

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

324.21304b Removal or relocation of soil.

Sec. 21304b. (1) A person shall not remove soil, or allow soil to be removed, from a site to an off-site location unless that person determines that the soil can be lawfully relocated without posing a threat to the public health, safety, or welfare, or the environment. The determination shall consider whether the soil is subject to regulation under parts 111 and 115.

(2) For the purposes of subsection (1), soil poses a threat to the public health, safety, or welfare, or the environment if concentrations of regulated substances in the soil exceed the tier I RBSLs established pursuant to section 21304a that apply to the location to which the soil will be moved or relocated, except if the soil is to be removed from the site for disposal or treatment, the soil shall satisfy the appropriate regulatory criteria for disposal or treatment. Any land use restriction that would be required for the application of a criterion pursuant to section 21304a shall be in place at the location to which the soil will be moved. Soil may be relocated only to another location that is similarly contaminated, considering the general nature, concentration, and mobility of regulated substances present at the location to which the contaminated soil will be removed. Contaminated soil shall not be moved to a location that is not a site unless it is taken there for treatment or disposal in conformance with applicable laws and regulations.

(3) A person shall not relocate soil, or allow soil to be relocated, within a site of environmental contamination where a corrective action plan was approved unless that person provides assurances that the same degree of control required for application of the criteria of section 21304a is provided for the contaminated soil.

(4) The prohibition in subsection (3) against relocation of contaminated soil within a site of environmental contamination does not apply to soils that are temporarily relocated for the purpose of implementing corrective actions or utility construction if the corrective actions or utility construction is completed in a timely fashion and the short-term hazards are appropriately controlled.

(5) If soil is being relocated in a manner not addressed by this section, the person that owns or operates the site from which soil is being moved shall notify the department within 14 days after the soil is moved. The notice shall include all of the following:

- (a) The location from which soil will be removed.
- (b) The location to which the soil will be taken.
- (c) The volume of soil to be removed.

(d) A summary of information or data on which the person is basing the determination required in subsection (2) that the soil does not present a threat to the public health, safety, or welfare, or the environment.

(e) If land use restrictions would apply pursuant to section 21310a, to the soil when it is relocated, the notice shall include documentation that those restrictions are in place.

(6) The determination required by subsections (1) and (3) shall be based on knowledge of the person undertaking or approving the removal or relocation of soil, or on characterization of the soil for the purpose of compliance with this section.

(7) This section does not apply to soil that is designated as an inert material pursuant to section 11507.

History: Add. 1996, Act 116, Imd. Eff. Mar. 6, 1996;—Am. 2012, Act 108, Imd. Eff. May 1, 2012;—Am. 2012, Act 446, Imd. Eff. Dec. 27, 2012.

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