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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 8. Cost Recovery [79650 - 79955] (*Chapter 8 added by Stats. 2022, Ch. 257, Sec. 2.*)

ARTICLE 1. General Provisions [79650 - 79670] (*Article 1 added by Stats. 2022, Ch. 257, Sec. 2.*)

79650. (a) A cost incurred by the department or regional board in carrying out or overseeing a response or a corrective action under this part or Chapter 6.5 (commencing with Section 25100) of Division 20 shall be recoverable pursuant to state or federal law by the Attorney General, upon the request of the department or regional board, from the liable person.

(b) The amount of response or corrective action costs incurred by the department or regional board shall be recoverable at the discretion of the department or regional board, either in a separate action or by way of intervention as of right in an action for contribution or indemnity.

(c) The amount of any response or corrective action costs that may be recovered pursuant to this section shall include interest on any amount paid.

(d) A person who is liable for response or corrective action costs incurred at a site shall have the liability reduced by any reimbursements that were paid by that person for that site pursuant to Section 79105.

(e) Nothing in this section deprives a party of any defense that the party may have.

(f) Moneys recovered by the Attorney General pursuant to this section shall be deposited in the state account.

(*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.*)

79655. (a) (1) Until June 30, 2021, except as provided in subdivision (b), a monetary obligation to the department pursuant to this part or Chapter 6.5 (commencing with Section 25100) of Division 20 shall be subject to interest from the date of the demand at an interest rate of 7 percent per annum.

(2) Commencing July 1, 2021, except as provided in subdivision (b), a monetary obligation to the department pursuant to this part or Chapter 6.5 (commencing with Section 25100) of Division 20 shall be subject to interest from the date of the demand at an interest rate of 10 percent per annum, except that, for obligations of local governments, the interest rate shall be 7 percent per annum.

(b) (1) The department shall waive the interest described in subdivision (a) if the obligation is satisfied within 60 days from the date of invoice.

(2) If, within 45 days of receiving an invoice, the liable person provides written notice to the department in accordance with its invoice dispute resolution procedures disputing in good faith the monetary obligation specified in the invoice, or a portion thereof, the department shall waive the interest until the dispute is resolved.

(*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.*)

79660. The entry of judgment against any party to the action shall not be deemed to bar any future action by the state account against any person who is later discovered to be potentially liable for costs and expenditures paid by the state account.

(*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.*)

79665. The standard of liability for costs recoverable pursuant to this part is strict liability.

(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.)

79670. (a) A person who has incurred response or corrective action costs in accordance with this part, Chapter 6.5 (commencing with Section 25100) of Division 20, or the federal act may seek contribution or indemnity from any person who is liable pursuant to this part.

(b) An action to enforce a claim may be brought as a cross-complaint by any defendant in an action brought pursuant to Section 79650 or this section, or in a separate action after the person seeking contribution or indemnity has paid response or corrective action costs in accordance with this part, Chapter 6.5 (commencing with Section 25100) of Division 20, or the federal act.

(c) A plaintiff or cross-complainant seeking contribution or indemnity shall give written notice to the director upon filing an action or cross-complaint under this section.

(d) In resolving claims for contribution or indemnity, the court may allocate costs among liable parties using appropriate equitable factors.

(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.)