# 2823 (2)

**Tate, Michele**

**From:** jspeicher@firstenergycorp.com
**Sent:** Wednesday, March 31, 2010 11:23 AM
**To:** EP, RegComments
**Cc:** srfulton@firstenergycorp.com; rlevans@firstenergycorp.com; askicki@firstenergycorp.com; hslagle@firstenergycorp.com; flawson@firstenergycorp.com; jspeicher@firstenergycorp.com
**Subject:** Proposed Rule Changes: 25 PA. Code CH 250 - Administration of Land Recycling Program

To whom it may concern:

Please find the attached comments respectfully submitted by FirstEnergy Corp. and its distribution companies on the subject proposed rule changes. If the Department should have any questions regarding these comments they can contact me at the information provided below.

Thank You,
Jason Speicher

Jason A. Speicher
Adv. Environmental Scientist
FirstEnergy Corp.
P.O. Box 16001
Reading, PA 19612
Cell Phone: 610-223-6130
Fax: 610-939-8552
Phone: 610-921-6935
e-mail: jspeicher@firstenergycorp.com

FirstEnergy

2800 Pottsville Pike
PO Box 16001
Reading, PA 19612-6001

March 31, 2010

Environmental Quality Board
P.O. Box 8447
Harrisburg, PA 17105-8477

Re: Comments Proposed Rulemaking [25 PA. Code CH. 250]
Administration of Land Recycling Program

To Whom It May Concern:

The following comments on the proposed regulations in Chapter 250 Administration of Land Recycling Program (PA Bulletin, Vol. 40, No.10, 3/06/2010) are being submitted on behalf of Pennsylvania Power Company, Pennsylvania Electric Company, and Metropolitan Edison Company, the Pennsylvania electrical distribution companies of FirstEnergy Corp. (FirstEnergy). Together, these three companies are involved in the transmission and distribution of electricity, as well as energy management and other energy-related services. These three electric utility operating companies serve approximately 1.3 million customers in 49 Pennsylvania counties.

We compliment the Department on moving forward with updating the medium specific concentrations (MSCs) used for remediating sites under the Act II Program utilizing the most recent and scientifically defensible toxicology information. We respectfully submit the following comments on the proposed rule changes:

1. Background and Purpose, discussion on Methyl Tertiary Butyl Ether (MTBE) drinking water MSC. It is noted in the discussion that the Department has elected to maintain the current Statewide health drinking water standard for MTBE at 20 ug/L. While it is understandable that the September 1, 2009 draft proposed standards would have still resulted in unacceptable taste and odor impacts, the rationale for not issuing risk based MSCs and a separate secondary contaminant level for MTBE based on odor and taste is not clear? Secondary Maximum Contaminant Levels are included in the rules already for several metals based on similar reasons. By not separating the risk based values vs. aesthetics issues of MTBE, a risk communication problem could develop at sites where MTBE is found.

2. Compliance Costs. It is important to recognize that for inorganic and organic chemicals that can be ubiquitous in the environment, as MSCs for certain chemicals are lowered based on toxicology; the regulated community may be forced to expend additional costs to conduct background studies on such chemicals. For example, the Department is proposing to lower the MSCs for several PAHs (e.g., benzo(a)pyrene, benzo(a)anthracene, benzo(b)fluoranthene, etc). PAHs are ubiquitous in the environment, especially in urban areas (e.g., Pittsburgh,

Philadelphia, etc), at levels that will frequently exceed health based cleanup standards. For example, a urban background study completed by the United States Geological Service of the Chicago area found background levels of benzo(a)pyrene (e.g., 95 percentile concentration of 2.1 mg/kg) that alone would exceed risk based cleanup values (Kay et al., 2003). Therefore, it maybe inappropriate for the Department to state that the proposed changes to the rules are not expected to add significant costs to the cleanup of contaminated sites, when in fact additional background studies may need to be completed to demonstrate attainment to a site specific background standard.

3. Chapter 250.11. Periodic review of MSCs. We agree that it is important for the Department on a scheduled periodic basis to review the most recent and scientifically defensible toxicological information on existing chemicals with MSCs, and review emerging contaminants that may need new MSCs established for them. However, we urge the Department to carefully consider addressing some very important clarifications in these proposed rule changes regarding how and when these updates will become effective and what their implications will be on sites where notice of intents to remediate have already been submitted and published by the Department, or in the case where remediation is already underway, utilizing a cleanup value/s based on the previous MSC/s. For example, if my company has a site where we are proposing to remediate contaminant "X" utilizing the existing residential MSC, we submitted a Notice-of-Intent to Remediate the site to this MSC, the Department published the intent to remediate, we remediated the site to the MSC, and subsequently submitted a remedial action completion report (RACR) to the Department; will the Department accept the RACR if the residential MSC for contaminant "X" has recently changed to be more conservative. Without additional clarification on this issue being added to the currently proposed rules, entities pursuing cleanup under the Act II Program maybe reluctant to move forward with remediation if a change to an MSC/s are believed to be impending.

4. Appendix A, Table 2, addition of MSC for sulfate. The table references that the MSC for Sulfate (e.g., 500,000 ug/L for residential TDS< or = 2500) is a MCL. The U.S. EPA does not currently have a finalized MCL for sulfate. According to the U.S. EPA, "on July 18, 2003 (68 FR 42897) the Agency announced its final determination that no regulatory action is appropriate or necessary for sulfate". Furthermore, we reference the Department to the *U.S. EPA's Health Effects from Exposure to High Levels of Sulfate in Drinking Water Study*, which reported no statistically significant dose-response association between acute exposure to sodium sulfate in water up to 1,200 mg/L (U.S. EPA, 1999). Therefore, we recommend that the Department remove Sulfate from having a proposed risk based MSC established and rely on the secondary MCL that has been published by the U.S. EPA of 250 mg/L.

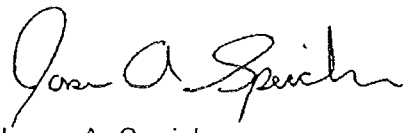
**References:**

Kay, Robert T., Terri L., Arnold, William F. Cannon, David Graham, Eric Morton, and Raymond Bienert. *Concentrations of Polynuclear Aromatic Hydrocarbons and Inorganic Constituents in Ambient Surface Soils, Chicago, Illinois: 2001-02.* United States Geological Survey. Water-Resources Investigations Report 03-4105. 2003.

United States Environmental Protection Agency. 1999. *Health Effects from Exposure to High Levels of Sulfate in Drinking Water Study.* EPA 815-R-99-001. January 1999.

We appreciate the opportunity to review and provide comments to the Department on the proposed rule changes to Chapter 250, Administration of Land Recycling Program. If you should have any questions regarding the comments we have submitted, please do not hesitate to contact me at (610) 921-6935.

Sincerely,



Jason A. Speicher
Advanced Environmental Scientist

c: A. Skicki – (FirstEnergy Corp.)
H. Slagle – (FirstEnergy Corp.)
F. Lawson – (FirstEnergy Corp.)
S. Fulton – (FirstEnergy Corp.)
R. Evans – (FirstEnergy Corp.)

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