

➔ Limiting Copper in Brake Pads

Brake Pad Legislation

On September 27, 2010, Governor Schwarzenegger signed Senate Bill (SB) 346 which will prohibit the sale of automobile brake pads sold in California containing more than trace amounts of copper...

15-Day Comment Period

The 15-Day Comment Period is closed. The Department accepted comments on the revised draft regulations for the Brake Friction Material Law (Health and Safety Code section 25250.50 et seq.) from June 16, 2016...

An interview with Dr. Meredith Williams on DTSC's Brake Pad Regulations, conducted at our Environmental Chemistry Lab, was aired by KGO ABC 7 on April 12th. Click here to view: <http://abc7news.com/news/installing-eco-friendly-car-brakes-helps-improve-water-quality/1287063/>.



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Brake Pad Legislation

On September 27, 2010, Governor Schwarzenegger signed Senate Bill (SB) 346 which will prohibit the sale of automobile brake pads sold in California containing more than trace amounts of copper, certain heavy metals, and asbestos. The purpose of this law is to reduce the amount of copper and other toxic substances released from brakes from entering California's streams, rivers, and marine environment.

This new law bans brake pads containing more than trace amounts of heavy metals and asbestos in 2014 and then also bans brake pads containing more than 5 percent copper in 2021. By 2025, the law reduces the amount of copper allowed to almost zero. Copper is toxic to many aquatic organisms and limiting the copper content of brakes is essential to comply with a federal Clean Water Act mandate, including copper water quality standards and copper total maximum daily loads in California's urban watersheds.

The law requires that manufacturers comply with laboratory testing and certify with a mark their products comply with the restrictions set for brake pads. DTSC, the Washington State Department of Ecology, and the Society of Automotive Engineers (SAE) Brake Materials Environmental Task Force have developed the criteria for testing and marking brake pads that meet the restrictions listed below. Washington State passed a similar law earlier in 2010 and adopted regulations on October 19, 2012. **Since DTSC has not implemented regulations regarding the testing protocol, marking or the certification agency requirements, the material presented on this web page should be considered for informational purposes only.**

| Restriction Date | SAE Environmental Marking | Description of Associated Action |
|-----------------------------|---------------------------|--|
| On or After January 1, 2014 | A | Prohibit the sale of any motor vehicle brake friction materials exceeding the following concentrations: <ul style="list-style-type: none"> • Cadmium exceeding 0.01% by weight. • Chromium (VI) salts exceeding 0.1% by weight. • Lead exceeding 0.1% by weight. • Mercury exceeding 0.1% by weight. • Asbestiform fibers exceeding 0.1% by weight. |
| On or After January 1, 2021 | B | Prohibit the sale of any vehicle brake friction material containing greater than 5% copper by weight in the state. This symbol also indicates the material meets the requirements listed for the "A" environmental marking. |
| On or After January 1, 2025 | N | Prohibit the sale of any vehicle brake friction material containing greater than 0.5% copper by weight in the state. This symbol also indicates the material meets the requirements listed for the "A" environmental marking. |

The law requires brake friction material manufacturers to certify and mark that their products meet the prohibitions listed above by the restriction date.

QUESTIONS?

For questions regarding the California Brake Pad law, please contact either Evelia Rodriguez (evelia.rodriguez@dtsc.ca.gov, 916-327-6104) or Suzanne Davis (suzanne.davis@dtsc.ca.gov, 916-327-4206).

For questions regarding the Washington State Better Brakes law, please contact Ian Wesley (iwes461@ecy.wa.gov, 360-407-6747).

15-day Comment Period on the Draft Regulations for the California Brake Pad Law

The 15-Day Comment Period is closed. The Department accepted comments on the revised draft regulations for the Brake Friction Material Law (Health and Safety Code section 25250.50 et.seq.) from June 16, 2016 to June 30, 2016. [Click here](#) to view the comments received during the 15-day comment period. The Department will respond to comments received during the 15-day public review period in the Final Statement of Reasons.

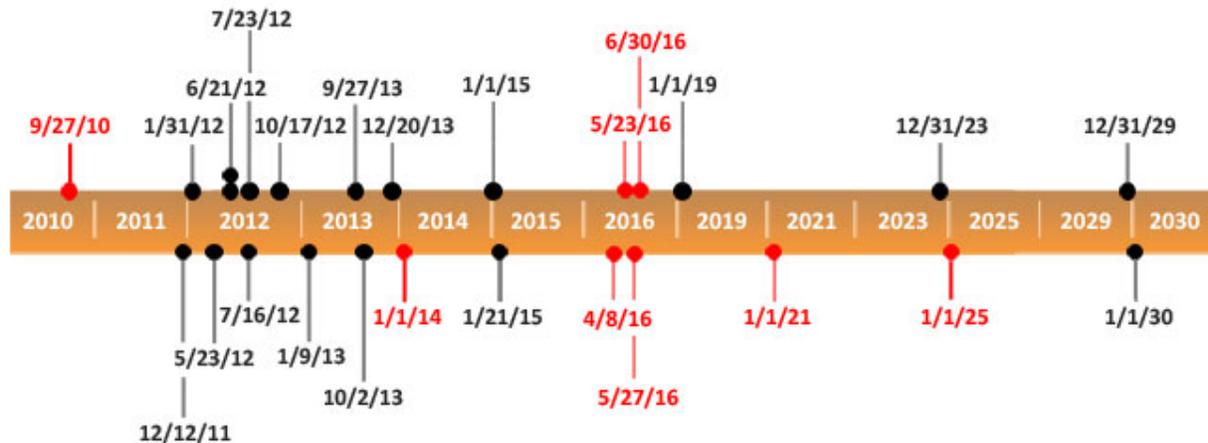
QUESTIONS?

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➔ Brake Pad Timeline

The activities listed below are efforts being conducted by either the DTSC, the Society of Automotive Engineers or the State of Washington Department of Ecology.



Click the date or the dot to see the activity associated to the date.

Dates in red show California's statutory and regulatory milestones.

- **September 27, 2010**
Hazardous Materials: Motor Vehicle Brake Friction Materials Law adopted
- **December 12, 2011**
SAE Standard J2975, Measurement of Copper and Other Elements in Brake Friction Materials approved
- **January 31, 2012**
State of Washington Better Brake Rules Workshop
- **May 23, 2012**
State of Washington Department of Ecology anticipates publishing draft CR-102
- **June 21, 2012**
State of Washington Department of Ecology closes public review period for CR-102
- **June 21, 2012**
State of Washington Department of Ecology holds first public hearing on draft rule CR-102
- **July 16, 2012**
SAE Standard J866, Friction Coefficient Identification and Environmental Marking System for Brake Linings approved
- **July 23, 2012**
State of Washington Department of Ecology holds second public hearing on draft rule CR-102

◆ **October 17, 2012**

State of Washington Department of Ecology files - [Final version of CR-102](#)

◆ **January 9, 2013**

DTSC issues [guidelines](#) on selecting a testing certification agency

◆ **September 27, 2013**

State of California passes Assembly Bill (AB) 501. AB 501 adds language to the California Brake Pad Law that allows motor vehicle dealers to continue to sell or offer for sale brake friction material not certified as compliant with the January 1, 2014 requirements if the brake friction material was installed on a vehicle before the vehicle was acquired by the dealer.

◆ **October 2, 2013**

State of Washington Department of Ecology issues "[Guidelines for Marking Brake Friction Material](#)" requirements under the Better Brakes law.

◆ **December 20, 2013**

Updated version of [SAE Standard J2975, Measurement of Copper and Other Elements in Brake Friction Materials](#) approved.

◆ **January 1, 2014**

On and after January 1, 2104, the law requires brake pads sold in California to be certified by a [testing certification agency \(aka., registrar\)](#) and marked by the manufacturer as compliant with the following restrictions:

- Cadmium exceeding 0.01% by weight
- Chromium (VI) salts exceeding 0.1% by weight
- Lead exceeding 0.1% by weight
- Mercury exceeding 0.1% by weight
- Asbestiform fibers exceeding 0.1% by weight

Motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials may continue to offer for sale brake friction materials not certified as compliant solely for the purpose of depletion of inventories.

◆ **January 1, 2015**

State of Washington's law and regulation become effective. Brake pads and shoes manufactured after January 1, must not contain asbestos, hexavalent chromium, mercury, cadmium, or lead. Auto shops and other distributors of brakes will be able to sell any existing inventory for ten years.

◆ **January 21, 2015**

Memorandum of Understanding (MOU) between U.S. Environmental Protection Agency, the Environmental Council of the States and the brake friction material industry was signed to adopt voluntary standards based on Washington and California's brake laws in the other 48 states.

◆ **April 8, 2016**

OAL publishes formal rulemaking notice in the [California Regulatory Notice Register, Volume 15-Z](#). This date is also the beginning of the 45-day public comment period.

◆ **May 23, 2016**

The 45-day public comment period closes.

◆ **May 27, 2016**

The public hearing on the proposed brake pad regulations is held. The video of the public hearing is available [here](#).

◆ **June 30, 2016**

The 15-day public comment period closes.

◆ **January 1, 2019**

On and after January 1, 2019, a manufacturer may request an extension to the January 1, 2025 requirements. DTSC will charge the manufacturer a fee for each extension application submitted.

◆ **January 1, 2021**

On and after January 1, 2021, the law requires brake pads sold in California to be certified by a testing certification agency (aka., registrar) and marked by the manufacturer as compliant with the following restrictions:

- Cadmium exceeding 0.01% by weight
- Chromium (VI) salts exceeding 0.1% by weight
- Copper exceeding 5% by weight
- Lead exceeding 0.1% by weight
- Mercury exceeding 0.1% by weight
- Asbestiform fibers exceeding 0.1% by weight

◆ **December 31, 2023**

Motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials may no longer offer for sale brake friction materials that do not comply with the January 1, 2014 restrictions.

◆ **January 1, 2025**

On and after January 1, 2025, the law requires brake pads sold in California to be certified by a testing certification agency (aka., registrar) and marked by the manufacturer as compliant with the following restrictions:

- Cadmium exceeding 0.01% by weight
- Chromium (VI) salts exceeding 0.1% by weight
- Copper exceeding 0.5% by weight
- Lead exceeding 0.1% by weight
- Mercury exceeding 0.1% by weight
- Asbestiform fibers exceeding 0.1% by weight

◆ **December 31, 2029**

The last day DTSC will accept an extension application to an existing extension for light- and medium-duty vehicles.

◆ **January 1, 2030**

On and after January 1, 2030, brake friction material manufacturers for heavy-duty vehicles (a vehicle weighing over 26,000 lbs gross weight) may apply for an extension to the January 1, 2025 requirements for an existing extension.



Brake Pads Frequently Asked Questions

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Introduction

This web page was developed by the Department of Toxic Substances Control to provide information regarding specific questions on the California Brake Pad Law. The answers below provide information for specific questions posed by stakeholders regarding this law. Be sure to consult the actual statutes and regulations before making any decisions that may impact statutory and regulatory compliance.

General

Q. Do they have to stop selling noncompliant brake pads in California on or after January 1, 2014?

A. The answer depends on whether the noncompliant brake pads are existing inventory which is allowed to be depleted until December 31, 2023, or if the brake pads are produced on or after January 1, 2014.

Q. Does the January 1st, 2014 deadline apply to our suppliers' production as well?

A. Yes. Under California Health and Safety Code (HSC) section 25250.60(c), 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 HSC section 25250.51's restrictions.

A brake friction material manufacturer should:

- Mark their products as compliant with HSC section 25250.50 et.seq.
- Have their product certified by a testing certification agency (also referred to as the "registrar", e.g., [NSF International](#)) and marked with a "mark of proof" of certification on and after January 1, 2014

However, the depletion of inventory provision under HSC section 25250.51(b) does allow motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials to continue to offer for sale brake friction materials not certified as compliant with the January 1, 2014 deadline solely for the purpose of depletion of existing inventories until December 31, 2023 [HSC section 25250.51(b)]. If your supplier is eligible under HSC section 25250.51(b), it may continue to sell any existing inventory as of January 1, 2014 without meeting the restrictions or the marking criteria. However, any inventory produced on and after the January 1, 2014 date must meet the content restrictions and must have marked proof of certification on edge codes.

Q. In determining the total weight of brake friction material, does the statutory language exclude the backing layer, and does the statutory language restrict the copper content to elemental copper only?

A. Because the statute in California Health and Safety Code sections 25250.52 and 25250.53 refers specifically to "brake friction materials," it is appropriate to include only the friction materials when calculating the percentage of copper by weight. In addition, the term "copper" is not restricted in the statute, and therefore should include all forms of copper including elemental copper and copper compounds.

Q. Is there any extension time that CA may be able to grant us?

A. Under the California law, there are no extension provisions for the January 1, 2014 deadline. The California Brake Friction Material Law only included a provision for an extension to the 2025 requirements. [California Health and Safety Code (HSC) section 25250.54.]

The law does have a provision that allows motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials to continue to offer for sale brake friction materials not certified as compliant with the January 1, 2014 deadline solely for the purpose of depletion of inventories until December 31, 2023 [HSC section 25250.51 (b)]. This means brake pads in existing inventory may continue to be sold as of January 1, 2014 without meeting the restrictions or the marking criteria for this purpose. However, any inventory produced for sale in California on and after the January 1, 2014 date must meet the HSC section 25250.51 restrictions for content and must have marked proof of certification on edge codes [HSC section 25250.60]. Under HSC section 25250.60(b), the law states "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."

Q. Since the department is not initiating rulemaking at this time, do brake pads need to be marked by January 1, 2014?

A. Although the department has not implemented rulemaking at this time, the law still requires that manufacturers comply with the restrictions on the content of cadmium and its compounds, chromium (VI) salts, lead and its compounds, mercury and its compounds, and abestiform fibers in brake friction materials. Furthermore, brake friction material must be certified and labeled with a mark proof of the certification on all brake friction materials starting on and after January 1, 2014.

The department has been working with the Washington State Department of Ecology, and the Society of Automotive Engineers (SAE) Brake Materials Environmental Task Force to develop testing certification and marking criteria for brake friction materials that meet the brake pad law restrictions listed in California and Washington. When rulemaking is implemented, the regulations will memorialize the decisions made in regards to the test methodology ([SAE J 2975-2015](#)), the mark ([SAE J 866-2012](#)) and the addition of clarifying language on the test certification agency (registrar) based on the [guidelines for selecting a testing certification agency](#).

The department is currently assessing several alternatives on how to move forward on this issue and hopes to have an official answer in the coming weeks. DTSC's online guidance provides information on testing certification and marking criteria for brake friction materials that meet California's law and Washington's regulations for brake friction material.

In the interim, the department advises manufacturers to continue in their efforts to meet the January 1, 2014 restriction. The department also recommends maintaining documents on brake pads made prior to the January 1, 2014 deadline as part of your best management practices. Brake pads made before 2014 that do not meet the new restrictions are allowed to be sold in California as part of the sell-off period outlined in California Health and Safety Code section 25250.51(b).

Q. Will DTSC grant a three month exemption period to get proper testing and certification done in time?

- A. DTSC does not have authority to grant extensions to the 2014 requirement and, to date, does not plan to grant an 3-month exemption period on the testing certification. We are advising manufacturers to continue in their efforts to meet the January 1, 2014 restrictions.

Under California Health and Safety Code (HSC) section 25250.51, on and after January 1, 2014 any motor vehicle brake friction materials with Cadmium and its compounds, Chromium VI salts, Lead and its compounds, Mercury and its compounds, or asbestos may not be sold in California. Please see HSC section 25250.55 for the applicability of any exemption to these requirements.

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Definitions

Q. Do we use the definition of motorcycle as defined under California Vehicle Code, Division 1, section 400?

- A. Probably yes. California Health and Safety Code (HSC) section 25250.55(d) exempts motorcycles from regulation under HSC section 25250.50 et. seq. The text of the exemption does not explicitly refer to the California Vehicle Code definition, however public policy supports reading the two codes together so that they do not directly conflict. If the vehicle in question fits the definition of a "motor vehicle" under HSC section 25250.50 and Vehicle Code section 670, its brake friction materials will be subject to regulation under HSC section 25250.50 et. seq., except if the vehicle fits the definition of "motorcycle" under the Vehicle Code.

Q. Does the definition of "motorcycle" also include motorized bicycle (California Vehicle Code, Division 1, section 406) and motorized quadricycles and motorized tricycles (California Vehicle Code, Division 1, section 407)?

- A. The term "motorcycle" does not specifically include motorized bicycle, motorized quadricycle or motorized tricycle. Therefore, whether brake friction materials for all motorized bicycles, motorized quadricycles and motorized tricycles will be subject to regulation under California Health and Safety Code (HSC) section 25250.50 et. seq. is dependent on whether they fall within the definition of "motor vehicle" in our statute and California Vehicle Code section 670.

HSC section 25250.50(f) states that "Motor vehicle" and "vehicle" have the same meaning as the definition of "Vehicle" in Section 670 of the California Vehicle Code [HSC section 25250.50(f)]. Further, California Vehicle Code section 670 defines "vehicle" as "a device by which any person or property **may be propelled, moved, or drawn upon a highway**, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks" (California Vehicle Code section 670, emphasis added). Therefore, to the extent that the motorized bicycle, motorized quadricycle or motorized tricycle **may be propelled, moved, or drawn upon a highway** it is subject to the requirements of HSC section code section 25250.50 et.seq.

Q. Does the definition of "small volume manufacturers" as used in California Health and Safety Code section 25250.55, include manufacturers of brake friction materials independent of a vehicle manufacturer?

A. No. The "small volume manufacturer" as defined by California Code Regulations, Title 13, section 1900 (b)(22), limits the definition to vehicle manufacturers and does not extend the exemption to manufacturers of brake friction materials independent of a vehicle.

Q. Does the definition of "motor vehicle" and "vehicle" defined in California Health and Safety Code (HSC) section 25250.50(f) apply to off-highway vehicles? Do the requirements of the California Brake Pad law apply to off-highway vehicles?

A. Probably not. HSC section 25250.50(f) states that "Motor vehicle" and "vehicle" have the same meaning as the definition of "Vehicle" in Section 670 of the Vehicle Code [California Health and Safety Code section 25250.50(f)]. Further, California Vehicle Code section 670 defines "vehicle" as "a device by which any person or property **may be propelled, moved, or drawn upon a highway**, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks." (California Vehicle Code section 670 emphasis added). What types of vehicles may or **may not** be drawn upon a highway are governed by the California Vehicle Code. For example:

- width constraints on "vehicles" are dictated by Vehicle Code sections 35100-35111,
- height constraints are dictated by Vehicle Code section 35250,
- length constraints are dictated by Vehicle Code section 35400,
- overhang constraints are dictated by Vehicle Code sections 35410-35411, and
- weight constraints are dictated by Vehicle Code sections 35550-35558.

Lastly, only "motor vehicle" brake friction materials are the subject of the prohibitions of HSC sections 25250.51-25250.53. Therefore if a vehicle does not meet the definition of "vehicle" in Vehicle Code section 670, or is otherwise disallowed from being propelled, moved or drawn upon a highway, it will not be subject to the requirements of HSC sections 25250.51-25250.53. If the vehicle in question may not legally be propelled, moved or drawn upon a highway, it may not be considered a "vehicle" under the California Vehicle Code. Therefore vehicles that may be designed for use off highway, may be subject to HSC sections 25250.51-53 if they fall within the parameters of vehicles which may be drawn upon a highway and are not otherwise prohibited by the Vehicle Code.

Q. Does the definition of motorcycle exclude motorized scooters under California Vehicle Code, Division 1, section 407.5(a)?

A. Yes. The definition of "motorized scooter" in California Vehicle Code section 407.5(a) states that "for purposes of this section a motorcycle, as defined in Section 400...is not a motorized scooter."

Q. Does the law apply to parking brake/emergency brake applications?

- A. No. Under the California Health and Safety Code section 25250.55(c), "brakes designed for the primary purpose of holding the vehicle stationary and not designed to be used while the vehicle is in motion" such as parking brakes are exempt.

Q. Does this law only apply to passenger vehicles?

- A. California Health and Safety Code (HSC) sections 25250.50 et seq. includes not only passenger vehicles but all "vehicles" under the California Vehicle Code section 670. For example, this law applies to trailers, tractor trailers and boat trailers, which are also captured by the definition of "vehicle" in the California Vehicle Code and some "off highway" vehicles.

HSC section 25250.50(f) states that "Motor vehicle" and "vehicle" have the same meaning as the definition of "Vehicle" in Section 670 of the Vehicle Code (HSC section 5250.50(f)). Further, California Vehicle Code section 670 defines "vehicle" as "a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks." (California Vehicle Code section 670 emphasis added.) What types of vehicles may or may not be drawn upon a highway are governed by the California Vehicle Code.

Specific exemptions have been given to the following motor vehicle classes under HSC section 25250.55 which include:

- 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. (Please note: This exemption will not be available until after January 1, 2019. The extension referred to is only for brake friction material formulations that need additional time in order to meet the restrictions that go into effect on January 1, 2025).

Q. Would trailers, such as tractor trailers, boat trailers, etc., meet the definition of "motor vehicle" or are they exempt from this law?

A. All trailers, including tractor trailers and boat trailers, are captured by the definition of "vehicle" under the California Vehicle Code section 670.

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Rulemaking

Q. How can DTSC ensure that all testing agencies potentially meeting the definition of "testing certification agency" in California Health and Safety Code section 25250.50(g) are given equal treatment under this law?

A. DTSC can ensure that all testing agencies potentially meeting the definition of "testing certification agency" in California Health and Safety Code section 25250.50(g) are given equal treatment under this law through the regulations ultimately adopted by DTSC.

Q. In order to adopt criteria and procedures to test brake friction materials or approve the certification agency requirements under California Health and Safety Code section 25250.50(g), will DTSC need to engage in formal rulemaking?

A. In order to adopt criteria and procedures to test brake friction materials or approve the certification agency requirements under California Health and Safety Code section 25250.50(g), DTSC believes that it will need to do formal rulemaking.

Q. Is DTSC required to approve either the testing criteria and procedures for brake friction materials or the certification requirements for laboratories as defined under California Health and Safety Code sections 25250.60 (a) and 25250.50(g)?

A. Yes. DTSC is required to approve the testing criteria and procedures for brake friction materials and the certification requirements for laboratories as defined under California Health and Safety Code sections 25250.60 (a) and 25250.50(g).

Q. When DTSC approves certification agency requirements or testing criteria and procedures for brake friction materials under Health and Safety Code section 25250.50(g) would the approval be subject to CEQA?

A. DTSC does not believe the certification of agency requirements or testing criteria and procedures for brake friction materials under California Health and Safety Code section 25250.50(g) will be subject to California Environmental Quality Act (CEQA).

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Exemptions & Extensions

- Q. Are brake friction materials manufactured after January 1, 2021 for a vehicle made before January 1, 2021 exempt under California Health and Safety Code section 25250.55?**
- A. Yes. According to this Article, brake friction materials manufactured after January 1, 2021 for a vehicle made before January 1, 2021 are exempt under California Health and Safety Code section 25250.55(g).
- Q. Are brake friction materials manufactured after January 1, 2025 for a vehicle made before January 1, 2025 exempt under California Health and Safety Code section 25250.55?**
- A. Yes. According to this Article, brake friction materials manufactured after January 1, 2025 for a vehicle made before January 1, 2025 are exempt under California Health and Safety Code section 25250.55(h).
- Q. What are all the exemptions under this law? Are there specific exemptions for heavy duty equipment or does this law apply to all vehicles?**
- A. First, California Health and Safety Code (HSC) sections 25250.50 et.seq. only applies to brake friction materials for "vehicles" as defined in the California Vehicle Code. There are specific exemptions listed in HSC section 25250.55. There are no specific exemptions for "heavy duty" vehicles under the California law. However, some off-highway vehicles may not be included under the California Law.

HSC section 25250.50(f) states that "Motor vehicle" and "vehicle" have the same meaning as the definition of "Vehicle" in Section 670 of the Vehicle Code (HSC section 25250.50(f)). Further, California Vehicle Code section 670 defines "vehicle" as "a device by which any person or property *may be propelled, moved, or drawn upon a highway*, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks." (California Vehicle Code section 670 emphasis added). What types of vehicles may or may not be drawn upon a highway are governed by the California Vehicle Code.

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Process and Procedure

Q. How does an organization become a testing certification agency?

- A. The California law requires that a "Testing Certification Agency" (registrar) serve as the official source for registering and certifying brake friction materials for compliance. The "testing certification agency" is defined as "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."

Under the California law, a Testing Certification Agency (Registrar) uses an accredited laboratory to certify compliance. The accredited laboratory is "...an accredited laboratory program that provides testing for the following constituents: cadmium and its compounds, chromium (VI) salts, lead and its compounds, mercury and its compounds, asbestiform fibers, and copper and its compounds." The accredited laboratory needs to either meet the [ISO 17025 standard](#) or be accredited by the [National Environmental Laboratory Accreditation Program \(NELAP\)](#). If the analytical laboratory is accredited under the [International Laboratory Accreditation Cooperation \(ILAC\)](#) agreement and can perform the methods listed in [SAE J 2975-2015](#) then the results from this laboratory would be acceptable to the department. If the laboratory is ILAC accredited but uses an alternative analysis method that may be equivalent to one or more methods listed in [SAE J 2975-2015](#), the department would like to review the method(s) to confirm equivalence prior to testing.

The department published guidelines for the brake friction material manufacturers regarding the obligations of testing certification agencies (registrars) which intend to certify the content of brake friction materials offered for sale in California. The [guidelines](#) are intended to provide an outline of the minimum criteria for the testing certification agency which will certify products for sale in California.

An organization that is interested in becoming a testing certification agency (registrar) should also contact the Automotive Aftermarket Suppliers Association (AASA) to find out more about sublicensing their package mark, the AASA LeafMarks. Although a **packaging mark is not required** under the California law, the use of the packaging mark is not prohibited in California. Please note that the State of Washington's regulations for brake friction material require the packaging mark.

Q. What accreditation standards does the analytical laboratory need to meet?

- A. A chemical analysis laboratory that meets the [ISO 17025 standard](#), is accredited by the [National Environmental Laboratory Accreditation Program \(NELAP\)](#), or is accredited under the [International Laboratory Accreditation Cooperation \(ILAC\)](#) agreement will ensure the completed analyses comply with California's restriction of heavy metals in brake friction material on January 1, 2014. The chemical analysis laboratory must also be able to perform the methods listed in [SAE J 2975-2015](#). If the accredited laboratory uses an alternative analysis method that may be equivalent to one or more methods listed in [SAE J 2975-2015](#), then the Washington State Department of Ecology and the DTSC need to review the method(s) to confirm equivalence prior to testing.

Both California and Washington State do not require the chemical analysis laboratory to be a third-party laboratory. However, the California law does require the brake friction material to be certified by a registrar who may have additional requirements/conditions that may prevent or restrict the use of in-house laboratories.

Q. What are the steps to meet the certification requirements under the California law?

A. To meet the certification requirements under the California law, you need to do the following:

1. **TESTING:** Test your brake friction material per the Society of Automotive Engineers (SAE) [Standard J2975](#) at a laboratory approved by the testing certification agency (a.k.a., registrar). NSF International has been identified by the industry as the testing certification agency and has identified Link Engineering, EMSL Analytical, Inc., and NSF International as [approved testing facilities](#).
2. **CERTIFICATION:** Certify your brake friction material with NSF International. Under the California Brake Pad law, the certification of brake friction material is performed by the testing certification agency which is NSF International. NSF describes their certification process [here](#).
3. **MARK PROOF:** Mark certified product with the "mark of proof" per the format provided in [SAE Standard J866](#).

Q. Will DTSC accept consumer complaints directly? How will that process work?

A. Consumers will be able to submit complaints by either calling the Department of Toxic Substances Control (DTSC) Waste Alert Hotline at (800) 698-6942 or submitting a complaint online using the [Cal/EPA Environmental Complaint Form](#).

The DTSC also has documents that give an overview of the process used by DTSC for enforcement. DTSC's [Enforcement Response Policy](#) describes the violation classification system and summarizes the enforcement options that the DTSC may pursue for violations. A copy of [DTSC's policy and procedures for posting enforcement response documents](#) to the DTSC website is also available. Additional information is also available on the [DTSC Compliance and Enforcement web page](#).

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Auto Repair Shops

Q. Are manufacturers and/or distributors required to identify on the packaging (box) that brake pads are "California Compliant"? If not, how do shops easily ascertain and verify that pads are compliant without removing and destroying packaging?

A. The California brake pad law only requires the manufacturer to certify their formulation with the testing certification agency (in this case, [NSF International](#)) and have the mark of proof (edge code) on the brake pad. (California Health and Safety Code section 25250.60.) The State of Washington requires a packaging mark to be on products sold in their state starting January 1, 2015 ([Washington Administrative Code 173-901-090\(2\)](#)). To be compliant in both states one must meet the legal requirements of both states.

Q. As a repair shop that sells and installs brake pads, what are my legal responsibilities under the law?

A. Any industry dealing with the sale of brake friction materials must be aware and comply with the upcoming restrictions which begin on January 1, 2014 as outlined under California Health and Safety Code (HSC) section 25250.51. Other restrictions will go into effect on January 1, 2021 (HSC section 25250.52) and January 1, 2025 (HSC section 25250.53). HSC section 25250.51 prohibits the sale of noncompliant brake pads. Retailers must not sell brake friction materials that are not compliant with HSC sections 25250.50 et.seq.

We recommend maintaining records on all compliance activities including but not limited to:

1. the brake pads purchased and in your inventory before January 1, 2014 to show the brake pads are eligible for the sell-off period that ends on December 31, 2023 (see generally HSC section 25250.51), and
2. the brake pads that meet an exemption category listed in HSC section 25250.55 to document your decision.

We also recommend that you become familiar with the mark of proof for compliant material as described in the [Society of Automotive Engineers \(SAE\) Standard J 866-2012](#).

Q. Do I have to document on my invoice to a customer or anywhere else on my paperwork that the brake pads being installed are compliant? What are the shop requirements for proper documentation?

A. You are not required to document on the customer's invoice that the brake pads being installed are compliant with the California Health and Safety Code sections 25250.50 et.seq. The level of documentation an individual retailer requires is up to the discretion of that retailer.

Q. How will DTSC go about enforcing the law with repair shops? Will an audit of the repair shop's paper work be sufficient for compliance? Will DTSC inspect vehicles to examine actual brake pads installed?

A. DTSC will be focusing on compliance, education and outreach in 2014. DTSC will not comment upon potential enforcement strategies and/or methods.

Q. I am a repair shop registered with the Bureau of Automotive Repair (BAR) and currently have non-compliant brake pads in my inventory. Can I keep this stock and sell and install it for customers or is there a specific timeline that must be adhere to?

A. The California Brake Pad law has a sell off provision under California Health and Safety Code (HSC) section 25250.51(b) for the restrictions starting on January 1, 2014. The actual text from HSC 25250.51 is provided below for reference:

"HSC 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."

Legislation passed in 2013 (AB 501, effective January 1, 2014) added subdivision (c) to HSC section 25250.51 as follows:

"(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."

HSC section 25250.51 therefore allows any "motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials" to continue to sell any existing inventory as of January 1, 2014 without meeting the constituent restrictions or the marking criteria. However, any inventory produced or acquired by motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials after the January 1, 2014 date must meet the above restrictions for content. Compliant brake pads will also have marked proof of certification on the brake pad by the manufacturer (see HSC section 25250.60).

Q. If a customer purchases and brings his own non-complaint brake pads, can we install them without violating the law and incurring penalties?

A. California Health and Safety Code sections 25250.50 et.seq. only prohibits sale of non-compliant brake pads, not installation.

Q. If the distributor states that the brake pads are compliant, do I have a duty to verify the claim or is it sufficient to have the distributor simply state they are compliant?

A. California Health and Safety Code sections 25250.50 et.seq. prohibits all sale of noncompliant brake friction materials. Individual businesses must use due diligence in order to show that brake friction materials were obtained in good faith. It is recommended that businesses request a distributor or supplier to provide the business with the mark of proof and confirm that the mark is listed on the certified Friction Material Program maintained by NSF International.

Q. What are the DTSC requirements for placement of the "mark of proof" by brake pad manufacturer? Does the "A" marking (or other markings) have to be located on a specific area of the brake pad?

A. California, the State of Washington, and the Society of Automotive Engineers (SAE) have worked together to develop a standard for the "mark of proof" that can be used in both states. [SAE Standard J 866-2012](#) describes the format of the "mark of proof" and meets California Health & Safety Code section 25250.60(j) in regards to showing "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." Examples of acceptable placement of the "mark of proof" on a brake pad are shown in the State of Washington [Guidance for Marking Brake Friction Material](#).

Q. What are the penalties for repair shops installing non-compliant brake pads? What does a repair shop need to demonstrate and show the DTSC that they installed compliant brake pads?

A. The law provides for civil penalties of up to \$10,000/violation (California Health and Safety Code section 25250.62(a)). In assessing the amount of the penalty, DTSC shall consider the circumstances of the violation, including but not limited to, the amount of noncompliant brake material offered for sale, whether previous violations have occurred, as due diligence in determining that the brake friction materials offered for sale were compliant and whether the violation merits the imposition of a fine.

Q. When an auto repair shop attempts to document a distributor's or supplier's claim that the brake pads being provided satisfy the requirements under the California Brake Pad Law, what type of documentation should the distributor and/or supplier provide?

A. The "California Brake Pad Law" as enacted by the legislature does not contain a requirement that documentation in the form of a letter should be supplied by a distributor to an auto repair shop regarding a distributor's claim that brake pads supplied by the distributor comply with the "California Brake Pad Law." However, DTSC recommends the following documentation:

1. If the distributor or supplier claims the brake pads meet the requirements for the sell-off period described under Health and Safety Code (HSC) section 25250.51(b), then the DTSC recommends the auto repair shop obtain a letter from the distributor or supplier clearly stating this claim.
2. If the distributor or supplier claims the brake pads meet one of the restrictions stated in HSC sections 25250.51, 25250.52, or 25250.53, then the DTSC recommends the auto repair shop obtain a letter from the distributor or supplier clearly stating the claim and provide information that allows the auto repair shop to verify the claim such as the formulation ID number (e.g., edge code™ number) as posted on the [NSF International certified friction material website](#).

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Q. Will DTSC enforce the law or will other agencies such as the Bureau of Automotive Repair (BAR) able to enforce law?

A. Yes, the DTSC is the agency authorized to enforce Article 13.5, Chapter 6.5, Division 20, Health and Safety Code [California Health and Safety Code (HSC) section 25250.62(b)]. While DTSC is interested in maximizing its resources through cooperation with other regulatory agencies such as the Bureau of Automotive Repair, the statute does not provide a mechanism for the DTSC to "authorize" other agencies to enforce these statutes. Under existing authority granted by HSC section 25180, a local health officer or local public officers designated by the DTSC director may enforce the standards in Chapter 6.5, Division 20, Health and Safety Code [HSC section 25180(a)(1)].

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Brake Pad Documents & Fact Sheets

INITIAL RULEMAKING

- 45-Day Public Notice and Comment Period
- Draft Regulations Text
- California Environmental Quality Act (CEQA)

Initial Statements of Reasons (ISOR)

- Initial Statements of Reasons
- Appendix A1: Code of Federal Law Regulations Searches
- Appendix A2: Westlaw Searches

Form 399

- Economic and Fiscal Impact Statement

Economic and Fiscal Impact

- Regulatory, Fiscal, and Economic Analyses Report

Appendix A:

- Cost-Effectiveness Analyses for Select Alternatives in ISOR
- Extension Program Costs
- Recertification Costs
- Testing and Registration Costs

Appendix B:

- The Flow of Parts into the Automotive Aftermarket

Comments for the 45-Day Comment Period

- All written comments
- Video of the public hearing

15-Day Comment Period Documents

- Revised Draft Regulations (Clean Version)
- Revised Draft Regulations (Redlined Version)

Comments for the 15-Day Comment Period

- All written comments

QUESTIONS REGARDING THE BRAKE PAD LAW

- [May 26, 2011 Interpretation Letter to Industry](#)
- [June 14, 2011 Interpretation Letter to Industry](#)
- [September 20, 2011 Interpretation Letter to Industry](#)

INFORMAL DRAFT REGULATION

- [Informal Draft Regulations Issued June 16, 2014](#)
- [Comments Received on the June 16, 2014 Informal Draft Regulations](#)
- [Response to Common Comments on the June 16, 2014 Informal Draft Regulations](#)
- [Revised Informal Draft Regulations Issued on November 14, 2014](#)
- [Revised Informal Draft Regulations Issued on November 14, 2014 \(redline version\)](#)
- [Comments Received on the November 14, 2014 Informal Draft Regulations](#)
- [Response to Comments Received on the November 14, 2014 Informal Draft Regulations](#)

MATERIAL FOR WORKSHOPS ON THE INFORMAL DRAFT REGULATIONS

- [California's Proposed Brake Pad Regulation Presentation \(July/August 2014 workshops on draft informal regulations\)](#)
- [Meeting notes on the California Only Exemption Mark Discussion](#)
- [Diagram on the California Exemptions versus the State of Washington Exemptions](#)
- [Information Sheet on the State of Washington Exemption Process and the California Extension Process](#)
- [Graphs Depicting the Phase In of the Exemptions \(g\) and \(h\) in Health and Safety Code section 25250.55](#)

OTHER RESOURCES/DOCUMENTS

- [Copper-Free Brakes Initiative](#)
- [Chapered Senate Bill No. 346, Article 13.5: Motor Vehicle Brake Friction Materials, California Health and Safety Code section 25250.50 through 25250.65](#)
- [State of California 2013 Vehicle Code](#)
- [Society of Automotive Engineers Standard J866 – Friction Coefficient Identification and Environmental Marking System for Brake Linings \(this document needs to be purchased from SAE\)](#)
- [Society of Automotive Engineers Standard J2975 – Measurement of Copper and Other Elements in Brake Friction Materials \(this document needs to be purchased from SAE\)](#)
- [Assessment of the Capacity of XRF Analysis as a Tool for the Screening of Brake Pad Friction Materials \(file size: 4.6 MB\)](#)
- [Guidelines for Selecting a Brake Friction Material Testing Certification Agency](#)
- [Motor Vehicle Brake Friction Materials - Senate Bill 346 \(Presentation by DTSC for the Bureau of Automotive Repair Advisory Group\)](#)
- [California's Brake Pad Proposed Regulations \(Presentation by DTSC for the Society of Automotive Engineers Brake Colloquium\)](#)

How Does the Brake Pad Law Affect Me?

Starting in 2014, you will be able to see marking on the product to show that the material meets cadmium, chromium, lead, mercury or asbestos restrictions. The manufacturer is required by law to have their brake friction material certified by a testing certification agency (a.k.a., registrar). To date, [NSF International](#) is the only registrar identified by the industry. [Click here to view a list of certified brake friction material formulations.](#)

QUESTIONS?

For questions regarding the California Brake Pad law, please contact either Evelia Rodriguez (evelia.rodriguez@dtsc.ca.gov, 916-327-6104) or Suzanne Davis (suzanne.davis@dtsc.ca.gov, 916-327-4206).

For questions regarding the Washington State Better Brakes law, please contact Ian Wesley (iwes461@ecy.wa.gov, 360-407-6747).