



Bureau of Environmental Cleanup and Brownfields

**COMMENT AND RESPONSE
DOCUMENT**

**Administration of the Land Recycling
Program**

25 Pa. Code Chapter 250

52 Pa.B. 4235 (July 30, 2022)

Environmental Quality Board Regulation #7-572

(Independent Regulatory Review Commission #3348)

INTRODUCTION

On May 18, 2022, the Environmental Quality Board (Board) adopted the Administration of the Land Recycling Program proposed rulemaking to update the toxicity value for vanadium and corresponding vanadium medium-specific concentrations (MSCs) for soil and groundwater. On July 12, 2022, the Department of Environmental Protection (Department), on behalf of the Board, submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment in accordance with Section 5(a) of Pennsylvania's Regulatory Review Act (71 P.S. § 745.5(a)). On July 30, 2022, the Board published the proposed rulemaking in the *Pennsylvania Bulletin* (52 Pa.B. 4235) for a 30-day public comment period that closed on August 29, 2022.

This Comment and Response Document provides responses to all comments received during the public comment period. No comments were received by IRRC. The House and Senate Environmental Resources and Energy Committees did not submit comments on the proposal.

A list of the commentators, including name and affiliation (if any), can be found below. The commentator list also includes identification numbers, which are referenced in parentheses following each comment in this document.

Copies of all comments received by the Board during the public comment period are posted on the Department's e-Comment website at <https://www.ahs.dep.pa.gov/eComment/>. Additionally, copies of all comments are available on IRRC's website at <http://www.irrc.state.pa.us> by searching for Regulation #7-572 or IRRC #3348.

List of Commentators

ID	Name/Affiliation/Address
1	David Van Keuren Earth Engineering Inc. E. Norriton, PA

1) Comment: A commentator questioned if the new vanadium MSC supersedes the Management of Fill Policy guidance on Utilizing Published Data in Performing a Background Demonstration and Equivalent Site Evaluation for Naturally Occurring Vanadium. The commentator expressed a concern that differences between the MSC and the Clean Fill limit create confusion when it comes to site development activities which are creating unnecessary costs for soil handling and disposal during site development. **(1)**

Response: The technical guidance document, titled “Utilizing Published Data in Performing a Background Demonstration and Equivalent Site Evaluation for Naturally Occurring Vanadium” (258-2182-774) was published by the Department as interim final on February 26, 2022. This document provides procedures for utilizing a published data set to statistically determine statewide representative background concentrations as an alternative to collecting background samples representative of the donor site (for a Background Demonstration) and/or the receiving site (for an Equivalent Site Evaluation), as described in Section G of Appendix A of the Department’s *Management of Fill Policy* (258-2182-773). Because the soil MSCs for vanadium in the Chapter 250 regulations will no longer be near the lower end of the range of the naturally occurring levels in Pennsylvania, this technical guidance document is no longer necessary and will be rescinded when this final-form rulemaking is published in the *Pennsylvania Bulletin*.