

## EXECUTIVE SUMMARY

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

The proposed rulemaking is being made under sections 104(a) and 303(a) of the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101-6026.908) (Act 2) (relating to powers and duties; and Statewide health standard), which directs the Environmental Quality Board (Board) to promulgate Statewide health standards for regulated substances for each environmental medium and the methods used to calculate the standards, and to periodically amend those standards and methods as necessary. (35 P.S. §§ 6026.104 and 6026.303(a)). Section 250.11 of the Department's regulations, 25 Pa. Code § 250.11 (relating to periodic review of MSCs) further requires the Department to evaluate the scientific basis that supports the Act 2 standards and propose updates to the Board where necessary, but at least on a triennial basis. This proposed rulemaking includes changes that would serve the public because they are based on the most up-to-date scientific information.

Chapter 250 (relating to administration of the land recycling program) requires that the Department review and update the medium specific concentration (MSC) values and the associated toxicological data on a timely basis to assure that environmental response actions at contaminated sites are remediated based on the current EPA guidance and current toxicological information. The Board last promulgated amendments to Chapter 250 on August 27, 2016 (46 Pa.B. 5655). This ongoing review process will assure the protection of public health and the environment from exposures to regulated substances, especially when it has been determined that lower concentrations of a regulated substance are necessary. When it has been determined that higher concentrations of regulated substances are protective and meet the standards established by the statute, this process will avoid unnecessary expense for entities remediating contaminated property for redevelopment.

These proposed amendments to the Chapter 250 regulations would affect owners, operators and purchasers of properties and facilities who are remediating contaminated sites. These proposed changes are not expected to add any significant costs, overall, to the cleanup of contaminated sites under this program. Some cleanup standard concentration values would be lower, and some would be higher under this proposed rulemaking. The net cost difference should be negligible.

#### **Summary of the Proposed Rulemaking**

As noted above, Section 250.11 requires that the Department review new scientific information that serves as the basis for developing MSCs under the Statewide health standard and propose appropriate changes at least 36 months following a previous promulgation of MSCs. 25 Pa. Code § 250.11. This proposed rulemaking would update the Statewide health standard MSCs based on current scientific information that is published by the U.S. Environmental Protection Agency (EPA) and other sources. In particular, the proposed rulemaking would add soil and groundwater MSCs for three compounds in the Per- and Polyfluoroalkyl substances (PFAS) family – Perfluorobutane Sulfonate (PFBS), Perfluorooctane Sulfonate (PFOS), and Perfluorooctanoic Acid (PFOA). Under Act 2, the Department has directly incorporated EPA's health advisory level (HAL) for PFOS and PFOA as groundwater MSCs and has used the data

developed by EPA regarding PFOS and PFOA to calculate soils MSCs for both compounds, respectively.

These proposed changes, based on new information, would protect public health and the environment. In addition, the changes would serve the public and the regulated community by providing clear information on the requirements of Act 2 and Chapter 250 related to the appropriate clean up of contaminated sites. In addition to the proposed changes to the Act 2 MSCs, this proposed rulemaking would also clarify a number of procedural issues related to the administrative requirements of Act 2, including requirements for remediators and municipalities regarding public participation and public involvement plans, requirements for acceptable “practical quantity limits” related to the precision of laboratory testing, requirements for professional seals from professional geologists or engineers, resources to calculate MSCs, and clarification on the proper submission of various reports related to the Act 2 Site-Specific Standard.

### **Affected Parties**

The soil numeric values represent a decrease for approximately 83% of the values and an increase for 17% of the values. For groundwater, the proposed changes reflect a decrease for approximately 92% of the values and an increase in approximately 8% of the values. Lowering the values may indicate a more stringent cleanup is required at a site and increasing the values may indicate a less stringent cleanup is required at a site. The number of completed remediations vary each year. On average, remediators apply the Act 2 remediation standard to approximately 800 contaminated properties across the Commonwealth. Generally, any cost related to a given site remediation depends in large part on which regulated substances are being remediated and what the specific soil and groundwater conditions are at the site.

### **Advisory Groups**

The Department worked with the Cleanup Standards Scientific Advisory Board (CSSAB) during the development of this proposed rulemaking. CSSAB, which was established by Section 105 of Act, 35 P.S. § 6026.105, consists of persons representing a cross-section of experience, including engineering, biology, hydrogeology, statistics, medicine, chemistry, toxicology and other related fields, and whose purpose is to assist the Department and the Board in the development of Statewide health standards, determining the appropriate statistically and scientifically valid procedures and risk factors to be used, and providing other technical advice as needed to implement Act 2. During CSSAB meetings on August 1, 2018, February 13, 2019, June 12, 2019, and October 29, 2019. CSSAB members were given the opportunity to review and provide feedback on draft regulatory amendments to Chapter 250. The Department worked with the CSSAB to resolve concerns and agreed to evaluate additional suggestions during the next review cycle for this rulemaking. Following these presentations and discussions, the CSSAB issued a letter related to the proposed regulatory amendments included in this rulemaking. Specifically, the CSSAB noted concern related to the MSCs for vanadium.

### **Recommendation**

The Department recommends the Board adopt this proposed rulemaking. A public comment period of 60 days is recommended. Two public hearings are also recommended to be held during the public comment period.