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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 13.5. Motor Vehicle Brake Friction Materials [25250.50 - 25250.65] (*Article 13.5 added by Stats. 2010, Ch. 307, Sec. 2.*)

25250.50. For purposes of this article, the following definitions shall apply:

(a) (1) "Advisory committee" means a committee of nine members appointed by the secretary on or before January 1, 2019, to consider and recommend approval or denial of an application for an extension of the requirements imposed pursuant to Section 25250.53.

(2) A person considered for appointment to the advisory committee shall disclose any financial interests the person may have in any aspect of the vehicle or vehicle parts manufacturing industry prior to appointment by the secretary or, in the case of subparagraph (C) of paragraph (3), prior to nomination.

(3) The advisory committee shall be composed of the following members:

(A) (i) One-third of the members shall be representatives of the manufacturers of brake friction materials and motor vehicles, to be appointed by the secretary in consultation with the chair of the board and the director of the department.

(ii) If the application for an extension of the requirements imposed pursuant to Section 25250.53 pertains solely to brake friction materials to be used on heavy-duty motor vehicles, the members appointed pursuant to this subparagraph shall represent the manufacturers of heavy-duty brake friction materials and heavy-duty motor vehicles.

(B) One-third of the members shall be representatives of municipal storm water quality agencies and nongovernmental environmental organizations, to be appointed by the secretary in consultation with the chair of the board and the director of the department.

(C) One-third of the members shall be experts in vehicle and braking safety, economics, and other relevant technical areas, to be appointed by the secretary, upon nomination by a majority of the members specified in subparagraph (A) concurrently with a majority of the members specified in subparagraph (B).

(4) For purposes of this subdivision, a "financial interest" shall have the same meaning as a financial interest described in Section 87103 of the Government Code, except only with regard to business entities, real property, or sources of income that are related to the vehicle or vehicle parts manufacturing industry.

(b) "Board" means the State Water Resources Control Board.

(c) "Department" means the Department of Toxic Substances Control.

(d) "Heavy-duty motor vehicle" means a motor vehicle of over 26,000 pounds gross weight.

(e) (1) "Manufacturer," except where otherwise specified, means both of the following:

(A) A manufacturer or assembler of motor vehicles or motor vehicle equipment.

(B) An importer of motor vehicles or motor vehicle equipment for resale.

(2) A manufacturer includes a vehicle brake friction materials manufacturer.

(f) "Motor vehicle" and "vehicle" have the same meaning as the definition of "vehicle" in Section 670 of the Vehicle Code.

(g) "Testing certification agency" means a third-party testing certification agency that is utilized by a vehicle brake friction materials manufacturer and that has an accredited laboratory program that provides testing in accordance with the certification agency requirements that are approved by the department.

(Amended by Stats. 2011, Ch. 296, Sec. 156. (AB 1023) Effective January 1, 2012.)

25250.51. (a) On and after January 1, 2014, any motor vehicle brake friction materials containing any of the following constituents in an amount that exceeds the following concentrations shall not be sold in this state:

(1) Cadmium and its compounds: 0.01 percent by weight.

(2) Chromium (VI)-salts: 0.1 percent by weight.

(3) Lead and its compounds: 0.1 percent by weight.

(4) Mercury and its compounds: 0.1 percent by weight.

(5) Asbestiform fibers: 0.1 percent by weight.

(b) Motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials may continue to sell or offer for sale brake friction materials not certified as compliant with subdivision (a) solely for the purpose of depletion of inventories until December 31, 2023.

(c) Notwithstanding subdivision (b), motor vehicle dealers may continue to sell or offer for sale brake friction material not certified as compliant with subdivision (a) if the brake friction material was installed on a vehicle before the vehicle was acquired by the dealer.

(Amended by Stats. 2013, Ch. 392, Sec. 1. (AB 501) Effective January 1, 2014.)

25250.52. On and after January 1, 2021, any motor vehicle brake friction materials exceeding 5 percent copper by weight shall not be sold in this state, except as otherwise provided in this article.

(Added by Stats. 2010, Ch. 307, Sec. 2. (SB 346) Effective January 1, 2011.)

25250.53. On and after January 1, 2025, any motor vehicle brake friction materials exceeding 0.5 percent copper by weight shall not be sold in this state, except as otherwise provided in this article.

(Added by Stats. 2010, Ch. 307, Sec. 2. (SB 346) Effective January 1, 2011.)

25250.54. (a) (1) On and after January 1, 2019, a manufacturer may apply to the department for a one-year, two-year, or three-year extension of the January 1, 2025, deadline established in Section 25250.53, except as provided in subdivision (h).

(2) An extension application submitted pursuant to this section shall be submitted based on vehicle model, class, platform, or other vehicle-based category, and not on the basis of the brake friction material formulation.

(3) The application shall be accompanied by documentation that will allow the advisory committee to make a recommendation pursuant to subdivisions (e) and (f).

(4) The documentation shall include a scientifically sound quantitative estimate of the quantity of copper that would be emitted if the extension is granted, including a description of the assumptions used in arriving at that estimate.

(b) No more than 30 days after receipt of an application for an extension pursuant to subdivision (a), the department shall do all of the following:

(1) Post a notice of receipt on the department's internet website that includes the vehicle model, class, platform, or other vehicle-based category, whether the brake friction material is intended for use in original equipment or replacement parts, and the quantity of copper that would be emitted if the extension is granted.

(2) Consult with the board and the State Air Resources Board.

(3) Solicit comment from the public and from scientific and vehicle engineering experts on the availability of generally affordable compliant brake friction materials, their safety and performance characteristics, and the feasibility of brake pad copper emissions reduction through means other than friction material reformulation.

(c) (1) In consultation with the board, the department shall determine if sufficient documentation has been presented upon which to base a decision. If the department determines that further documentation is needed, it shall deliver a detailed request for further documentation to the applicant.

(2) Not later than 30 days after receipt of the application for an extension pursuant to subdivision (a), the department shall forward the application to the advisory committee for the purpose of the advisory committee making a recommendation pursuant to subdivisions (e) and (f).

(d) (1) In considering any application for an extension, the advisory committee shall consider all of the documentation supplied by the applicant pursuant to subdivision (a).

(2) The advisory committee may request, no later than 75 days after receipt of the application from the department pursuant to subdivision (c), further documentation from the applicant.

(3) The advisory committee shall hold at least one public hearing at which it shall accept and consider comments from the public on each category of application. The advisory committee meetings shall be open to the public and are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(e) (1) The advisory committee shall recommend to the secretary that the extension be approved if the advisory committee determines that there are no brake friction materials that are safe and available for individual or multiple vehicle models, classes, platforms, or other vehicle-based categories identified in the application.

(2) The advisory committee shall recommend to the secretary that the extension not be approved if the advisory committee determines that alternative brake friction materials are safe and available for individual or multiple vehicle models, classes, platforms, or other vehicle-based categories identified in the application.

(3) For purposes of this section, "safe and available" shall mean all of the following:

(A) The brake system for which the alternative brake friction material is manufactured meets applicable federal safety standards, or if no federal standard exists, a widely accepted safety standard.

(B) Acceptable alternative brake friction materials are commercially available for the individual or multiple vehicles, classes, platforms, or vehicle-based categories identified in the application.

(C) Adequate industry testing and production capacity exists to supply the alternative brake friction materials for use on the individual or multiple vehicles, classes, platforms, or vehicle-based categories identified in the application.

(D) The alternative brake friction material is technically feasible for use on the individual or multiple vehicles, classes, platforms, or vehicle-based categories identified in the application.

(E) The alternative brake friction materials meet customer performance expectations, including noise, wear, vibration, and durability for the individual or multiple vehicles, classes, platforms, or vehicle-based categories identified in the application.

(F) The alternative acceptable brake friction material is economically feasible with respect to the industry and the cost to the consumer for the individual or multiple vehicles, classes, platforms, or vehicle-based categories identified in the application.

(4) The advisory committee shall provide relevant data to the department and the board concerning the potential impacts of the extension on California watersheds for purposes of the report required pursuant to Section 25250.65.

(f) (1) No sooner than 60 days and no later than 120 days after the department solicits comments pursuant to paragraph (3) of subdivision (b), the advisory committee shall make a recommendation to the secretary in accordance with subdivisions (d) and (e) as to whether the application for extension should be approved or not approved.

(2) The recommendation of the advisory committee that the secretary approve or not approve the application for extension shall be accompanied by documentation of the basis for the recommendation.

(g) (1) The secretary shall make available the recommendation of the advisory committee and the accompanying documentation for public review and comment for 60 days following receipt of the recommendation from the advisory committee.

(2) The secretary shall consider public comments on the advisory committee's recommendation and issue a final decision on the application for extension no later than 45 days after the conclusion of the 60-day comment period.

(3) In making the determination whether to approve or disapprove the extension, the secretary shall rely upon the recommendations made by the advisory committee pursuant to subdivision (f).

(4) If the secretary does not follow the recommendation of the advisory committee made pursuant to subdivision (f), the secretary shall explain in writing the basis of the secretary's decision.

(h) (1) On or before December 31, 2029, a manufacturer with an approved extension of the January 1, 2025, deadline established in Section 25250.53, may reapply to the department for additional two-year extensions from the deadline in accordance with a schedule that may be established by the department.

(2) Except as provided in subdivision (i), a manufacturer may not apply on or after January 1, 2030, for an extension of the January 1, 2025, deadline established in Section 25250.53.

(3) The department shall comply with all of the requirements of this section when granting an additional extension of the January 1, 2025, deadline pursuant to this subdivision.

(i) (1) On and after January 1, 2030, a manufacturer of vehicle brake friction materials to be used on heavy-duty vehicles with an approved extension of the January 1, 2025, deadline established in Section 25250.53, may reapply to the department for additional two-year extensions from the deadline established in Section 25250.53, that results in an extension of that deadline to a date on and after January 1, 2032.

(2) The department shall comply with all of the requirements of this section when granting an additional extension of the January 1, 2025, deadline pursuant to this subdivision.

(j) The department shall assess a fee for each application for an extension sufficient to cover actual costs incurred in implementing this section. The department may expend the fees collected pursuant to this subdivision, upon appropriation by the Legislature, for reimbursement for the costs incurred in implementing this section.

(k) When granting an extension pursuant to this section, the department, board, advisory committee, and secretary shall comply with the requirements of Article 5 (commencing with Section 78480) of Chapter 3 of Part 2 of Division 45, to ensure the protection of trade secrets, as defined in Section 78480.

(Amended by Stats. 2022, Ch. 258, Sec. 68. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25250.55. Brake friction materials for the following motor vehicle classes are exempt from this article:

(a) Military tactical support vehicles.

(b) Vehicles employing internal closed oil immersed brakes, or a similar brake system that is fully contained and emits no copper, other debris, or fluids under normal operating conditions.

(c) Brakes designed for the primary purpose of holding the vehicle stationary and not designed to be used while the vehicle is in motion.

(d) Motorcycles.

(e) Motor vehicles subject to voluntary or mandatory recalls of brake friction materials or systems due to safety concerns. This exemption shall expire upon the lifting of the recall and provision of new brake friction materials that comply with this article.

(f) Motor vehicles manufactured by small volume manufacturers, as defined in Section 1900 of Title 13 of the California Code of Regulations.

(g) Vehicles manufactured prior to January 1, 2021, and brake friction materials for use on vehicles manufactured prior to January 1, 2021, from the requirements of Section 25250.52.

(h) Vehicles manufactured prior to January 1, 2025, and brake friction materials for use on vehicles manufactured prior to January 1, 2025, from the requirements of Section 25250.53.

(i) Vehicles for which an extension from the requirements of Section 25250.53 was approved pursuant to Section 25250.54.

(Added by Stats. 2010, Ch. 307, Sec. 2. (SB 346) Effective January 1, 2011.)

25250.56. (a) In developing new formulations to comply with Sections 25250.52 and 25250.53, a manufacturer of vehicle brake friction materials shall screen potential alternatives to the use of copper by using the Toxics Information Clearinghouse developed by the department and the Office of Environmental Health Hazard Assessment pursuant to Section 25256, for the purpose of identifying potential impacts of these potential alternatives on public health and the environment.

(b) In conducting the screening analysis required by subdivision (a), a manufacturer of vehicle brake friction materials shall, using information available to the manufacturer at the time of the analysis, including information from the department and other sources, consider the environmental fate of brake friction materials and their emissions through all phases of the brake friction material life cycle.

(c) A manufacturer of vehicle brake friction materials shall use the screening analysis required by subdivision (a) or an open source alternatives assessment to select alternatives to copper that pose less of a potential hazard to public health and the environment.

(d) Upon request by the department, a manufacturer of vehicle brake friction materials or importer of record shall provide a summary demonstrating how the screening analysis conducted pursuant to this section or an open source alternatives assessment is used to inform the selection of alternatives to copper that pose less of a potential hazard to public health and the environment, as required by subdivision (c).

(Amended by Stats. 2011, Ch. 296, Sec. 158. (AB 1023) Effective January 1, 2012.)

25250.60. (a) The department shall consult with the brake friction materials manufacturing industry in the development of all criteria for testing and marking brake friction materials and adopting certification procedures for brake friction materials, as required pursuant to this article. The mark of proof of certification on brake friction materials shall identify the brake friction material manufacturer, be easily applied, be easily legible, and not impose unreasonable additional costs on manufacturers due to the use of additional equipment or other factors.

(b) On and after January 1, 2014, any new motor vehicle offered for sale in the state shall be equipped with brake friction materials that comply with of Section 25250.51.

(c) (1) On and after January 1, 2014, a manufacturer of vehicle brake friction materials used in brakes on new motor vehicles or as replacement parts that are sold in the state shall certify compliance declaring that its formulation for brake friction materials complies with Section 25250.51.

(2) A vehicle brake friction material manufacturer shall mark proof of certification pursuant to this subdivision on all brake friction materials.

(d) On and after January 1, 2021, any new motor vehicle offered for sale in the state shall be equipped with brake friction materials that comply with Section 25250.52.

(e) (1) On and after January 1, 2021, a manufacturer of vehicle brake friction materials used in brakes on new motor vehicles or as replacement parts for those vehicles that are sold in the state shall certify compliance declaring that its formulation for brake friction materials complies with Section 25250.52.

(2) A vehicle brake friction material manufacturer shall mark proof of certification with this subdivision on all brake friction materials.

(f) On and after January 1, 2025, any new motor vehicle offered for sale in the state shall be equipped with brake friction materials that comply with Section 25250.53.

(g) (1) On and after January 1, 2025, a manufacturer of vehicle brake friction materials used in brakes on new motor vehicles or as replacement parts for those vehicles that are sold in the state shall certify compliance declaring that its formulation for brake friction materials complies with Section 25250.53.

(2) A vehicle brake friction material manufacturer shall mark proof of certification with this subdivision on all brake friction materials.

(h) Prior to offering brake friction materials for sale in this state, a manufacturer of vehicle brake friction materials shall file a copy of the certification for each of its brake friction materials formulations with a testing certification agency. Each certification shall be made available within a reasonable period of time on the testing certification agency's Internet Web site at no cost to the department and to the public, and shall serve as official registration of certification for compliance with this section.

(i) A manufacturer of vehicle brake friction materials may obtain from a testing certification agency a certification of compliance with the requirements of Section 25250.51, 25250.52, or 25250.53 at any time prior to the dates specified in those sections.

(j) The certification and mark of proof required pursuant to this section shall show a consistent date format, designation, and labeling to facilitate acceptance in all 50 states and United States territories for purposes of demonstrating compliance with all applicable requirements.

(Added by Stats. 2010, Ch. 307, Sec. 2. (SB 346) Effective January 1, 2011.)

25250.62. (a) A violation of this article by a vehicle manufacturer, a vehicle brake friction materials manufacturer, a distributor, or a retailer, shall be subject to a civil fine of up to ten thousand dollars (\$10,000) per violation.

(b) The department shall enforce this article. The department shall remove from sale in this state any replacement brake friction materials determined to be not in compliance with this article.

(c) If the department determines that a distributor, wholesaler, or retailer of replacement brake friction materials has been offering noncompliant brake friction materials for sale in the state, it shall allow the distributor, wholesaler, or retailer of replacement brake

friction materials to establish that it obtained the noncompliant brake friction materials in good faith and after exercising due diligence in verifying that the material complied with this article prior to assessing fines and penalties pursuant to subdivision (a).

(d) In determining the amount of the civil fine to be assessed for a violation of this article, the department shall consider the particular circumstances of the violation, including, but not limited to, the amount of noncompliant brake friction material offered for sale in California and whether previous violations have occurred.

(e) The department may waive the imposition of a fine and issue a letter of warning if it determines, based on criteria, including, but not limited to, the amount of brake friction material offered for sale, the presence or absence of prior violations, and whether due diligence was exercised in determining that the brake friction materials offered for sale complied with this article, and that the violation of this article does not merit the imposition of a fine.

(f) A distributor, wholesaler, or retailer found by the department to have offered for sale noncompliant replacement brake materials shall cooperate with the department in the removal of the noncompliant brake friction materials from sale, inform the department of measures being implemented to avoid repeat violations, and provide the department with information that will assist in the identification and location of the source or sources of the noncompliant brake friction materials.

(g) In enforcing this article, the department shall not recall automobiles fitted with brake friction materials that do not comply with this article.

(h) A motor vehicle manufacturer that violates this article shall notify the registered owner of the vehicle within six months of knowledge of the violation and shall replace, at no cost to the owner, the noncompliant brake friction material with brake friction material that complies with this article. A motor vehicle manufacturer that fails to provide the required notification to registered owners of the affected vehicles within six months of knowledge of the violation is subject to fines and penalties authorized pursuant to subdivision (a).

(Added by Stats. 2010, Ch. 307, Sec. 2. (SB 346) Effective January 1, 2011.)

25250.64. (a) The Brake Friction Materials Water Pollution Fund is hereby established in the State Treasury. Notwithstanding Section 25192, all fines and penalties collected by the department pursuant to this article shall be deposited in the fund.

(b) The moneys in the fund shall be expended, upon appropriation by the Legislature in the annual Budget Act, solely for the full implementation of this article by the department.

(Added by Stats. 2010, Ch. 307, Sec. 2. (SB 346) Effective January 1, 2011.)

25250.65. (a) On or before January 1, 2023, the department and the board shall submit to the Governor and the Legislature, in compliance with Section 9795 of the Government Code, a report on the implementation of vehicle brake copper reduction efforts and the progress of this article toward meeting the copper total maximum daily load (TMDL) allocations in the state. The report shall make recommendations on actions necessary to address any deficiencies in meeting these copper TMDL allocations, including, but not limited to:

(1) Imposing additional restrictions on the extensions granted to manufacturers pursuant to Section 25250.54.

(2) Imposing additional restrictions on the exemptions from this article provided by Section 25250.55.

(3) Allowances for permitting a manufacturer to sell existing inventory, if the additional restrictions described in paragraphs (1) and (2) are implemented.

(b) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2027.

(Added by Stats. 2010, Ch. 307, Sec. 2. (SB 346) Effective January 1, 2011. Repealed as of January 1, 2027, by its own provisions.)