

## **EXECUTIVE SUMMARY**

### **Final Rulemaking 25 Pa. Code Chapter 250 Administration of the Land Recycling Program**

#### **Purpose and Summary of the Final Rulemaking**

The final-form rulemaking is made under the authority of section 303(a) of the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908) (Act 2), which directs the Environmental Quality Board (EQB) to promulgate Statewide health standards for regulated substances for each environmental medium and the methods used to calculate the standards (35 P.S. § 6026.303(a)). These amendments are intended to update the Statewide health standard Medium Specific Concentrations (MSCs) based on the most current science available to protect human health and the environment.

It is imperative for the Department of Environmental Protection (Department) to review and update the MSC values and toxicological data on a timely basis to assure that environmental response actions at contaminated sites are remediated based on the current science and current toxicological information available. Regular, timely reviews protect public health and the environment from exposures to regulated substances where it has been determined that lower concentrations of a regulated substance are necessary. Such reviews help remediators avoid unnecessary expenses when remediating contaminated property for redevelopment where it has been determined that higher concentrations of regulated substances are protective and meet the standards established by the statute.

The rulemaking provides the following updates and clarifications:

- updates the medium-specific concentrations (MSCs) under the Statewide health standard and adds several new compounds to the MSC tables;
- provides new definitions for “method detection limit” and “volatile compound”;
- updates procedures for determining the limits related to practical quantitation limits;
- updates public participation requirements;
- updates reference for groundwater monitoring guidance;
- addition of professional seal requirements;
- addition of new references for solubility limits;
- clarifies how to evaluate substances with secondary maximum contaminant levels;
- updates exposure factors;
- clarifies when an ecological risk assessment is necessary;
- clarifies when a cleanup plan is necessary;
- clarifies reporting requirements when land use changes at special industrial sites;
- adds toxicity information sources;
- clarifies when a vapor intrusion analysis is necessary;
- and updates other out of date references.

In response to comments on proposed changes to models used to calculate blood lead levels and direct contact values for lead, the Department is rescinding those proposed changes and intends to propose a separate rulemaking addressing the calculation of the ingestion numeric values for lead in soil to ensure the Department is using the most current science regarding lead toxicity. This will allow the public the opportunity to comment on these changes.

The other notable change between the proposed and final rulemaking is a change in the groundwater and soil MSC values for perfluorobutane sulfonic acid (PFBS). EPA announced the publication of a new toxicity assessment for PFBS on April 8, 2021, which included an updated toxicity value that differed from what was used in the proposed rulemaking. Consequently, the PFBS toxicity value has been amended in the final rulemaking to use the most current and accurate science to calculate the newly proposed MSC values, as required by § 250.11. This change substantially lowered the MSCs for PFBS from the proposed to the final rulemaking. This change in toxicity values follows the established hierarchy and process the Department uses for selecting toxicity values described in § 250.605.

### **Affected Parties**

The technical amendments to the Land Recycling regulations will affect owners, operators and purchasers of properties and facilities who volunteer or are required to perform remediation of contaminated sites. These amendments are not expected to add significant expenses to the overall cleanup of contaminated sites under this program. Some cleanup standard concentration values will be lower, and some will be higher. The net cost difference is expected to be negligible.

### **Outreach (Advisory Committee/Stakeholder Consultation)**

The final-form rulemaking was presented to, and discussed with, the Cleanup Standards Scientific Advisory Board (CSSAB) at the July 30, 2020, and December 16, 2020, meetings. Numerous recommendations were provided by the CSSAB, and the Department has incorporated these suggestions where appropriate.

### **Public Comments**

The proposed rulemaking was adopted by the EQB on November 19, 2019, and was published in the *Pennsylvania Bulletin* on February 15, 2020, with the public comment period ending on April 30, 2020. During the public comment period, 140 comment documents from 128 individuals and organizations were received, including the Independent Regulatory Review Commission which submitted comments on June 1, 2020.

Most of the commentators expressed concern with the proposed increase in the non-residential numeric value for lead in surface soil in Table 4A. This increase was a result of the proposed amendments to § 250.306(e) which updated the models used to calculate blood lead levels that are applied to the corresponding lead numeric value calculations and updates to the model input parameters in Table 7. Commentators provided various reasons for their concerns, but the main theme of their concerns was that the Department was using outdated science to calculate the soil lead numeric values, specifically the use of a target blood lead level (TBLL) of 10 µg/dL. Many of the commentators recommended changing the TBLL from 10 µg/dL to 5 µg/dL.

Other comments regarding the MSC table values were provided to the Department including concerns with increasing numeric values, concerns with decreasing numeric values, potential impacts to plants and wildlife, concerns with the minimum threshold MSCs, potential increases in the cost of cleanups, concerns with the current vanadium soil numeric values, and concerns with transparency in the MSC calculation process. All comments were considered and are addressed in the comment and response document accompanied with this final-form rulemaking.

**Recommendation**

The Department recommends adoption of this final-form rulemaking.