



CITY OF PHILADELPHIA

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Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

RE: Proposed Amendments to Chapter 250 Relating to the Administration of the Land Recycling Program

To Whom It May Concern:

On February 15, 2020, the Environmental Quality Board (EQB) published a notice in the Pennsylvania Bulletin announcing proposed substantive amendments to Chapter 250 relating to the Administration of the Land Recycling Program, known informally as “Act 2” (“Act 2 Amendments”). *See* 50 Pa.B. 1011. The City of Philadelphia (“City”) hereby officially offers comments on the Act 2 Amendments. The City appreciates the opportunity to offer comments and thanks the EQB and the Pennsylvania Department of Environmental Protection (DEP) for their hard work and effort in updating the Act 2 Amendments.

The City’s comments are as follows:

1. Amendments to the public participation aspect of the Act 2 Amendments are intended to clarify that if a public involvement plan (“PIP”) is initiated, then the public has the right to be involved in the entire process. The PIP changes are also intended to ensure that both DEP and the municipality receive the PIP prior to it beginning. In addition to the changes proposed in the Act 2 Amendments, the City suggests that the PIP process be made more substantive by incorporating the following:

(i) require that municipalities receive the Notice of Intent to Remediate (“NIR”) prior to publishing in a newspaper, as the City often receives the NIR after publication in the newspaper has occurred. As it currently works, it risks municipalities having less than 30 days to request a PIP;

(ii) require that NIR be published both in a local newspaper and on relevant news websites and social media locations, as well as provided via mail to relevant neighborhood associations, to increase their visibility to the public. Consider replacing typical legal notice, which few people ever see, with an advertisement;

(iii) if a PIP is requested, require that remediators provide a common language summary of all related documents and reports;

(iv) if a PIP is requested, require that remediators place relevant reports online in addition to providing “access at convenient locations...” to increase the public’s access to the reports;

(v) additionally, it might be helpful to provide examples of “convenient locations” such as local libraries, municipal buildings etc.; and

(vi) if a PIP is requested, require that remediators host at least one public meeting.

2. The City is concerned that the MSC provided for vanadium is too low, because the MSC level is below typical naturally occurring levels in Pennsylvania. This could trigger a remediation requirement that is not the result of contamination, but instead a naturally occurring phenomena. Note, the Cleanup Standards Scientific Advisory Board (CSSAB) raised concern with the MSC set for vanadium in the amendments and ultimately recommended that the MSC for vanadium be set at a higher number than the one in the Act 2 Amendments.
3. The Amendments appear to propose an increase to the nonresidential soil standard for lead from 1000 mg/kg to 2,500 mg/kg. The City takes no position at this time on whether this is in fact scientifically justified. However, the DEP should more fully and clearly justify the change and should do so in a plain language fashion that the public will understand. For example, as to the higher lead in soil standard, has or can DEP account for the degree to which contamination can spread offsite and expose the public or the environment to risk, see 35 P.S. § 6026.102 regarding declaration of policy? The existing *Summary of Regulatory Requirements* provided for Sec. 250.306(e) does not provide such an explanation. Further, Annex A Sec. 250.306(e) refers to EPA documents in a defacto fashion and is too dense for general public understanding. Additionally, it appears in line 9 of that subsection that either a bracket is missing, was replaced with a parenthesis, or some other typographical error is present further confusing the matter.
4. At least one of the public hearings in this matter should be done virtually, such as through WebEx, Zoom or similar platform.
5. Finally, the City commends DEP and the EQB for the promulgation of soil and groundwater MSCs for PFOS, PFOA and PFBS.

The City respects the DEP's and the Environmental Quality Board's sincere efforts in regard to trying to improve and update this important program and greatly appreciates the opportunity to review and offer comment.

Thank you for your time and consideration. If there are any questions, please contact me at your convenience.

Sincerely,



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Divisional Deputy City Solicitor

PON/ijm

Cc: J. Barry Davis, Chief Deputy City Solicitor, Law Department
Leigh-Anne Rainford, Program Administrator, Department of Public Health
Ray Scheinfeld, Airport Planner
John Mondlak, Deputy Director, Office of Planning and Development