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SUBCHAPTER 6. HAZARDOUS DISCHARGE SITE REMEDIATION FUND

7:26C-6.1 Scope and requirements

(a) This subchapter provides the requirements for any person to apply for a loan or a grant from the Hazardous Discharge Site Remediation Fund.

(b) As a condition for receiving a loan or a grant, the applicant must be under the oversight of the Department pursuant to the Industrial Site Recovery Act or the Underground Storage Tank program or an oversight document executed pursuant to this chapter.

7:26C-6.2 Application for loans and grants

(a) A person that elects to apply for a loan or a grant from the Hazardous Discharge Site Remediation Fund shall submit an application on forms available from the Department and a written request, certified in accordance with N.J.A.C. 7:26C-1.2(a)1, to the Department which includes the following information:

1. If known, the name of the Department bureau overseeing the remediation if any, the program interest name, program interest number (preferred ID) and the name of the assigned Department case manager;

2. A statement by the applicant whether the application is for a loan or a grant, or both, and identification of the provision within the New Jersey Economic Development Authority's Authority Assistance Programs Rule, N.J.A.C. 19:31-8.3 that supports the applicant's request for a loan or grant or both;

3. A detailed description of the remediation to be completed at the site, pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, for which the applicant intends to use the loan or grant;

4. A detailed cost estimate for the completion of remediation listed at (a)3 above. For any portion of the proposed remediation listed in (a)3 above which concerns an underground storage tank regulated by Underground Storage Tanks rules, N.J.A.C. 7:14B, that portion of the cost estimate shall be prepared by an individual certified pursuant to N.J.A.C. 7:14B-13.1;

5. The total amount of loan or grant requested;

6. A statement as to whether the applicant has any violations, outstanding fees or penalties with the Department.

- i. Any applicant not in compliance with all applicable Department rules shall submit to the Department a written description of, and explanation for, the noncompliance including a list of all violations and outstanding fees, and penalties. The applicant shall specifically state whether the violations, fees, or penalties are currently being contested in a manner prescribed by law and whether the violations, fees and penalties resulted from a lack of financial resources to perform the required remediation;

7. A description and the amount of any other funding sources available to the applicant;

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8. The last three annual financial statements of the applicant, who is not applying for an innocent party grant or who is not a municipal entity. An applicant that is a homeowner applying to remediate discharges at the applicant's domicile shall submit copies of the applicant's last three Federal income tax returns;

9. If an applicant is requesting an innocent party grant :

i. Proof that the Department has approved the remedial investigation;

ii. A copy of the deed to the site;

iii. A statement that:

(1) Neither the applicant nor any person authorized by the applicant to use the contaminated site used any hazardous substance that was discharged at the contaminated site; and

(2) Neither the applicant nor any person authorized by the applicant to use the contaminated site discharged any hazardous substance at the contaminated site; and

10. A statement, with all necessary supporting documentation, by an applicant required to establish a remediation funding source, or that has voluntarily undertaken the remediation of a site, that the applicant cannot obtain an environmental insurance policy or a line of credit, cannot establish a remediation trust fund, and cannot provide a self-guarantee pursuant to N.J.A.C. 7:26C-7; and

11. If the applicant is a public entity the following additional information shall be submitted:

i. For both loans and grants, provide proof that:

(1) The applicant is the current owner of the site;

(2) The applicant holds the tax sale certificate for the site and the date that the certificate was obtained;

(3) The applicant obtained title to the site through foreclosure; or

(4) The applicant passed a resolution or ordinance to acquire title to the site for purposes of redevelopment.

ii For a grant, the applicant shall submit proof that it passed a resolution or ordinance for the comprehensive development or redevelopment of the site, or other demonstration that a realistic opportunity exists for development or redevelopment within 3 years.

(b) Any person required to establish a remediation funding source that elects to apply for a

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loan or a grant to satisfy all or a portion of the remediation funding source requirements shall submit all the information required in (a) above upon:

1. Submission of a remediation agreement application pursuant to the Industrial Site Recovery Act Rules, N.J.A.C. 7:26B-4;
2. Submission of a remedial action workplan for an industrial establishment being remediated pursuant to the Industrial Site Recovery Act Rules, N.J.A.C. 7:26B-6; or
3. Receipt of an administrative consent order from the Department pursuant to N.J.A.C. 7:26C-5.3.

(c) A person seeking to amend an approved loan or grant award shall submit to the Department the information required in (a) above, with respect to the amendment.

(d) The Department shall review the applicant's request for a loan and/or a grant, or amendment thereto, based on the information provided by the applicant in accordance with (a) and (c), above, and will notify the applicant in writing within 30 calendar days after receipt of the application as follows:

1. The applicant's request for a loan and/or a grant, or amendment thereto, is administratively and technically complete and the Department has referred the request to the New Jersey Economic Development Authority for financial review in accordance with New Jersey Economic Development Authority's Authority Assistance Programs Rule, N.J.A.C. 19:31-8;

2. The applicant's request for a loan and/or a grant, or amendment thereto, is administratively and/or technically incomplete and the Department cannot take further action on the application until the deficiencies listed in the Department's notification are corrected; or

3. The applicant is not eligible for a loan and/or a grant, or amendment thereto, from the Hazardous Discharge Site Remediation Fund and a statement of the reason(s) therefor.

(e) In the event that the New Jersey Economic Development Authority determines that the person is able to establish a remediation funding source, the person required to establish a remediation funding source shall establish the full amount of the remediation funding source in accordance with N.J.A.C. 7:26C-7, within 14 calendar days after the person's receipt of notice from the New Jersey Economic Development Authority that the application for a loan and/or a grant from the Hazardous Discharge Site Remediation Fund has been denied.

7:26C-6.3 Grants for reimbursement of prior remediation costs

(a) A person responsible for conducting remediation may apply for a grant for reimbursement of remediation costs that were incurred prior to application provided that:

1. The remediation costs were incurred after June 16, 1993; and
2. The Department has approved the remediation associated with the remediation costs.

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7:26C-6.4 Disbursements of grants and loans

A person responsible for conducting remediation of a site using a loan or a grant shall comply with N.J.A.C.7:26C-7.10 for the disbursement of funds.