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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.*)

PART 12. DRINKING WATER [116270 - 117130] (*Part 12 added by Stats. 1995, Ch. 415, Sec. 6.*)

CHAPTER 5. Water Equipment and Control [116775 - 116890] (*Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.*)

ARTICLE 3. Water Treatment Devices [116825 - 116865] (*Article 3 added by Stats. 1995, Ch. 415, Sec. 6.*)

116825. Unless the context otherwise requires, the following definitions shall govern construction of this article:

(a) "Water treatment device" means any point of use or point of entry instrument or contrivance sold or offered for rental or lease for residential use, and designed to be added to the plumbing system, or used without being connected to the plumbing of a water supply intended for human consumption in order to improve the water supply by any means, including, but not limited to, filtration, distillation, adsorption, ion exchange, reverse osmosis, or other treatment. "Water treatment device" does not include any device that is regulated pursuant to Article 12 (commencing with Section 111070) of Chapter 5 of Part 5.

(b) "Department" means the State Department of Public Health.

(c) "Person" means any individual, firm, corporation, or association, or any employee or agent thereof.

(d) "Contaminants" means any health-related physical, chemical, biological, or radiological substance or matter in water.

(e) "Health or safety claim" means any claim that the water treatment device will remove or reduce a contaminant for which either of the following applies:

(1) A primary drinking water standard as defined in Section 116275, or a treatment requirement as authorized in subdivision (j) of Section 116365 and subdivision (d) of Section 116375, has been established.

(2) A national primary drinking water standard or treatment requirement has been established under the federal Safe Drinking Water Act (42 U.S.C. Sec. 300g-1).

(f) "Manufacturer" means any of the following:

(1) A person that makes, converts, constructs, or produces water treatment devices for the purposes of sale, lease, or rental to individuals, corporations, associations, or other entities.

(2) A person that assembles water treatment devices or treatment components from components manufactured by another entity.

(3) A person that adds its own product name or product identification to water treatment devices or treatment components that have been manufactured or assembled by another entity.

(Amended by Stats. 2013, Ch. 403, Sec. 2. (AB 119) Effective January 1, 2014.)

116831. All regulations adopted pursuant to this article prior to January 1, 2014, are repealed.

(Added by Stats. 2013, Ch. 403, Sec. 4. (AB 119) Effective January 1, 2014.)

116832. (a) Commencing January 1, 2014, each manufacturer that offers for sale in California a water treatment device for which it makes a health or safety claim shall, for each water treatment device for which the manufacturer does not have a valid, unexpired certificate issued by the department prior to December 1, 2013, annually submit to the department the following information, together with the fee prescribed in Section 116850, for purposes of the department publishing the information on its Internet Web site:

(1) The name, address, telephone number, and Internet Web site address, if any, of the manufacturer.

(2) The name, address, and telephone number of a contact person for the manufacturer.

(3) The name and model number of the water treatment device, and any other product identification, used by the manufacturer to describe the water treatment device or treatment component.

(4) Each specific contaminant claimed to be removed or reduced by the device.

(5) For each specific contaminant identified pursuant to paragraph (4), the name of the organization that meets the accreditation standards of the American National Standards Institute and that has certified the device to verify its removal or reduction performance for that contaminant, the name of the testing protocol or standard used to test the device, a statement from the testing laboratory giving the date of the test, a summary of the results, and the date, if any, by which the device must be retested for verification of the removal or reduction performance to remain effective.

(6) A product information worksheet that includes the following information:

(A) A summary of the information required to be submitted to the department pursuant to paragraphs (1) to (5), inclusive.

(B) A copy of the certificate issued by the organization that certified the device, as described in paragraph (5).

(C) The service flow rate in gallons per minute or gallons per day or the production rate in gallons per day.

(D) The rated service life of the water treatment device, if applicable.

(E) The general use conditions and needs of the device, including, but not limited to, its maximum turbidity and the bacteriological quality of source water.

(F) The model or part number of components that must be periodically or routinely replaced to maintain the effectiveness of the device.

(G) The maximum and minimum operating temperature of the device in degrees Fahrenheit and degrees Centigrade.

(H) The maximum and minimum operating pressure of the device in pounds per square inch and kilograms per square centimeter.

(I) A reference to the device's owners' manual for general operation and maintenance requirements and the manufacturer's warranty.

(b) (1) Information submitted to the department pursuant to subdivision (a) that is accompanied by the fee required by Section 116850 and postmarked, or sent electronically, after September 1, but on or before March 1, shall be published by the department pursuant to Section 116845 no later than April 1 next following the submission.

(2) Information submitted to the department pursuant to subdivision (a) that is accompanied by the fee required by Section 116850 and postmarked, or sent electronically, after March 1, but on or before September 1, shall be published by the department pursuant to Section 116845 no later than October 1 of that same year.

(Added by Stats. 2013, Ch. 403, Sec. 5. (AB 119) Effective January 1, 2014.)

116835. (a) A water treatment device for which a health or safety claim is made shall not be sold or otherwise distributed unless the device is included on the list of water treatment devices published on the state board's Internet Web site pursuant to Section 116845.

(b) After July 1, 2015, the exterior packaging of a water treatment device for which a health or safety claim is made, and that is offered for sale in a retail establishment in California, shall clearly identify the contaminant or contaminants that the device has been certified pursuant to subdivision (a) to remove or reduce. If a device has been certified to remove or reduce more than five contaminants, at least five contaminants shall be listed on the exterior packaging followed by a statement directing consumers to visit the manufacturer's Internet Web site to obtain information regarding additional contaminants that the device is certified to remove or reduce.

(c) After July 1, 2015, the manufacturer of a water treatment device for which it makes a health or safety claim shall include with each water treatment device offered for sale in California a decal that may be affixed to the device by the consumer that states, at a minimum, the following:

"Please refer to the owner's manual for proper maintenance and operation. If this device is not maintained and operated as specified in the owner's manual, there is a risk of exposure to contaminants. For more information, visit the manufacturer's Internet Web site at Manufacturer's Internet Web site or the State Water Resources Control Board's Internet Web site at www.swrcb.ca.gov."

(Amended by Stats. 2014, Ch. 828, Sec. 2. (AB 2738) Effective January 1, 2015.)

116836. (a) Notwithstanding any other law, a certificate issued by the department shall not be valid unless the application for certification was filed on or before November 1, 2013.

(b) A currently valid certificate issued by the department on or before December 31, 2013, pursuant to this article, shall remain valid for five years following the date of initial issuance, provided that the manufacturer pays the annual fee established by Section 116850.

(Added by Stats. 2013, Ch. 403, Sec. 8. (AB 119) Effective January 1, 2014.)

116840. (a) The department, or any local health officer with the concurrence of the department, shall enforce this article.

(b) The department may remove a water treatment device from, or determine not to include a water treatment device on, the list of water treatment devices on the department's Internet Web site upon its determination of any of the following:

(1) That the manufacturer, or any employee or agent thereof, has violated this article or Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

(2) That any of the information submitted pursuant to Section 116832 is not true.

(3) That a certificate issued by the department prior to December 31, 2013, has expired, unless the manufacturer otherwise complies with Section 116832.

(4) That the manufacturer has not paid the annual fees required by Section 116850.

(5) That the manufacturer has failed to submit all of the information required by subdivision (a) of Section 116832.

(c) Any person, corporation, firm, partnership, joint stock company, or any other association or organization that violates any provision of this article shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of the conduct is a separate and distinct violation. The civil penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(d) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalties collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(e) Unless otherwise provided, the remedies or penalties provided by this article are cumulative to each other and to remedies or penalties available under all other laws of this state.

(Amended by Stats. 2013, Ch. 403, Sec. 9. (AB 119) Effective January 1, 2014.)

116845. The department shall publish semiannually on its Internet Web site the following:

(a) (1) A list of water treatment devices for which a valid certification was issued by the department on or before December 31, 2013, except for those water treatment devices that the department has removed from, or determined not to include on, the list of water treatment devices on its Internet Web site.

(2) A list of water treatment devices for which a manufacturer has submitted information pursuant to Section 116832, except for those water treatment devices that the department has determined to remove from, or not include on, the list pursuant to Section 116840.

(3) A product worksheet for each water treatment device listed on the department's Internet Web site.

(b) Consumer information, in English and Spanish, regarding the appropriate use of water treatment devices.

(Repealed and added by Stats. 2013, Ch. 403, Sec. 11. (AB 119) Effective January 1, 2014.)

116850. (a) The department shall charge and collect the applicable annual fee, as established pursuant to subdivision (b), from each manufacturer that submits information as required by Section 116832 and from each manufacturer that has a currently valid certificate issued by the department. The fees established pursuant to subdivision (b) shall not exceed the amount necessary to recoup the reasonable regulatory costs incurred by the department in publishing and maintaining the information on its Internet Web site as provided in Section 116845 and in conducting enforcement actions, including, but not limited to, referring matters for enforcement to other agencies pursuant to Section 116840.

(b) (1) For each water treatment device for which the manufacturer has submitted the information required by subdivision (a) of Section 116832, the annual fee shall be up to five hundred dollars (\$500).

(2) For each water treatment device that has a valid, unexpired certificate issued by the department prior to December 31, 2013, the annual fee shall be up to five hundred dollars (\$500).

(c) The department may establish and periodically adjust the fee authorized by subdivision (a) by publishing the fee on its Internet Web site. This action by the department shall not be subject to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(Repealed and added by Stats. 2013, Ch. 403, Sec. 13. (AB 119) Effective January 1, 2014.)

116855. This article shall not apply to residential self-regenerating water softeners, as defined in Section 13148 of the Water Code.

(Repealed and added by Stats. 2013, Ch. 403, Sec. 15. (AB 119) Effective January 1, 2014.)

116860. There is in the State Treasury the Water Device Certification Special Account. Fees collected pursuant to Section 116850 shall be deposited in the account created by this section. The money in the account is available for expenditure by the department, upon appropriation by the Legislature, solely for the purposes specified in this article.

(Amended by Stats. 2013, Ch. 403, Sec. 16. (AB 119) Effective January 1, 2014.)

116865. The Director of Finance may authorize the department to borrow up to two hundred thousand dollars (\$200,000) for the purpose of implementing this article from any fund or account deemed appropriate by the Director of Finance. The department shall repay the loan with interest to be determined in accordance with Section 16314 of the Government Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)