

PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CHAPTER 250]

Calculation of Soil Lead Medium-Specific Concentrations; Advance Notice of Proposed Rulemaking

The Department of Environmental Protection (Department) is soliciting information for the development of proposed amendments to Chapter 250 (relating to administration of Land Recycling Program) regarding the calculation of medium-specific concentrations (MSCs) in response to public comments on the previous Chapter 250 proposed rulemaking which proposed changes to the models used to calculate the soil lead MSCs. See 50 Pa.B. 1011 (February 15, 2020). After further consideration, the Department, in the final-form rulemaking, rescinded the proposed lead modeling amendments and decided to address this issue in a subsequent rulemaking. The Department, through this Advance Notice of Proposed Rulemaking (ANPR), is soliciting information necessary to prepare the proposed rulemaking.

The information received in response to this ANPR will be used to evaluate the updates to the model, potential changes to model input parameters and potential changes to the statistical tests used to demonstrate attainment of the Statewide health standard for lead in soil at Act 2 remediation sites.

A. Background and Purpose

During the public comment period for the previous proposed rulemaking, the Environmental Quality Board received numerous comments expressing concern with the proposed amendments to § 250.306(e) (relating to ingestion numeric values) which updated the models used to calculate the soil direct contact numeric values for lead. For the nonresidential numeric value calculation, the Society for Environmental Geochemistry and Health (SEGH) Task Force Approach to the Assessment of Lead in Soil was proposed to be replaced with United States Environmental Protection Agency's (EPA) Adult Lead Model (ALM). For the residential numeric value calculation, Uptake Biokinetic (UBK) Model for Lead (version 4.0) was proposed to be replaced with the EPA's Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children from 2010 which has subsequently been updated in May 2021. Updates to the model input parameters Table 7 were also proposed.

Additionally, on September 17, 2020, the Cleanup Standards Scientific Advisory Board (CSSAB) provided a memo to the Department titled "Consideration for the Application of the IEUBK Model and ALM for the Development of Soil Direct Contact Values for Lead within the Act 2 Program." In this memo, the CSSAB discussed the models' use of average concentrations as input values and compared attainment outcomes for each of various datasets using three tests: 75% /10x, 95% UCL, and the average of the attainment sampling soil concentration. Based on this analysis, the CSSAB recommended the Department consider the use of the average lead concentration as an additional option for the attainment demonstration for sites with soil lead contamination. Persons wishing to use the two existing attainment

tests could still do so, consistent with what is currently provided for in the regulations implementing the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908) (Act 2).

B. Specific Information Requested by the Department

1. The Department is seeking scientific information regarding using the proposed updated models in calculating the residential and non-residential direct contact numeric soil values for lead. Scientifically supported reasoning in support or opposition to the use of these models should be provided including information relating to the financial and economic impacts of these updates.

2. The Department is seeking scientific information regarding the use of the most scientifically appropriate target blood lead level and other model input parameters for calculating the residential and nonresidential direct contact numeric soil values for lead. Information on the use of the models' default input parameters versus the use of other specific input parameters should be included.

3. The Department is seeking scientific information regarding the use of the average lead concentration as an additional option for the attainment demonstration of the Statewide health standard for sites with soil lead contamination. These models discuss the use of average concentrations as input values for site-specific evaluations. Information on the application of averages in the models as well as the use of averages to demonstrate attainment should be included.

C. How to Provide Information

Documents must be received by January 28, 2022. Written or electronic documents will be accepted. A subject heading must be included noting that the document is being submitted in response to the Advance Notice of Proposed Rulemaking for Proposed Changes to the Chapter 250 Soil Lead Models. A return name and address must be included in each letter or transmission.

Electronic documents may be submitted through eComment at <http://www.ahs.dep.pa.gov/eComment> or by e-mail to RegComments@pa.gov.

Written documents should be sent to the Department of Environmental Protection, Policy Office, 400 Market Street, P.O. Box 2063, Harrisburg, PA 17105-2063. Documents will not be accepted by facsimile or voice mail.

D. Contact Persons

For further information, contact Troy Conrad, Bureau of Environmental Cleanup and Brownfields, at tcconrad@pa.gov or (717) 783-9480. Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Department at (717) 783-1566 or through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

This ANPR is available on the Department's eComment web site at <http://www.ahs.dep.pa.gov/eComment>.

PATRICK McDONNELL,
Secretary

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ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

On October 19, 2021, the Environmental Quality Board accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition, submitted by RES Coal, LLC, requests the amendment of 25 Pa. Code § 93.91 (relating to Drainage List L) to redesignate Saltlick Run in Clearfield County from High Quality Waters—Cold Water Fishes to Cold Water Fishes.

Under 25 Pa. Code § 93.4d(a) (relating to processing petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to

assess candidate waters. The Department's assessment notice for this rulemaking petition will appear in a future issue of the *Pennsylvania Bulletin*.

The previously-referenced petition is available to the public by contacting the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 and is accessible on the Department's web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board," then "2021 Meetings," then "Meeting Agendas/Minutes/Handouts; October 19, 2021: In-Person/WebEx Meeting").

PATRICK McDONNELL,
Chairperson

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