

Form Letter A #1-14

Form Letter A: PFAS, PAH and Lead

Proposed Rulemaking: Administration of the Land Recycling Program (#7-575)



I thank the Department of Environmental Protection (DEP) for proposing soil and groundwater standards for per- and polyfluoroalkyl substances (PFAS). Unfortunately, the proposed standards for perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA) allow significantly more contamination than the U.S. Environmental Protection Agency (EPA) recommended in its April 2024 update of National Primary Drinking Water Regulations for PFAS. Please update the proposed soil and groundwater contamination standards for PFOS and PFOA to reflect the latest toxicity values used by EPA. DEP should also follow EPA by including groundwater and soil contamination standards for perfluorohexanoic acid (PFHxS) and perfluorononanoic acid (PFNA).

DEP's proposed contamination standards for 6 carcinogenic polyaromatic hydrocarbons (PAH) create a cumulative cancer risk of 3 in 10,000. This is greater than the maximum cancer risk allowable for statewide health standards: 1 in 10,000. DEP should set contamination limits for carcinogenic PAHs that meet the state's minimum cancer risk standard of 1 in 10,000. DEP must specifically consider the cumulative cancer risk of a mix of the six carcinogenic PAHs when proposing contamination standards for individual PAHs.

I thank DEP for updating both residential and nonresidential lead standards for soil and groundwater contamination as well as updating the target blood lead level (TBLL) in children that is used in making soil contamination calculations. However, DEP is still behind the most recent science regarding lead pollution. DEP is proposing to adopt a TBLL of 5 micrograms per deciliter ($\mu\text{g}/\text{dL}$), but in 2021 the Center for Disease Control updated its blood lead reference value to 3.5 $\mu\text{g}/\text{dL}$. There is no safe level of lead consumption and DEP should begin work to adopt a TBLL of 3.5 $\mu\text{g}/\text{dL}$.

DEP's proposal to allow the averaging of lead soil samples at contaminated sites in order for a remediator to demonstrate attainment of the statewide health standards for lead contamination is not protective of public health. DEP should not add subparagraph (iv) to chapter 250.707. All soil samples at a given site should be required to meet DEP's standards for lead contamination in soil. Additionally, the language proposed in subparagraph (iv) contradicts soil sampling procedures outlined in chapter 250.703. DEP does not define the word "randomly" in subparagraph (iv) while chapter 250.703 contains specific soil sampling procedures. Similarly, because the soil sampling procedures in chapter 250.703 require a minimum amount of samples without detailing a maximum amount of samples, a remediator could increase sampling at a site to affect the collective average of soil samples. Additionally, the proposed language in subparagraph (iv) that requires samples to be "collected in a single event" contradicts language in chapter 250.703 that allows DEP to require additional characterization if certain soil contamination conditions are met.