

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.20120b Numeric or nonnumeric site-specific criteria.

Sec. 20120b.

(1) Subject to subsection (4), the department shall approve numeric or nonnumeric site-specific criteria in a response activity under section 20120a if such criteria, in comparison to generic criteria, better reflect best available information concerning the toxicity or exposure risk posed by the hazardous substance or other factors.

(2) Site-specific criteria approved under subsection (1) may, as appropriate:

(a) Use the algorithms for calculating generic criteria established by rule or propose and use different algorithms.

(b) Alter any value, parameter, or assumption used to calculate generic criteria, with the exception of the risk targets specified in section 20120a(4).

(c) Take into consideration the depth below the ground surface of contamination, which may reduce the potential for exposure and serve as an exposure barrier.

(d) Be based on information related to the specific facility or information of general applicability, including peer-reviewed scientific literature.

(e) Use probabilistic methods of calculation.

(f) Use nonlinear-threshold-based calculations where scientifically justified.

(g) Take into account a land use or resource use restriction.

(3) If there is not a generic cleanup criterion for a hazardous substance in regard to a relevant exposure pathway, releases of the hazardous substance may be addressed through any of the following means, singly or in combination:

(a) Eliminate exposure to the hazardous substance through removal, containment, exposure barriers, or land use or resource use restrictions.

(b) If another hazardous substance is expected to have similar fate, mobility, bioaccumulation, and toxicity characteristics, apply the cleanup criteria for that hazardous substance as a surrogate. Before using a surrogate, the person shall notify the department, provide a written explanation why the surrogate is suitable, and request approval. If the department does not notify the person that it disapproves the use of the chosen surrogate within 90 days after receipt of the notice, the surrogate is considered approved. A hazardous substance may be used as a surrogate for a single hazardous substance or for a class or category of hazardous substances.

(c) For venting groundwater, use a modeling demonstration, an ecological demonstration, or a combination of both, consistent with section 20120e(9) and (10), to demonstrate that the hazardous substance is not likely to migrate to a surface water body or has not or will not impair the existing or designated uses for a surface water body.

(d) If toxicity information is available for the hazardous substance, develop site-specific cleanup criteria for the hazardous substance pursuant to subsections (1) and (2), or develop simplified site-specific screening criteria based upon toxicity and concentrations found on site, and request department approval. If the department does not notify the person that it disapproves the site-specific criteria or screening criteria within 90 days after receipt of the request, the criteria are considered approved.

(e) Any other method approved by the department.

(4) Site-specific criteria approved by the department are not invalidated by subsequent changes to the generic criteria for that hazardous substance, including changes to toxicity, exposure, or other values or variables used by the department to calculate the generic criteria.

History: Add. 1995, Act 71, Imd. Eff. June 5, 1995 ;-- Am. 2010, Act 228, Imd. Eff. Dec. 14, 2010 ;-- Am. 2012, Act 446, Imd. Eff. Dec. 27, 2012 ;-- Am. 2014, Act 542, Imd. Eff. Jan. 15, 2015 ;-- Am. 2018, Act 581, Imd. Eff. Dec. 28, 2018

Popular Name: Act 451

Popular Name: Environmental Remediation

Popular Name: Environmental Response Act

Popular Name: NREPA