

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

324.20126a Joint several liability; costs of amounts recoverable; interest; recovery; permitted release; action by attorney general; action brought by state or other person.

Sec. 20126a. (1) Except as provided in section 20126(2), a person who is liable under section 20126 is jointly and severally liable for all of the following:

(a) All costs of response activity lawfully incurred by the state relating to the selection and implementation of response activity under this part.

(b) Any other costs of response activity reasonably incurred under the circumstances by any other person.

(c) Damages for the full value of injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing the injury, destruction, or loss resulting from the release.

(2) The costs of response activity recoverable under subsection (1) shall also include all costs of response activity reasonably incurred by the state prior to the promulgation of rules relating to the selection and implementation of response activity under this part, excepting those cases where cost recovery actions have been filed before July 12, 1990. A person challenging the recovery of costs under this subdivision has the burden of establishing that the costs were not reasonably incurred under the circumstances that existed at the time the costs were incurred.

(3) The amounts recoverable in an action under this section shall include interest. This interest shall accrue from the date payment is demanded in writing, or the date of the expenditure or damage, whichever is later. The rate of interest on the outstanding unpaid balance of the amounts recoverable under this section shall be the same rate as is specified in section 6013(8) of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013.

(4) In the case of injury to, destruction of, or loss of natural resources under subsection (1)(c), liability shall be to the state for natural resources belonging to, managed by, controlled by, appertaining to, or held in trust by the state or a local unit of government. Sums recovered by the state under this part for natural resource damages shall be retained by the department, for use only to restore, repair, replace, or acquire the equivalent of the natural resources injured or acquire substitute or alternative resources. There shall be no double recovery under this part for natural resource damages, including the costs of damage assessment or restoration, rehabilitation, replacement, or acquisition, for the same release and natural resource.

(5) A person shall not be required under this part to undertake response activity for a permitted release. Recovery by any person for response activity costs or damages resulting from a permitted release shall be pursuant to other applicable law, in lieu of this part. With respect to a permitted release, this subsection does not affect or modify the obligations or liability of any person under any other state law, including common law, for damages, injury, or loss resulting from a release of a hazardous substance or for response activity or the costs of response activity.

(6) If the department determines that there may be an imminent and substantial endangerment to the public health, safety, or welfare, or to the environment because of an actual or threatened release from a facility, the attorney general may bring an action against any person who is liable under section 20126 or any other appropriate person to secure the relief that may be necessary to abate the danger or threat. The court has jurisdiction to grant such relief as the public interest and the equities of the case may require.

(7) The costs recoverable under this section may be recovered in an action brought by the state or any other person.

History: Add. 1995, Act 71, Imd. Eff. June 5, 1995;—Am. 2010, Act 227, Imd. Eff. Dec. 14, 2010.

Popular name: Act 451

Popular name: Environmental Remediation

Popular name: Environmental Response Act

Popular name: NREPA