

19-6-302 Definitions.

As used in this part:

- (1)
 - (a) "Abatement action" means to take steps or contract with someone to take steps to eliminate or mitigate the direct or immediate threat to the public health or the environment caused by a hazardous materials release.
 - (b) "Abatement action" includes control of the source of the contamination.
- (2) "Bona fide prospective purchaser" has the meaning given in 42 U.S.C. Sec. 9601(40) of CERCLA, but with the substitution of "executive director" for "President" and "part" for "chapter," and including "hazardous materials" where the term "hazardous substances" appears.
- (3) "CERCLA" means 42 U.S.C. 9601 et seq., the Comprehensive Environmental Response, Compensation, and Liability Act.
- (4) "Cleanup action" means action taken according to the procedures established in this part to prevent, eliminate, minimize, mitigate, or clean up the release of a hazardous material from a facility.
- (5) "Contiguous property owner" means a person who qualifies for the exemption from liability in 42 U.S.C. Sec. 9607(q)(1) of CERCLA, but with the substitution of "executive director" for "President" and "part" for "chapter."
- (6) "Enforcement action" means the procedures contained in Section 19-6-306 to enforce orders, rules, and agreements authorized by this part.
- (7)
 - (a) "Facility" means:
 - (i) any building, structure, installation, equipment, pipe, or pipeline, including any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or
 - (ii) any site or area where a hazardous material or substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.
 - (b) "Facility" does not mean any consumer product in consumer use or any vessel.
- (8) "Fund" means the Hazardous Substances Mitigation Fund created by Section 19-6-307.
- (9) "Hazardous materials" means hazardous waste as defined in the Utah Hazardous Waste Management Regulations, PCBs, dioxin, asbestos, or a substance regulated under 42 U.S.C. Section 6991(7).
- (10) "Hazardous substances" means the definition of hazardous substances contained in CERCLA.
- (11) "Hazardous substances priority list" means a list of facilities meeting the criteria established by Section 19-6-311 that may be addressed under the authority of this part.
- (12) "Innocent landowner" means a person who qualifies for the exemption from liability in 42 U.S.C. Sec. 9607(b)(3) of CERCLA.
- (13) "National Contingency Plan" means the National Oil and Hazardous Substance Contingency plan established by CERCLA.
- (14) "National Priority List" means the list established by CERCLA.
- (15) "National priority list site" means a site in Utah that is listed on the National Priority List.
- (16) "Proposed national priority list site" means a site in Utah that has been proposed by the Environmental Protection Agency for listing on the National Priority List.
- (17)

- (a) "Release" means a spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of substances into the environment that is not authorized under state or federal law, rule, or regulation.
- (b) "Release" includes abandoning or discarding barrels, containers, and other closed receptacles containing any hazardous material or substance, unless the discard or abandonment is authorized under state or federal law, rule, or regulation.
- (18) "Remedial action" means action taken consistent with the substantive requirements of CERCLA according to the procedures established by this part to prevent, eliminate, minimize, mitigate, or clean up the release of a hazardous substance from a facility on the hazardous substances priority list.
- (19) "Remedial action plan" means a plan for remedial action consistent with the substantive requirements of CERCLA and approved by the executive director.
- (20) "Remedial investigation" means a remedial investigation and feasibility study as defined in the National Contingency Plan established by CERCLA.
- (21)
 - (a) "Responsible party" means:
 - (i) the owner or operator of a facility;
 - (ii) any person who, at the time any hazardous substance or material was disposed of at the facility, owned or operated the facility;
 - (iii) any person who arranged for disposal or treatment, or arranged with a transporter for transport, for disposal, or treatment of hazardous materials or substances owned or possessed by the person, at any facility owned or operated by another person and containing the hazardous materials or substances; or
 - (iv) any person who accepts or accepted any hazardous materials or substances for transport to a facility selected by that person from which there is a release that causes the incurrence of response costs.
 - (b) For hazardous materials or substances that were delivered by a motor carrier to any facility, "responsible party" does not include the motor carrier, and the motor carrier may not be considered to have caused or contributed to any release at the facility that results from circumstances or conditions beyond its control.
 - (c) "Responsible party" under Subsections (21)(a)(i) and (ii) does not include:
 - (i) any person who does not participate in the management of a facility and who holds indicia of ownership:
 - (A) primarily to protect a security interest in a facility; or
 - (B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee benefit plan;
 - (ii) governmental ownership or control of property by involuntary transfers as provided in CERCLA Section 101(20)(D) and 40 CFR 300.1105, National Contingency Plan; or
 - (iii) any person, including a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee benefit plan who holds indicia of ownership and did not participate in the management of a facility prior to foreclosure in accordance with 42 U.S.C. Sec. 9601(20)(E)(ii) of CERCLA.
 - (d) The exemption created by Subsection (21)(c)(i)(B) does not apply to actions taken by the state or its officials or agencies under this part.
 - (e) The terms "security interest," "participate in management," "foreclose," and "foreclosure" under this part are defined in accordance with 42 U.S.C. Sec. 9601(20)(E), (F), and (G) of CERCLA.

(22) "Scored site" means a facility in Utah that meets the requirements of scoring established by the National Contingency Plan for placement on the National Priority List.

Amended by Chapter 356, 2009 General Session