

**Meeting Minutes  
Cleanup Standards Scientific Advisory Board  
Virtual Meeting via WebEx  
December 16, 2020**

**CSSAB Members Present:**

Chuck Campbell, Chairperson  
Joel Bolstein  
James Connor  
Colleen Costello  
Annette Guiseppi-Elie

Michael Meloy, Vice-Chairperson  
Craig Robertson  
Mark Urbassik  
Don Wagner

**Department of Environmental Protection (DEP) Staff Present:**

Abbey Cadden  
Troy Conrad  
Randy Farmerie  
John Gross  
Kim Hoover

Darek Jagiela  
Mike Maddigan  
Valerie Shaffer  
Nikolina Smith  
Brie Sterling

**Audience Present:**

David Bauer  
Cassie Carter  
Jeff Christopher  
Chad Coy  
Ellis Foley  
David Hess  
Neil Ketchum  
Katherine Linnell  
Ron MacGillivray

Josephine Martin  
Stephen Maxwell  
Melissa Muroff  
Benjamin Myers  
Terence O'Reilly  
Ken Shaffer  
Nick Troutman  
Russell Zerbo

**Open Meeting**

Mr. Mike Meloy called the meeting to order at 1300.

Mr. Meloy requested approval of the draft revised Cleanup Standards Scientific Advisory Board (CSSAB) meeting minutes from October 29, 2019. These minutes were approved unanimously by the Board with no further revisions requested. Mr. Meloy requested approval of the draft CSSAB meeting minutes from the July 30, 2020 virtual meeting. However, Mr. Robertson

disagreed with the statement “The EPA’s November 2017 Recommendations for Default Age Range in IEUBK Model recommends a 2 µg/dL to 8 µg/dL target blood lead level range in children” as it was not actually stated within the meeting. Mr. Mark Urbassik disagreed, recalling that it was stated during the meeting. Mr. Robertson also requested that the minutes reflect the fact that DEP requested the Board to form a workgroup to examine and make recommendations for the appropriate blood lead level for the calculation of medium-specific concentrations (MSCs). Mr. Michael Maddigan suggested that Mr. Robertson send an email outlining his suggested revisions to the draft written minutes; Mr. Robertson agreed. Approval of the 12/16/2020 meeting minutes was therefore tabled until the next CSSAB meeting.

### **Land Recycling Program (LRP) Update**

Personnel Update: Mr. Troy Conrad reported that LRP staff in the six regional offices have mostly remained the same since the July 2020 CSSAB meeting. Jeffrey Dewey, Environmental Group Manager, in the Southwest Regional Office has retired and has not yet been replaced. Ronald Schwartz, the Southwest Regional Director, is retiring at the end of the year. James Miller, the Regional Director for the Northwest Regional Office, will be assuming Regional Director responsibilities for the Southwest Regional Office. John Holden will become acting Regional Director of the Northwest Regional Office. The Land Recycling Program (Central Office) currently has 5 vacant positions. A new chemist from the Bureau of Laboratories will be transferring to CO LRP in January 2021. Ms. Nikolina Smith is continuing as interim program counsel. There is no timeframe for appointment of permanent program counsel.

Hazardous Site Cleanup Fund update: Mr. Conrad reported that the department is continuing to search for a permanent funding source to replace the Capital Stocks and Franchise Tax (CSFT). The program currently has sufficient funding until the end of the 2022 fiscal year. This is due to a smaller contingent of staff than originally anticipated, less spending on state-directed cleanup sites due to the ongoing COVID-19 pandemic, and unexpected trailing revenue from CSFT.

Per- and Polyfluoroalkyl Substances (PFAS) Action Team update: Most of the Department’s recent efforts from the DEP’s perspective regarding the PFAS Action Team has focused on continuation of sampling drinking water supplies across the state and determining surface water impacts of PFAS. Thirty-two sites and areas across the state have been identified as PFAS contamination contributors. Ms. Brie Sterling, CO chemist, is co-lead of one of the Interstate Technology and Regulatory Council subgroups related to PFAS risk assessment toxicity. Additionally, the education of volunteer firefighting units regarding the hazards of firefighting foam is continuing. Mr. Conrad added that he will report back to the CSSAB regarding status of the Drinking Water Program’s sampling program and associated conclusions drawn from the data gathered. Mr. Meloy and Ms. Colleen Costello inquired in DEP’s interest in the formation of a CSSAB PFAS workgroup. Mr. Conrad replied that the DEP is not requesting a PFAS workgroup to be formed at this time.

CSSAB Membership update: Mr. Maddigan reported that of 13 CSSAB positions available, 8 are filled with active term members; 3 are filled with expired term members, and 2 are vacant positions. Mr. Conrad reminded the Board that members with expired terms may remain active

pending re-appointment or until their resignation. Mr. Conrad also stated that efforts will continue to fill the 2 vacant positions.

### **Overview of Chapter 250 Proposed Rulemaking**

Mr. Maddigan presented an overview of the Chapter 250 proposed rulemaking - Annex A to the CSSAB. This rulemaking was discussed at previous CSSAB meetings in 2018, 2019, and 2020. Public comments received regarding the proposed rulemaking and proposed responses were discussed during the July 2020 CSSAB meeting. Vanadium and lead concentrations in soil are two remaining issues for discussion in today's meeting.

During the July 2020 meeting, the CSSAB proposed a new method to calculate direct contact values (MSCs) for vanadium using a different toxicity value than the one that is currently utilized. This proposal was subsequently reviewed by a toxicologist from PA Department of Health and is still under consideration. The Department reiterated that the Commonwealth Documents Law and Commonwealth Attorneys Act, prohibits any changes to the final-form rulemaking which were not included in the proposed rulemaking before the public comment period.

Regarding lead in soil, in August 2020 the CSSAB Lead Workgroup provided an analysis of new models for calculation of the MSC and their implication for the Act 2 Program. Upon consideration of all models presented, DEP decided to use a target blood lead level of 5 µg/dL and a probability of exceeding the target blood lead level of 5%. Therefore, this results in the following revisions to Table 4A of the Chapter 250 regulations for lead:

- Non-residential direct contact value will be revised from 1,000 mg/kg to 1,100 mg/kg;
- Residential direct contact value will be revised from 500 mg/kg to 150 mg/kg.

In addition, the use of soil concentration averages for attainment of lead will remain under consideration. Mr. Maddigan also summarized the correction of errors that are to be implemented, partially consisting of the revision of footnotes to the Chapter 250 MSC Tables and the restoration of the inadvertent removal of all individual Aroclors from Table 5A. DEP is expected to finalize all revisions and present to the Environmental Quality Board in April or May 2021.

### **Discussion of Chapter 250 proposed – final Annex A**

Mr. Joel Bolstein stated that the purpose of a public comment period is to improve a proposed rulemaking and to correct errors. He believes the Department's interpretation and application of the Commonwealth Documents Law and Commonwealth Attorneys Act undermines this purpose and delays necessary revisions to the Department's existing vanadium soil MSCs. Mr. Robertson also added that the CSSAB has been examining this issue since 2018, therefore DEP would have had opportunity to revise the MSC for the latest proposed rulemaking. Ms. Nikolina Smith reiterated that since values were not proposed for revision, they cannot be revised in this rulemaking. Mr. Conrad stated that the Office of Chief Counsel has determined that any revision

to the vanadium soil direct contact values must occur in subsequent rulemaking following the publication of the current rulemaking. Mr. Bolstein suggested publishing an additional proposed rulemaking with a brief open comment period focusing only on the revised vanadium values to be integrated into the current proposed rulemaking. The Board believes this would be an easier solution than to initiate a new rulemaking process for vanadium only. Mr. Meloy commented that the DEP is proposing to revise the target blood level for lead without a public comment period, so revising a soil MSC for vanadium should also be allowable without a public comment period as well.

Mr. Meloy stated that the DEP is proposing to revise the blood lead level by virtue of the public comments, which in turn will require a revision to the lead soil MSCs, which in turn should trigger an additional public comment period. Ms. Smith stated that DEP counsel will consider whether an additional public comment period would be required. Mr. Robertson added that there was no public comment regarding the direct contact residential soil lead MSC, yet the DEP is revising that value for the final rulemaking without an opportunity for additional public comment period. In summation, Mr. Meloy stated that DEP is inconsistently applying the legal principles of Commonwealth Documents Law and Commonwealth Attorneys Act. Mr. Robertson stated that DEP has never knowingly set an MSC which is more stringent than the associated risk level established by the United States Environmental Protection Agency (EPA) but would be doing so here. EPA's Superfund Program is presently maintaining a 10 µg/dL target blood lead level for their lead risk level calculations.

Mr. Chuck Campbell, CSSAB Chairman, indicated that if a letter of support is required from the Board for this rulemaking, that will not occur unless revisions to the vanadium soil MSCs are implemented and calculations for the lead soil MSCs are based-upon a target blood lead level of 10 µg/dL.

Mr. Bolstein inquired whether the proposed soil MSCs for some PFAS compounds are appropriate since they are based upon EPA health advisory levels for drinking water. Mr. Conrad replied that the use of toxicological information from an EPA health advisory document is consistent with both Chapter 250 and the department's practice. Ms. Costello expressed concern that the aerial deposition of PFAS compounds may complicate the attainment i of the Background cleanup standard in some areas of the state

### **Final Discussion**

Mr. Conrad reiterated that DEP is requesting a letter of support from the CSSAB for the final rulemaking. If certain parts of the proposed rulemaking cannot be supported by CSSAB, caveats stating which parts of the rulemaking cannot be supported may be added to the letter. Mr. Conrad also requested that if the CSSAB does offer a letter of support for the rulemaking, it should be submitted within two weeks of this meeting. Mr. Robertson replied that based on the meeting today, it is doubtful that a letter of support for the rulemaking from CSSAB will be forthcoming. Ms. Abbey Cadden of DEP's Policy Office stated that a letter from CSSAB supporting this rulemaking is not required for promulgation of regulations, but rather it is a supplemental document to be brought to the Environmental Quality Board.

Mr. Meloy stated that promulgating the proposed lead soil MSCs in the final rulemaking without adding averaging of soil sampling concentrations as an Act 2 attainment option will be extremely problematic. Mr. Robertson stated the lead in soil attainment issue could be examined by the Lead Workgroup subcommittee if requested by DEP. Mr. Conrad suggested that this may be best accomplished with a new Workgroup comprising both CSSAB members as well as DEP staff.

Opportunity was given for audience participant questions. No questions were submitted for consideration.

Mr. Maddigan proposed dates for CSSAB meetings in 2021: April 14, August 11, and December 15.

**Meeting Adjourned at 1520.**