

## Cleanup Standards

Michigan's cleanup law relies on risk-based cleanup criteria that are linked to land use. This helps assure that cleanups can be conducted in a safe but flexible and cost-effective manner. The risk-based system takes into account the fact that the use of a property dictates the type of exposures that will occur, and that risk depends on exposure. For example, industrial sites do not have children present, and workers spend only a portion of the day at the workplace. Because of these differences in exposure, different levels of cleanup can be allowed at residential, commercial, and industrial sites while still providing the same degree of protection. Site-specific cleanups allow MDEQ and property owners to account for special circumstances at a site.

## For More Information

The MDEQ Remediation and Redevelopment Division (RRD) is committed to working with owners, operators, and purchasers of contaminated sites to facilitate the cleanup and redevelopment process.

**Please contact us at:**  
MDEQ/RRD Main Office  
Lansing, Michigan  
517-373-9837

[www.michigan.gov/deqrrd](http://www.michigan.gov/deqrrd)

(under Cleanup/Redevelopment Programs, select either: 1) Environmental Remediation [Part 201] or 2) BEAs and Due Care)

Direct access to MDEQ: 1-800-662-9278  
To report pollution emergencies: 1-800-292-4706

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# Michigan's ENVIRONMENTAL REMEDIAATION LAW



Michigan Department of Environmental Quality  
Remediation and Redevelopment Division

Jennifer M. Granholm, Governor  
Steven E. Chester, Director

## **Part 201**

Michigan's environmental cleanup law is known as Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). Amendments to the law in 1995 made Part 201 an ideal tool for returning brownfield sites to productive use quickly and economically, while protecting the health and safety of our citizens and our natural resources. Key components of what many consider the nation's best brownfield law are: 1) a causation-based liability system for owners and operators, 2) Baseline Environmental Assessment (BEA) provisions to provide liability protection to new owners and operators, 3) due care provisions to assure contaminated property is used safely, and 4) land use-based cleanup standards.

## **Liability**

Michigan's pre-1995 environmental cleanup and redevelopment efforts were constrained by strict liability laws. Back then, if you purchased contaminated property, you purchased liability for the cleanup. This was a serious impediment to re-use contaminated property that resulted in many new development projects going to undeveloped land. Many contaminated sites sat idle for decades. Now, only persons who cause the contamination are responsible for the cleanup. Still, there are things new owners and operators of contaminated property DO NEED TO DO, namely: 1) perform a BEA, and 2) exercise due care.

## **BEA**

A Baseline Environmental Assessment (BEA) is a simpler, streamlined alternative to the Covenant Not to Sue liability protection tool used in the past. A BEA is used to gather information about a contaminated property when the owner or operator changes so existing contamination can be distinguished from any that might occur once a new owner or operator acquires the property. To take advantage of the liability protection under Part 201, a new owner or operator must: 1) conduct an adequate BEA prior to or no more than 45 days after the date of purchase, foreclosure, or becoming the operator, whichever occurs first; AND 2) disclose the results of the BEA to the Michigan Department of Environmental Quality (MDEQ) and subsequent purchasers and lessee operators. While completing a BEA can give you liability protection for existing contamination you didn't cause, you must remember that you still have "due care" obligations.

## **Due Care**

New owners of contaminated property do not have to completely remediate all on-site contamination before putting brownfield properties back into productive use. They do, however, need to perform "due care" activities. These actions are necessary to ensure that their use of the property: 1) does not allow an unacceptable exposure to contamination, 2) does not worsen the contamination, and 3) protects against the reasonably foreseeable actions of third parties such as contractors or trespassers. Due care principles apply to all owners of contaminated property.