

Meeting Minutes
Cleanup Standards Scientific Advisory Board
Hybrid Virtual (Microsoft Teams) & In-Person Meeting (RCSOB Room 105)
October 30th, 2024

Cleanup Standards Scientific Advisory Board (CSSAB) Members Present

Charles Campbell, Chairperson*
Joel Bolstein
Annette Guiseppi-Elie
James Conner
Mark Smith
Colleen Costello
Mark Urbassik
Donald Wagner
William Hitchcock (Alternate)
Stephanie Gundling (Alternate)
Anneclaire De Roos

Department of Environmental Protection (DEP) Staff Present

Troy Conrad*
Michael Maddigan*
John Gross*
Brie Sterling*
Deborah Miller*
Megan Specht*
Yumi Creason*
Josh Neyhart*
Shay Decker*
Lindsay Williamson*
Frank Nemec

Members of the Public Present

Trent Machamer
Terry O'Reilly
Jeffrey Ivicic
Jenny Kachel

* Attended meeting in person. If no asterisk, then attendance was virtual.

Open Meeting

CSSAB chairman, Mr. Charles Campbell, opened meeting at 0930.

Approval of Minutes

Mr. Joel Bolstein motioned to approve the minutes for the 3/13/24 meeting. The motion was seconded by Mr. Mark Urbassik.

Administrative Issues

No administrative issues were raised during this meeting.

Membership

The CSSAB currently has 12 members. There is a single vacancy under the House Speaker. There are three House Minority positions that are expired, belonging to Mr. Charles Campbell, Ms. Tina Serafini, and Mr. Donald Wagner. There are two new members of the committee. Dr. Anneclaire De Roos is a professor and Interim Chair of the Drexel University Department of Environmental and Occupational Health. Her background is in environmental epidemiology, and she has experience in conducting risk assessments. Dr. Thomas Gluodenis is an Associate Professor of Chemistry and Physics at Lincoln University.

Land Recycling Program Staffing Update

Mr. Michael Maddigan provided a Land Recycling Program update. Ms. Shay Decker joined the Land Recycling Program in August of 2024 as a Governor's Science and Technology Fellow as part of Pennsylvania's Employer of Choice Initiative, a recruiting tool used to attract highly educated people to Commonwealth Employment. Ms. Decker has a Master of Public Health degree with a focus on epidemiology from Drexel. She will be with the Land Recycling Program for a year, assisting with researching and updating the physical and chemical properties and toxicity values databases, among many other projects.

The Remediation Standards and Brownfields Redevelopment sections in Central Office are fully staffed. The regional offices are still struggling to fill some positions.

Rulemaking Updates

The 60-day public comment period for the proposed Chapter 250 rulemaking closed August 14th. The Land Recycling program is working with the Policy Office and the Office of Chief Council to prepare responses to the comments received from the public and from the Independent Regulatory Review Commission. It is anticipated that the final rulemaking will be published by the end of 2025.

A new chromium VI rulemaking has been introduced to include EPA's new IRIS value for chromium VI and to correct an error in the mutagen portion of the calculation for the existing medium-specific concentration (MSC) for chromium VI. The proposed residential direct contact value will be 27 mg/kg, and the proposed non-residential surface soil direct contact value will be 570 mg/kg. This rulemaking is being introduced as a stand-alone rulemaking in order to ensure that the values are corrected and updated as soon as possible.

Land Recycling Program Statistics

As of October 23, 2024, the Land Recycling Program has seen 8,502 sites completed, with an additional 1,899 sites currently in process. The program has received 198 NIR submissions so far this year; the 3-year mean is 233. There was a decrease in approval rates in the 2020-2021 time frame, but rates are now returning to their pre-pandemic numbers. Reports using the statewide health standard have a higher rate of approval than reports using the site-specific standard. Mr. Maddigan stated that the program will continue to evaluate metrics for report submissions, focusing on final decisions on reports. Mr. Joel Bolstein requested that Central Office review report decisions made by the regional offices. Mr. Maddigan indicated that this would be difficult to accomplish, as Central Office does not read the reports. However, he stated that additional training for regional staff is being created in order to ensure that institutional knowledge is not lost when staff leave the agency. The SOP for decision documents has recently been updated and published on the DEP website detailing the decision process, so there should be no surprises for remediators. Mr. Campbell requested that report types be included in the next round of program statistics discussions.

Program Funding

Mr. Bolstein mentioned that the Industrial Sites Reuse Program (ISRP), which is managed by the Department of Community and Economic Development, is out of grant money for remediation projects already, not even halfway through the fiscal year. The ISRP, which gives out grant money for assessments or remediation, is funded as a percentage of the Hazardous Sites Cleanup Fund (HSCF), which is running out of funding. Mr. Bolstein urged the other members of the board to reach out to their contacts in the general assembly to request additional funding for the HSCF so that the ISRP can continue issuing grants for remediation work. Mr. Troy Conrad added that the Bureau of Environmental Cleanup and Brownfields (BECB) will be making a pitch to find additional funding for HSCF, which funds the LRP and the Hazardous Sites Cleanup Program, provides funds for matching under the Resource Conservation and Recovery Acts, and the Corrective Action program. Mr. Conrad relayed that current projections indicate that the HSCF fund will begin receiving less money than is expended to administer the program. Mr. High Garst indicated that the CSSAB's support would be helpful.

Mr. Bolstein mentioned that remediators on sites impacted by PFAS should seek funding from PennVest rather than HSCA, as PennVest has money available for PFAS work. This will leave the state more HSCF money for non-PFAS related projects.

Mr. Maddigan indicated that Central Office will begin reviewing Environmental Covenants concurrently with the Policy Office in order to gain insight into how they work, which will allow the LRP to develop their long-term stewardship program. Mr. Campbell asked if this would impact review timelines and Mr.

Maddigan assured that it will not.

One Cleanup Program Updates

Ms. Colleen Costello inquired about updates on the One Cleanup Program discussions the LRP is having with EPA. Mr. Maddigan explained that he, EPA's Ms. Deb Goldblum, and Ms. Goldblum's two section chiefs have travelled to each region to meet with their ECB staff in person. During these meetings, they discussed the intention of the One Cleanup Program, what has changed since its inception, and how to improve coordination between agencies. Mr. Maddigan has gathered information and suggestions from these meetings and will now begin working with the EPA Region 3 staff to provide guidance and process improvements. It was asked if Mr. Maddigan anticipates a need for the CSSAB to participate in developing or reviewing any changes. Mr. Maddigan said that any guidance documents that are created during the process will involve the board's input. He also indicated that he would like to collaborate with Ms. Costello, as she has been active with RCRA and is familiar with their policies.

EPA Brownfields Grants

Grant applications for FY25 are due on November 14th. Pennsylvania led the nation two years ago in both number of grants and amount of money awarded and was near the top last year. LRP has been working with Mid-Atlantic TAB and EPA Region 3 to provide training on grant applications to ensure applicants understand the process and the timeline. Mr. Maddigan indicated that the Department is willing and able to assist applicants where they can, including providing letters of support and answers to questions.

Act 2 Training Initiatives

The LRP hosted an Administrative Process webinar on September 18th for 324 participants. This will hopefully lead to a decrease in the number of administrative deficiency disapprovals on reports. The Department plans to continue offering stand-alone training on specific topics. The LRP is also collaborating with the Pennsylvania Council of Professional Geologists (PCPG) to put together a series of training webinars focusing on Act 2 basics and each of the cleanup standards. The webinars will be followed by a one day, in person training that will address more technical topics, such as risk assessments and vapor intrusion. The first webinars should be available beginning in early 2025. PCPG will host the trainings for a fee for their membership and others who need continuing education credits for their licenses. DEP will post the trainings on their website for the public to access for free.

Mr. James Connor requested that LRP put together a training on the use of the toxics management spreadsheet. Ms. Costello pointed out that the Clean Water Academy has trainings available on this topic. Mr. Maddigan agreed to look into providing a link to those trainings for LRP stakeholders.

LRP offered three Brownfields Basics trainings during the fall, offering an introduction to brownfields and Act 2 for those new to the field. One was held on September 15th in Johnstown, one on October 1st in Norristown, and one on October 23rd in Danville.

The next PA Brownfields Conference will be held in spring of 2026. The conference is still in the early planning stages, with more information to come as the date gets closer.

PFAS Action Team Update

Mr. Josh Neyhart provided an update on the DEP PFAS Interagency Workgroup discussions. In April of 2024, EPA announced PFAS MCLs for drinking water, which will be enforceable in 2029. EPA's MCLs are more restrictive than DEP's current values. Pennsylvania has begun requiring some public water facilities to begin quarterly testing for PFAS at each entry point into the public water systems, with more to be added in the following year. If any entry point reports a value that causes the annual average to exceed the MCLs, a violation is issued for that quarter. DEP is working with the public water systems to prepare for the more restrictive EPA MCLs that will come into effect in 2029. DEP also regularly updates a dedicated webpage that houses information on reporting data, PFAS mitigation for homeowners, and other information. In July, EPA designated the two most widely used PFAS substances – PFOA and PFOS – as hazardous substances under CERCLA. The new EPA toxicity values will be used to calculate soil direct contact values to determine MSCs. Since these values must be calculated by DEP, they must go through the rulemaking process. That work is ongoing, and updates will be available at future board meetings.

Ms. Costello mentioned that the current Pennsylvania PFAS standards for groundwater are more stringent than the drinking water standards, which is causing confusion for remediators. She also noted that there will be inconsistencies between the drinking water standards and the soil to groundwater standards. Mr. Neyhart indicated that the action group is still working on solving those problems. Mr. Conrad added that it is in remediators' best interests to begin complying with the new federal standards as soon as possible. There is always a delay between the release of new science and the DEP's ability to incorporate that science into a new rulemaking. Working with the new values as soon as possible not only helps remediators avoid issues and confusion in the future but is also the way to best protect human health and the environment. Ms. Costello recommended that the action team look to other states and their development of background PFAS numbers as guidance.

Mr. William Hitchcock mentioned that the lack of standards for PFAS concentrations in clean fill is causing difficulties for developers, especially as different regions are applying different rules in the absence of a standard value. Mr. Conrad agreed to raise this issue in his next meeting with the Deputy Secretary.

Ms. Annette Guiseppi-Elie shared a report from the federal government regarding PFAS and its change from an emerging contaminant to a known contaminant.

Draft TGM and Public Comment

Ms. Brie Sterling shared documentation with the board outlining LRP's responses to the board's comments on the draft Technical Guidance Manual (TGM). The board has a few weeks to get any additional comments to the department, and then the draft TGM will go out for public comment.

Mr. Hitchcock raised a question about #11 regarding rounding to meet significant digits in the MSC. He disagreed that there should be different rounding rules for MSCs depending on whether they are based on EPA MCLs, especially since EPA itself allows rounding to demonstrate compliance. He expressed concern that different rules for different MSCs adds unnecessary complexity and provides opportunities for an unnecessary increase in deficiencies and disapprovals.

Ms. Stephanie Gundling requested clarification on Section 2, #4 about what constituents one can receive relief of liability for and whether that relief of liability depends on whether values are compared to the MSCs. Ms. Sterling explained that the substances must also be fully characterized. Mr. Donald Wagner clarified that a release must have occurred in order to attain relief of liability for a substance.

Historic Pesticide Guidance

Ms. Sterling presented to the board a draft guidance for addressing the historical application of lead and arsenic pesticides. This guidance will be incorporated into the draft TGM.

Mr. Bolstein asked whether Act 2 liability relief would be obtained after following the guidance. He also asked whether the site-specific standard could be used to obtain liability relief for properties where capping is used to contain the arsenic in the soil. Ms. Sterling explained that the new guidance does not eliminate any other processes used to attain a standard but is instead an additional option that can be used in special situations where lead and arsenic were used on a large area that would be imprudent to cap. Mr. Bolstein suggested that it be made clear in the guidance that soil mixing is just one of several remediation options.

Mr. Bolstein also asked whether this new guidance indicates that Act 2 is reconsidering prior policy that disincentivized development on agricultural and orchard lands. Mr. Maddigan explained that this guidance was created with two goals; one goal was to decide whether vertical soil mixing was an effective remediation strategy, and the other was to determine whether a property could go through the Act 2 process when regular pesticide application was the source of contamination. A study of the regulations suggested that such properties could go through the Act 2 program.

Mr. Hitchcock asked why the management of fill policy in the guidance precludes bringing clean soil in from off site. Mr. Maddigan explained that staff in the Bureau of Waste Management indicated that blending something considered waste is prohibited by the Waste statute. Therefore, mixing on site to create clean fill is allowed, but adding to the soil or removing the soil from the site and adding it to soil elsewhere are prohibited. Mr. Hitchcock agreed that removing soil from the site should be prohibited but disagreed that bringing in clean fill and mixing it in-situ should result in the soil being classified as waste. Mr. Maddigan agreed to discuss the matter with Bureau of Waste Management staff to receive clarification on the issue.

Ms. Gundling asked if information regarding the historic use of these pesticides could be included in the guidance in order to assist in determining which agricultural lands might qualify. Ms. Sterling agreed to look more deeply into that information and include more context in the document.

Mr. Conrad clarified to the board that the Department and the Commonwealth hold the position that agricultural land should remain undeveloped wherever possible. This guidance was created to address the fact that these properties are being developed anyway, with the intention of providing a pathway

through the Act 2 program to ensure human health and safety, especially considering that the majority of development on agricultural land is residential. The guidance must provide that pathway while maintaining parity with methodology that is acceptable for use on non-agricultural sites.

Mr. Maddigan requested that any additional comments or questions from the board be forwarded to Ms. Sterling by the end of November.

Chromium VI

Ms. Sterling and Mr. Maddigan answered board questions regarding the chromium VI rulemaking update.

Mr. Hitchcock mentioned that using the mutagenic equation to calculate the non-residential standard results in a different number than the one listed in the guidance. Ms. Sterling clarified that the non-residential calculation is based on adult exposure, not children, so the mutagenic equation is not used for that calculation.

Mr. Bolstein inquired about how often chromium VI appears at Act 2 sites. Mr. Maddigan clarified that the Department's research did not uncover any Act 2 sites at which either the current or proposed chromium VI levels were exceeded. Ms. Sterling added that fewer than 75 sites have attempted to demonstrate attainment for chromium VI since the current value was published.

Ms. Colleen Costello mentioned that many remediators use the chromium VI MSC as their limit for total chromium concentrations and requested confirmation that this would still be possible under the new guidance. Ms. Sterling confirmed that the guidance is only to update the MSC.

Mr. Charles Campbell motioned to support the Department moving the proposed chromium VI rulemaking to the Environmental Quality Board. The motion was seconded by Ms. Colleen Costello and the motion passed.

Q&A Question Submission

Mr. Hitchcock asked whether there is a current process for submitting questions to a Q&A database. Ms. Sterling indicated that any questions to be added to the Q&A document may be emailed to her or to the resource account that is listed in the Q&A document. Mr. Maddigan clarified that the questions that are listed on Q&A documents are addressed during each TGM revision process. The Department will be revising the TGM more frequently to ensure that the number of questions on each document remains fairly low.

NPDES Discharge Permits

Ms. Costello mentioned that she is seeing NPDES discharge permits that are requiring testing for PFAS, and in some cases even mitigation requirements. She asked whether these requirements should be taken into account during the Act 2 process regarding ground water to surface water discharge. Mr. Maddigan is not aware of any updates to the Act 2 requirements and has not received any questions regarding PFAS and NPDES permits.

Commented [GS1]: Make sure this statement aligns with whatever pre-prepared back pocket response we have in case this question comes up at the EQB meeting.

Public Comments

There were no public comments.

2025 Meeting Dates

Ms. Sterling will send the 2025 meeting dates to the membership of the Board.

Close Meeting

Next meeting will be held on March 18th, 2025.

Mr. Charles Campbell moved to adjourn the meeting. Motion approved.

Meeting adjourned 1137.