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Consideration of Proposed Rulemaking Administration of the Land Recycling Program 25 Pa. Code, Chapter 250

Environmental Quality Board
December 15, 2009

Tracey Vernon
Acting Deputy Secretary



Background

- Land Recycling and Environmental Remediation Standards Act (Act 2)
 - Effective: 1995
 - Pennsylvania's Cleanup Program
 - Over 15,000 Cleanups Approved
 - Over 4,000 In Process

Proposed Rulemaking Statutory Authority

- Section 104(a) of the Land Recycling and Environmental Remediation Standards Act (Act 2)
 - Directs the Board to periodically amend Statewide health standards as scientific studies are updated
- Section 303 (a) of the Land Recycling and Environmental Remediation Standards Act (Act 2)
 - Directs the Board to promulgate Statewide health standards for regulated substances and methodology used to calculate standards

Major Provisions

- Adopt the current EPA Risk Assessment Guidance for Superfund – January 2009
- Revise the tables of numeric values for Statewide health standards
 - Used to develop medium-specific concentrations (MSCs)
 - First Promulgated - 1997
 - Most Recent Revision - 2001

Major Provisions

- Establish a 3 year review cycle for future revision to the tables of numeric values for regulated substances
- Automatically adopt EPA's Maximum Contaminant Levels (MCLs) and Health Advisory Levels (HALs) as medium-specific concentrations (MSCs)
- Promulgate certain requirements currently established in program guidance
- Correct errors and omissions

Rulemaking Impact

- Regulations would impact owners, operators, and purchasers of properties and facilities who volunteer or are required to perform remediation activities
- Ensure that Pennsylvania's cleanup program is current

Developing Statewide Health Standards

- Process to determine medium-specific concentrations (MSCs) for Statewide health standards as directed in Section 303 of Act 2
 - Maximum Contaminant Level (MCL)
 - Health Advisory Level (HAL)
 - Calculated using the equations in Act 2 regulations

Proposed Revisions to Numeric Values

	Higher	Lower
Groundwater MSC	84	54
Soil - Direct Contact	48	55
Soil - Soil to Groundwater	83	61
	215	170

- 26 new substances have been added

Background - MTBE

- Statewide health standard MSC for methyl tertiary butyl ether (MTBE) will remain at 20 ug/l as currently published in Chapter 250
- Background on regulated substance
 - Previously used to replace lead in gasoline
 - No longer used as a fuel additive but is a common contaminant at older gasoline tank releases

Background - MTBE

- Based on a 1996 EPA draft Health Advisory Level (HAL)
- Adopted by Board in August 1997
- Published by EPA as a Drinking Water Advisory in December 1997

Background - MTBE

- DEP views the 1997 Drinking Water Advisory as a Health Advisory Level (HAL)
- Upon review of calculated numeric values for all regulated substances, DEP decided to retain the current MSC (20 ug/l) for MTBE

Advisory Committee Review

- Cleanup Standards Scientific Advisory Board
- Storage Tank Advisory Committee
 - Supportive of the overall rulemaking with the exception of retaining the current standard for MTBE

Recommendation

The Department recommends approval of the proposed Chapter 250 rulemaking, with a 30-day public comment period.



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