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Via Electronic Submittal

Improving Regulations Docket
Environmental Protection Agency
EPA Docket Center
Mailcode: 2822T
Attention Docket ID Number EPA-HQ-OA-2011-0165
1200 Pennsylvania Avenue, NW
Washington DC, 20460

Re: Comments on EPA's *Improving our Regulations Through Periodic Retrospective Review* Initiative
(Docket ID Number EPA-HQ-OA-2011-0165)

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 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 to identify those 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 announced 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, effective, and up-to-date.

Apart from expressing our general support for the Retrospective Review initiative, we specifically urge EPA to consider the following streamlining opportunities:

1. Provide the regulated community the option of maintaining records electronically or in hard-copy and do not mandate “on-site” storage

Many EPA rules require the maintenance of on-site, hard-copy records. While seemingly innocuous on its face, such requirements can be quite burdensome and impracticable for telecommunication companies that have hundreds of unmanned and often remote facilities supporting critical communications infrastructure. In addition to being unmanned, these remote facilities are often small and lack space for onsite storage. Depending on the equipment on-site, these facilities may be covered by numerous regulations such as: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines Rule, NESHAP for Area Sources: Industrial, Commercial, and Institutional Boilers, Protection of Stratospheric Ozone: Section 608 Leak Repair Requirements, or Emergency Planning and Community Right to Know Act (EPCRA) reporting. In most cases there are not dedicated onsite personnel operating and maintaining the equipment. Those individuals are often responsible for equipment at multiple facilities.

Today’s technology offer many options for how records can be created, maintained, retrieved, and transmitted. Unlike at the time when many regulations were originally adopted, today, records can easily be sent electronically or by facsimile when quick access is needed. Many companies have implemented processes for centralized recordkeeping to more easily manage required records, improve access to records and provide oversight to ensure appropriate records are created and maintained. Indeed, the EPA has recognized the advantages of allowing for centralized record maintenance under other rules promulgated under the authority of the Clean Air Act (CAA) such as the final National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines Rule.¹

The NTSP acknowledges that there may be some situations where requiring onsite record retention makes sense, such as requiring facilities to retain onsite copies of Clean Air Act permits, but by in large such requirements are now outdated. Centralized management of required documentation allows companies to use current technology to better manage compliance requirements without diminishing the environmental benefit of the applicable rules. Onsite maintenance is no longer necessarily to ensure that documents can be made available to EPA promptly. Today’s technology can provide EPA with the same access regardless of the form and physical location of document storage. Thus, the NTSP recommends that EPA systematically review recordkeeping requirements included in all its rules and update them to provide the regulated community with the flexibility to use current technology and maintain records in hard copy or electronic form, on-site or off-site in any manner that allows the record to be readily available upon request. .

2. Standardize data format for EPCRA reporting

There is no standard data structure for EPCRA Tier II inventories. Since the passage of EPCRA in 1986, states have had significant flexibility in how to implement the EPCRA program. This flexibility allows for the inclusion of more chemicals, setting lower reporting thresholds, and creating a reporting format that

¹ 75 FR 9648 – 9690 (March 3, 2010)

includes more information than is required under federal requirements.² State and local authorities use a variety of different tools, including Tier2 Submit, E-Plan, Tier II Manager, state mandatory databases, and Tier II Forms as well as various additional paper forms. There are even jurisdictions where the State Emergency Response Commission (SERC), Local Emergency Planning Committee (LEPC), and Fire Department each have its own EPCRA reporting database and submission requirements and tools. This forces regulated entities to manually report the same data on the same hazardous chemicals at the same facility using three different reporting databases or forms. Consequently, after 25 years, the reporting of inventories has become increasingly complex. The end result is data that are difficult to decipher for affected communities, potentially hampering multi-jurisdictional emergency response. We recommend that the USEPA harmonize EPCRA reporting requirements, to simplify reporting obligations and reduce compliance costs and burdens,

Multiple reporting formats do little to enhance the quality of information. Rather they greatly complicate the data submission process for larger organizations with multiple affected facilities. They also impede the aggregation of data to produce any broad national or regional statistics. They may also prevent easy retrieval of information by emergency response organizations for other jurisdictions who may be called upon for assistance in the event of a catastrophic or wide scale emergency, or by members of the community that might be impacted by any emergency.

EPA has worked with state authorities to develop uniform data formats and data interchange standards in other areas of data collection, including air emission and water discharge monitoring as well as ambient environmental data collection. Developing such standards for EPCRA Tier II data would simplify compliance while making the data more useful to EPA and others. The NTSP recommends the EPA strongly encourage and work with states to develop a more standardized format for EPCRA Tier II data submission for the information common to all jurisdictions. This would not preclude states from including additional chemicals, setting lower thresholds, or requesting additional information. It would merely provide a more standardized format for data submission and retrieval, reducing the administrative hurdles related to submitting data in multiple formats and the complexity of navigating unfamiliar formats when attempting to access data.

3. Encourage single point of submission for EPCRA Tier II Reporting

EPCRA rules require inventory submittal to the SERCs, LEPCs, and Fire Departments that have jurisdiction over the sites. LEPC and Fire Department contacts change often and data are not always up to date or readily available. This can create an obstacle to timely reporting, particularly for companies subject to reporting to a multitude of authorities across the country. SERCs do keep in contact with LEPCs and have regular communication with them. Based on previous EPA suggestion, some states have developed partnership programs for joint access to information or have developed programs to distribute EPCRA information to affected LEPCs and Fire Departments electronically. Where these programs exist, the regulated community need only submit reports to the SERC, who in turn makes the information available to the other authorities. This significantly reduces the reporting burden on the regulated businesses and the information management burden on local authorities that were previously inundated with stacks of paper copies.

² 75 FR 39852-39859 (July 13, 2010)

In a June 8, 1998 proposed rule,³ EPA outlined the flexibility that state and local agencies have in collecting EPCRA data and made clear that such flexibility did not depend upon whether EPA finalized the guidance. EPA did not propose any regulatory revisions, but sought comments on various reporting options. To streamline the submission process, EPA suggested that SERCs, LEPCs, and fire departments could partner and agree that one agency would receive the section 311 and 312 reporting information and make it available electronically to the others. The Agency suggested the single point submission to reduce the burden on the regulated community, as well as reduce information management burden on some implementing agencies. In a July 13, 2010, final rule,⁴ EPA further encouraged this approach without offering any regulatory amendments. We are concerned that a lack of regulatory text recognizing this option may be impeding progress toward centralized EPCRA data collection.

Thus, the NTSP recommends that EPA consider revising the EPCRA program to require affected entities to submit information to the appropriate SERC and for the SERC in turn to disseminate this data to local agencies. The adoption of standardized, electronic reporting would better enable jurisdictions to use technology to share data and to ensure that all LEPCS and Fire Departments receive information in a timely and efficient manner. In addition, newer technology would allow the use of appropriate encryption to better secure the data. As indicated in EPA's Emergency Planning and Community Right-To-Know Act: Guidance on Reporting Options for Sections 311 and 312 and Interpretations,⁵ there are a variety of funding mechanisms available to provide the resources necessary to develop information systems and access to information for LEPCs and fire departments. NTSP requests the EPA work with states to clear any hurdles preventing utilization of those funding mechanisms.

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

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³ 63 FR 31268-31317 (June 8, 1998)

⁴ 75 FR 39852-39859 (July 13, 2010)

⁵ 75 FR39852-39859 (July 13, 2010)