



PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION FINALIZES UPDATES TO THE ACT 2 MSCs

On August 27, 2016, the Pennsylvania Department of Environmental Protection (PADEP) published in the Pennsylvania Bulletin notice of amendments to Chapter 250 (relating to administration of Land Recycling Program). The amendments relate to the periodic review of medium-specific concentrations (MSCs), to review new scientific information that relates to the basis of MSC as it becomes available, and to propose appropriate changes, as necessary. This process is completed every 36 months.

The following link to the PA Bulletin provides the detailed information as well as the updated MSCs.

<http://www.pabulletin.com/secure/data/vol46/46-35/1508.html>

The updated MSCs are effective as of August 27, 2016. This has impact on **ALL** Act 2 Land Recycling and Act 32 Storage Tank projects, which are currently in progress at this time. PADEP has indicated that where Site Characterization Reports, Remedial Investigation Reports, Remedial Action Plans, or Cleanup Plans were approved prior to August 27, 2016, PADEP will not require those reports to be changed to incorporate the new MSCs. However, the remediator must demonstrate attainment of the new MSCs at the time of the Final Report and/or Remedial Action Completion Report.

The following key changes have been made:

"§ 250.5. Public notice by applicant

Amendments to this section add the requirement that documented proof of the mailing of municipal notices and the arranging for publication of newspaper notices that are required under the act shall be submitted at the same time the Notice of Intent to Remediate (NIR), plan or report is submitted to the Department. This will allow the Department to assure that the municipality and the public are notified of the NIR, plan or report in a timely fashion.

§ 250.7. Fees

Amendments to this section clarify that the Department may waive the fee for resubmission of a plan or report if the resubmission is related to correcting minor administrative or technical deficiencies.

§ 250.301. Scope

Amendments to this section add certain regulated substances to the list of substances classified as mutagens based on recently published scientific information.

§ 250.304. MSCs for groundwater

Prior to the January 2011 edition of the Drinking Water Standards and Health Advisories, EPA Office of Water Publication No. EPA 820-R-11-002 (January, 2011), when the EPA published a lifetime Health Advisory Level (HAL) and a 10^{-4} Cancer Risk concentration for a chemical, the lifetime HAL concentration would include an adjustment for cancer risk. Starting with the January 2011 edition of the

Drinking Water Standards and Health Advisories, the EPA changed its Cancer Classification system and started publishing lifetime HALs that did not include adjustments for cancer risk even when a 10^{-4} Cancer Risk concentration was also published.

Amendments to subsection (c) clarifies that a published lifetime HAL concentration would not be used as the MSC for substances that are designated as likely to be carcinogenic if the lifetime HAL does not include an adjustment for cancer risk. For these cases the MSC will be calculated based on the equations in §§ 250.306 and 250.307 (relating to ingestion numeric values; and inhalation numeric values).

Amendments to subsection (g) include additional references related to the determination of solubility values.

§ 250.306. Ingestion numeric values

Due to new information about the toxicology of trichloroethylene (TCE), values for oral cancer slope factors for TCE were added and the formula for calculating the MSC for TCE was amended.

Due to new information published by the EPA in Exposure Factors Handbook 2011 Edition, EPA/600/R-090/052F, the average body weight and the associated ingestion factors were amended.

§ 250.307. Inhalation numeric values

Due to new information relating to the toxicology of TCE, values for inhalation unit risk for TCE and the formula for calculating the MSC for TCE were amended.

Appendix A, Tables 1-6

Amendments to the Medium-Specific Concentrations tables in Appendix A were made for certain regulated substances. Information was updated on the Physical and Toxicological Properties tables and the Threshold of Regulation Compounds table.

F. Summary of Changes to the Proposed Rulemaking

§ 250.5. Public notice by applicant

The proposed amendments to this section stated that specific documented proof of the mailing of municipal notices and arranging for the publication of newspaper notices is required at the same time the NIR is submitted to the Department. This would have required remediators to wait for public notice documents in advance of submitting reports and NIRs to the Department. The act requires these notices to be made at the same time the NIR or report is submitted to the Department. See section 303(h) of the act and sections 302(e), 304(n) and 305(c) of the act (35 P.S. §§ 6026.302(e), 6026.304(n) and 6026.305(c)). In this final-form rulemaking, this section was revised to allow remediators to provide reasonable proof of publication by submitting the proposed text of the newspaper notice and the anticipated publication date at the same time that the NIR is submitted. This will allow the Department to assure that the municipality and the public are notified of the NIR, plan or report in a timely fashion, in accordance with the act.

§ 250.304. MSCs for groundwater

Section 250.304(g) provides references for sources of solubility limits used in calculating the groundwater MSCs. Paragraph (18) with the reference to Riddick, J.A., et al. was added in this final-form rulemaking to the list of sources.

§ 250.307. *Inhalation numeric values*

An amendment to an equation in this section corrects a typographical error that occurred between approval and publication of the final-form rulemaking published at 41 Pa.B. 230 (January 8, 2011).

Appendix A, Tables 1-6

Updates to toxicity values published after the proposed rulemaking caused existing MSCs for certain regulated substances to change. In addition, triethylene glycol was added based on new data the EPA published in the Provisional Peer-Reviewed Toxicity Values (PPRTV)."

RT has completed more than a 100 Act 2 sites and recommends that **ALL** remediators review the updated MSCs for ongoing projects and determine if there are impacts to their projects. RT can help remediators do this promptly because of our experience throughout PA on all types of Act 2 sites using all of the flexible cleanup options available. Should you have any questions, you can contact one of RT's professionals to discuss project specifics. Craig N. Herr, P.G., Walter H. Hungarter, III, P.E., Justin Lauterbach, Q.E.P. or Gary R. Brown, P.E. (610) 265-1510.



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