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HEALTH AND SAFETY CODE - HSC

DIVISION 45. HAZARDOUS SUBSTANCE RESPONSE [78000 - 81050] (*Division 45 added by Stats. 2022, Ch. 257, Sec. 2.*)

PART 2. HAZARDOUS SUBSTANCE ACCOUNT [78000 - 81050] (*Part 2 added by Stats. 2022, Ch. 257, Sec. 2.*)

CHAPTER 10. Cleanup Loans and Environmental Assistance to Neighborhoods [80200 - 80625] (*Chapter 10 added by Stats. 2022, Ch. 257, Sec. 2.*)

ARTICLE 9. Obligations of Loan Recipient [80520- 80520.] (*Article 9 added by Stats. 2022, Ch. 257, Sec. 2.*)

80520. Upon the approval of a loan pursuant to Article 7 (commencing with Section 80480), the loan recipient shall do all of the following:

(a) Enter into an agreement with the department to repay the loan over a period of not more than seven years. If the loan is to a local government entity, or to a developer or prospective purchaser acting together with a local government entity pursuant to an enforceable agreement, the department may delay the beginning of the loan repayment period.

(1) The agreement shall include those terms and conditions that the department deems appropriate.

(2) (A) The agreement shall require that if the loan recipient recovers from a responsible party any costs incurred in taking a response action at the site that is the subject of the response action pursuant to the agreement, the loan recipient shall use the recovered money, except for reasonable costs and the fees incurred to recover that money, first to satisfy the loan.

(B) Notwithstanding subparagraph (A), a loan recipient is not required to first use the money recovered to repay the loan or grant if the recipient can demonstrate, to the satisfaction of the department, that the recovered money is necessary to, and is being applied to, the total environmental remediation of the property, and that the total of the recovered money and the loan amount does not exceed the cost of remediation.

(b) (1) Enter into an agreement with the department or with the regional board or state board pursuant to Article 11 (commencing with Section 80570) for the oversight and approval of the response action at the site. This agreement shall include any necessary conditions and assurances to ensure that post-completion, ongoing operation and maintenance activities, and any necessary institutional controls on future uses of the property, are complied with. This agreement shall be provided to the department before the department may release any loan funds to the loan recipient.

(2) Notwithstanding any requirement of Division 20 (commencing with Section 24000) or this part regarding cost recovery or reimbursement for oversight costs, a loan recipient is not liable for paying the department's costs pursuant to this chapter or the regional board's or state board's costs pursuant to Article 11 (commencing with Section 80570) associated with the oversight of the response action at the site subject to the agreement, if the department determines there are sufficient funds in the account to reimburse the department's costs pursuant to this chapter or the regional board's or state board's costs pursuant to Article 11 (commencing with Section 80570) for that oversight. If the department determines that the account has insufficient funds to pay for the oversight costs associated with the oversight of the response action at the site subject to the agreement, the loan recipient shall pay the department's costs pursuant to this chapter or the regional board's or state board's costs pursuant to Article 11 (commencing with Section 80570) for the amount of those costs.

(c) (1) Except as provided in paragraph (2), obtain secured creditor insurance, as defined in Section 80730, from the insurance company selected by the secretary pursuant to Section 80760, or comparable insurance from any insurance company with an A.M. Best Financial Strength Rating of A+ or better and an A.M. Best Financial Size Category of FSC X or larger that is authorized to offer environmental insurance in California. This insurance shall be obtained before the department may release any loan funds to the loan recipient.

(2) The secretary may waive the requirement of paragraph (1) to obtain insurance or any specific insurance coverage if either of the following apply:

(A) No money is available for the environmental insurance subsidies authorized pursuant to Section 80800.

(B) The secretary determines that the scope of the response action is limited and the cost of the premiums of the prenegotiated package of environmental insurance products equals or exceeds the estimated response action costs, or is otherwise not commercially feasible.

(Added by Stats. 2022, Ch. 257, Sec. 2. (AB 2293) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 4 of Stats. 2022, Ch. 257.)