

What is due care?

Due care means taking action to protect people from contact with contamination, allowing the safe use of contaminated property, and preventing the spread of contamination off of your property. Exposure to contamination can occur in many ways, such as breathing contaminated vapors, drinking contaminated water, or being in contact with contaminated soils.

How do I know if my property could be contaminated?

Contamination can come from many sources such as past or present industrial and agricultural uses, gas tanks and gas stations, landfills, dry cleaning operations, or residential fuel oil tanks.

There are multiple resources to assist owners and operators in learning about the history of a property. Inventories of contaminated properties can be found on the Michigan Department of Environmental Quality's (DEQ) web page. Property files are located in the DEQ District Offices. County Register of Deeds offices can provide deed notices or restrictions on the property. Local health departments, previous owners, real estate disclosures, past or present employees, or neighbors may also provide valuable information. Anyone considering purchasing or leasing property should exercise due diligence by investigating the condition and history

of the property. Environmental professionals are often consulted to complete what is commonly referred to as a Phase I Environmental Site Assessment of the property.

Who has due care?

The owner and the operator of property known to be contaminated have due care obligations. This includes property where businesses, industries, residences, schools, parks, etc., are located.

When do I take due care?

You take due care when you have knowledge that your property is contaminated.

What do I do if my property is contaminated?

Evaluate how your property is used; determine if people may be exposed to the contamination and what actions should be taken to prevent the exposure, then comply with due care obligations. The DEQ is developing a resource document to aid in this type of evaluation. Environmental professionals often assist with this process.

Look into the condition and history of your property before you purchase or lease.

Exercise due care!

Do I need DEQ approval?

DEQ approval of your evaluation, and the actions you have taken to satisfy your due care obligations are not required. However, you must still conduct the evaluation, maintain documentation of the actions you take, and provide your documentation to the DEQ if requested.

What are the due care obligations?

- **Prevent** anyone using the property from being exposed to the contamination, and prevent fire and explosions related to the contamination.
- **Prevent** actions that might cause the existing contamination to spread off your property.
- **Take reasonable precautions** to protect other people who come onto the property, such as contractors, utility workers, etc.
- **Cooperate** with and provide access to the person responsible for cleanup of the contamination and don't interfere with their actions.
- **Be aware** of and comply with any land or resource use restrictions on the property due to the contamination. For example, preventing the installation of a drinking water well into contaminated groundwater, if such a restriction exists.

Top reasons why you should care about due care

- *Due care is about protecting public health and safety; it protects you and your community.*
- *It allows for the safe use of contaminated properties.*
- *Due care encourages redevelopment of abandoned, vacant, or under-utilized properties, generally referred to as “brownfields.”*
- *It promotes investment in your community and supports local economic growth.*
- *Due care ensures contaminated properties can once again be useful.*

Sources of information

To learn more about the due care program, please contact us at:

DEQ Due Care Specialist
Jeanne Schlaufman Remediation
and Redevelopment Division
586-753-3823
schlaufmanj1@michigan.gov

DEQ Web Page

michigan.gov/degducare

DEQ Remediation and Redevelopment Division

www.michigan.gov/deqrrd

DEQ Environmental Assistance Center: 1-800-662-9278

Legislation requiring due care is located in Section 20107a and Section 21304c of Part 201 (Environmental Remediation) and Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). Find this legislation at this web location:
michigan.gov/degducare

The Michigan Department of Environmental Quality will not discriminate against any individual or group on the basis of race, sex, religion, age, national origin, color, marital status, disability, political beliefs, height, weight, genetic information, or sexual orientation. Questions or concerns should be directed to the Quality of Life – Office of Human Resources, PO Box 30473, Lansing, MI 48909-7973.

www.michigan.gov/deq

May 2016

DUE CARE

Using Contaminated Property Safely

Could this pertain to you?



An introduction to Michigan's due care requirements



Michigan Department of
Environmental Quality
Remediation and
Redevelopment Division