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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 4. Releases of Hazardous Substances [78650 - 78795] (*Chapter 4 added by Stats. 2022, Ch. 257, Sec. 2.)*

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ARTICLE 4. Securing Site of Release [78720 - 78740] (*Article 4 added by Stats. 2022, Ch. 257, Sec. 2.)*

78720. After making a determination, based upon a preliminary site assessment that there has been a release of a hazardous substance on, under, or into the land on a site, the department or a county health officer shall order the property owner to secure the site if all of the following conditions apply to that site:

- (a) The release does not comply with the terms of a current permit or interim status document or regulation of the department.
- (b) The site poses a public health risk if human contact is made with the hazardous substance or the surrounding contaminated area.
- (c) There is a likelihood of human or domestic animal contact.

(*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.*)

78725. (a) The order to secure the site shall require, within five days after receiving notification of the order, the posting of the site with signs. The order shall also require, within five days after receiving notification of the order, that the site be enclosed with a fence, unless it is physically and economically infeasible or unless the fencing is unnecessary because it will not alleviate the danger to the public health.

(b) If fencing is ordered, the fences shall be maintained at the site to prevent unauthorized persons from gaining access to the site. The signs shall be maintained and shall meet all of the following requirements:

- (1) The signs shall be bilingual, appropriate to the local area, and may include international symbols, as required by the department.
- (2) The signs shall have lettering that is legible from a distance of at least 25 feet.
- (3) The signs shall read: "Caution: Hazardous Substance Area, Unauthorized Persons Keep Out" and shall have the name and phone number of the department or the county health officer that ordered the posting.
- (4) The signs shall be visible from the surrounding contaminated area and posted at each route of entry into the site, including those routes that are likely to be used by unauthorized persons, at access roads leading to the site, and facing navigable waterways where appropriate.
- (5) The signs shall be of a material able to withstand the elements.

(*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.*)

78730. The department or the county health officer shall advise other agencies on the public health risks and the need for fencing and posting of sites when those agencies confirm the release of a hazardous substance pursuant to Section 78720.

(*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.*)

78735. (a) A property owner who fails to comply with an order of the department or the county health officer is subject to a civil penalty of up to twenty-five thousand dollars (\$25,000). In determining the amount of a civil penalty to be imposed, the court shall consider all relevant circumstances, including, but not limited to, the economic assets of the property owner and whether the property owner has acted in good faith.

(b) If the property owner fails to secure and post the site, the department or the county health officer shall secure and post the site pursuant to subdivision (a) of Section 78725 within 30 days of the expiration of the five-day period and shall seek recovery of the costs of that securing and posting from the property owner. If the site is an abandoned site, as defined in Section 78505, if the site cannot be traced to a specific owner, or if the owner is the subject of an order for relief in bankruptcy, the department or the county health officer shall secure and post the site, using any source of funds, pursuant to subdivision (a) of Section 78725.

(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.)

78740. The remedies and penalties specified in this article and Section 78505 are in addition to, and do not affect, any other remedies, enforcement actions, requirements, or penalties otherwise authorized by law.

(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.)