

September 5, 2014

Suzanne Davis
Department of Toxic Substances Control
Attn: Comments on Draft Informal Regulations for the Brake Friction Material Law
P.O. Box 806, Mail Station/Code: SPWP/MS 12A
Sacramento, CA 95812-0806

RE: Division 4.5, CA Code of Regulations, Title 22; Chapter 25. Hazardous Materials: Motor Vehicle Brake Friction Materials

Dear Ms. Davis:

The Auto Care Association, on behalf of the auto care industry, recognizes the need to protect the public health and environment through increased use of safer and sustainable materials while also ensuring proper functionality of motor vehicles. In the case of motor vehicle brake friction materials, we view the informal draft regulations as a positive step that both the auto care industry and the Department of Toxic Substances Control (DTSC) can take together to achieve both parties' goals. The association would like to provide the following comments in order to further improve the informal draft before the DTSC moves ahead with formal regulations.

As the voice of the auto care industry, the Auto Care Association is a Bethesda, Md.-based association whose more than 2,000 member companies represent approximately 150,000 independent businesses that manufacture, distribute and sell motor vehicle parts, accessories, tools, equipment, materials, supplies and perform vehicle service and repair.

The association believes the majority of the informal draft regulations are developed to provide reasonable compliance standards by the brake friction materials manufacturing entities within the auto care industry. However, the association does believe there are areas for adjustment in the informal draft text that are necessary for proper industry compliance:

1) Harmonize areas of the California informal draft regulation with the law in place in the State of Washington in order to ease regulatory compliance burdens for industry and achieve stronger compliance with the California proposal.

There are several issues where the regulations differ between Washington and California. While some differences are due to statutory language, there are two critical areas that we urge the DTSC to address:

One, California should require that in addition to the marking of the brake pad, the packaging must also be labeled to ensure compliance by all parties in the distribution chain. Specifically, most levels of the distribution chain in the auto care industry will not actually handle the brake pad, but will only see the package. Absent some kind of labeling on the package itself, it will be

difficult for distributors and retailers to determine whether the brake pad being sold meet the appropriate standard. A standardized label will further help technicians who actually perform the work be able to clearly identify the brake pads they are installing are meeting the standard. The State of Washington requires the use of a label and we urge that the DTSC include a similar requirement.

Two, we urge that the sell-through timelines for both Washington and California be harmonized. Such action will be of great assistance to multi-state distributors and repair operations that will find compliance confusing if the sell-through periods between the two states are different.

The dates suggested by the industry, that would create harmonization with the existing Washington law are as follows:

- Brake friction material manufactured prior to January 1, 2021 containing greater than 5.0% copper and its compounds by weight may be sold for use or offered for sale in light duty motor vehicles until January 1, 2031;
- Brake friction material manufactured prior to January 1, 2025 containing greater than 0.5% copper and its compounds by weight may be sold for use or offered for sale in light duty motor vehicles until January 1, 2035;
- Brake friction material manufactured prior to January 1, 2021 as part of an original equipment service contract.

2) The definition of "manufacturer" referenced in 66275.8 section (d) should be included in the definitions section, 66275.1

Providing the full text of the California Health Code definition would allow for increased clarity in the informal draft regulation as to who is responsible for compliance of the possible future regulation. The auto care industry has a complex supply chain, including many companies that import product, that often make it unclear as to what entity is considered the manufacturer from product inception to end-use.

3) Ensure a necessary number of testing laboratories and certification entities are accredited and approved by the DTSC before implementing any formal regulations

The brake friction material manufacturers within the industry want to be able to comply with any necessary regulations while also continuing to supply the California driving public with the tools to properly and safely maintain and operate their motor vehicles. While the process for testing and certifying brake pads are within reason, the number of available testing and certification entities could dramatically affect the availability of safer brake pad materials and safer brake pads in the market.

4) Include notification deadlines for testing laboratories, certification entities, and DTSC in order to provide responses to the manufacturers submitting items along the compliance chain

The auto care industry operates using a complex and sophisticated supply chain that ensures that the service facilities and car owners can obtain timely and effective repairs. That supply chain

requires reasonable levels of certainty about timing and availability of supplies and products. Absent reasonable response requirements from testing laboratories, certification entities, and the DTSC to brake pad material manufacturers, the full supply chain lacks the necessary reliability to provide compliant materials to the stream of commerce in California. Required response times eliminate the possibility of any testing laboratory, certification entity, or other party from creating an unintentional slow down for a manufacturer attempting to put his newly formulated brake pad into commerce.

In summary, the association, on behalf of our auto care industry members, thanks the DTSC for their work on the informal draft brake pad friction material regulation. The auto care industry supports developing products and processes that elevate public health and safety while providing the driving public with reliable and economical vehicle maintenance and repair solutions.

For further questions or discussion of these comments, please contact Sheila Andrews at 301-654-6664.

Sincerely,

A handwritten signature in black ink that reads "Aaron Lowe". The signature is written in a cursive, flowing style.

Aaron Lowe
Senior Vice President, Regulatory and Government Affairs
Auto Care Association