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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 11. California Financial Assurance and Insurance for Redevelopment Program [80680 - 80870]** ( Chapter 11 added by Stats. 2022, Ch. 257, Sec. 2. )

**ARTICLE 1. Definitions [80680 - 80735]** ( Article 1 added by Stats. 2022, Ch. 257, Sec. 2. )

**80680.** For purposes of this chapter, the definitions contained in this article shall apply.

(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.)

**80685.** "CLEAN Program" means the Cleanup Loans and Environmental Assistance to Neighborhoods Program established pursuant to Section 80450.

(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.)

**80690.** (a) "Cost overrun insurance" means insurance that covers some, or all, of the response costs caused by a known pollution condition at a site, that exceed the estimated response action costs that have been accepted and approved by the insurer, based on information from the department and other relevant sources at the time the insurance is first obtained.

(b) Cost overrun insurance shall, at a minimum, provide for all of the following:

(1) The response costs in excess of the estimated response action costs that have been accepted and approved by the insurer.

(2) A policy period of sufficient length to cover the duration of the response activities, not including post-completion operation and maintenance.

(3) A self-insured retention amount not to exceed 25 percent of the estimated response action costs that have been accepted and approved by the insurer.

(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.)

**80695.** "Eligible property" has the same meaning as defined in subdivision (a) of Section 80230.

(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.)

**80700.** "Environmental insurance" means insurance intended to limit the liability associated with the discovery and cleanup of a hazardous material release, including secured creditor insurance, pollution liability insurance, and cost overrun insurance, and any other insurance product that the secretary selects to be provided pursuant to Article 2 (commencing with Section 80750).

(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.)

**80705.** "Estimated response action costs" means the projected costs of taking a response action in implementing an approved removal action work plan or remedial action plan prepared to address a pollution condition at a site.

(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.)

**80710.** "Hazardous material" means a substance or waste that, because of its physical, chemical, or other characteristics, may pose a risk of endangering human health or safety or of degrading the environment. "Hazardous material" includes, but is not limited to, all of the following:

(a) A hazardous substance, as defined in Section 25281 or subdivision (a) of Section 78075, including the substances specified in subdivision (b) of Section 78075.

(b) A hazardous waste, as defined in Section 25117.

(c) A waste, as defined in Section 101075, or as defined in Section 13050 of the Water Code.

*(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.)*

**80715.** "Insurance company" means an insurance company authorized in California to offer environmental insurance and that has an A.M. Best Financial Strength Rating of A+ or better and an A.M. Best Financial Size Category of FSC X or larger.

*(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.)*

**80720.** "Pollution condition" means a release or threatened release of a hazardous material and any resulting impact upon the environment.

*(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.)*

**80725.** (a) "Pollution liability insurance" means insurance that covers damages caused by a pollution condition from, or at, a site that is preexisting and unknown, or was otherwise unknown at the time the insurance is first obtained, and, at a minimum, provides for all of the following:

(1) A minimum policy period of five years after the completion of remediation activities, not including post-completion operation and maintenance.

(2) A duty to defend and pay for defense costs in an amount at least up to the amount of coverage available under the policy, irrespective of whether an administrative or judicial order requires the insured to compensate any party or pay for the damages, so long as there already exists a reasonably quantifiable legal obligation to pay those damages.

(b) For purposes of this section, "damages" means either of the following:

(1) Property damage incurred at a site as an unforeseen and unexpected result of a pollution condition.

(2) Bodily injury, property damage, and response action costs sustained or incurred by a third party as a result of a pollution condition at a site.

(c) For purposes of this section, "damages" includes the property damage, bodily injury, and response costs specified in subdivision (b), irrespective of whether an administrative or judicial order requires the insured to compensate any party or pay for the property damage, bodily injury, or response costs, so long as there exists a reasonably quantifiable legal obligation to pay for those damages.

*(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.)*

**80730.** "Secured creditor insurance" means insurance made available to an insured that covers all of the following:

(a) Response costs at a site incurred by the lender after a default by the borrower or foreclosure by the lender that occurs as a result of a pollution condition at the site, and the costs are reasonably necessary to remediate the site for its intended use so that it can be sold.

(b) Damages or other liability for a pollution condition at a site incurred by a lender as a result of that lender exercising a foreclosure option.

(c) Loss or damages incurred by a lender as a result of a borrower's inability to satisfy a loan obligation or due to the existence of an unforeseen and unexpected pollution condition.

(d) A duty to defend and pay for defense costs in an amount at least up to the amount of coverage available under the policy, irrespective of whether an administrative or judicial order requires the insured to compensate any party or pay for the loss, damages, or liability, so long as there exists a reasonably quantifiable legal obligation to pay damages.

*(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.)*

**80735.** "Self-insured retention amount" means response action costs in excess of the estimated response action costs that have been accepted and approved by the insurer that the insured is obligated to pay before being eligible to make a claim of an insurer under a cost overrun insurance policy.

*(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.)*