

§311.2

State and local government employees engaged in *hazardous waste operations*, as defined in 29 CFR 1910.120(a), in States that do not have a State plan approved under section 18 of the Occupational Safety and Health Act of 1970.

§311.2 Definition of employee.

Employee in §311.1 is defined as a compensated or non-compensated worker who is controlled directly by a State or local government, as contrasted to an independent contractor.

PART 312—INNOCENT LAND-OWNERS, STANDARDS FOR CONDUCTING ALL APPROPRIATE INQUIRIES

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312.28 Specialized knowledge or experience on the part of the defendant.

312.29 The relationship of the purchase price to the value of the property, if the property was not contaminated.

312.30 Commonly known or reasonably ascertainable information about the property.

312.31 The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation.

AUTHORITY: Section 101(35)(B) of CERCLA, as amended, 42 U.S.C. 9601(35)(B).

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40 CFR Ch. I (7–1–06 Edition)

Subpart A—Introduction

§312.1 Purpose, applicability, scope and disclosure obligations.

(a) *Purpose.* The purpose of this section is to provide standards and practices for “all appropriate inquiries” for the purposes of CERCLA sections 101(35)(B)(i)(I) and 101(35)(B)(ii) and (iii).

(b) *Applicability.* The requirements of this part are applicable to:

(1) Persons seeking to establish:

(i) The innocent landowner defense pursuant to CERCLA sections 101(35) and 107(b)(3);

(ii) The bona fide prospective purchaser liability protection pursuant to CERCLA sections 101(40) and 107(r);

(iii) The contiguous property owner liability protection pursuant to CERCLA section 107(q); and

(2) persons conducting site characterization and assessments with the use of a grant awarded under CERCLA section 104(k)(2)(B).

(c) *Scope.* (1) Persons seeking to establish one of the liability protections under paragraph (b)(1) of this section must conduct investigations as required in this part, including an inquiry by an environmental professional, as required under §312.21, and the additional inquiries defined in §312.22, to identify conditions indicative of releases or threatened releases, as defined in CERCLA section 101(22), of hazardous substances, as defined in CERCLA section 101(14).

(2) Persons identified in paragraph (b)(2) of this section must conduct investigations required in this part, including an inquiry by an environmental professional, as required under §312.21, and the additional inquiries defined in §312.22, to identify conditions indicative of releases and threatened releases of hazardous substances, as defined in CERCLA section 101(22), and as applicable per the terms and conditions of the grant or cooperative agreement, releases and threatened releases of:

(i) Pollutants and contaminants, as defined in CERCLA section 101(33);

(ii) Petroleum or petroleum products excluded from the definition of “hazardous substance” as defined in CERCLA section 101(14); and