

The Brake Pad Partnership – October 2008 Update

This update is to brief you on the activities of Sustainable Conservation's Brake Pad Partnership (Partnership) and our plans to introduce California state legislation in January 2009 to limit the amount of copper in automotive brake pads.

In this update:

1. Brake Pad Partnership History
2. Shifting from Voluntary Reductions to Legislation
 - a. Limits on Copper and Timeframes for Reductions
 - b. Other Harmful Constituents
 - c. Certification and Enforcement

1. Brake Pad Partnership History

The Partnership began as a collaborative effort among brake manufacturers, environmentalists, stormwater management entities, and regulators to understand the impact on the environment of brake pad wear debris generated during the use of passenger vehicles. Last year the Partnership completed a series of interlinked laboratory, environmental monitoring, and environmental modeling studies which indicated that brake pads are a substantial contributor to copper in runoff to the San Francisco Bay. According to the studies, copper from brake pads accounts for up to half of the copper discharging to the San Francisco Bay from highly urbanized watersheds. (Detailed information about these studies can be found at <http://www.suscon.org/brakepad/index.asp>.)

Before investing significant state and private resources into the technical studies, the Brake Manufacturers Council (BMC) and its members (primarily manufacturers of original equipment friction materials) agreed to introduce reformulated products within five years if the technical studies indicated that copper in brake pads was contributing significantly to water quality impairment. In late 2007 as the technical studies' results emerged, the Partnership shifted its focus to determining an appropriate mechanism for reducing copper in automotive brake pads in California.

2. Shifting from Voluntary Reductions to Legislation

As the Partnership's understanding of the full suite of brake pads and their markets deepened, the Partnership has decided to pursue California state legislation that would ensure reductions in copper from all brake pads, with limited exceptions. This approach will lower the amount of copper in stormwater runoff and protect water quality in highly urbanized watersheds.

In pursuing legislation, the Partnership has reaffirmed its commitment to a collaborative, consensus-based approach to crafting a workable balance between necessary innovations, long manufacturing timelines, and the stringent water quality compliance deadlines facing California. The Partnership's deliberations over the course of 2008 have focused on three primary areas: a) the limit(s) to be set on copper in brake pads and the time frame over which that limit(s) will go into effect; b) ensuring that copper-containing

formulations are not replaced by those with harmful constituents that cause equal or greater harm; and c) compliance and enforcement of the law once it is in place.

a. Limits on Copper and Timeframes for Reductions

California stormwater agencies face aggressive Clean Water Act deadlines in several Southern California watersheds in the form of TMDLs (total maximum daily loads), which implement federal water quality standards for copper. In response, the Partnership is seeking to implement a limit(s) for copper in a timeframe for implementation that recognizes the long manufacturing cycles for automobiles and brake systems, which include extensive safety and performance testing. The goal is to help the Southern California stormwater agencies meet their TMDLs as quickly as possible in a timeframe that is aggressive but realistic for brake manufacturers.

b. Other Harmful Constituents

California regulators have learned from past experience, and are acutely aware, that well-intended regulations can have unintended consequences. The most famous recent example is the mandate to add an oxygenate to gasoline to meet clean fuel standards and improve air quality, which most manufacturers met with the additive MTBE. Not long after, MTBE from fuel was found to have leaked from underground storage tanks and caused widespread contamination of groundwater due to its hydrophilic properties. To avoid this type of situation, the Partnership is exploring limiting, to de minimis level, substances such as lead and mercury that are well known to cause environmental problems and are already largely excluded from brake manufacturing as a result of voluntary industry standards. The Partnership is also exploring the possibility of setting an action threshold for other substances, such as nickel, antimony, and zinc, to prevent future problems that could result from a significant increase in the use of those in alternative brake pad formulations.

c. Certification and Enforcement

Finally, the Partnership is also exploring the best methods for implementing these regulatory limits in an efficient, equitable, cost effective and fair manner. The California Department of Toxic Substances Control has been identified as a potential agency to oversee certification and enforcement, on the basis of their mission, experience, and technical capabilities. The Partnership is also engaging stakeholder groups such as automotive part wholesalers in the development of its enforcement approach.

The Partnership's hope is to craft legislation that industry, environmental and stormwater stakeholders can all support. Between now and the end of the year, the Partnership intends to finalize draft language for the legislation, identify an author to carry the bill, and retain a lobbyist to guide our efforts to pass that bill in the California legislature.

We hope you have found this update informative. If you have any questions about the Brake Pad Partnership, feel free to contact Sustainable Conservation Executive Director Ashley Boren at aboren@suscon.org or Brake Pad Partnership Project Manager Kirsten Rosselot at 818-878-0454.