion factor to § 306 and § 307 equations so output units ($\mu\text{g/L}$) match units in tables.
- § 250.704(d) - Replace § 250.707(b)(2)(i) reference with § 250.707. § 250.707(b)(2)(i) relates only to the 75% 10x rule, not all statistical tests.
- Remove chemicals with both primary and secondary Maximum Contaminant Levels (MCLs) from secondary contaminants list at the end of Table 2 and update § 250.305(g) text.

Minor Changes

- Reword text in § 250.402(d) to clarify that the Statewide health standard eco-screen process described in § 250.311(e) cannot be used to protect ecological receptors under the site specific standard.
- Correct the CAS number for dichloroacetic acid in Table 1 from “76-43-6” to “79-43-6.”
- Explain Act 2 does not provide liability protection for analytes reported by labs not accredited for those analytes for which accreditation is available.
- Correct misuse of the word “standards” when “MSCs” should be used.

Minor Changes

- Update all table footnotes.
- Add Office of Pesticide Programs (OPP) to toxicity value source hierarchy in § 250.605.
- Add “24 hours/day” to numerator in § 250.307(g)(1) equation. Inadvertently omitted in last rulemaking.
- Update Constituents of Potential Ecological Concern (CPEC) list in Table 8.
- State in § 250.408 or § 250.409 that an approved remedial investigation report is needed to have an approvable risk assessment report.

Minor Changes

- Change references to the Groundwater Monitoring Guidance in § 250.10 to reference Appendix A of revised Technical Guidance Manual (TGM).
- Explain in § 250.503(e) that when land use changes from non-residential to residential at Special Industrial Area (SIA) sites, a revised baseline environmental report needs to be submitted, not just a new remediation plan.
- Update aqueous solubility sources in § 250.304(f).

Substantive Changes

Increase Groundwater Ingestion Rate

- Change groundwater ingestion rate for adults from 2.0 L/day to 3.0 L/day.
- EPA EFH recommends 3.0 L/day for ages ≥ 21 years old (adults). This value represents both per capita and consumer-only water ingestion rates.
- Change would cause ingestion-based numeric values to decrease.

Substantive Changes

Lead in Soil Evaluations

- Use the Integrated Exposure Uptake Biokinetic (IEUBK) model and the Adult Lead Methodology (ALM) to calculate MSCs for residential and non-residential lead exposure, respectively.
- EPA – *“Recent scientific evidence has demonstrated adverse health effects at blood lead concentrations below 10 $\mu\text{g}/\text{dL}$ down to 5 $\mu\text{g}/\text{dL}$, and possibly below. OSRTI is developing a new soil lead policy to address this new information.”*
- Should DEP use 10 or 5 $\mu\text{g}/\text{dL}$?

Substantive Changes

Change Volatile Definition

- Change the definition of a volatile in § 250.1. Current definition results in the exclusion of naphthalene as well as several other semi-volatiles that are included in the new vapor intrusion (VI) guidance. EPA has a better definition that DEP could adopt, and it is more appropriate given the recent changes in the VI guidance.
- New definition would lead to some numeric values changes.

Substantive Changes

Add Perfluorooctane Sulfonate (PFOS) and Perfluorooctanoic Acid (PFOA) to Tables

- Add PFOS/PFOA HAL to Table 1 as MSCs
- Add footnote that the HAL/MSC also applies when PFOS and PFOA are combined.
- Add PFOS/PFOA toxicity data to Table 5A.
- Calculate PFOS/PFOA soil MSCs for Tables 3A and 3B.

Substantive Changes

Additional Changes

- Add language to § 250.707(b)(1)(iii) clarifying when/if a vapor intrusion analysis is needed.
- Add language to Subchapter A similar to § 245.314 making requirements for professional geologist (PG) and professional engineer (PE) seals on reports for Act 2 and storage tanks sites consistent.

Next Steps for Rulemaking

- Draft proposed language for Annex, including draft tables, to be provide to CSSAB at December 6, 2018, meeting.
- EQB consideration of proposed rulemaking in Spring 2019.



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Questions?
Mike Maddigan
mmaddigan@pa.gov