

COPPER CONTROLS (C.13)

C.13.c Vehicle Brake Pads

This MRP provision requires Permittees to engage in efforts to reduce the copper discharged from automobile brake pads to service waters via urban runoff. Provision C.13.c.iii requires that the Permittees report on legislation development and implementation status in Annual Reports during the permit term.

Compliance is being achieved through continued participation in a process originally initiated by the Brake Pad Partnership (BPP). Through their participation in CASQA, Permittees have tracked progress in implementing Senate Bill 346, which restricts the use of several heavy metals and asbestos and provides for a phase out of copper through 2025 (full text of Chapter 307, Statutes of 2010 was submitted with the FY 2010-11 Regional POC Report).

CASQA representatives participated in a January 2012 kick-off meeting held by the Department of Toxic Substances Control (DTSC) to provide an opportunity for initial discussion of needs related to implementation of this new law. Through CASQA, Permittees also commented on preliminary draft regulations prepared to implement similar legislation in Washington State²⁵. CASQA representatives' active involvement was essential to ensure that precedents set by Washington will meet California municipalities' needs with regard to:

1. Marking and packaging standards for brake pads (manufactured after 2014) to identify which products contain <0.5% copper and
2. A compliance verification system for third party testing for brake pads to certify their content.

A CASQA comment letter (Appendix A10) summarizes key outcomes of the discussions regarding Washington State regulations.

²⁵ SB 346 includes a requirement that California regulations must be consistent with those of other states concerning compliance markings and certification. Washington's brake pad law requires adoption of implementing regulations by December 2012, which is ahead of DTSC's timeline for preparing regulations for SB 346. In June 2012 Washington Department of Ecology issued its proposed Better Brakes rules for public comment, available at http://www.ecy.wa.gov/laws-rules/better_brakes/1017.html

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C.13.e Studies to Reduce Copper Pollutant Impact Uncertainties

This MRP provision requires Permittees to conduct or cause to be conducted technical studies to investigate possible copper sediment toxicity and technical studies to investigate sub-lethal effects on salmonids. These uncertainties regarding copper effects in the Bay are described in the amended Basin Plan's implementation program for copper site-specific objectives. Compliance will be achieved through continued participation in the RMP, whose Multi-year planning process addresses these gaps through two elements guided by the Exposure Effects Work Group (EEWG):

- A workshop focusing on causes of moderate sediment toxicity in San Francisco Bay will be held in fall 2012. This will be the second in a series of workshops on stressor identification that were recommended by EEWG advisers after review of the limitations of conventional approaches to Toxicity Identification Evaluation. A presentation to the May 2012 EEWG meeting that covers the background and objectives for the workshop is at http://www.sfei.org/sites/default/files/Day1_Item5_Bay_ToxWorkshop.pdf
- A study of the olfactory effects of copper on salmonids in salt water. This study is being completed in 2012. As described in the update in Appendix A11, preliminary tests suggest that copper is less toxic to olfactory physiology in seawater-phase juvenile salmonids than in freshwater. NOAA will confirm these results in an RMP project report for EEWG review in late 2012; additional work on the effects of varying salinity will be conducted in 2013 with non-RMP funding.

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California Stormwater Quality Association®

Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation

April 19, 2012

Ms. Polly Zehm
Deputy Director
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Subject: Better Brakes Rule

Dear Ms. Zehm:

Thank you for inviting California representatives—including a representative of our organization, the California Stormwater Quality Association (CASQA¹)—to participate in Washington Ecology's conversations with interested parties about development of draft rules to implement the Washington Better Brakes Law. We appreciate the cooperation between Washington Ecology and the California Department of Toxic Substances Control (DTSC) on the implementation of the two related state laws that grew out of the Brake Pad Partnership, which CASQA members co-founded in the 1990s.

Timely and effective implementation of California's brake pad law (SB 346) is a high priority for our members because it will provide California's cities and counties with the tool they need to comply with stringent federal and state water quality mandates, including copper TMDLs and avoid billions of dollars in costs and potential penalties. We greatly appreciate Ecology's commitment to working with all parties affected by its decisions, including those of us in California.

Through the Better Brakes Rule development process, Washington Ecology has worked with the brake pad manufacturing industry and other interested parties to develop a brake pad product compliance marking system. The development of the marking system was the reason for CASQA's involvement in Washington's regulatory process.

The system embodied in the proposed Better Brakes Rule relies on a combination of markings on brake pads and on product packages. California end users represented by the Automotive Services Council of California and the California Retailers Association have informed DTSC that this combined product plus box marking system—together with an aggressive supply chain education program—will meet their needs for successful implementation of California's SB 346. Implementation of the Washington-developed integrated pad and box marking system, which we support, will be just as important for California as it is for Washington.

¹ CASQA is comprised of stormwater quality management organizations and individuals, including cities, counties, special districts, industries, and consulting firms throughout California. Our membership provides stormwater quality management services to more than 23 million people in California. CASQA was originally formed in 1989 as the Stormwater Quality Task Force to recommend approaches for stormwater quality management to the California State Water Resources Control Board.

Thank you for including CASQA and DTSC in your regulatory development process. If you have any questions, please contact me at (650) 365-8620.

Sincerely,

A handwritten signature in black ink, appearing to read "Geoff Brosseau". The signature is fluid and cursive, with a long horizontal stroke at the end.

Geoff Brosseau, Executive Director
California Stormwater Quality Association

cc: Evelia Rodriguez, DTSC
Suzanne Davis, DTSC
Ian Wesley, Washington Department of Ecology
Ken Zarker, Washington Department of Ecology
CASQA Board of Directors, Executive Program Committee, and Brake Pad Partnership Team