

Liabe Party Claims, Contribution Action and Protection

Section XXXXX Liabe party claims, contribution actions and protection, subordination of rights

- (1) A person who is liable under this part who has standing under section xxxxx (*Claims-general*) may commence a civil action pursuant to section xxxxx (*Civil actions*) against a person who is liable under this part. The relief that may be sought under such an action includes all of the following, injunctive relief, recovery of costs, premiums on costs, or fines or penalties 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.
- (2) A person who is liable under section xxxxx (*Liability-causation, arranger, transporter*) may seek contribution from another person who is liable under this part in a civil action brought under this part. This subsection does not diminish the right of a person to bring an action for contribution in the absence of a civil action by the state under this part. In a contribution action brought under this section, the court shall consider all of the following factors in allocating response activity costs and damages among liable persons:
 - (a) Each person's relative degree of responsibility in causing the release or threat of release.
 - (b) The principles of equity pertaining to contribution.
 - (c) The degree of involvement of and care exercised by the person with regard to the hazardous substance.
 - (d) The degree of cooperation by the person with federal, state, or local officials to prevent, minimize, respond to, or remedy the release or threat of release.
 - (e) Whether equity requires that the liability of some of the persons should constitute a single share.
- (3) If, in an action for contribution under subsection (2), the court determines that all or part of a person's share of liability is uncollectible from that person, then the court may reallocate any uncollectible amount among the other liable persons according to the factors listed in subsection (2). A person whose share is determined to be uncollectible continues to be subject to contribution and to any continuing liability.
- (4) A person who has resolved his or her liability to the state in an administrative or judicially approved consent order is not liable for claims, including contribution, regarding matters addressed in the consent order. In extraordinary circumstances a consent order may, pursuant to section xxxxx (settlement authority), address matters beyond the response activity conducted or required to be conducted by the person for the purpose of providing additional liability protection. A consent order does not discharge the liability of any other person unless the terms of the consent order provide for this discharge.
- (5) If the state obtains less than full relief from a person who has resolved his or her liability to the state in an administrative or judicially approved consent order under this part, the state may bring an action against any other person liable under section xxxxx (liability) who has not resolved his or her liability.
- (6) In an action for claims under this part, the rights of a liable party are subordinate to the rights of the state, if the state files an action under this part or is in a consent order with the party.
- (7) In an action for claims or contribution under this part, the rights of any person who has resolved his or her liability to the state are subordinate to the rights of the state, if the state files an action under this part.