

68211 ISCP Environmental Oversight Agreements; CLEAN Loan Program Response Action Agreements or Equivalent Agreements

(a)

ISCP Environmental Oversight Agreements, CLEAN Loan Program Response Action Agreements, and enforceable agreements with the State Board or a Regional Board under subdivision (h) of section 25395.28 of the Health and Safety Code, shall contain, at a minimum, the following: (1) Identification of parties entering into the agreement; (2) Description of the Property subject to the agreement, and description of any environmental assessment or other Response Action activities previously performed on the Property; (3) If the Property is part of a larger site where there is known or suspected release or threatened release of a Hazardous Material, description of the site and nature and extent of any known or suspected release or threatened release of a Hazardous Material on the site; (4) Description of the work that will be performed using Loan funds, including a detailed scope of work, schedules, public participation activities, quality assurance/quality control plans, and health and safety plans; (5) Provision that the Borrower shall reimburse the Administering Agency's costs for oversight of the preparation and approval of a PEA or PEA-equivalent site assessment, or Response Action, as appropriate and as specified under section 25395.28 of the Health and Safety Code, on any portion of the Property where the work that is performed

is not funded by Loan funds; (6) (A) For ISCP Loans, provision for the Department's approval of the PEA, and any reports, plans, schedules, or other documents submitted under the agreement, including provisions regarding any Department-required modifications to submittals; (B) For CLEAN Loan Program Loans, provision for the Administering Agency's approval of any Response Actions and any reports, plans, schedules, or other documents submitted under the agreement, including provisions regarding any modifications to submittals required by the Administering Agency; (7) Provision regarding actions to be taken in the event of endangerment during implementation of work on the Property; (8) Provision regarding Administering Agency and Department, if the Department is not the Administering Agency, access to the Property; (9) Provision regarding sampling, data, and document availability and preservation; (10) Provision regarding notifications of field activities and any condition posing an immediate threat to public health or safety or the environment on the Property; (11) Provision regarding the Borrower's liability related to activities on the Property; (12) For ISCP Loans, provision regarding the Department's oversight costs for the preparation and approval of a PEA on the Property required by the Department, and for CLEAN Loan Program Loans, provision regarding the Administering Agency's costs for oversight of any Response Action on the Property: (A) A Borrower is liable for paying the Administering Agency's oversight costs pursuant to section 25395.28 of the Health and Safety Code, associated with the oversight of the preparation and approval of the PEA or the Response Action unless the Department determines there are sufficient funds in the Account to reimburse the Administering Agency for that oversight; (B) If the Department determines that the Account has insufficient funds to pay for the oversight costs associated with the oversight of the preparation and approval of the PEA or the Response Action,

the Borrower shall pay the Administering Agency's costs as specified under section 25395.28 of the Health and Safety Code. If the Department makes a determination that the Account has insufficient funds to pay for the oversight costs after a Loan Agreement has been executed, the Department will notify the Borrower that the Borrower will be billed for the Administering Agency's oversight costs as specified under section 25395.28 of the Health and Safety Code, that are not reimbursed from the Account; (C) The Department shall reimburse the State Board or Regional Board only if the conditions in 25395.28(g) are met; and (13) Any other provisions as agreed by the parties determined to be necessary by the Administering Agency.

(1)

Identification of parties entering into the agreement;

(2)

Description of the Property subject to the agreement, and description of any environmental assessment or other Response Action activities previously performed on the Property;

(3)

If the Property is part of a larger site where there is known or suspected release or threatened release of a Hazardous Material, description of the site and nature and extent of any known or suspected release or threatened release of a Hazardous Material on the site;

(4)

Description of the work that will be performed using Loan funds, including a detailed scope of work, schedules, public participation activities, quality assurance/quality control plans, and health and safety plans;

(5)

Provision that the Borrower shall reimburse the Administering Agency's costs for oversight of the preparation and approval of a PEA or PEA-equivalent site assessment, or Response Action, as appropriate and as specified under section 25395.28 of the Health and Safety Code, on any portion of the Property where the work that is performed is not funded by Loan funds;

(6)

(A) For ISCP Loans, provision for the Department's approval of the PEA, and any reports, plans, schedules, or other documents submitted under the agreement, including provisions regarding any Department-required modifications to submittals;

(B) For CLEAN Loan Program Loans, provision for the Administering Agency's approval of any Response Actions and any reports, plans, schedules, or other documents submitted under the agreement, including provisions regarding any modifications to submittals required by the Administering Agency;

(A)

For ISCP Loans, provision for the Department's approval of the PEA, and any reports, plans, schedules, or other documents submitted under the agreement, including provisions regarding any Department-required modifications to submittals;

(B)

For CLEAN Loan Program Loans, provision for the Administering Agency's approval of any Response Actions and any reports, plans, schedules, or other documents submitted under the agreement, including provisions regarding any modifications to submittals required by the Administering Agency;

(7)

Provision regarding actions to be taken in the event of endangerment during implementation of work on the Property;

(8)

Provision regarding Administering Agency and Department, if the Department is not the Administering Agency, access to the Property;

(9)

Provision regarding sampling, data, and document availability and preservation;

(10)

Provision regarding notifications of field activities and any condition posing an immediate threat to public health or safety or the environment on the Property;

(11)

Provision regarding the Borrower's liability related to activities on the Property;

(12)

For ISCP Loans, provision regarding the Department's oversight costs for the preparation and approval of a PEA on the Property required by the Department, and for CLEAN Loan Program Loans, provision regarding the Administering Agency's costs for oversight of any Response Action on the Property:(A) A Borrower is liable for paying the Administering Agency's oversight costs pursuant to section 25395.28 of the Health and Safety Code, associated with the oversight of the preparation and approval of the PEA or the Response Action unless the Department determines there are sufficient funds in the Account to reimburse the Administering Agency for that oversight; (B) If the Department determines that the Account has insufficient funds to pay for the oversight costs associated with the oversight of the preparation and approval of the PEA or the Response Action, the Borrower shall pay the Administering Agency's costs as specified under section 25395.28 of the Health and Safety Code. If the Department makes a determination that the Account has insufficient funds to pay for the oversight costs after a Loan Agreement has been executed, the Department will notify the Borrower that the Borrower will be billed for the Administering Agency's oversight costs as specified under section 25395.28 of the Health and Safety Code,

that are not reimbursed from the Account; (C) The Department shall reimburse the State Board or Regional Board only if the conditions in 25395.28(g) are met; and

(A)

A Borrower is liable for paying the Administering Agency's oversight costs pursuant to section 25395.28 of the Health and Safety Code, associated with the oversight of the preparation and approval of the PEA or the Response Action unless the Department determines there are sufficient funds in the Account to reimburse the Administering Agency for that oversight;

(B)

If the Department determines that the Account has insufficient funds to pay for the oversight costs associated with the oversight of the preparation and approval of the PEA or the Response Action, the Borrower shall pay the Administering Agency's costs as specified under section 25395.28 of the Health and Safety Code. If the Department makes a determination that the Account has insufficient funds to pay for the oversight costs after a Loan Agreement has been executed, the Department will notify the Borrower that the Borrower will be billed for the Administering Agency's oversight costs as specified under section 25395.28 of the Health and Safety Code, that are not reimbursed from the Account;

(C)

The Department shall reimburse the State Board or Regional Board only if the conditions in 25395.28(g) are met; and

(13)

Any other provisions as agreed by the parties determined to be necessary by the Administering Agency.

(b)

An ISCP Environmental Oversight Agreement shall also include, at a minimum, the

following: (1) Requirement to conduct the PEA in accordance with the Department's guidelines as specified in paragraphs (1)-(3) of subdivision (d) of section 68205; (2) Requirement that the Borrower shall complete the PEA for the Property even if the Loan amount does not finance the complete cost of the PEA or shall meet the requirements of paragraph (5) of subdivision (e) of section 68210 if the Borrower decides not to complete the PEA; (3) Agreement by the Borrower to provide any and all PEA results to the Department if the Borrower does not proceed with the Project.

(1)

Requirement to conduct the PEA in accordance with the Department's guidelines as specified in paragraphs (1)-(3) of subdivision (d) of section 68205;

(2)

Requirement that the Borrower shall complete the PEA for the Property even if the Loan amount does not finance the complete cost of the PEA or shall meet the requirements of paragraph (5) of subdivision (e) of section 68210 if the Borrower decides not to complete the PEA;

(3)

Agreement by the Borrower to provide any and all PEA results to the Department if the Borrower does not proceed with the Project.

(c)

A CLEAN Loan Program Response Action Agreement shall also include, at a minimum, the following: (1) Identification of the Project Coordinator and description of the Project Coordinator's qualifications; (2) Scope of work that includes tasks needed to complete all Response Actions for the Property including Operation and Maintenance and land use restrictions, if applicable; (3) Requirement that work undertaken on the Property shall be conducted by a

qualified Project Coordinator with expertise in Hazardous Materials site investigation and cleanup and that all engineering and geological work shall be conducted in conformance with applicable State laws including, but not limited to, Business and Professions Code sections 6735 and 7835; (4) In order to provide for the possibility that the Loan amount may not cover the full cost of the Response Action: (A) For a Borrower that is a responsible party as defined in section 25323.5 of the Health and Safety Code, a requirement to complete all Response Actions for the Property even if the Loan amount does not finance the complete cost of the Response Action; or (B) For a Borrower that is not a responsible party as defined in section 25323.5 of the Health and Safety Code or a Person subject to regulation under chapter 6.7 (commencing with section 25280) or chapter 6.75 (commencing with section 25299.10) of the Health and Safety Code, a provision regarding the requirements of paragraph (2) of subdivision (f) of section 68210 if the Borrower notifies the Administering Agency and the Department the Borrower has determined the Project is no longer economically feasible; (5) Provision for all removal actions, remedial actions, California Environmental Quality Act documentation, remedial design and implementation, and any other activities necessary for the Administering Agency's approval of the Response Action.

(1)

Identification of the Project Coordinator and description of the Project Coordinator's qualifications;

(2)

Scope of work that includes tasks needed to complete all Response Actions for the Property including Operation and Maintenance and land use restrictions, if applicable;

(3)

Requirement that work undertaken on the Property shall be conducted by a qualified Project Coordinator with expertise in Hazardous Materials site investigation and cleanup and that all engineering and geological work shall be conducted in conformance with applicable State laws including, but not limited to, Business and Professions Code sections 6735 and 7835;

(4)

In order to provide for the possibility that the Loan amount may not cover the full cost of the Response Action: (A) For a Borrower that is a responsible party as defined in section 25323.5 of the Health and Safety Code, a requirement to complete all Response Actions for the Property even if the Loan amount does not finance the complete cost of the Response Action; or (B) For a Borrower that is not a responsible party as defined in section 25323.5 of the Health and Safety Code or a Person subject to regulation under chapter 6.7 (commencing with section 25280) or chapter 6.75 (commencing with section 25299.10) of the Health and Safety Code, a provision regarding the requirements of paragraph (2) of subdivision (f) of section 68210 if the Borrower notifies the Administering Agency and the Department the Borrower has determined the Project is no longer economically feasible;

(A)

For a Borrower that is a responsible party as defined in section 25323.5 of the Health and Safety Code, a requirement to complete all Response Actions for the Property even if the Loan amount does not finance the complete cost of the Response Action; or

(B)

For a Borrower that is not a responsible party as defined in section 25323.5 of the Health and Safety Code or a Person subject to regulation under chapter 6.7 (commencing with section 25280) or chapter 6.75 (commencing with section 25299.10) of the Health and Safety Code, a provision regarding the requirements of paragraph (2) of subdivision (f) of section

68210 if the Borrower notifies the Administering Agency and the Department the Borrower has determined the Project is no longer economically feasible;

(5)

Provision for all removal actions, remedial actions, California Environmental Quality Act documentation, remedial design and implementation, and any other activities necessary for the Administering Agency's approval of the Response Action.