

# Inquiry

Definitions associated with Inquiry:

**“Date of purchase”** means the date on which a person acquires title to the property.

**“Date of having operator status”** means the date on which a person has control of or is responsible for the operation of a property.

**“Foreclosure”** means possession of property by a lender on which it has foreclosed a security interest or the expiration of a lawful redemption period, whichever occurs first.

**“Date of foreclosure”** means the earlier of either:

- i) The date on which the lender acquires title, is in possession, and has control of the property.
- ii) The date on which the lender has operator status.

**“Residential owner-occupant”** means a person that owns the residential real property where they reside, and hazardous substance use at the property is consistent with residential use. This includes a primary or secondary residence that is not subsequently leased or rented to other persons.

## **Sec 324.XXXXX Inquiry, duties of an owner or operator or tenant; historical review; facility determination; documentation and reporting; schedule; penalty.**

- (1) Except as provided for in subsection (7), after the effective date of this part a prospective owner or operator of property shall conduct the requirements of subsection (3) prior the earliest of the date of purchase, having operator status, or foreclosure. For the purposes of compliance with this section, the requirements of subsection (3) shall be conducted no more than 365 days prior to the date of purchase, having operator status, or foreclosure.
- (2) Except as provided for in subsection (7), an owner or operator of property on the effective date of this part that does not already have knowledge that a facility exists on their property, shall conduct the requirements of subsection (3) within the schedule as shown in table 1:

Table 1

Type of Property Use	Time-Frame
Sensitive and Institutional Populations	Within 4 years of effective date of this part
Gas Station, Dry Cleaner, Manufactured Gas Plant, Metal Foundry, Chemical production, Manufacturing plants, Processing plants, Assembly plants, Vacant, or Occupied Industrial property,	Within 5 years of effective date of this part
Auto Repair or Maintenance, Laundries, Commercial, Retail, Office	Within 6 years of effective date of this part

- (3) A person required to conduct inquiry under subsection (1) or (2) shall:
  - (a) Conduct a phase 1 environmental assessment and historical review of the property in accordance with the All Appropriate Inquiry (AAI) rule, 40 CFR Part 312.
  - (b) Determine whether a facility exists at the property pursuant to section xxxxx (*Facility determination and notification*). The person preparing the Facility

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Notification shall certify that to the best of their knowledge the information and data upon which their conclusion is based was acquired in accordance with these requirements and is sufficient to determine a facility exists on the property.

- (4) If the evaluations required in subsection (3)(a) and (b) conclude that a facility exists on the property, a person required to conduct inquiry under this section shall submit the Phase I environmental site assessment required in subsection (3)(a) and submit the Facility Notification pursuant to section xxxxx (*Facility determination and notification*) within the following time frames:
  - (a) Within 30 days of becoming a new owner or operator, or of the date of foreclosure whichever is earliest for a person required to conduct inquiry under subsection (1).
  - (b) Within 30 days of having knowledge that a facility exists on the property for a person required to conduct inquiry under subsection (2).
- (5) A person required to conduct inquiry under this section shall disclose the documentation developed pursuant to subsection (3)(a) and (b) to a subsequent purchaser or transferee pursuant to section xxxxx (*Disclosure*).
- (6) A person required to conduct inquiry under this section as a prospective owner or operator who does not become the owner or operator shall disclose the results of the inquiry to the owner of the property that was the subject of the inquiry.
- (7) The following persons are exempt from the requirements of this section:
  - (a) Residential home owner-occupant, if hazardous substance use is consistent with residential use.
  - (b) Tenants of residential real property, if hazardous substance use is consistent with residential use.
  - (c) A person who acquires property as a result of the death of an owner or operator of a facility, whether by inheritance, devise or transfer from an inter vivos or testamentary trust, after the effective date of this part.
  - (d) The state or a local unit of government that acquired ownership or control of a property under any of the following conditions until such time that the state or a local unit of government develops the property for its own use:
    - (i) Involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title or control by virtue of its governmental function.
    - (ii) Ownership or control of a facility is transferred by the state or by another local unit of government that is not liable under section xxxxx (*Liability*).
    - (iii) Ownership or control of a facility was acquired by seizure, receivership, or forfeiture pursuant to the operation of law or by court order.
    - (iv) Ownership or control of property was received through purchase, gift, condemnation, or transfer prior to June 5, 1995.
  - (e) A state or local unit of government that holds or acquires an easement interest in a property, holds or acquires an interest in a facility by dedication in a plat, or by dedication pursuant to Act No. 283 of the Public Acts of 1909, being sections 220.1 to 239.6 of the Michigan Compiled Laws, or otherwise holds or acquires an interest in a property for a transportation or utility corridor or public right of way.
  - (f) A person who owns severed subsurface mineral rights or severed subsurface formations or who leases subsurface mineral right or formations, unless there are surface operations on the property associated with the subsurface minerals or formations.

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- (g) A person who owns or operates the property but does not own the severed subsurface mineral rights or severed subsurface formations for the property and is otherwise exempt under this section, is still exempt if there surface operations related to the severed mineral rights or formations.
  - (h) A person who holds an easement interest in a property for the purpose of conveying or providing goods or services, including but not limited to, utilities, sewers, roads, railways, and pipelines; holds a utility franchise to provide services; or a person that acquires access through an easement.
  - (i) A person purchasing or owning undeveloped rural, forest, or agricultural property. Undeveloped property for the purpose of this section means property that has never been used for any industrial purposes or built upon. Property that has never been built upon, but is or has been used for the production of agricultural crops other than commercial fruit production is considered undeveloped for this section.
- (8) Compliance with this section does not alter the liability of a person who is otherwise liable under section xxxxx (*Liability for person who causes a release, arrangers or transporters*).
- (9) A person required to conduct inquiry under subsection (1) who subsequently becomes the owner or operator of the property, or subsection (2), unless otherwise exempt pursuant to subsection (7), is liable and subject to the provisions of section xxxxx (*Liability for a person who does not conduct Inquiry*) if the requirements in subsection (3) to (5) are not conducted within the required time-frames.
- (10) A person who is liable under subsection (9) is precluded from the provision of section xxxxx(x) (*Divisibility of harm-former section 20129(1)*), they can avail themselves of the contribution provisions).