

EXECUTIVE SUMMARY

DEPARTMENT OF ENVIRONMENTAL PROTECTION Proposed Rulemaking 25 Pa. Code Chapter 250 (Administration of the Land Recycling Program)

The proposed rulemaking is being made under the authority of section 303(a) of the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101-6026.908) (Land Recycling Act), which directs the Environmental Quality Board to promulgate Statewide health standards for regulated substances for each environmental medium and also the methods used to calculate the standards (35 P.S. § 6026.303(a)). These amendments are intended to address the objectives of updating the Statewide health standards based on current science, correcting errors and omissions, and stating certain established policies in the regulations.

The primary purpose for this proposed rulemaking is to update the standards related to cleanup of contaminated sites under the Land Recycling Act. The Land Recycling Act requires the Environmental Quality Board (Board) to establish by regulation uniform Statewide health-based standards so that any substantial present or probable future risk to human health and the environment is eliminated. The original standards were promulgated in 1997 and codified in Chapter 250. Section 104(a) of the Land Recycling Act explicitly recognizes that such standards would need to be updated over time as better science became available and as the need for clarification or enhancement of the program became apparent. Updating the standards serves the public as the Department is able to use the most up-to-date health and scientific information to establish the cleanup standards. In addition, the changes in standards serve both the public and the regulated community as they provide clear information on what is or will be done at contaminated sites. This gives the public notice and provides remediators with a clear endpoint to the remediation process. Several amendments are currently part of guidance, but are proposed for addition to Chapter 250 to give the requirements the legal status of a binding norm, which should lead to greater consistency and clarity across the Commonwealth.

These 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 changes are not expected to add any significant costs to the cleanup of contaminated sites under this program. Some cleanup standard concentration values will be lower and some will be higher. The net cost should be negligible.

The proposal was discussed and approved with unanimous support at the Cleanup Standards Scientific Advisory Board (CSSAB) board meeting held on September 1, 2009; however, subsequent to the CSSAB's review, the Department reconsidered changes to the Statewide health standards initially considered for Methyl Tertiary Butyl Ether (MTBE) and decided not to propose any changes for MTBE at this time. The current Chapter 250 Statewide health cleanup standard for MTBE is 20 ug/l for groundwater used for drinking water. This 20 ug/l standard is the odor threshold for MTBE as published by the U.S. Environmental Protection Agency in the *"2006 Edition of the Drinking Water Standards and Health Advisories"* (EPA 822-R-06-013). The Department has decided that the previously considered revisions for MTBE included in the

September 1, 2009 draft, which allowed for higher concentrations of MTBE based on health based calculations, would have resulted in unacceptable taste and odor impacts on groundwater used for drinking water. The CSSAB reviewed the revised regulations on November 19, 2009, and while the CSSAB is supportive of the overall rulemaking, it opposes the standards for MTBE, as contained in the proposal, because they do not reflect specific health-based criteria from Act 2.

A public comment period of 30 days is recommended for the proposed rulemaking. No public meetings or hearings are deemed necessary for this proposal, unless requested during the comment period.