



April 4, 2011

Via Electronic Submittal
Improving Regulations Docket
Environmental Protection Agency
EPA Docket Center
Mailcode: 2822T
Attention Docket ID Number EPA-HQ-OA-2011-0166
1200 Pennsylvania Avenue, NW
Washington DC, 20460

Re: Comments on EPA's *Improving our Regulations through Periodic Retrospective Review* Initiative – Simplified reporting or conditional exemption for batteries (Docket ID Number EPA-HQ-OA-2011-0166)

To Whom It May Concern:

The National Telecommunications Safety Panel (NTSP) is pleased to participate in EPA's *Improving Our Regulations through Periodic Retrospective Review* initiative.

The NTSP is a consortium of telecommunications environmental, health, and safety professionals dedicated to promoting employee safety and health, and environmental responsibility throughout the telecommunications industry. The NTSP strives to provide constructive input in the development and implementation of environmental, health, and safety standards and guidelines that affect the varied businesses within the telecommunications industry. As such, the panel maintains an active advocacy role, providing comments and recommendations to federal and state agencies where issues concern the telecommunications industry.

President Obama issued Executive Order 13563 on January 18, 2011 for the purpose of improving the development of new regulations and creating a process to review the efficacy and burdens of existing regulations. Executive Order 13563 calls on federal agencies to design and implement processes to review their existing regulations. Specifically, the Executive Order requires agencies to identify regulations that “may be outmoded, ineffective, insufficient, or excessively burdensome.” Once problematic regulations are identified, agencies are “to modify, streamline, expand, or repeal them in accordance with what has been learned.” In response, EPA started the current initiative – *Improving our Regulations Through Periodic Retrospective Review* – and solicited public comments on how best to implement the retrospective review. The NTSP views both Executive Order 13563 and the Retrospective Review as valuable tools in creating and maintaining effective and efficient federal regulatory programs, and hopes that this represents a long-term commitment by the agency to ensure that its regulations are appropriate and up-to-date.

Apart from expressing our general support for the Retrospective Review initiative, we urge EPA to consider the following opportunity to streamline requirements and provide less burdensome, more flexible approaches to compliance:

The great majority of telecommunication facilities subject to Tier II reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) are small, unmanned sites. The primary (and in many cases sole) reason for filing EPCRA reports is the presence of lead-acid batteries, which are used as emergency power backup for the nationwide telecommunication system. Dilute sulfuric acid is used as electrolyte in these batteries. EPCRA Tier II reporting is typically triggered only because the sulfuric acid in the electrolyte mixture exceeds 500 pounds. These facilities are also subject to reporting under EPCRA Section 302 and Emergency Planning involvement if the quantity exceeds 1000 pounds.

The 500 and 1000 pound thresholds for sulfuric acid are based on EPA's assessment of the hazards of concentrated sulfuric acid, not of the dilute sulfuric acid found in the typical lead-acid battery. A release of *concentrated* sulfuric acid creates a risk of acid fumes that fits clearly within the intent of extremely hazardous substance listing under EPCRA. *Dilute* sulfuric acid, however, does not have the same risk and is unlikely, in quantities under 10,000 lbs, to pose an offsite human health threat. The risk posed by potential acid releases from batteries is primarily to employees or to emergency responders in the immediate area, which is beyond the intent of EPCRA extremely hazardous substance regulation.

The hazards presented by lead-acid batteries are well known by the emergency response community and good response protocols have been developed. Recognizing this, the US Department of Transportation exempts lead-acid batteries from hazardous materials communication under most conditions of transportation. [See 49 CFR 173.159.] In addition, National Fire Protection Association (NFPA) Standard System for the Identification of Hazardous Materials for Emergency Response (NFPA 704), the uniform fire code, and other authorities require very explicit marking and signage for any area where lead-acid batteries are stored in quantities above 50 gallons of electrolyte. These requirements, which are triggered at a threshold approximately one-fifth of that which would trigger EPCRA Tier II reporting, serve to inform anyone not already familiar with their hazards and appropriate response and to warn first responders of the presence of lead-acid batteries. As indicated on the attachment, the signage is required to include information on health and reactivity hazards, notification of the presence of corrosive liquids and electrical circuits and information on any special hazards.

Lead-acid batteries do not fit well within the EPCRA program construct. EPCRA reporting is based on the quantity of individual hazardous and extremely hazardous chemicals. Data on the content of sulfuric acid (including concentration in electrolyte) in each make and model of lead acid battery is often not always readily available. It requires significant effort to obtain this information from the battery manufacturers to determine whether the EPCRA threshold is exceeded.

In summary, the industry is expending a great deal of effort to let emergency responders know that lead-acid batteries are corrosive, a fact that readily known by all affected parties and, if not, is extremely well communicated with labels and signs.

Thus, we request EPA consider exempting lead-acid batteries from EPCRA Section 302, Section 311, and Section 312 reporting, in quantities below 10,000 lbs, provided that the following conditions are met:

1. Individual batteries are marked with appropriate hazard communications as required by OSHA at 29 CFR 1910.1200, and
2. The entry to the area where batteries are stored is posted with hazard communication signs specified in NFPA 704, in §52.3.8.2 of the Uniform Fire Code (NFPA 1), or in §608 of the International Fire Code

On behalf of the NTSP member companies, thank you again for undertaking this important regulatory review initiative. We appreciate the opportunity to participate. Should you have any questions about the information included in these comments please contact Barbara Patton at 205-663-8951 or if the NTSP may be of further assistance in this matter, please contact me.

Sincerely,

Grif Bond

Grif Bond, Chair
National Telecommunications Safety Panel
919-554-7283
Manager- Environmental Health & Safety
CenturyLink

Attachment

NTSP re: Docket ID Number EPA-HQ-OA-2011-0166

Attachment

There are three recognized consensus standards that require specific signage to communicate the hazards of batteries to emergency responders. These are the International Fire Code (IFC), the National Fire Code (NFPA 1), and NFPA's Standard System for the Identification of the Hazards of Materials for Emergency Response (NFPA 704). All state or local fire codes require conformance with at least one, and sometimes more than one, of these standards.

Like the EPCRA Tier II Inventory reports, the signage and marking requirements of these standards are designed to communicate the chemical hazards present at a facility. International Fire Code and the National Fire code are both comprehensive standards for fire protection and response, but include provisions for communicating hazards, particularly related to lead-acid batteries. NFPA 704 is specifically designed to provide a uniform system to communicate chemical hazards that is simple, readily recognized, and easily understood.

International Fire Code

IFC Section 608.7.1 – Equipment room and building signage states...

Doors into electrical rooms or buildings containing stationary battery systems shall be provided with approved signs. The signs shall state that:

- 1. The room contains energized battery systems.*
- 2. The room contains energized electrical circuits.*
- 3. The battery electrolyte solutions, where present, are corrosive liquids.*

National Fire Code

NFPA-1, 52.3.8.2 states: *The signs shall state*

*that the room contains stationary storage battery systems,
that the battery room contains energized electrical circuits, and
that the battery electrolyte, where present, is a corrosive liquid*

NFPA's Standard System for the Identification of the Hazards of Materials for Emergency Response

NFPA 704 Section 4.1.1 – 4.1.2 states:

This system of markings shall identify the hazards of a material in terms of the following three principal categories:

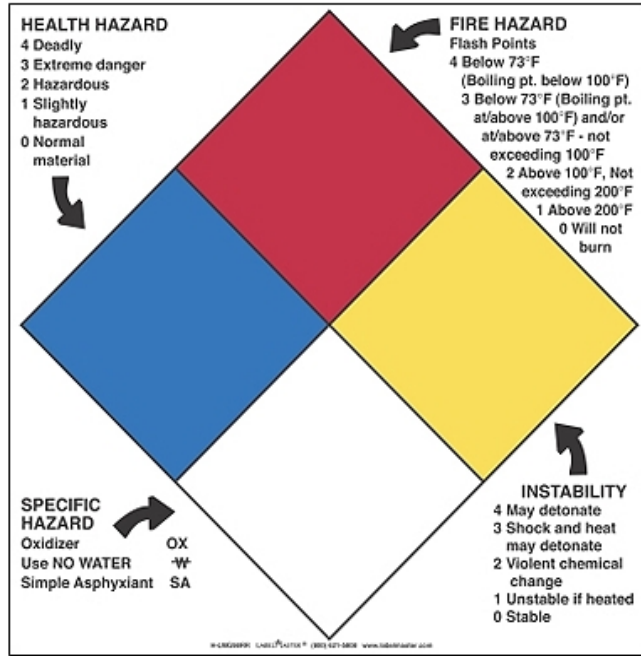
- (1) Health*
- (2) Flammability*
- (3) Instability*

The system shall indicate the degree of severity by a numerical rating that ranges from four, indicating severe hazard, to zero, indicating minimal hazard.

The following two graphics show how NFPA required signage clearly warns emergency responders of the potential danger to them from lead acid batteries. The second graphic is designed to warn first responders that lead acid batteries are present, they present the potential for an “Extreme danger” to

health and “Violent chemical change”, and more specifically they contain corrosive liquids and energized electrical circuits, and that water should not be applied to them. These warnings are more detailed and more effective and as noted in our comments apply at a lower quantity threshold than the information provided by an ECRA Tier II chemical inventory.

1. NFPA 704 system description



2. Example sign designed to conform with all three standards and to communicate the hazards related to lead acid batteries

