

## **67401.11 Allocation of Orphan Share**

### **(a)**

The following factors shall be used by the Department to determine when a responsible person cannot be located or identified, or when a responsible person is considered insolvent. The factors that shall guide the Department in allocating response costs to an orphan share shall include, but are not limited to, the following: (1) A responsible person cannot be located when the Department determines that the responsible person is deceased and there are no assets remaining in the estate of the deceased, and there is no successor in liability. (2) A responsible person shall be considered insolvent if the Department makes a finding pursuant to H&SC Section 25396(j) (as it read on June 26, 2012).

#### **(1)**

A responsible person cannot be located when the Department determines that the responsible person is deceased and there are no assets remaining in the estate of the deceased, and there is no successor in liability.

#### **(2)**

A responsible person shall be considered insolvent if the Department makes a finding pursuant to H&SC Section 25396(j) (as it read on June 26, 2012).

### **(b)**

When allocating response costs to an orphan share, the Department shall apply a community benefit factor in conjunction with the established equitable factors

listed in H&SC Section 25398.8(c) (as it read on June 26, 2012). The community benefit factor includes consideration of the following: (1) The relative threat posed by the site to public health and the environment. (2) The community benefit realized by members of the public and the affected community as a result of the implementation of the response action.

**(1)**

The relative threat posed by the site to public health and the environment.

**(2)**

The community benefit realized by members of the public and the affected community as a result of the implementation of the response action.