

**CHAPTER 26D**  
**REMEDATION STANDARDS**  
(adopted June 2, 2008 (40 N.J.R. 3187(a)).)

SUBCHAPTER 6. **INTERIM REMEDIATION STANDARDS**

7:26D-6.1 Purpose

This subchapter sets forth the procedures that the Department will use to establish interim remediation standards.

7:26D-6.2 Development of interim remediation standards

(a) The Department may establish interim remediation standards when a contaminant is not listed in this chapter Appendix 1, Tables 1 through 8 and N.J.A.C. 7:9C, Appendix, Table 1. Surface water quality standards, N.J.A.C. 7:9B, do not provide a mechanism to develop interim standards. As such, they are not included in this chapter.

(b) An interim remediation standard shall be developed as follows:

1. For ground water, using the procedures set forth in N.J.A.C. 7:9C-1.7(c)2;
2. For the ingestion-dermal exposure pathway, using the procedures set forth in Appendix 2;
3. For the inhalation exposure pathway, using the procedures set forth in Appendix 3;
4. For the migration to ground water exposure pathway, using procedures set forth in Appendix 4;
5. For the vapor intrusion exposure pathway, using procedures set forth in Appendix 5.

(c) For the five pathways listed in (b) above, the person responsible for conducting a remediation may request that the Department develop an interim soil remediation standard under this section.

(d) The Department shall approve all interim remediation standards prior to their use.

7:26D-6.3 Publication of interim remediation standards

(a) The Department shall publish on its web site a listing of all interim remediation standards developed pursuant to this chapter and the technical basis used in their derivation.

**Comment [JA1]:** TT – (procedure Q re: subchapters) What happens if there is a quasi-fundamental change in the formulas? (Not just changes in the input parameters.) If this rule goes out, and then a change happens, then what happens?

TS – changes will be addressed in the system that we have set up. Such changes would probably require a new rule with the formal procedure.

GT – If the DEP wants to change a standard that people have to comply with, then it has to go through the formal rulemaking process. The way to do what DEP wants to do (the easiest way) is to make/seek a legislative change. A challenge to this approach is inevitable if the formal rulemaking process is not used.

BF – both of these subchapters are in the current rule (since 2008). The ...

**Comment [JA2]:** KL – an “interim standard” should be defined somewhere in the beginning of the rule.

**Comment [JA3]:** LC – this is written so that only the Department can develop an interim standard. Can an applicant also develop an interim standard?

TS – the Department would have to approve it; it cannot be developed without Department OK. It is going to be a Department process.

**Comment [JA4]:** LC to TS – the Department has to approve all interim standards. This is a clarification of the above.

LC – so DEP approval is required?  
TS – Yes.

**Comment [JA5]:** JH – once you have an interim, it can be posted. Is that it? Shouldn't there be an announcement, NJ Register, etc?

TS – there would be a formal process, as an adoption in the NJ Register.

BF – Correction - the interim process would not require a notice or ...

SUBCHAPTER 7. UPDATING REMEDIATION STANDARDS

7:26D-7.1 Purpose

This subchapter sets forth the procedures that the Department will use to update default remediation standards.

7:26D-7.2 Procedures for updating remediation standards

(a) The Department may update an existing remediation standard for soil and indoor air contained in Appendix 1, Tables 1 through 8 when:

1. The USEPA revises toxicity information contained in the Integrated Risk Information System (IRIS) database;
2. The Department promulgates in the Safe Drinking Water Act rules at N.J.A.C. 7:10 a revised maximum contaminant level (MCL) for a ground water constituent using revised toxicity information developed by the New Jersey Drinking Water Quality Institute; or
3. The USEPA revises its Integrated Environmental Uptake Biokinetic (IEUBK) Model and Adult Lead Model (ALM) and input parameters for lead.

(b) The Department may update an existing ground water remediation standard pursuant to N.J.A.C. 7:9C-1.7 (c)5.

(c) The Department may update an existing migration to ground water remediation standard when an existing ground water remediation standard is updated pursuant to (b) above.

(d) Surface water quality standards, N.J.A.C. 7:9B, do not provide a mechanism to update remediation standards. As such, they are not included in this chapter.

(e) For updates established pursuant to (a) and (c) above, the Department shall post on its web site and publish in the New Jersey Register a notice of administrative change to modify a remediation standard. The notice of administrative change shall identify the contaminant, the basis for the administrative change, and the revised criterion to be listed in Appendix 1, Tables 1 through 8.

**Comment [JA6]:** TS – we will look into defining what an “update” is in terms of the rule.

**Comment [JA7]:** SP – suggests this addition.

**Comment [JA8]:** TT – It looks like the only reason to revise a standard is if the tox information changes. It appears that there should be another way to change other inputs (besides tox) into the formulas.

BF – We tried to develop the ability to change a standard without having to go through the formal process. For certain circumstances (IRIS, EPA model, etc.), new tox info coming out of those systems have already gone through peer review, which is already extensive. If there was a change in anything else, however, we would have to go through the formal process. Maybe we can add additional clarifying language to the rule here.

TT – Although there is a structured peer review process for tox, there really is the same process types/studies for others (cancer doses, etc.). Accordingly, there may not be the dichotomy that appears in the rule.

NR – (response to BF) While I understand DEP’s process here for tox, I am concerned about certainty in remediation standards and remediation plans. Has the DEP provided the ...

**Comment [JA9]:** JH – the use of “and” in this sentence makes it look like EPA must change everything. Shouldn’t “or” be used here instead?

TS – Yes, it should be “or” for clarification.

**Comment [JA10]:** ND – please confirm that if the DEP were to change the underlying methodology, the rule would have to be changed accordingly through the formal rulemaking process.

TS – Yes. Understood.

**Comment [JA11]:** JH – does public notice only apply to (b)?