

## UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

### ***Policy Statement Overview***

The governor of California approved Senate Bill 346 on September 10, 2010 and enacted Health and Safety Code (HSC) sections 25250 et seq. The statute, commencing on January 1, 2014, prohibits the sale of any motor vehicle brake friction materials containing specified constituents in amounts that exceed certain concentrations. The statute allows, until December 31, 2023, motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials to deplete their inventory of noncompliant materials. Commencing on January 1, 2021, the statute prohibits motor vehicle brake friction materials containing more than 5.0 % copper by weight from being sold in the state, and, commencing on January 1, 2025, prohibits motor vehicle brake friction materials exceeding 0.5% copper by weight from being sold in the state. DTSC is responsible for implementing this statute.

The statute exempts brake friction materials used for certain motor vehicle classes, such as motorcycles, from its requirements and would exempt from certain prohibitions the sale of vehicles or brake friction materials manufactured prior to certain dates. Manufacturers of vehicle brake friction material are required to screen potential alternatives for copper using the existing Toxics Information Clearinghouse and to use an open source alternatives assessment or a screening analysis to select alternatives to copper that pose less potential hazard to public health and the environment. The vehicle brake friction material manufacturer or importer of record is required to provide DTSC with a summary of the alternatives screening, upon request, and the manner in which the selection of alternatives is informed.

The statute requires all new motor vehicles offered for sale, on and after the specified compliance dates described above, to be equipped with brake friction materials meeting the requirements of the HSC sections 25250.51, [25250.51 and 25250.52](#), and [25250.51 and 25250.53](#). The statute also requires all vehicle brake friction material manufacturers, on or after those compliance dates, to certify compliance with those requirements and mark proof of certification on all brake friction materials. Manufacturers of vehicle brake friction materials manufacturers are required to file a copy of the certification with a testing certification agency.

### ***Proposed regulation***

The proposed regulation would:

Adopt a new Chapter [30](#), Hazardous materials: motor vehicle brake friction materials, to division 4.5 of Title 22, California Code of Regulations to satisfy the mandates of HSC sections 25250.50(g), 25250.54, 25250.60(a), and 25250.60(j). These sections direct DTSC to develop performance requirements for (1) testing the chemical content of brake friction materials for compliance to HSC sections 25250.51, 25250.52 and 25250.53, (2) marking compliant brake friction materials, (3) reviewing certification procedures used by the testing certification agency, and (4) approving alternative chemical analytical testing methods for brake friction materials for compliance to HSC

sections 25250.51, 25250.52 and 25250.53, and (5) approving alternative laboratory accreditation standards for analytical laboratories. The proposed regulation would clarify the process to approve extension requests for the 2025 statutory requirements.

### Anticipated Benefits

DTSC estimates the benefits from the proposed regulations are from incorporating key aspects of the current certification and marking system used by the brake friction materials industry. By incorporating these key aspects into the proposed regulations, compliance costs will be low for the regulated industry; California consumers and retailers will more easily identify compliant brake friction materials; and the time to achieve compliance with the statute and the proposed regulations will be reduced. Compliance with the statute and proposed regulations will promote the goal to reduce the amount of copper and other toxic substances released from brakes from entering California's streams, rivers, and marine environment.

### Summary of Existing Statutes and Regulations

HSC section 25250.60(a) requires the DTSC to approve certification procedures for brake friction materials. HSC section 25250.50(g) requires the DTSC to develop and approve certification agency requirements. HSC section 25250.54 requires the DTSC to develop steps to clarify the extension process which shall be facilitated by the DTSC.

The statute provides a framework for reducing specific heavy metals and asbestos in brakes, and calls upon the department to work with interested parties to develop compliance criteria including:

- Criteria for self-certification of compliance using a testing certification agency that uses third-party accredited laboratories.
- Requirements relating to a "proof of certification" mark to appear on brake pads.
- Process for approving certification requirements used by the testing certification agency.
- Requirements for the third-party accredited laboratories.
- Process for approving an equivalent laboratory accreditation program or standard.
- Adoption of criteria and procedures to test brake friction materials.
- Process for approving equivalent analytical methods for testing brake friction materials.
- A process for companies to apply for an extension to the January 1, 2025 restriction for copper and its compounds under HSC section 25250.54. The law includes a fee assessed to process the extension application.

### Relation to Existing Federal Regulations

DTSC performed an automated search of electronic Code of Federal Regulations that yielded no conflicting federal regulations using the following keywords: "copper and brake and pads", "lead and brake and pads", "mercury and brake and pads", "hexavalent chromium and brake and pads", "asbestiform fibers and brake and pads", "asbestos and brake and pads", "brake and pads", "braking systems", "vehicle and brakes and chemical content".

Several federal regulations were found that specified the safety and performance standards for brakes and braking systems used in various types of transportation systems and industrial systems. Existing federal motor vehicle safety standard regulations (FMVSSR) provide performance-based requirements for braking systems under FMVSSR sections 571.105, 571.121, 571.122, and 571.135.

The Occupational Safety and Health Administration (OSHA) established several regulations that oversee the occupational exposures to asbestos (29 CFR §1910.1001), specific compliance methods for brake and clutch repair (29 CFR § 1910.1001(F)(3)), and sampling and testing methods for asbestos occupational exposure (29 CFR § 1915.1001, Appendix B). The U.S. Environmental Protection Agency promulgated regulations under the National Emission Standards for Hazardous Air Pollutants for new and existing friction materials manufacturing facilities under 40 CFR Part 63, Subpart QQQQQ. These federal rules do not address the chemical composition of the brake friction material and focus either on a safety-based performance standard or on the air-based emissions. Therefore, the proposed regulations will neither duplicate nor conflict with the federal regulations.

#### *Relation to Existing State Regulations*

An automated search was conducted via Westlaw that yielded no conflicting state regulations using the following keywords: “brakes”, “brake pads”, “braking systems”, “copper”, “cadmium and brakes”, “lead and brakes”, “mercury and brakes”, hexavalent chromium and brakes”, “asbestiform fibers and brakes”, and “asbestos and brakes”.

Several state regulations were found that specified safety and performance standards for brakes and braking systems used in various types of transportation systems and industrial systems. The regulations concerning braking systems and brakes used on motor vehicles are overseen by the California Highway Patrol, Department of Industrial Relations, and Department of Transportation. DTSC also reviewed regulations regarding the requirements for brake adjusters and brake stations overseen by the Bureau of Automotive Repair.

The proposed regulation is not inconsistent or incompatible with any existing state regulations. The existing regulations focused on safety-based performance standards and best management practices, and not the chemical composition of the brake friction materials.

#### ***Incorporated by Reference***

The regulation incorporates the following references:

- (1) ILAC-P5:10:2013, “International Laboratory Accreditation Cooperation (ILAC) Multilateral Recognition Arrangement”, dated 2013, available from the ILAC Secretariat, PO Box 7507, Silverwater, NSW 2128, Australia.
- (2) ISO/IEC Guide 65:1996, “General requirement for bodies operating product certification systems, ” dated 1996, available from the International Organization for

Standardization (ISO), ISO Central Secretariat, 1, ch. de la Voie-Creuse, CP 56, CH-1211 Geneva 20, Switzerland

- (3) ISO/IEC 17011:2005, "General requirements for accreditation bodies accrediting conformity assessment bodies", dated 2005, available from International Organization for Standardization (ISO), ISO Central Secretariat, 1, ch. de la Voie-Creuse, CP 56, CH-1211 Geneva 20, Switzerland
- (4) ISO/IEC 17025:2005, "General requirements for the competence of testing and calibration laboratories," dated 2005, available from International Organization for Standardization (ISO), ISO Central Secretariat, 1, ch. de la Voie-Creuse, CP 56, CH-1211 Geneva 20, Switzerland
- (5) ISO/IEC 17065:2012, "Conformity assessment -- Requirements for bodies certifying products, processes and services", dated 2012, available from International Organization for Standardization (ISO), ISO Central Secretariat, 1, ch. de la Voie-Creuse, CP 56, CH-1211 Geneva 20, Switzerland
- (6) NELAC Institute Standard, Environmental Laboratory Sector, Volume 1, "Management and Technical Requirements for Laboratories Performing Environmental Analysis," dated 2009, available from The NELAC Institute, P. O. Box 2439, Weatherford, TX 76086;
- | (7) SAE J 866:JUL2012, "Friction Coefficient Identification and Environmental Marking System for Brake Linings," dated July 2012, available from the Society of Automotive Engineers (SAE) Customer Service, 400 Commonwealth Drive, Warrendale, PA 15096-0001;
- | (8) SAE J 2975:DEC2013, "Measurement of Copper and Other Elements in Brake Friction Materials," dated December 2013, available from the Society of Automotive Engineers (SAE) Customer Service, 400 Commonwealth Drive, Warrendale, PA 15096-0001.