

Liability-Failure to Conduct Inquiry

Liability for failure to conduct inquiry is expressed in these subdivisions of the section on inquiry:

- (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).

Section XXXXX Liability for a person who fails to conduct inquiry

- (1) Except for an activity that results in exacerbation of existing contamination, an owner or operator who complies with the requirements for inquiry in section xxxxx (*Inquiry*) is not liable for contamination existing at the facility at the earlier of the date of purchase, becoming an operator, or foreclosure, unless the person is responsible for an activity causing the contamination existing at the facility. This subsection does not alter a person's liability with regard to a subsequent release or threat of release at a facility if the person is responsible for an activity causing the subsequent release or threat of release.
- (2) A person who is liable under this section is jointly and severally liable pursuant to section xxxxx (*Joint and several liability*).
- (3) A person who is liable under this section may commence a civil action against a person who is liable under this part for claims under section xxxxx (*Joint and several liability*) or for a violation of this part or a rule promulgated under this part or an order issued under this part in relation to the facility pursuant to section xxxxx (*Civil actions*).
- (4) A person who is liable under this section may not seek to limit his or her liability on grounds of divisibility of harm pursuant to section xxxxx(4) (*Joint and several liability*).

Note: Intent is for there to be significant consequences for failure to conduct inquiry such that it is appropriate to limit the application of equitable factors in deciding the share of a person who did not conduct inquiry.