

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

**324.20118 Response activity; remedial action; purposes; selection or approval; conditions.**

Sec. 20118.

(1) The department may take response activity or approve of response activity proposed by a person that is consistent with this part and the rules promulgated under this part relating to the selection and implementation of response activity that the department concludes is necessary and appropriate to protect the public health, safety, or welfare, or the environment.

(2) Remedial action undertaken under subsection (1) may address all or a portion of contamination at a facility as follows:

- (a) Remedial action may address 1 or more releases at a facility.
- (b) Remedial action may address 1 or more hazardous substances at a facility.
- (c) Remedial action may address contamination in 1 or more environmental media at a facility.
- (d) Remedial action may address contamination within the entire facility or only a portion of a facility.
- (e) Remedial action may address contamination at a facility through any combination of subdivisions (a) through (d).

(3) Remedial action undertaken under subsection (1) shall accomplish all of the following:

(a) Assure the protection of the public health, safety, and welfare, and the environment with respect to the environmental contamination addressed by the remedial action.

(b) Except as otherwise provided in subsections (4) and (5), attain a degree of cleanup and control of the environmental contamination addressed by the remedial action that complies with all applicable or relevant and appropriate requirements, rules, criteria, limitations, and standards of state and federal environmental law.

(c) Except as otherwise provided in subsections (4) and (5), be consistent with any cleanup criteria incorporated in rules promulgated under this part for the environmental contamination addressed by the remedial action.

(4) The department may select or approve of a remedial action meeting the criteria provided for in section 20120a that does not attain a degree of control or cleanup of hazardous substances that complies with R 299.3(5) or R 299.3(6) of the Michigan administrative code, or both, if the department makes a finding that the remedial action is protective of the public health, safety, and welfare, and the environment. Notwithstanding any other provision of this subsection, the department shall not approve of a remedial action that does not attain a degree of control or cleanup of hazardous substances that complies with R 299.3(5) or R 299.3(6) of the Michigan administrative code if the remedial action is being implemented by a person who is liable under section 20126 and the release was grossly negligent or intentional, unless attaining that degree of control is technically infeasible, or the adverse environmental impact of implementing a remedial action to satisfy the rule would exceed the environmental benefit of that remedial action.

(5) A remedial action may be selected or approved pursuant to subsection (4) with regard to R 299.3(5) or R 299.3(6), or both, of the Michigan administrative code, if the department determines, based on the administrative record, that 1 or more of the following conditions are satisfied:

(a) Compliance with R 299.3(5) or R 299.3(6), or both, of the Michigan administrative code is technically impractical.

(b) The remedial action selected or approved will, within a reasonable period of time, attain a standard of performance that is equivalent to that required under R 299.3(5) or R 299.3(6) of the Michigan administrative code.

(c) The adverse environmental impact of implementing a remedial action to satisfy R 299.3(5) or R 299.3(6), or both, of the Michigan administrative code would exceed the environmental benefit of the remedial action.

(d) The remedial action provides for the reduction of hazardous substance concentrations in the aquifer through a naturally occurring process that is documented to occur at the facility and both of the following conditions are met:

(i) It has been demonstrated that there will be no adverse impact on the environment as the result of migration of the hazardous substances during the remedial action, except for that part of the aquifer approved by the department in connection with the remedial action.

(ii) The remedial action includes enforceable land use restrictions or other institutional controls necessary to prevent unacceptable risk from exposure to the hazardous substances, as defined by the cleanup criteria approved as part of the remedial action.

**History:** 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 1995, Act 71, Imd. Eff. June 5, 1995 ;-- Am. 2014, Act 542, Imd. Eff. Jan. 15, 2015

**Popular Name:** Act 451

**Popular Name:** Environmental Remediation

**Popular Name:** Environmental Response Act  
**Popular Name:** NREPA