HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] *(Division 20 enacted by Stats. 1939, Ch. 60.)*

CHAPTER 6.5. Hazardous Waste Control [25100 - 25259] *(Chapter 6.5 added by Stats. 1972, Ch. 1236.)*

ARTICLE 10.5. The Lead-Acid Battery Recycling Act of 2016 [25215 - 25215.75] *(Article 10.5 added by Stats. 2016, Ch. 666, Sec. 1.)*

25215. This article shall be known, and may be cited, as the Lead-Acid Battery Recycling Act of 2016.

(Repealed (in Sec. 2) and added by Stats. 2016, Ch. 666, Sec. 1. (AB 2153) Effective September 26, 2016. Section operative January 1, 2017, pursuant to Section 25215.75.)

25215.1. For purposes of this article, the following definitions shall apply:

(a) “Board” means the California Department of Tax and Fee Administration.

(b) “Business” means any person, as defined in subdivision (k), except a natural person or a city, county, city and county, district, commission, the state, or any department, agency, or political subdivision of any of those, or an interstate body or, to the extent permitted by law, the United States and its agencies and instrumentalities.

(c) “California battery fee” means the fee imposed pursuant to Section 25215.25.

(d) “Dealer” means a person who engages in the retail sale of replacement lead-acid batteries directly to persons in California. “Dealer” includes a manufacturer of a new lead-acid battery that sells at retail that lead-acid battery directly to a person through any means, including, but not limited to, a transaction conducted through a sales outlet, catalog, or internet website or any other similar electronic means.

(e) “Importer” means a person described in paragraph (2) of subdivision (h).

(f) “Lead-acid battery” means a battery weighing over five kilograms that is primarily composed of both lead and sulfuric acid, whether sulfuric acid is in liquid, solid, or gel state, with a capacity of six volts or more that is used for any of the following purposes:

(1) As a starting battery that is designed to deliver a high burst of energy to an internal combustion engine until it starts.

(2) As a motive power battery that is designed to provide the source of power for propulsion or operation of a vehicle, including a watercraft.

(3) As a stationary storage or standby battery that is designed to be used in systems where the battery acts as either electrical storage for electricity generation equipment or a source of emergency power, or otherwise serves as a backup in case of failure or interruption in the flow of power from the primary source.

(4) As a source of auxiliary power to support the electrical systems in a vehicle, as defined in Section 670 of the Vehicle Code, including an implement of husbandry, as defined in Section 36000 of the Vehicle Code, or an aircraft.

(g) (1) “Lead-acid battery recycling facility” means a site at which lead-acid batteries are or have been disassembled for the purpose of making components available for reclamation to produce elemental lead or lead alloys or at which lead-acid batteries or their components, or both, are or have been reclaimed to produce elemental lead or lead alloys.

(2) “Lead-acid battery recycling facility” does not include a facility designed and operated for the primary purpose of recovering lead from materials other than used lead-acid batteries or a facility that incidentally processes lead-acid batteries. The processing of lead previously reclaimed from a lead-acid battery at a separate facility or the incidental processing of lead-acid batteries shall not be sufficient to establish that a facility is a lead-acid battery recycling facility.

(h) “Manufacturer” means either of the following:

(1) The person who manufactures the lead-acid battery and who sells, offers for sale, or distributes the lead-acid battery in the state.

(2) (A) If there is no person described in paragraph (1) that is subject to the jurisdiction of the state, the manufacturer is the person who imports the lead-acid battery into the state for sale or distribution.

(B) For purposes of this article, a person is subject to the jurisdiction of the state with respect to a lead-acid battery if the person is engaged in business in this state. For purposes of this subparagraph, a person shall be considered to be engaged in business in this state if the person is a “retailer engaged in business in this state,” as defined in subdivision (c) of Section 6203 of the Revenue and Taxation Code, with respect to that lead-acid battery, or if the person has a substantial nexus with this state for purposes of the commerce clause of the United States Constitution.

(i) “Manufacturer battery fee” means the fee imposed pursuant to Section 25215.35.

(j) “Owner or operator” has the same meaning given in Section 9601(20) of Title 42 of the United States Code and any person that previously met that definition or is the legal successor to a person that meets the definition or previously met the definition.

(k) “Person” means an individual, trust, firm, joint stock company, business concern, corporation, including, but not limited to, a government corporation, partnership, limited liability company, or association. “Person” also includes any city, county, city and county, district, commission, the state, or any department, agency, or political subdivision of any of those, interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.

(l) “Remedial action” has the same meaning as in Section 78125.

(m) “Removal” has the same meaning as in Section 78135.

(n) “Replacement lead-acid battery” means a new lead-acid battery that is sold at retail subsequent to the original sale or lease of the equipment or vehicle in which the lead-acid battery is intended to be used. “Replacement lead-acid battery” does not include a spent, discarded, refurbished, reconditioned, rebuilt, or reused lead-acid battery.

(o) “Response action” has the same meaning as in Section 78140.

(p) (1) A “retail sale” or a “sale at retail” has the same meaning as defined in Section 6007 of the Revenue and Taxation Code.

(2) The following shall not be considered a “retail sale” or a “sale at retail” for purposes of this article:

(A) The sale of a battery for which a California battery fee has previously been paid.

(B) The sale of a replacement lead-acid battery that is temporarily stored or used in California for the sole purpose of preparing the replacement lead-acid battery for use thereafter solely outside of the state and that is subsequently transported outside the state and thereafter used solely outside of the state.

(C) The sale of a battery for incorporation into new equipment for subsequent resale.

(D) The replacement of a lead-acid battery pursuant to a warranty or a vehicle service contract described under Section 12800 of the Insurance Code.

(E) The sale of any battery intended for use with or contained within a medical device, as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 321(h)), as that definition may be amended.

(q) “Used lead-acid battery” means a lead-acid battery no longer fully capable of providing the power for which it was designed or that a person no longer wants for any other reason.

(r) “Wholesaler” means a person who purchases a lead-acid battery from a manufacturer for the purpose of selling the lead-acid battery to a dealer, high-volume customer, or person for incorporation into new equipment for resale.

(Amended by Stats. 2022, Ch. 258, Sec. 58. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25215.11. (a) It is the intent of the Legislature in enacting this chapter that existing and future lead-acid battery recycling, resale, refurbishing, and reuse operations that are in compliance with state and federal law shall not be adversely affected by this chapter.

(b) The Legislature finds and declares all of the following:

(1) Pursuant to Section 3 of Article XIII A and Section 1 of Article XIII C of the California Constitution, it is right and proper that the fees established by this chapter and imposed upon purchasers and manufacturers of lead-acid batteries should be used solely to address the state’s needs described in paragraph (1) of subdivision (b) of Section 25215.5, which are limited to areas of the state that are or have been contaminated by the operation of a lead-acid battery recycling facility, and to encourage the proper recycling of lead-acid batteries.

(2) Reasonable and verifiable analyses, such as the analysis performed by the European Commission pursuant to that body's end-of-life vehicle directive (Directive 2000/53/EC), have established that no viable alternative technology exists that can replace lead-acid batteries at a mass-market scale for use in motor vehicles as starting batteries that are designed to deliver a high burst of energy to an internal combustion engine until it starts.

(3) Lead-acid batteries, among other technologies, are necessary to enable the state to achieve the requirements for increasing electricity sales from renewable energy resources established in Section 399.15 of the Public Utilities Code and the requirements for greenhouse gas emissions reduction established in Section 38566, particularly those lead-acid batteries used as stationary storage or standby batteries that are designed to be used in systems in which the battery acts either as electrical storage for electricity generation equipment or a source of emergency power, or otherwise serves as a backup in case of failure or interruption in the flow of power from the primary source.

(4) Lead-acid batteries are the most recycled consumer product in the state, with a nationwide recycling rate exceeding 99 percent, and it is in the public interest to ensure that future policy decisions do not diminish, impede, disincentivize, or otherwise interfere with the efficient and environmentally sound recycling of lead-acid batteries.

(Added by Stats. 2019, Ch. 860, Sec. 2. (AB 142) Effective October 13, 2019.)

25215.15. (a) Except as provided in subdivision (b), no person shall dispose, or attempt to dispose, of a lead-acid battery at a solid waste facility or on or in any land, surface waters, watercourses, or marine waters.

(b) A person may dispose of a lead-acid battery at either of the following locations:

(1) A facility, including a facility located at a solid waste facility, established and operated for the purpose of recycling, or providing for the eventual recycling of, lead-acid batteries.

(2) A dealer pursuant to Section 25215.2.

(Added by Stats. 2016, Ch. 666, Sec. 1. (AB 2153) Effective September 26, 2016. Section operative January 1, 2017, pursuant to Section 25215.75.)

25215.2. (a) A dealer shall accept from a person at the point of transfer a used lead-acid battery of a type listed in paragraph (1), (2), or (4) of subdivision (f) of Section 25215.1, but shall not be required to accept from any person more than six used lead-acid batteries per day. A dealer shall not charge a fee to receive a used lead-acid battery.

(b) On and after April 1, 2017, a dealer shall charge to a person who purchases a replacement lead-acid battery of a type listed in paragraph (1), (2), or (4) of subdivision (f) of Section 25215.1 and who does not simultaneously provide the dealer with a used lead-acid battery of the same type and size a refundable deposit for each such battery purchased. The dealer shall display the amount of the deposit separately on the receipt provided to the purchaser. The dealer shall refund the deposit to that person if, within 45 days of the sale of the replacement lead-acid battery, the person presents to the dealer a used lead-acid battery of the same type and size. A dealer may require the person to provide a receipt documenting the payment of the deposit before refunding any deposit. A dealer may keep any lead-acid battery deposit moneys that are not properly claimed within 45 days after the date of sale of the replacement lead-acid battery, not including any sales tax reimbursement charged to the consumer. Sales tax reimbursement charged to the consumer on the amount of the deposit shall be remitted to the California Department of Tax and Fee Administration.

(c) A dealer shall post a written notice that is clearly visible in the public sales area of the establishment, or include on the purchaser's receipt, the following language:

> This dealer is required by law to charge a nonrefundable $2 California battery fee and a refundable deposit for each lead-acid battery purchased.
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> A credit of the same amount as the refundable deposit will be issued if a used lead-acid battery is returned at the time of purchase or up to 45 days later along with this dealer's receipt.

(d) The department shall provide notice of an alleged violation of subdivision (c) to any person alleged to be in violation of that subdivision no less than 60 days before the issuance of an order or filing an action imposing a civil penalty pursuant to subdivision (b) of Section 25189.2. If the person corrects the alleged violation before the order is issued or the action is filed, the department shall not impose the civil penalty.

(e) Subdivision (c) does not apply to any of the following:

(1) A person whose ordinary course of business does not include the sale of lead-acid batteries.

(2) A person that does not sell lead-acid batteries directly to consumers, such as over-the-counter, but instead removes nonfunctional or damaged batteries and installs new lead-acid batteries as a part of an automotive repair dealer service.

(3) A business that removes lead-acid batteries and installs new lead-acid batteries as a part of roadside services. “Roadside services,” for purposes of this paragraph, means the services performed upon a motor vehicle for the purpose of transporting the vehicle or to permit it to be operated under its own power, by or on behalf of a motor club holding a certificate of authority pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 of the Insurance Code.

(f) Except as authorized by this article, a dealer shall not collect a refundable deposit for a lead-acid battery from a person.

(Amended by Stats. 2022, Ch. 60, Sec. 32. (AB 203) Effective June 30, 2022.)

25215.25. (a) (1) A California battery fee shall be imposed on a person for each replacement lead-acid battery of a type listed in paragraph (1), (2), or (4) of subdivision (f) of Section 25215.1 purchased from a dealer, except as specified in subdivision (c). On and after April 1, 2017, until March 31, 2022, the amount of the fee shall be one dollar ($1). On and after April 1, 2022, the amount of the fee shall be two dollars ($2).

(2) Except for sales to businesses, the dealer shall charge a person the amount of the California battery fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the person.

(3) The dealer shall collect the California battery fee at the time of sale and may retain $1^1/_2$ percent of the fee as reimbursement for any costs associated with the collection of the fee. The remainder of the California battery fee collected by the dealer shall be paid to the California Department of Tax and Fee Administration in a manner and form prescribed by the California Department of Tax and Fee Administration and at the time the return is required to be filed, as specified in Section 25215.47.

(4) All moneys collected or required to be collected by a dealer pursuant to this section that are not properly remitted to the California Department of Tax and Fee Administration pursuant to paragraph (3) shall be deemed to be a debt owed to the state by the dealer.

(5) A person who purchases a replacement lead-acid battery in this state is liable for the California battery fee until that fee has been paid to the California Department of Tax and Fee Administration, except that payment to a dealer registered under this article is sufficient to relieve the person from further liability of the fee.

(6) All moneys remitted to the California Department of Tax and Fee Administration pursuant to this subdivision shall be expended in accordance with Section 25215.5.

(b) (1) Except for sales to businesses, the California battery fee imposed pursuant to subdivision (a) shall be separately stated by the dealer on the invoice given to a person at the time of sale. Any other fee charged by the dealer related to the lead-acid battery purchase, including any deposit charged, credited, or both, pursuant to Section 25215.2, shall be identified separately from the California battery fee.

(2) If a person purchases more than one lead-acid battery in a single transaction, and is therefore imposed more than one California battery fee in that transaction, the dealer shall not be required to individually list on the invoice each California battery fee imposed, but may instead condense the fees to a single-line item.

(c) On and after January 1, 2020, if a new motor vehicle dealer sells or leases to a person a used vehicle into which the new motor vehicle dealer has incorporated a replacement lead-acid battery, the California battery fee imposed by paragraph (1) of subdivision (a) shall not apply to the person with regard to that replacement lead-acid battery. For purposes of this subdivision, “new motor vehicle dealer” has the same meaning as is specified in Section 426 of the Vehicle Code, and “used vehicle” has the same meaning as is specified in Section 665 of the Vehicle Code.

(d) (1) If a lead-acid battery is sold or will be used in a manner or for a purpose entitling the dealer to regard the purchase as not subject to the California battery fee, the dealer shall obtain written documentation from the purchaser certifying that the lead-acid battery will be used in a manner or for a purpose entitling the dealer to regard the purchase as not subject to the California battery fee.

(2) If a purchaser certifies in writing to a dealer that the lead-acid battery will be used in a manner or for a purpose for which no payment is required to be made for the California battery fee, and the purchaser sells or uses the battery such that no exception to the requirement to pay the applicable fee or fees applies, the purchaser shall be liable for the payment of any applicable fees.

(Amended by Stats. 2019, Ch. 860, Sec. 4. (AB 142) Effective October 13, 2019.)

25215.3. (a) A person who manufactures a lead-acid battery and is not subject to the jurisdiction of the state may agree in writing with the importer of that lead-acid battery to pay the manufacturer battery fee imposed pursuant to Section 25215.35 on behalf of the importer.

(b) A person who pays the manufacturer battery fee on behalf of an importer pursuant to subdivision (a) shall be credited, pursuant to Section 25215.56, for that payment, if the person does all of the following:

(1) The person submits to the jurisdiction of the state for purposes of the fees imposed under this article and registers with the California Department of Tax and Fee Administration to pay and remit the manufacturer battery fee.

(2) The person provides to the importer a statement on the invoice, contract, or other record documenting the transaction that includes the following information:

(A) The person's manufacturer account number with the California Department of Tax and Fee Administration.

(B) An identification of the lead-acid battery or batteries sold that will be subject to the manufacturer battery fee.

(C) A statement that the person will pay the manufacturer battery fee to the state on behalf of the importer.

(3) The person retains records sufficient to document that the lead-acid battery for which the person has agreed to pay the manufacturer battery fee was delivered for retail sale in California, the identity of the importer of that battery, and that the statement required by paragraph (2) was provided to the importer of the battery in a timely manner pursuant to subdivision (c). The person shall retain these records for a period of no less than four years and shall make the records reasonably available to the California Department of Tax and Fee Administration upon request.

(c) (1) An importer of a lead-acid battery who receives a timely statement from a manufacturer pursuant to paragraph (2) of subdivision (b) shall be relieved from any obligation imposed pursuant to Section 25215.35 on the sale of that battery, provided that the manufacturer remits payment of the manufacturer battery fee to the state for the sale of that battery. A statement shall be considered timely if it is issued before the manufacturer bills the importer for the lead-acid battery, within the manufacturer's normal billing and payment cycle, before delivery of the battery to the importer, or before the date on which a return would be due pursuant to Section 25215.47.

(2) An importer who has paid the manufacturer battery fee for a lead-acid battery and who subsequently receives an untimely statement that the fee has been paid for that battery may file a claim for a refund for any overpaid fees as provided in Article 3 (commencing with Section 55081) of Chapter 3 of, and Article 1 (commencing with Section 55221) of Chapter 5 of, Part 30 of Division 2 of the Revenue and Taxation Code.

(d) (1) On or before January 1, 2022, the California Department of Tax and Fee Administration shall submit to the Legislature a report relating to persons who have paid the manufacturer battery fee on behalf of an importer pursuant to subdivision (a). The report shall include, but is not limited to, all of the following information:

(A) Any regulations or policies adopted by the California Department of Tax and Fee Administration for purposes of ensuring compliance with the registration, returns, reporting, payments, audits, refunds, or collection requirements related to the manufacturer battery fee.

(B) The revenue impact as determined by the revenues paid or collected compared to the estimated revenue amount calculated by the Senate Committee on Appropriations in its analysis of the fiscal impact of Assembly Bill 2153 (Chapter 666 of the Statutes of 2016), adjusted as deemed appropriate by the California Department of Tax and Fee Administration to account for differences in reporting periods and to account for exemptions or exclusions that were not previously accounted for in that analysis or that were enacted after January 1, 2020.

(C) The fiscal impact of the manufacturer battery fee, including costs required to ensure compliance, costs related to audits, refunds, and administering regulations, and estimated cost savings.

(2) A report required to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(3) Pursuant to Section 10231.5 of the Government Code, the requirement for submitting a report pursuant to this subdivision is inoperative on January 1, 2025.

(e) This section shall become operative on January 1, 2020.

(Added by Stats. 2019, Ch. 860, Sec. 5. (AB 142) Effective October 13, 2019. Section operative January 1, 2020. Inoperative January 1, 2025, by its own provisions.)

25215.35. (a) Until April 1, 2022, a manufacturer battery fee of one dollar ($1) shall be imposed on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California.

(b) On and after April 1, 2022, a manufacturer battery fee of two dollars ($2) shall be imposed on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California.

(c) Manufacturer battery fees shall be paid to the California Department of Tax and Fee Administration in a manner and form as prescribed by the California Department of Tax and Fee Administration and at the time the return is required to be filed, as specified in Section 25215.47.

(d) (1) If a lead-acid battery is sold or will be used in a manner or for a purpose entitling the manufacturer to regard the purchase as not subject to the manufacturer battery fee, the manufacturer shall obtain written documentation from the purchaser certifying that the lead-acid battery will be used in a manner or for a purpose entitling the manufacturer to regard the purchase as not subject to the manufacturer battery fee.

(2) If a purchaser certifies in writing to a manufacturer that the lead-acid battery will be used in a manner or for a purpose for which no payment is required to be made for the manufacturer battery fee, and the purchaser sells or uses the battery such that no exception to the requirement to pay the applicable fee or fees applies, the purchaser shall be liable for the payment of any applicable fees.

(Amended by Stats. 2019, Ch. 860, Sec. 6. (AB 142) Effective October 13, 2019.)

25215.45. (a) (1) Except as provided in paragraph (2), the lead-acid battery fees imposed pursuant to Sections 25215.25 and 25215.35 shall be collected by the California Department of Tax and Fee Administration in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). For the purposes of this section, the reference to "feepayer" shall include a dealer and manufacturer.

(2) Notwithstanding the petition for redetermination and claim for refund provisions of the Fee Collection Procedures Law (Article 3 (commencing with Section 55081) of Chapter 3 of, and Article 1 (commencing with Section 55221) of Chapter 5 of, Part 30 of Division 2 of the Revenue and Taxation Code), the California Department of Tax and Fee Administration shall not do either of the following:

(A) Accept or consider any petition for redetermination of fees determined under this article if the petition is founded upon the grounds that a battery is or is not a lead-acid battery, as defined in Section 25215.1. The California Department of Tax and Fee Administration shall forward to the department any petition for redetermination that is based on those grounds.

(B) Accept or consider a claim for refund of fees paid pursuant to this article, if the claim for refund is founded upon the grounds that a battery is or is not a lead-acid battery, as defined in Section 25215.1. The California Department of Tax and Fee Administration shall forward to the department any claim for refund that is based on these grounds.

(b) The following persons shall register with the California Department of Tax and Fee Administration:

(1) A dealer of lead-acid batteries.

(2) A manufacturer of lead-acid batteries.

(Amended by Stats. 2019, Ch. 860, Sec. 7. (AB 142) Effective October 13, 2019.)

25215.47. (a) The return required to be filed pursuant to Section 55040 of the Revenue and Taxation Code shall be prepared and filed by the person required to register with the board, in the form prescribed by the board, and shall contain the information the board deems necessary or appropriate for the proper administration of this article and the Fee Collection Procedures Law. Except as provided in subdivision (b), the return shall be filed on or before the last day of the calendar month following the calendar quarter to which the return relates, together with a remittance payable to the board for the fee amount due for that period. Returns shall be filed with the board using electronic media and authenticated in a form, or pursuant to methods, as may be prescribed by the board.

(b) The board may require the payment of the fee and the filing of the returns for other than quarterly periods.

(Added by Stats. 2016, Ch. 666, Sec. 1. (AB 2153) Effective September 26, 2016. Section operative January 1, 2017, pursuant to Section 25215.75.)

25215.48. (a) Notwithstanding subdivision (b) of Section 55381 of the Revenue and Taxation Code, the California Department of Tax and Fee Administration may disclose the name, address, account number, and account status of a person registered with the California Department of Tax and Fee Administration to pay the manufacturer battery fee. Except as provided in subdivision (b), account status shall not include the amount of the manufacturer battery fee paid by any person.

(b) The California Department of Tax and Fee Administration may disclose to an importer the amount of the manufacturer battery fee paid or not paid on behalf of that importer by a person with which the importer has entered into an agreement pursuant to Section 25215.3.

(Added by Stats. 2019, Ch. 860, Sec. 8. (AB 142) Effective October 13, 2019.)

25215.5. (a) Lead-acid battery fees collected pursuant to this article shall be managed as follows:

(1) The board shall retain moneys necessary for the payment of refunds and reimbursement of the board for expenses in the collection of the fees.

(2) The remaining moneys shall be deposited into the Lead-Acid Battery Cleanup Fund, which is hereby created in the State Treasury, and is available upon appropriation by the Legislature to the department for the purposes specified in this section.

(b) (1) Moneys in the Lead-Acid Battery Cleanup Fund shall be expended for the following activities:

(A) Investigation or site evaluation of any area of the state that is reasonably suspected to have been contaminated by the operation of a lead-acid battery recycling facility.

(B) Cleanup, remedial action, removal, monitoring, or other response actions to address contamination from a lead-acid battery recycling facility at any area of the state that, pursuant to Section 25215.51, the department determines with reasonable certainty was contaminated by releases from the operation of that lead-acid battery recycling facility.

(C) Oversight or performance of closure activities and response and corrective actions to protect public health and the environment from hazardous substances and hazardous waste at or from the former Exide Technologies lead-acid battery recycling facility in the City of Vernon. This subparagraph shall apply retroactively to oversight or performance of closure activities and response and corrective actions conducted on or after September 26, 2016.

(D) Administration of the Lead-Acid Battery Cleanup Fund and the department’s administration and implementation of this article.

(E) Repayment of a loan described in Section 25215.59 that was made before September 26, 2016, or any other loan made for purposes set forth in subparagraphs (A) to (C), inclusive. Moneys shall be expended for purposes of this subparagraph only after the activities specified in subparagraphs (A) to (D), inclusive, have been fully funded in a given fiscal year.

(2) (A) Moneys in the Lead-Acid Battery Cleanup Fund shall not be used to implement Article 14 (commencing with Section 25251) with respect to lead-acid batteries or to loan moneys to any other program.

(B) Any government action not required by this article that would have the effect of reducing the availability of fee revenue to the Lead-Acid Battery Cleanup Fund shall be considered a negative economic impact pursuant to subparagraph (M) of paragraph (2) of subdivision (a) of Section 25253.

(3) Notwithstanding any other law, any costs incurred by the department using moneys from the Lead-Acid Battery Cleanup Fund pursuant to paragraph (1) that are recovered shall be deposited into the Lead-Acid Battery Cleanup Fund.

(c) The department shall report to the Legislature by March 1 of each year on the status of the Lead-Acid Battery Cleanup Fund and on the department’s progress implementing this article, including, but not limited to, the sites at which actions were performed using moneys from the fund, the status of cleanup at those sites, including total anticipated costs of cleanup at those sites, the balance of the fund, the amount of fees remitted to the fund, the amount spent by the fund and the purposes for which those amounts were spent, the amounts reimbursed to the board pursuant to paragraph (1) of subdivision (a), and any other information requested by the Legislature. Each annual report shall be released to the public on the same day it is provided to the Legislature.

(Amended by Stats. 2020, Ch. 276, Sec. 2. (AB 2104) Effective January 1, 2021.)

25215.51. (a) The department shall establish a Lead-Acid Battery Recycling Facility Investigation and Cleanup Program, or LABRIC Program, which shall be responsible for identifying areas of the state that are eligible for expenditure of moneys from the Lead-Acid Battery Cleanup Fund pursuant to subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 25215.5.

(b) The LABRIC Program shall provide public notice of the initiation of the investigation or site evaluation of any area reasonably suspected to have been contaminated by the operation of a lead-acid battery recycling facility. The public notice shall provide a summary of the information relied on by the department, including, but not limited to, copies of any information or documents currently in the department’s possession that indicate that the facility might not be a lead-acid battery recycling facility, if subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The department shall accept comments or information that the public submits within 90 days after issuance of the public notice required by this subdivision and, before the department completes its investigation pursuant to subdivision (c), shall review and provide written responses to any comments or information submitted.

(c) (1) Upon completion of an investigation or site evaluation conducted pursuant to subdivision (b), the department, consistent with procedures included within the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), shall provide notice and an opportunity for comment on the proposed designation of a site as determined with reasonable certainty to have been contaminated by releases from the operation of a lead-acid battery recycling facility. Reasonable certainty shall be established based on all reasonably available information, including information provided by the public, to conclude that the contamination in a specific area was from the lead-acid battery recycling facility.

(2) Any proposed designation, as described in paragraph (1), shall include an explanation of the basis for the department's designation, a summary of the evidence relied on by the department in reaching the proposed designation, including the assumptions and methodologies the department used to attribute any contamination to the lead-acid battery recycling facility, and including information indicating that the facility may not be a lead-acid battery recycling facility, and copies of any information or documents relied on during the investigation and evaluation of the site, if subject to disclosure pursuant to the California Public Records Act.

(3) The department shall accept comments from the public consistent with the procedures included within the Administrative Procedure Act. The department shall evaluate, investigate, if appropriate, and respond to any reliable information provided by the public indicating that the area was not contaminated by the operation of a lead-acid battery recycling facility, or that the facility in question was not involved in the recycling of lead-acid batteries.

(4) A site designation shall be considered a final action, subject to judicial review in the same manner as provided pursuant to the Administrative Procedure Act.

(d) (1) If, within two years of a public notice required by subdivision (b), the department is unable to designate a site as determined with reasonable certainty to have been contaminated by releases from the operation of a lead-acid battery recycling facility, the public notice shall be deemed to have been withdrawn and expenditure pursuant to subparagraph (A) of paragraph (1) of subdivision (b) of Section 25215.5 for purposes of further investigation or evaluation for the site shall no longer be authorized, except as provided in paragraph (3).

(2) No less than 30 days before the deadline established pursuant to paragraph (1), the department may extend the deadline for the completion of an investigation initiated pursuant to subdivision (b), with good cause shown and adequate public notice of the basis for that extension, by up to three months, and may extend the deadline additional times in increments of up to three months, not to exceed one year after the deadline established pursuant to paragraph (1) in total.

(3) The department may, within its discretion, issue a new public notice pursuant to subdivision (b) for a site if the department determines that new evidence warrants continued or renewed investigation or evaluation of the site.

(e) Information regarding the department's progress in implementing this section shall be included in the report required by subdivision (c) of Section 25215.5.

(Amended by Stats. 2021, Ch. 615, Sec. 250. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

25215.56. (a) Any manufacturer battery fees remitted pursuant to this article shall, subject to subdivision (b) of Section 25215.3, be credited to the account of the manufacturer remitting those fees to the California Department of Tax and Fee Administration and shall be credited against amounts owed by the manufacturer to the state pursuant to a judgment or determination of liability under Part 2 (commencing with Section 78000) of Division 45 or any other law for removal, remediation, or other response costs relating to a release of a hazardous substance from a lead-acid battery recycling facility. A manufacturer shall not seek more than one credit for the same fee amount. This subdivision does not apply to any manufacturer who is also an owner or operator of a lead-acid battery recycling facility in California.

(b) The amount paid by a manufacturer for a manufacturer battery fee shall be considered to reduce the manufacturer's share of liability in the allocation or apportionment of costs among potentially responsible parties in a contribution action brought by a private party related to a release of hazardous substances from a lead-acid battery recycling facility. This subdivision does not apply to any manufacturer who is also an owner or operator or a former owner or operator of a lead-acid battery recycling facility in California where a release occurred.

(c) This article does not create a private cause of action. Nothing in this article shall be construed to affect, expand, alter, or limit any requirements, duties, rights, or remedies under other law, or limit the state or any other party from bringing any cause of action that may exist under any law.

(Amended by Stats. 2022, Ch. 258, Sec. 59. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25215.59. If the state loans money from the General Fund to the Toxic Substances Control Account for the cleanup of lead contamination in the state, the following shall apply:

(a) Money from the Lead-Acid Battery Cleanup Fund may be used towards repaying the loan that was made before September 26, 2016, or any other loan of public funds made for the purposes set forth in subparagraphs (A) to (C), inclusive, of paragraph (1) of subdivision (b) of Section 25215.5.

(b) Any moneys designated as repayment of the loan shall be deposited to that loan, but shall be available to be loaned to the Toxic Substances Control Account for the purposes of cleaning up areas of the state that are reasonably suspected to have been contaminated by the operation of a lead-acid battery recycling facility.

(Amended by Stats. 2020, Ch. 276, Sec. 4. (AB 2104) Effective January 1, 2021.)

25215.65. On and after July 1, 2017, a manufacturer shall place a recycling symbol consistent with the requirements of Section 103(b)(1) of the Federal Mercury Containing and Rechargeable Battery Management Act, Pub. L. No. 104-142 (1996) (42 U.S.C. 14301(b)(1)) and either “Pb” or the words “lead,” “return,” and “recycle” on all replacement lead-acid batteries sold in California. For purposes of this section, an entity that engages another party to manufacture batteries on its behalf shall be deemed the manufacturer.

(Added by Stats. 2016, Ch. 666, Sec. 1. (AB 2153) Effective September 26, 2016. Section operative January 1, 2017, pursuant to Section 25215.75.)

25215.72. One million two hundred thousand dollars ($1,200,000) shall be loaned from the California Tire Recycling Management Fund to the board for implementing the collection of the California battery fee and the manufacturer battery fee and shall be repaid from the proceeds of those fees pursuant to this article no later than October 1, 2017. The Director of Finance shall order the repayment of all or a portion of this loan if he or she determines that either of the following circumstances exist:

(a) The fund or account from which the loan was made has a need for the moneys.

(b) There is no longer a need for the moneys by the board.

(Added by Stats. 2016, Ch. 666, Sec. 1. (AB 2153) Effective September 26, 2016. Section operative January 1, 2017, pursuant to Section 25215.75.)

25215.74. (a) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this article, including, but not limited to, registration, collections, reporting, notices for manufacturers, refunds, and appeals.

(b) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement this article. Any emergency regulation prescribed, adopted, or enforced pursuant to this article shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect until regulations have been adopted pursuant to subdivision (a).

(Added by Stats. 2016, Ch. 666, Sec. 1. (AB 2153) Effective September 26, 2016. Section operative January 1, 2017, pursuant to Section 25215.75.)

25215.75. This article shall become operative on January 1, 2017.

(Added by Stats. 2016, Ch. 666, Sec. 1. (AB 2153) Effective September 26, 2016. Note: This section specifies an operative date for Article 10.5, commencing with Section 25215.)