ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7367 SENATE COMMUNITY & REGIONAL AFFAIRS

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
410 WILLOUGHBY AVENUE, SUITE 105
JUNEAU, AK 99801-1795

Phone: (907) 465-5000
Fax: (907) 465-5070

February 10, 1992

The Honorable Mark Boyer
Alaska State House
P.O. Box V
Juneau, AK 99811

Dear Representative Boyer:

I have received your letter asking that DEC continue to provide certification of engineering plans for on-lot sewage disposal beyond our target cut off date of February 1. I apologize for not responding in writing prior to now; we have, however, been in close and nearly daily contact with your office on this issue.

As you know, we met with Kurt Parken of your staff, Wes Coyner representing the Alaska Bankers Association and Lucille Steitz representing the Alaska Mortgage Bankers Association on February 6. The result of that meeting was the following:

* DEC would provide to the bankers the list of engineers who attended the workshop on on-lot certification in Anchorage and Fairbanks last month with a cover letter stating that DEC felt these engineers were qualified and competent to perform the work;

* DEC would continue such workshops around the state, and would look at either contracting with these "trained" engineers or continuing to provide to the bankers a listing of those engineers DEC feels are qualified and competent; and

* Where there are no engineers trained by DEC on the on-lot certification, DEC will continue to provide that service.

A second meeting with Mr. Parken, Ms. Steitz, Bob Sullivan of Alaska Housing Finance Corporation, and John Boyd of Key Bank of Alaska was also held on February 6. At that meeting, our letter of transmittal was reviewed and accepted by the banks. That letter was received by Ms. Steitz on February 7.

I understand you question the precise requirements of the Memorandum of Understanding between the DEC and the Department of Labor. Our files indicate that this agreement was reached in order to clarify which agency would be responsible for determining the proper regulatory requirements for private sewage systems and that DOL would defer to our regulations. However, because we feel it is important to obtain a legal

determination, we will be asking the Department of Law for a formal opinion. We will provide your office with a copy as soon as it is received.

Change often results in questions and concerns. We are confident that as the transition continues, they will be resolved. Cooperation by all parties is needed, and DEC has indicated our willingness to make the transition as smooth a possible by continuing to provide the certifications where no "trained" engineer is available, and by fielding calls from the public as stated in our press release of February 7.

Thank you for your concern and we look forward to continuing to work with you.

Sincerely,

John A. Sandor
Commissioner

cc: Senator Steve Frank
Senator Paul Fischer
Representative Jerry Mackie
Representative Cheri Davis
Representative Larry Baker
Representative Ron Larson
Janice Adair, Special Assistant
Deena Henkins, Water/Wastewater
Mike Menge, Director, EQ

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM February 5, 1992

SUBJECT: Regulation of domestic wastewater systems (HB 387)

TO: Representative Jerry Mackie, Chair
House Community and Regional Affairs Committee

FROM: Teresa B. Cramer TBC
Legislative Counsel

You have asked several questions that pertain to the above referenced bill.

1. Does the Uniform Plumbing Code require state review and approval for domestic sewage systems in single family homes and duplexes.

Under AS 18.60.705, the state has adopted the Uniform Plumbing Code, with some exceptions. The plumbing code requires inspection by the Administrative Authority for new construction or changes in existing sewage systems in single family homes. (See sec. 318(a) of the Uniform Plumbing Code.) The Administrative Authority is defined as the individual official, board, department, or agency established and authorized by a state . . . to administer and enforce the provisions of the plumbing code. (See sec. 102(c) of the Uniform Plumbing Code.) I did not find any requirement for approval of existing, unchanged plumbing, even if a house was being sold.

2. Is the Memorandum of Understanding between the Department of Environmental Conservation and the Department of Labor, entered into in February 1983 still in effect?

According to both Janice Adair of the Department of Environmental Conservation (DEC) and Al Dwyer of the Department of Labor (DOL), the Memorandum of Understanding was still in effect when I spoke with them on January 27 of this year. Note that, as an agreement between two departments, it is subject to change by those departments.

3. Will the Department of Labor have to assume the required state review if the Department of Environmental Conservation ceases to review plumbing systems?

According to Mr. Dwyer of DOL, the department would have to assume this responsibility. I found nothing in the Uniform Plumbing Code permitting the Administrative Authority to delegate the inspection and approval function. The code does permit the Administrative Authority to delegate the observation of tests to a "duly appointed representative." (See sec. 318(a)(5) of the Uniform Plumbing Code.) Mr. Dwyer added that DOL would rely on engineering reports furnished by the owners of the houses in conducting their review and approval function. Mr. Dwyer also noted that under the terms of the current collective bargaining agreement that covers plumbing inspectors, the state is prohibited from contracting out work that is currently performed by state employees.

4. What effect does DEC's decision to stop approving plans for modification or new construction of wastewater systems have on the ability of the Alaska Housing Finance Corporation (AHFC) to make and purchase loans?

Under AS 18.56.300(a), AHFC may not make or purchase a housing loan for residential housing constructed after June 30, 1992, unless the unit complies with the construction codes of the municipality or the state building codes. Both "construction codes" and the "state building code" are defined, in subsection (d), to include the applicable plumbing code. Under subsection (b), AHFC may not make a commitment to purchase or approve a loan for residential housing constructed after June 30, 1992, until the unit has been inspected. The subsection states, in part

> The inspection must be performed by a municipal building inspector or by a person who is approved or certified to perform residential inspections by the International Conference of Building Officials or the International Association of Electrical Inspectors. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:
>
> . . .
>
> (3) completion of electrical installation, plumbing, and framing;
>
> . . .

It appears, therefore, that AHFC may accept inspections performed by properly approved or certified private individuals. The cost of these inspections would presumably be an item of negotiation between the seller and the buyer but would increase the cost of purchasing (or decrease the profit of selling) residential housing.

If I may be of further assistance, please advise.

TC:pl
92-070.plm

National Bank of Alaska

Mortgage Loan Department P.O. Box 107025 Anchorage, Alaska 99510-7025 (907) 257-3434
1500 W. Benson Blvd., Fourth Floor Anchorage, Alaska 99503

February 11, 1992

Ms. Deena Henkins
Water/Wastewater
Dept. of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795

Dear Ms. Henkins:

As we discussed on the telephone last night, representatives of the mortgage banking industry met this morning to review the various information and communications which have been distributed since February 1.

Attached is a news release from the Alaska Mortgage Bankers Association. The proposed guidelines referred to in the fifth paragraph of the news release are as follows:

> Our first preference is that DEC continue to perform on-lot certifications on single family and duplex residences as it has historically done.
>
> If DEC proceeds with its plan to have on-lot certifications performed by private engineers, the industry representatives present stated they would accept certifications by engineers on DEC's list of trained engineers on an interim basis. This would allow DEC time to adopt regulations to establish a certification program for professional engineers, including suspension and removal, or other options which would continue state oversight, such as a contract arrangement between the state and the engineers. Those present agreed to the above arrangement, provided the regulations are in place by April 15th.

The group further agreed that passage of legislation which clears up the issue of authority and responsibility is necessary and plans to continue its efforts toward that goal.

Representatives attending the meeting were from AHFC, FHA, VA, Alaska Assn. of Realtors, Security Pacific Bank, National Bank of Alaska, First National Bank of Anchorage and Northrim Bank. Others not present but agreeing with the position include Key Bank of Alaska, Northland Mortgage Company, and City Mortgage.

We look forward to an early resolution of the situation and appreciate your interest.

Sincerely,

Lucille Stietz
Vice President

ALASKA MORTGAGE BANKERS ASSOCIATION
P.O. BOX 9-2691 / ANCHORAGE, ALASKA 99509-2691

February 11, 1992

Reference: News Release of February 7, 1992 by DEC regarding Approval of On-Lot Septic Systems.

Contact: Jon R. Boyd

The Alaska Department of Environmental Conservation issued a Press Release on Feb. 7th, which stated that approval of on-lot septic systems serving single family or duplex residences would now be done by private engineers instead of by DEC. The Alaska Mortgage Bankers Association has not agreed to the discontinuation of the program as was previously reported by DEC.

House Bill 387, which was introduced by Rep. Mark Boyer, would clearly give DEC the authority to perform the certifications, an authority which DEC has in the past said it did not have. The industry believes that DEC should continue its oversight of this important public health issue and strongly supports passage of Boyer's bill.

The mortgage banking industry has, since last May when DEC first announced discontinuation of on-lot certifications, asked DEC to continue providing oversight on single family and duplex units, as it does on 3 or more unit properties and as it has historically done on the smaller properties. An additional postponement of implementation of DEC's plan was requested until the pending legislation had been addressed; however, DEC discontinued the certifications effective February 1.

Three mortgage industry officials met with DEC on February 6th to discuss the issue and to attempt to arrive at an acceptable resolution of the situation. Those attending, in addition to DEC staff, were Robert Sullivan, Intergovernmental Affairs Director, Alaska Housing Finance Corporation; Jon R. Boyd, Executive Vice President, Key Bank of Alaska, and Lucille Stietz, Vice President, National Bank of Alaska. The meeting with DEC was intended to help resolve the issue quickly, to prevent delay in closing of real estate transactions and alleviate uncertainty as to requirements by lenders and DEC.

Mortgage lenders continue to look for a resolution which includes state oversight. The industry preference is that DEC continue to perform on-lot certifications as it has historically done. The industry has, however, proposed guidelines to DEC which would meet secondary market criteria and avoid disruption to the housing market if DEC proceeds with its plan to have private engineers perform the certification. Boyd stated, "We are lenders. It is not our intent to be an approving authority or to certify to the training of engineers."

Industry representatives are especially concerned about the potential for disruption to the housing market during this time when interest rates are at their lowest since the mid 70's.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

Division of Environmental Quality
Water and Wastewater Treatment Section

410 Willoughby Avenue
Juneau, Alaska 99801
Phone: 465-5300
February 7, 1992

Ms. Lucille Stietz
National Bank of Alaska
P.O. Box 10-7025
Anchorage, Alaska 99510-7025

Dear Ms. Stietz:

List of Professional Engineers trained at recent workshops for On-Site Wastewater Disposal- January 1992

As you are aware, the Department conducted two one-day workshops for Professional Engineers involved with the design, construction, evaluation and approval of individual home and duplex on-site wastewater disposal systems. The workshops were held January 14, 1992 in Anchorage and January 16, 1992 in Fairbanks. Engineers who have completed the training are considered by the Department to be trained and competent to perform all functions related to design, construction, evaluation and rehabilitation of On-Site Wastewater Disposal systems.

It is our intention to offer additional training opportunities for engineers in the future, and we will keep you informed of the current group of trained engineers. The recent workshops were the initial sessions in our new training program. Future programs will be developed further, and will probably involve more formalized instructional goals, examinations and establishment of a period of validity for certifications issued.

We have attached a list of the Professional Engineers that completed the workshops in the recently held sessions. We would like to have your assistance in getting the word to AMBA member banks of the engineers who successfully completed these training workshops.

On a related subject, I am enclosing a draft of the "generic" approval form that we are presently having printed. The form has been developed for the use of Professional Engineers on Conventional On-Site Wastewater Systems. We expect the final form will be distributed to banks and Department field offices in approximately two weeks. Member banks should feel free to use the draft in the interim.

Sincerely,

Eugene M. Rehfield

Gene Rehfield, P.E.
Domestic Wastewater Program Manager

cc: Distribution List

PROFESSIONAL ENGINEERS REPORT ON CONVENTIONAL ON-SITE WASTEWATER SYSTEM
APPROVAL OF ON-SITE RESIDENTIAL WATER AND SEWER SYSTEMS

PROPERTY DESCRIPTION

LOT, BLOCK & SUBDIVISION OR US SURVEY Buyer: Seller:	DEC Approval Not Required DEC District Office Authorized Representative

WATER SUPPLY

A recent water sample was tested and found to meet Department of Environmental Conservation drinking water standards for total coliform bacteria. Results of other tests may be attached (i.e., Nitrates, etc.).

Name	Title	Date

WASTEWATER DISPOSAL

The domestic wastewater system was:

☐ inspected by a Professional Engineer who certifies that the system complies with applicable requirement of 18 AAC 72;

☐ tested by a Professional Engineer who certifies that the performance of the system is satisfactory and that on the day of inspection no non-compliance with the minimum separation distances specified in 18 AAC 72 was observed;

☐ installed by a Certified Installer who certifies that the system complies with applicable requirements of 18 AAC 72.

This approval is valid for a ☐ single family ☐ duplex unit with a total of ____ bedrooms.

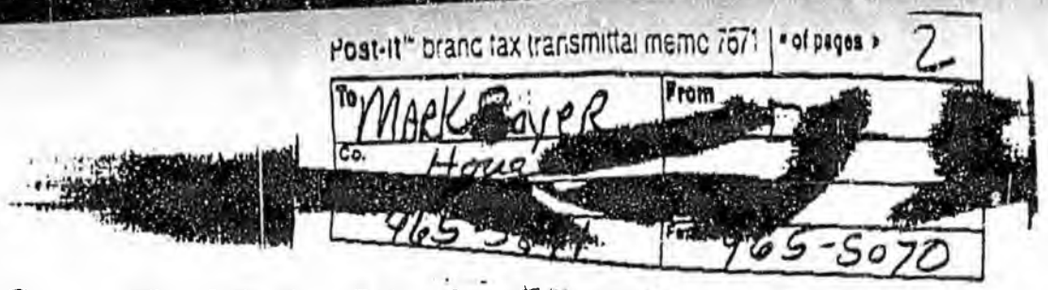
Name	Date

Professional Engineer Seal

This approval does not constitute a guarantee or warranty of any kind, explicit or implied, as to the performance of the water supply and wastewater disposal system.

Distribution: WHITE-BANK/LENDING INSTITUTION; CANARY-APPLICANT; PINK-DEPARTMENT OF ENVIRONMENTAL CONSERVATION

18-0408 (2/92)



NEWS RELEASE

Alaska Department of Environmental Conservation
410 Willoughby Ave. Juneau, Alaska 99801-1795
Phone: (907) 465-5060 Fax: 465-5070

February 7, 1992 Contact: Joe Ferguson

APPROVAL OF ON-LOT SEPTIC SYSTEMS TO BE DONE
BY PRIVATE ENGINEERS INSTEAD OF DEC

Juneau... Private engineers instead of State employees will conduct the reviews and approvals of on-lot wastewater disposal systems needed for obtaining home mortgage financing, according to a proposal by the Department of Environmental Conservation. Alaska's mortgage banking industry has agreed to the approach.

DEC Special Assistant Janice Adair said that DEC will conduct workshops for private engineers on how to do reviews according to wastewater disposal regulations, and the department will continue to review on-lot systems on an as-needed basis until the private engineers have received the instruction. Adair added that 57 private engineers in Alaska attended the first workshops in January.

The review and approval of septic systems is required by the mortgage industry prior to approval of home loans, but in an efficiency move DEC discontinued its reviews for single-family and duplex dwellings. Adair said that the department needs its staff to work on higher-priority environmental protection projects.

"Fortunately, there is a private sector answer to this need--the private engineers--and we can provide the necessary training. It seems to be a workable solution all-around," said Adair. She said that the Alaska Mortgage Bankers Association and the Alaska Housing Finance Corporation agreed to the new approach.

DEC will send its list of trained engineers to bankers, and will keep the list updated. Where no private engineer is available to conduct a review, the department will do so until trained engineers are available. Engineers will do approvals for new systems, inspect existing systems, and approve modifications to existing systems for convention on-lot single family and duplex wastewater systems. DEC will maintain its current wastewater program in other areas and continue to do approvals for other types of systems.

During the transition to the use of private engineers, buyers or sellers of homes experiencing problems with a mortgage loan because of a septic system review should contact a local DEC office for information.

For further information, contact Deena Hankins, DEC in Juneau, 465-5300.

# # #

Background on Alaska Department of Environmental Conservation
On-Site Wastewater Disposal System Certification Program

House Bill 387- Seventeenth Alaska Legislature Date: January 23, 1992
Prepared for House Community and Regional Affairs Committee

The Department of Environmental Conservation reviews and approves engineered plans for modification of existing or new construction of wastewater systems as required by 18 AAC 72.210 Domestic Wastewater System Plan Review.

Exception: Plan approval is not required for conventional on-site wastewater system serving a single-family or duplex residence. This exception does not apply to systems that require waiver of separation distance from water.

The Current Situation: Aprovals of these systems by the Department is not required by regulation. It has been conducted at the request of the Banks and Real Estate industries. The program has required 8.9 FTE's and a budget of $536,000 (FY 91). In FY 91 the Department approved about 2,400 on-site wastewater systems. Of these, approximately 1,300 systems were conventional and would be affected by the proposed private sector assumption.

Proposed Reduction: The Department is planning to have private sector engineers review conventional on-site wastewater systems for single-family and duplexes and their evaluation would be given directly to the bank. A phased transition has been proceeding in FY 92, and should be completed by February 1992. The reduction of program responsibilities not required by regulations is necessary to make use of our limited resources in other important public health and environmental protection areas.

Other program activities are proposed to continue. These include engineering plan approval of all non-conventional systems, or systems which require separation distance waivers. Also, filing and maintaining archival records of previous on-site system approvals. The Department offers training statewide for Certified Wastewater Installers, and maintains a list of contractors who have met the requirements.

Activities to Date: In support of the proposed reduction in single-family and duplex approvals the Department testified at House and Senate Finance Committee Hearings on our FY 92 Budget Request. We have also notified the Banking and Real Estate industry, and the Professional Engineering community of the planned change. A series of meetings were held with these groups to identify concerns, and to provide for an orderly transition. Training was presented to Engineers in Anchorage and Fairbanks. A form has been prepared for the use of the industry in substituting Professional Engineer approval for the Departments approval.

Situation in Other States: Alaska is unique in having a state agency involved with the on-site wastewater system approvals. In most other states, the local government or county health departments provide this service. The state usually is only involved as far as establishing minimum criteria.

ation of Plumbing and Mechanical Officials and adopted at the 61st annual conference, September 1990;

(2) the 1991 edition of the Uniform Swimming Pool, Spa, and Hot Tub Code, published by the International Association of Plumbing and Mechanical Officials and adopted at the 61st annual conference, September 1990, but excluding Part I, Administration, pages xiii — xxi; and

(3) the 1991 edition of the Uniform Solar Energy Code, published by the International Association of Plumbing and Mechanical Officials and adopted at the September 1990 annual conference, but excluding Part I, Administration, pages xv — xxii.

(b) Notwithstanding (a) of this section, the use of a pipe or pipe fitting containing more than 8.0 percent lead, or of solder or flux containing more than 0.2 percent lead in the installation or repair of a public water system or in the installation or repair of plumbing of a residential or nonresidential facility that provides water for human consumption is prohibited. This subsection does not apply to the use of leaded joints necessary to repair cast iron pipe. (§ 1 ch 15 SLA 1972; am § 1 ch 88 SLA 1980; am § 1 ch 101 SLA 1988; am § 3 ch 29 SLA 1991)

Revisor's notes. — Enacted as AS 18.60.680. Renumbered in 1972.

Cross references. — For certificates of fitness required to perform work subject to this section, see AS 18.62.010.

Effect of amendments. — The 1988 amendment, effective June 5, 1988, added subsection (b).

The 1991 amendment, effective June 12, 1991, rewrote subsection (a).

Editor's notes. — Section 3, ch. 101, SLA 1988 provides that (b) of this section "applies to the installation or repair of a water system or plumbing begun on or after June 5, 1988."

Sec. 18.60.710. Duties of the department. The department is responsible for the administration of the code. The department may adopt regulations designed for maximum practical implementation of the code, and may grant exceptions from specific code provisions, where distance or other factors make implementation impractical. Specific consideration shall be given to outlying villages and sparsely populated areas to ensure that AS 18.60.705 — 18.60.740 will not impose an undue financial burden. The department may by regulation designate appropriate inspection to a public or private utility company. A company so designated may refuse utility connections if an installation does not meet the requirements of this code. (§ 1 ch 15 SLA 1972)

Revisor's notes. — Enacted as AS 18.60.690. Renumbered in 1972.

Excerpts from 18 AAC 72.210
Alaska Wastewater Disposal Regulations

18 AAC 72.210. APPLICATION FOR DEPARTMENT APPROVAL.

(a) Subject to (b) and (d) of this section, a person must have written department approval to construct, install, modify, or operate any part of a domestic wastewater treatment, collection, or disposal system, and must ensure that the system . . .

(b) Subject to the requirements of Table E, plan approval under this chapter is not required for a conventional onsite soil absorption system serving a single-family or duplex residence, if that system meets the requirements of this chapter.

TABLE E

REQUIREMENTS FOR SUBMISSION OF PLANS, REVISIONS TO PLANS, AND CERTIFICATION OF CONSTRUCTION

Facility Type	Plan Preparation Requirements		Requirements for Submission of Revisions to Plans		Requirements for Certification of Construction	
	Subsurface Land Discharge	Surface Water and Surface Land Discharge	Subsurface Land Discharge	Surface Water and Surface Land Discharge	Subsurface Land Discharge	Surface Water and Surface Land Discharge
Single-family dwelling or duplex on a residential or recreational lot	Plans are not required for a conventional onsite disposal system, except that engineering plans will be required if similar systems in nearby areas have failed, or failure may be expected due to marginal soils or high groundwater table. Engineering plans are required for alternate onsite disposal systems.	Engineering plans are required, except that the department will, in its discretion, accept plans prepared by the applicant for discharge to marine waters.	Required in accordance with 18 AAC 72.235.	Required in accordance with 18 AAC 72.235.	Required only if engineering plans are required to be submitted	Required only if engineering plans are required to be submitted
Wastewater systems which are expected to serve, in the normal order of events, more than a single-family or duplex dwelling, but less than 25 persons per day, or have less than 2,500 gal/day average daily design flow	Plans are required; these plans may be prepared by the applicant, except that engineering plans are required when similar systems in nearby areas have failed, poor soil conditions or high groundwater table exists, or where the department finds that discharge may threaten public health or the environment.	Engineering plans are required, except that the department will, in its discretion, accept plans prepared by the applicant for discharges to marine waters.	Required in accordance with 18 AAC 72.235.	Required in accordance with 18 AAC 72.235	Required only if engineering plans are required to be submitted.	Required only if engineering plans are required to be submitted
Wastewater systems which are expected to serve 25 or more persons per day in the normal order of events, or have an average daily design flow equal to or greater than 2,500 gal/day	Engineering plans are required.	Engineering plans are required.	Required in accordance with 18 AAC 72.235.	Required in accordance with 18 AAC 72.235.	Required in accordance with 18 AAC 72.245.	Required in accordance with 18 AAC 72.245

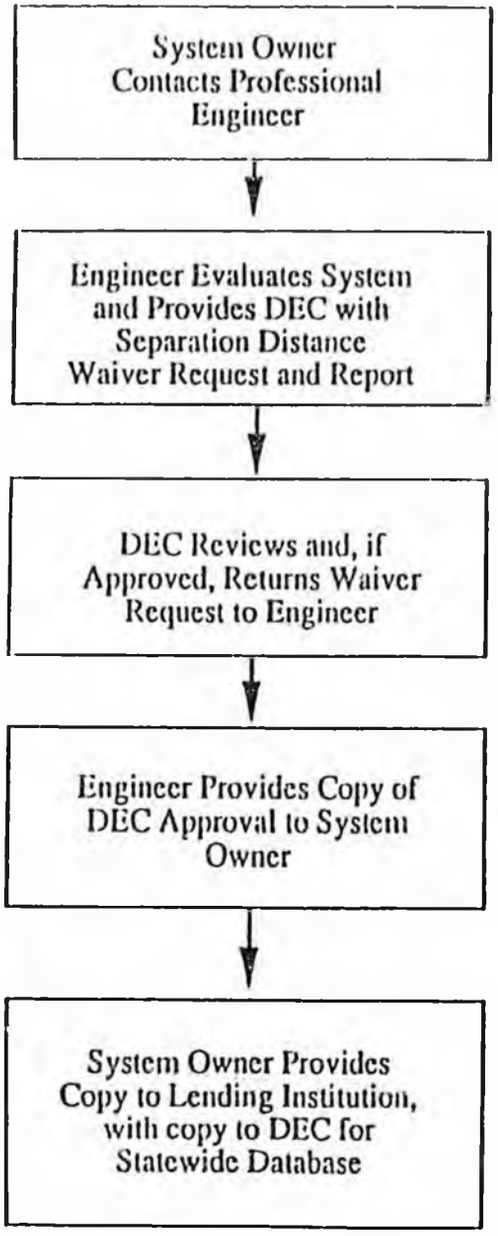
(20) "conventional soil absorption system" means a soil absorption system of typical trench, bed, or seepage pit design as described by 18 AAC 72.950(12) and (15), using natural subsurface undisturbed soils for the treatment media, or any soil absorption system with the same characteristics;

(77) "soil absorption system" means a surface or subsurface system using soil for the treatment and disposal of effluent from a domestic wastewater treatment works; "soil absorption system" includes a filtering field, leaching field, seepage bed, or seepage pit, but does not include a cesspool;

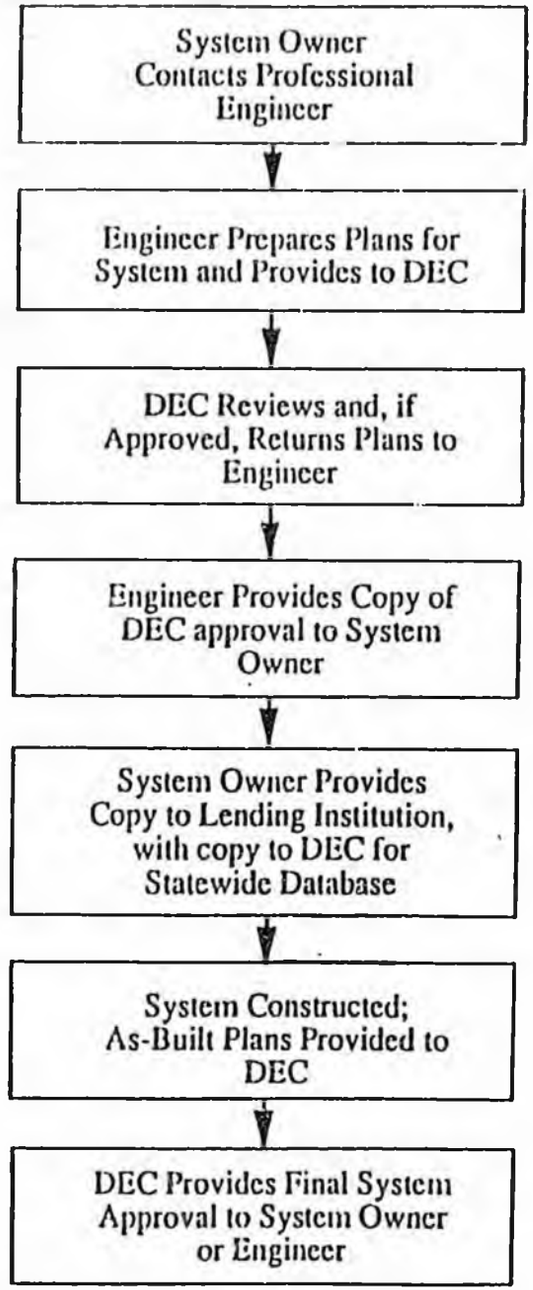
On-Lot Wastewater System Certification Process

(No Proposed Changes)

Existing or New Wastewater Systems, Requiring Separation Distance Waiver



New Systems, Larger than Duplex and/or Non-Conventional



7-LS1595\Y
Cramer
5/10/92

SENATE CS FOR CS FOR HOUSE BILL NO. 387 (CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE BOYER

A BILL

FOR AN ACT ENTITLED

"An Act relating to accrediting engineers for inspections of wastewater systems for single-family homes and duplexes; and relating to the accreditation of engineers and environmental consultants for the assessment and cleanup of sites contaminated with hazardous substances."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** The legislature finds that engineers registered under AS 08.48.211 and practicing within the area of their professional competence are, by virtue of their training, familiar with the regulations and standards that apply with regard to waste water systems in single family homes and duplexes. These engineers are accredited to perform inspections of existing domestic wastewater systems, review plans for construction or modification of domestic wastewater systems, and conduct as-built inspections of new or modified systems to ensure that the systems meet standards established by law and regulation.

* Sec. 2. The Department of Environmental Conservation shall, within the limits of available resources, research whether an accreditation program for engineers and qualified environmental consultants would encourage the privatization of the assessment and cleanup of sites contaminated with

1 hazardous substances. The department shall report the results of its research to the legislature.

No. 1

FISCAL NOTE

Bill Version: CSHB 387(CRA)
(H) Publish Date: 4/15/92

STATE OF ALASKA
BILL N

1992 LEGISLATIVE SESSION

Revision Date: 14-Apr-92
Title: Domestic Sewage
Sponsor: Rep. Boyer
Requestor: (H) CRA

Department Affected: Environmental Conservation
BRU: Enviironmental Quality
Componen Domestic Wastewater

COMPONENT SERIAL NO. 1 |4 |2 |6

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	6.5	0.0	0.0	0.0	0.0	5.0
CONTRACTUAL	19.0	2.5	2.5	2.5	2.5	10.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	25.5	2.5	2.5	2.5	2.5	15.
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER P/R FUND SOURCE:	25.5	2.5	2.5	2.5	2.5	15.0
TOTAL	25.5	2.5	2.5	2.5	2.5	15.

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impac none

ANALYSIS: (Attach a separate page if necessary.)
Operating cost of Engineering Accreditation Program matched by exam fee charged professional engineers.

Prepared by: Janice Adair
Division: Commissioner's Office
Phone: 465-5010
Date: 4/14/92

Approved by Commissioner: Janice Adair
Agency: Environmental Conservation
Date: 4/14/92

Distribution (by preparer):Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Rev. 10/90

Page of

COMMITTEE COPY

FISCAL NOTE

No.

Bill Version: CSHB 387(RES)

(H) Publish Date: 5-2-92

STATE OF ALASKA

1992 LEGISLATIVE SESSION

Revision Date: 1-May-92
Department Affected: Environmental Conservation
Title: Accrediting Engineers
On-Lot/Site Assessment
BRU: EQ/SPAR
Sponsor: Rep. Hoyer
Componen Domestic Wastewater
Requestor: (H) RES
Contaminated Sites

COMPONENT SERIAL NO. 1 4 2 6

EXPENDITURES/REVENUES: (Thousands of Dollars) 1 4 3 1

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	6.5	0.0	0.0	0.0	0.0	5.0
CONTRACTUAL	26.5	9.5	9.5	9.5	9.5	9.5
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	33.	9.5	9.5	9.5	9.5	14.5
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER P/R FUND SOURCE:	33.0	9.5	9.5	9.5	9.5	14.5
TOTAL	33.	9.5	9.5	9.5	9.5	14.5

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

The Department will charge an exam fee for the certifications provided under this legislation.

Prepared by: Janice Adair
Phone: 465-5010
Division: Commissioner's Office
Date: 5/1/92

Approved by Commissioner:
Agency: Environmental Conservation
Date: 5/1/92

Distribution (by preparer):Legislative Financ., Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Rev 10/90

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Page of

HB

389

S[illegible]ATE COMMITTEE REPO[illegible]

DATE: 3/9/92 FURTHER: L&C

DATE TURNED INTO OFFICE: 5/5/92

CRA Committee considered CS FOR HOUSE BILL NO. 389 (L&C) am

"An Act relating to the recycling of lead acid batteries."

and recommends:

[ ] replace with S CS CS HB 389 (CRA) [ ] same title
or [ ] adopt previous ____ CS ____ (____) [ ] new title
[ ] attaches amendment(s) [✓] technical title change (HB only)

[ ] adopts ____ Letter of Intent

[ ] further referral to the ____

[ ] do pass

[ ] do not pass

[ ] no recommendation

[✓] individual recommendations

NEW FISCAL NOTES: Dept/Date
[ ] **zero** fiscal notes ____
[ ] fiscal notes ____
[ ] **appropriation**--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date
[✓] **zero** fiscal notes DEC 2/7/92
[ ] fiscal notes ____

DO PASS:
[signature]
[signature]

OTHER RECOMMENDATIONS:
[signature] - No Rec

[signature] DO-PASS
Chair: Signature and Recommendation

7-LS1561\B
Bannister
5/1/92

Adopted

SENATE CS FOR CS FOR HOUSE BILL NO. 389 (CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ULMER, Brown, B.Davis, Boyer, Finkelstein, Koponen

A BILL

FOR AN ACT ENTITLED

"An Act relating to the recycling of lead acid batteries; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 46.06 is amended by adding a new section to read:

Sec. 46.06.105. LEAD ACID BATTERY RECYCLING. (a) A person may not dispose of a used lead acid battery by a method other than recycling. This subsection does not apply to a person if the municipality or community where the person resides and disposes of the battery does not have a transporter or a used battery recycler who is reasonably available and willing to transport lead acid batteries for recycling under this section.

(b) A person who sells lead acid batteries at retail or at wholesale shall accept for recycling a used lead acid battery that is unbroken, of comparable size, and in reasonably sound and clean condition from a person who purchases a lead acid battery, and shall recycle the used batteries that are received under this subsection.

(c) A person who does not sell lead acid batteries at retail or at wholesale but who

accepts in the course of business operation used lead acid batteries for the purpose of recycling the batteries shall accept for recycling a used lead acid battery from a person who purchases a lead acid battery of comparable size from another person and shall recycle the used batteries that are received under this subsection.

(d) If a person who purchases a lead acid battery from a retailer does not provide the retailer with an unbroken and reasonably sound and clean used lead acid battery of comparable size when making the purchase, the retailer shall charge the purchaser an additional fee of not less than $5. The retailer shall refund the fee to the purchaser if within 30 days of the purchase that purchaser provides the retailer with an unbroken and reasonably sound and clean used lead acid battery of comparable size. The retailer may keep the fee if the purchaser does not claim the fee within the 30 days.

(e) The retail purchaser of a lead acid battery who does not provide the retailer with a used lead acid battery under (c) of this section may return a used lead acid battery of comparable size, whatever its condition, to a used battery recycler. In exchange for the used battery, the used battery recycler shall provide the purchaser with a receipt indicating that the purchaser has returned a used battery to the used battery recycler. A retailer shall refund the fee under (c) of this section if, within the time allowed for claim of the fee, the purchaser presents to the retailer

(1) the receipt showing the purchaser's previous purchase of a new lead acid battery from the retailer; and

(2) the receipt of the used battery recycler issued under this subsection.

(f) A retailer shall post in a manner that is clearly visible to purchasers of lead acid batteries a notice that is at least 8-1/2 inches by 11 inches, that contains the universal recycling symbol, and that states:

NOTICE: USED BATTERIES

Tnis retailer is required to accept a used lead acid battery of comparable size for recycling when you purchase a lead acid battery from the retailer. If you do not give the retailer the used lead acid battery when you make your purchase, the retailer must charge you an additional fee of not less than $5. The retailer is required to refund the fee to you if you provide the retailer with a used lead acid battery of comparable size within 30 days after you purchase the battery from the retailer. The retailer is also required to refund the fee to you if you provide the

retailer, within 30 days after you purchase the battery from the retailer, (1) the receipt of purchase for the battery, and (2) the receipt written by a used battery recycler to show that you have provided a used lead acid battery of comparable size to the recycler. If you do not claim the fee within the 30 days, the retailer may keep the fee. A retailer is not required to accept a used battery from you unless the battery is unbroken and in reasonably sound and clean condition. You may return a battery in any condition to a used battery recycler.

(g) A retailer who advertises lead acid batteries shall indicate in the advertisement that an extra charge will be added to the price of the battery at the time of the sale if an unbroken and reasonably sound and clean used lead acid battery of comparable size is not exchanged for the new one.

(h) This section does not apply to the sale of a lead acid battery if the sale

(1) occurs in, or the seller delivers or arranges for the delivery of the battery to the purchaser in, a municipality or unincorporated community that does not have a transporter or used battery recycler who is reasonably available and willing to transport lead acid batteries for recycling under this section; or

(2) is a retail sale made to a person who

(A) resides in a municipality or community that is not on the state highway system or marine highway system;

(B) purchases the battery in a municipality or community other than the municipality or community where the person resides; and

(C) provides the retailer at the time of the sale with a valid Alaska driver's license or a valid identification card issued under AS 18.65.310, and the license or card indicates that the person resides in a community or municipality that is not on the state highway system or marine highway system.

(i) In this section,

(1) "battery" or "lead acid battery" means a battery that has a core consisting of elemental lead and that weighs 55 pounds or less when filled with all necessary fluids, but does not include a sealed battery that weighs 25 pounds or less and is designed to be used for purposes other than starting, lighting, or ignition;

(2) "recycle" and "recycling" have the meaning given to "recycled" under 40

CFR 261.1;

(3) "retailer" means a person who sells lead acid batteries at retail;

(4) "transporter" means a person who possesses a current valid federal Environmental Protection Agency identification number under 40 CFR 263.11;

(5) "used battery recycler" means a person who accepts in the course of business operation used lead acid batteries for the purpose of recycling the batteries.

* **Sec. 2.** AS 45.50.471(b) is amended by adding a new paragraph to read:

(31) failing to comply with AS 46.06.105(b) - (g).

* **Sec. 3.** This Act takes effect January 1, 1993.

7-LS1561\Y
Bannister
4/27/92

SENATE CS FOR CS FOR HOUSE BILL NO. 389 ( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ULMER, Brown, B.Davis, Boyer, Finkelstein, Koponen

A BILL

FOR AN ACT ENTITLED

"An Act relating to the recycling of lead acid batteries; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 46.06 is amended by adding a new section to read:

Sec. 46.06.105. LEAD ACID BATTERY RECYCLING. (a) A person may not dispose of a lead acid battery by a method other than recycling. This subsection does not apply to a person if the municipality or community where the person resides and disposes of the battery does not have a transporter or a used battery recycler who is reasonably available and willing to transport lead acid batteries for recycling under this section.

(b) A person who sells lead acid batteries at retail or at wholesale shall accept for recycling a used lead acid battery that is of comparable size, unbroken, and in reasonably sound and clean condition from a person who purchases a lead acid battery, and shall recycle the used batteries that are received under this subsection.

(c) A person who does not sell lead acid batteries at retail or at wholesale but who

accepts in the course of business operation used lead acid batteries for the purpose of recycling the batteries shall accept for recycling a used lead acid battery from a person who purchases a lead acid battery of comparable size from another person and shall recycle the used batteries that are received under this subsection.

(d) If a person who purchases a lead acid battery from a retailer does not provide the retailer with an unbroken and reasonably sound and clean used lead acid battery of comparable size when making the purchase, the retailer shall charge the purchaser an additional fee of not less than $5 but not more than $25. The retailer shall refund the fee to the purchaser if within 30 days of the purchase that purchaser provides the retailer with an unbroken and reasonably sound and clean used lead acid battery of comparable size. The retailer may keep the fee if the purchaser does not claim the fee within the 30 days.

(e) The retail purchaser of a lead acid battery who does not provide the retailer with a used lead acid battery under (c) of this section may return a used lead acid battery of comparable size, whatever its condition, to a used battery recycler. In exchange for the used battery, the used battery recycler shall provide the purchaser with a receipt indicating that the purchaser has returned a used battery to the used battery recycler. A retailer shall refund the fee under (c) of this section if, within the time allowed for claim of the fee, the purchaser presents to the retailer

(1) the receipt showing the purchaser's previous purchase of a new lead acid battery from the retailer; and

(2) the receipt of the used battery recycler issued under this subsection.

(f) A retailer shall post in a manner that is clearly visible to purchasers of lead acid batteries a notice that is at least 8-1/2 inches by 11 inches, that contains the universal recycling symbol, and that states:

NOTICE: USED BATTERIES

This retailer is required to accept a used lead acid battery of comparable size for recycling when you purchase a lead acid battery from the retailer. If you do not give the retailer the used lead acid battery when you make your purchase, the retailer must charge you an additional fee of not less than $5 but not more than $25. The retailer is required to refund the fee to you if you provide the retailer with a used lead acid battery of comparable size within 30 days after you purchase the battery from the retailer. The retailer is also required to refund the fee to you

if you provide the retailer, within 30 days after you purchase the battery from the retailer, (1) the receipt of purchase for the battery, and (2) the receipt written by a used battery recycler to show that you have provided a used lead acid battery of comparable size to the recycler. If you do not claim the fee within the 30 days, the retailer may keep the fee. A retailer is not required to accept a used battery from you unless the battery is unbroken and in reasonably sound and clean condition. You may return a battery in any condition to a used battery recycler.

(g) A retailer who advertises lead acid batteries shall indicate in the advertisement that an extra charge will be added to the price of the battery at the time of the sale if an unbroken and reasonably sound and clean used lead acid battery of comparable size is not exchanged for the new one.

(h) This section does not apply to the sale of a lead acid battery if the sale

(1) occurs in, or the seller delivers or arranges for the delivery of the battery to the purchaser in, a municipality or unincorporated community that does not have a transporter or used battery recycler who is reasonably available and willing to transport lead acid batteries for recycling under this section; or

(2) is a retail sale made to a person who

(A) resides in a municipality or community that is not on the state highway system or marine highway system;

(B) purchases the battery in a municipality or community other than the municipality or community where the person resides; and

(C) provides the retailer at the time of the sale with a valid Alaska driver's license or a valid identification card issued under AS 18.65.310, and the license or card indicates that the person resides in a community or municipality that is not on the state highway system or marine highway system.

(i) In this section,

(1) "battery" or "lead acid battery" means a battery that has a core consisting of elemental lead and that weighs 55 pounds or less when filled with all necessary fluids, but does not include a sealed battery that weighs 25 pounds or less and is designed to be used for purposes other than starting, lighting, or ignition;

(2) "recycle" and "recycling" have the meaning given to "recycled" under 40

CFR 261.1;

(3) "retailer" means a person who sells lead acid batteries at retail;

(4) "transporter" means a person who possesses a current valid federal Environmental Protection Agency identification number under 40 CFR 263.11;

(5) "used battery recycler" means a person who accepts in the course of business operation used lead acid batteries for the purpose of recycling the batteries.

* Sec. 2. AS 45.50.471(b) is amended by adding a new paragraph to read:

(31) failing to comply with AS 46.06.105(b) - (g).

* Sec. 3. APPLICABILITY. (a) AS 46.06.105(b) - (g), enacted by sec. 1 of this Act, does not apply until January 1, 1994, to the sale of a lead acid battery if the sale occurs in a municipality or unincorporated community that has a population less than 1,000, that is not on the state highway system or marine highway system, and that does not have regular jet service.

(b) AS 46.06.105(a), enacted by sec. 1 of this Act, does not apply until January 1, 1994, to the disposal of a lead acid battery if the person who disposes of the battery resides in, and the disposal takes place in, a municipality or unincorporated community that has a population less than 1,000, that is not on the state highway system or marine highway system, and that does not have regular jet service.

* Sec. 4. This Act takes effect January 1, 1993.

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE FRAN ULMER

To: Rep. Fran Ulmer

From: Barnaby Dow, Assistant

RE: Q & A - Transportation of Lead Acid Batteries

DATE: May 1, 1992

Q. Briefly, what do FAA regulations require for shipping used lead acid batteries on small (non-jet) aircraft?

A. 49 CFR 173.250 & 260 (attached) describe packaging requirements. Generally, on airplanes batteries must be shipped as cargo and packaged to prevent slippage, spillage or contact with other cargo.

Q. On small aircraft, can batteries be shipped on the same flights as passengers?

A. According to the FAA, filled lead acid batteries, whether sealed or unsealed, used or new, may not be shipped on passenger flights. "Dry" batteries may be shipped as luggage.

Q. Does the current certification required for transporting mail on small airplanes, allow transportation of new and used lead acid batteries?

A. No. According to U.S. Postal Service officials, lead acid batteries, whether sealed or unsealed, may not be mailed. Dry batteries may be mailed, but the acid may not. Used batteries, filled or unfilled, may not be mailed.

Q. Do all communities in Alaska have regular access to air transporters who can ship used batteries as cargo?

A. Probably. According to the FAA, there are presently more than 200 carriers in Alaska certified as capable of carrying hazardous materials.

State Capitol
Juneau, AK 99801-1182
(907) 465-4947
Fax 465-2108

U.S. Department of Transportation
Federal Aviation Administration

Civil Aviation Security Field Office
4510 W. International Airport Road
Suite 202
Anchorage, Alaska 99502-1088

MAY 1 1992

Barnaby Dow
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Sir,

Your question concerning the carriage of lead acid batteries in air commerce is addressed as follows. The issue contains many variabilities due to the unknown and unique nature of each and every situation which may arise. Please keep in mind that the Hazardous Materials Regulations are intended to introduce minimum measures of safety upon the air carrier industry; each may add internal safety requirements above and beyond those imposed by law.

Since you stated this may involve more than merely the shipment of new or good-condition batteries but also the used acid and/or the discarded remains of batteries, the first step is to determine their status. In Code of Federal Regulations 49, Parts 100 to 177, 1990 edition (CFR 49), the definition for Hazardous Waste is given in Part 171.8 (page 65). The Environmental Protection Agency determines whether used batteries constitute a hazardous waste. If it meets their definition, it must be shipped according to the corresponding regulations, which for the FAA is 172.205(a) (P 345).

If any specific shipment is not a hazardous waste, then it could probably be shipped by air. On the Hazardous Materials Table (172.101) (P 120,121) is given the requirements for the various levels and types. A new or used acid battery cannot be shipped on a passenger-carrying aircraft, with no limit to the amount carried on a cargo aircraft, as long as packaging requirements are met. If you intend shipping the acid separately from the battery, this is given on page 113 under Acid, liquid, n.o.s., where one quart may be shipped per package on a passenger aircraft and five pints may be carried on a cargo aircraft.

For your purposes, the most important regulation is 173.915 (P744), which specifies that when properly prepared according to 173.510, used battery parts may be shipped if they are packed in a metal or wooden barrel with sufficient absorbent material to absorb any available liquid.

The packaging requirements are provided in the following cites:

173.240(a)(1) P559
173.241(a)(1)(2) P559

173.242(a)(b)	P559
173.243(a)	P560
173.257(a)	P579,580
173.258(a)	P581
173.259(a)	P581,582
173.260	P582,584
173.510	P739
173.915	P744

Specific requirements for shipments aboard aircraft are given in 175.75(a)(2) (P787), where no more than 50 pounds of any form of hazardous materials may be carried aboard a passenger aircraft. The provisions for cargo aircraft are contained in 175.85(c)(3) on P790,791, where for on small, single pilot, cargo aircraft there are no limitations on the amount carried, provided there are no other means of transporting the material.

Liaison with the U.S. Postal Service indicated you may be considering mailing the clean, dried-up portions of batteries through the mail system, and shipping the acidic residue by FAA regulations.

Conclusion: If not regulated by the Environmental Protection Agency as a Hazardous Waste, it is possible to ship new or used batteries from rural Alaskan villages as long as the appropriate Hazardous Materials Regulations are followed. Most communities have access to carriers who could transport such materials.

If any questions arise from the above information, please feel free to contact this office.

Sincerely,

Gary D. Meaders, Special Agent
Hazardous Materials Specialist

(3) Specification 15A, 15B, 15C, 16A, 19A, or 19B (§§ 178.168, 178.169, 178.170, 178.195, 178.196, 178.191 of this subchapter). Wooden boxes with inside glass or earthenware containers not over 1-gallon each, or with inside metal cans, not over 5 gallons each.

(c) Limited quantities of alkaline corrosive liquids, n.o.s., alkaline liquids, n.o.s., alkaline corrosive battery fluids, and liquid sodium aluminate in inside packagings of not more than 8 fluid ounces capacity each, packed in strong outside packagings, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are excepted from labeling (except labeling is required for transportation by air) and specification packaging requirements of this subchapter. In addition, shipments are not subject to Subpart F of Part 172 of this subchapter, to Part 174 of this subchapter except § 174.24 and to Part 177 of this subchapter except § 177.817.

(d) Special exceptions for shipment of certain alkaline in the ORM-D class are provided in Subpart N of this part.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

(29 FR 18725, Dec. 20, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967)

EDITORIAL NOTE: For Federal Register citations affecting § 173.249, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

EFFECTIVE DATE NOTE: At 54 FR 25009, June 12, 1989, § 173.249 was amended by revising paragraphs (a) (1) and (6), effective December 12, 1989. At 54 FR 38233, Sept. 15, 1989, the effective date was delayed to February 12, 1990. At 54 FR 50382, Dec. 6, 1989, the effective date was further delayed to June 12, 1990. At 55 FR 21035, May 22, 1990, the effective date was further delayed to September 1, 1990. At 55 FR 37028 and 37051, Sept. 7, 1990, the effective date was further delayed to December 31, 1990, and paragraph (a)(6)(iv) was further revised, effective December 31, 1990. For the convenience of the user, the superseded text follows:

§ 173.249 Alkaline corrosive liquids, n.o.s.; alkaline liquids, n.o.s.; alkaline corrosive battery fluid; potassium fluoride solution; potassium hydrogen fluoride solution; sodium aluminate, liquid; sodium hydroxide solution; potassium hydroxide solution.

(a) * * *

(1) In containers prescribed in § 173.245.

* * * * * * *

(6) Specification MC 303, MC 310, MC 311 or MC 312 (§ 178.343 of this subchapter). Cargo tanks. Specification MC 303 is authorized for alkaline corrosive liquids, n.o.s., and alkaline liquids, n.o.s. only and is not authorized for transportation by water. Bottom outlets are authorized if they meet the requirements of § 178.343-5 of this subchapter.

* * * * * * *

§ 173.249a Cleaning compound, liquid; coal tar dye, liquid; dye intermediate, liquid; mining reagent, liquid; and textile treating compound or mixture, liquid.

(a) A liquid cleaning compound subject to this section must not contain any corrosive material specifically named in § 172.101 of this subchapter, except phosphoric acid, acetic acid, and not over 15 percent sodium or potassium hydroxide.

(b) A liquid dye intermediate is a ring compound, containing amino, hydroxy, sulfonic acid, or quinone group or a combination of these groups, used in the manufacture of dyes, and not otherwise specifically named in § 172.101 of this subchapter.

(c) A liquid textile treating compound mixture is a mixture used to treat woven, knit or otherwise manufactured fabrics. It does not include mixtures used only to treat fibers, filaments, or yarn used in making the fabric.

(d) Liquid coal tar dye; liquid cleaning compound, liquid dye intermediate liquid mining reagent, and liquid textile treating compound mixture must be packaged as follows:

(1) In specification packaging as prescribed in § 173.245, except § 173.245 (a)(29).

(2) In packagings meeting all of the specific requirements prescribed in § 173.245 including packaging type and

quantity limitations for inside packagings. The packagings are not required to meet the detailed specification requirements of Part 178 of this subchapter except that size and weight limitations for package types as prescribed in Part 178 may not be exceeded. Not authorized for shipment by aircraft.

(3) Removable (open) head or tight-head fiber drum inside with a pl... 55-gallon capac... shipment by air.

(4) Removab... drum, not over... authorized for ...

(5) Removabl... ylene drum, no... ity. Not autho... aircraft.

(6) Specifica... MC 306, MC 307, MC 310, MC 311, MC 312, DOT 407 or DOT 412 (§§ 178.345, 178.347, 178.348 of this subchapter) cargo tank motor vehicle, subject to the following conditions:

(i) Each cargo tank meets the corrosion protection requirements in § 178.345-2(c) of this subchapter.

(ii) A Specification MC 303 cargo tank is made from steel or stainless steel. The cargo tank is not authorized for transportation by vessel.

(iii) A Specification MC 306 cargo tank is fabricated from Type 316 stainless steel of not less than 0.100 inch thick. The cargo tank is not authorized for transportation by cargo vessel.

(iv) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345-11 of this subchapter; and Specification MC 303, MC 304, MC 306, MC 307, MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

[Amdt. 173-77, 38 FR 35471, Dec. 28, 1973, as amended by Amdt. 173-121, 43 FR 46844, Oct. 10, 1978; Amdt. 173-212, 54 FR 25009, June 12, 1989; 55 FR 37051, Sept. 7, 1990]

EFFECTIVE DATE NOTE: At 54 FR 25009, June 12, 1989, § 173.249a was amended by revising paragraph (d)(1) and adding paragraph (d)(6), effective December 12, 1989. At 54 FR 38233, Sept. 15, 1989, the effective date was delayed to February 12, 1990. At 54 FR 50382, Dec. 6, 1989, the effective date was further delayed to June 12, 1990. At 55 FR 21035, May 22, 1990, the effective date was further delayed to September 1, 1990. At 55 FR 37028 and 37051, Sept. 7, 1990, the effective date was further delayed to December 31, 1990, and paragraph (d)(6)(iv) was revised, effective December 31, 1990. For the convenience of the user, the superseded text follows:

§ 173.250 Automobiles, other self-propelled vehicles, engines or other mechanical apparatus.

(a) Except as provided in paragraph (b) of this section, automobiles and other self-propelled vehicles equipped with wet electric storage batteries are excepted from all other requirements of this subchapter when shipped as prescribed in paragraph (a)(1) or (2) of this section, unless other hazardous materials are transported on the self-propelled vehicles, in which instance the regulations covering these other materials apply.

(1) When batteries are removed from the self-propelled vehicles and loaded in the transport vehicle therewith, the batteries must be so loaded, blocked and braced as to prevent short circuits, spillage of battery fluid or movement within the transport vehicle.

(2) When batteries are installed in self-propelled vehicles they must be completely protected against short circuits and so secured that spillage of battery fluid will not occur under conditions normal to transportation.

(b) For transportation by aircraft or vessel the following provisions apply:

(1) For transportation by passenger-carrying aircraft, wheelchairs equipped with wet electric storage batteries must be shipped as prescribed in § 175.10 of this subchapter.

(2) For transportation by vessel, the requirements in § 176.905 apply.

(c) When wet electric storage batteries or batteries packed in containers with battery fluid are shipped as part of carload or truckload shipments of automobile parts or assembly materials, they are subject to no other requirements of this subchapter when the batteries and battery fluid are boxed or crated and so loaded, blocked and braced as to prevent short circuits of the batteries, spillage of battery fluid and movement of the materials in the transport vehicle under conditions normal to transportation. When other hazardous materials are included in the shipments, the regulations covering these other materials apply.

(d) Engines or mechanical apparatus of such size or weight as to require securement to skids to facilitate handling may have electric storage batteries, wet, necessary for the operation thereof, either securely fastened in the holder provided on the equipment and protected, including battery terminals, in such manner as to prevent damage thereto or short circuits, or completely boxed in containers of sound lumber and with filling holes upright, securely fastened to the skids upon which the engine or mechanical apparatus is mounted to prevent accidental tipping or looseness in transportation. Electric storage batteries, wet, as described herein are exempt from specification packaging.

[29 FR 18725, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967, and amended by Amdt. 173-94, 41 FR 16075, Apr. 15, 1976; Amdt 173-94A, 41 FR 40682, Sept. 20, 1976; Amdt. 173-15, 47 FR 24568, June 7, 1982; Amdt. 173-160, 48 FR 54822, Dec. 6, 1983; Amdt. 173-216, 54 FR 38795, Sept. 20, 1989]

§ 173.250a Benzene phosphorus dichloride and benzene phosphorus thiodichloride.

(a) Benzene phosphorus dichloride and benzene phosphorus thiodichloride must be packaged as follows:

(1) In specification packagings prescribed in § 173.245, except § 173.245(a)(29), which are made of or lined with materials compatible with the lading.

(2) Specification MC 304, MC 307, MC 310, MC 311, MC 312, DOT 407 or DOT 412 (§§ 178.345, 178.347, 178.348 of this subchapter) cargo tank motor vehicle, subject to the following conditions:

(i) The cargo tank meets the corrosion protection requirements in § 178.345-2(c) of this subchapter.

(ii) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345-11 of this subchapter; and Specification MC 304, MC 307, MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

(3) Spec. 103AW (§§ 179.300 and 179.201 of this subchapter) tank cars. Tanks must be lined.

(4) Specification IM 101 portable tanks (§§ 178.270, 178.271 of this subchapter) are authorized under conditions specified in the IM Tank Table.

[Amdt. 173-8, 34 FR 9868, June 26, 1969, as amended by Amdt. 173-133, 44 FR 50101, Oct. 18, 1979]

EDITORIAL NOTE: For Federal Register citations affecting § 173.250a, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

EFFECTIVE DATE NOTE: At 54 FR 25008, June 12, 1989, § 173.250a was amended by revising paragraphs (a) (1) and (2), effective December 12, 1989. At 54 FR 38233, Sept. 15, 1989, the effective date was delayed to February 12, 1990. At 54 FR 50382, Dec. 6, 1989, the effective date was further delayed to June 12, 1990. At 55 FR 21035, May 22, 1990, the effective date was further delayed to September 1, 1990. At 55 FR 37028 and 37051, Sept. 7, 1990, the effective date was further delayed to December 31, 1990, and paragraph (a)(2)(ii) was further revised, effective December 31, 1990. For the convenience of the user, the superseded text follows:

§ 173.250a Benzene phosphorus dichloride and benzene phosphorus thiodichloride.

(a) * * *

(1) In packagings prescribed in § 173.245 which are made of or lined with materials compatible with the lading.

(2) Spec. MC 310, MC 311, or MC 312 (§ 178.343 of this subchapter) cargo tanks. Corrosion protection must be provided in accordance with spec. MC 312. Bottom outlets are authorized if they meet the requirements of § 178.343-5 of this subchapter.

* * * * *

§ 173.251 Boron trichloride and boron tribromide.

(a) Boron trichloride must be packed in specification containers as follows:

(1) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

(2) Specification 105A300W or 106A500X (§§ 179.100, 179.101, 179.300, 179.301 of this subchapter). Tank cars.

(b) Boron tribromide must be packed in specification packagings as follows:

(1) Specification 15A, 15B, 15P, or 19B (§§ 178.168, 178.169, 178.170, 178.182, 178.191 of this subchapter). Wooden or plywood boxes with inside glass receptacles not over 1 quart capacity each. Each glass receptacle must have a positive closure (not friction) and as prepared for shipment must be capable of withstanding an internal gage pressure of at least 15 p.s.i. The receptacle must be cushioned with sufficient absorbent incombustible material to completely absorb the contents in the event of leakage and must be packed within a securely closed metal can. Each can must then be cushioned with incombustible material within the prescribed outside packaging. Completed packaging for shipment must be capable of passing the tests prescribed in § 178.182-3(a)(1) of this subchapter.

(2) Specification 5C or 5M (§§ 178.83, 178.90 of this subchapter). Metal drums not exceeding 30 gallons capacity. Specification 5C drums must be constructed of at least 14-gauge stainless steel.

(3) Specification 37A (§ 178.131 of this subchapter). Steel drums not over 30-gallon capacity each with inside glass receptacles not over 1-quart capacity each. Inside containers and cushioning must comply with paragraph (b)(1) of this section. Not more than four 8-ounce glass receptacles or two 1-quart glass receptacles may be packed within one 8-gallon 37A drum. Not more than twelve 8-ounce glass receptacles or six 1-quart glass receptacles may be packed within one 30-gallon 37A drum. Completed package must meet test requirements of § 178.131-11 of this subchapter.

[29 FR 18726, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967]

EDITORIAL NOTE: For Federal Register amendments affecting § 173.251, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

§ 173.252 Bromine.

(a) Bromine must be packed in specification containers as follows:

(1) Specification 15A, 15B, or 19B (§§ 178.168, 178.169, 178.191 of this subchapter). Wooden boxes with inside glass containers not over 1-quart each; or with stone or earthenware jugs not over 1-gallon each.

(2) [Reserved]

(3) Specification 105A300W (§§ 179.100, 179.101 of this subchapter). Tank car. Each tank must have a nickel cladding material on the inside surface comprising at least 20 percent of the total thickness, or be lined with lead no less than 3/16-inch thick. Openings in tank heads to facilitate application of lead lining are authorized and must be closed in an approved manner. All closures and appurtenances which are in contact with the lading must be lead lined or must be made of metal not subject to rapid deterioration by contact with the lading. All interior welds in nickel clad tanks must be protected by pure nickel butt straps. Except as otherwise provided herein, the water weight capacity of the tank must not be more than 20,400 pounds, and the maximum quantity of liquid bromine loaded into the tank must not be more than 60,000 pounds or 300 percent of the water weight capacity of the tank, whichever quantity is less. The total quantity loaded must not be less than 98 percent of the quantity the tank is authorized to carry.

(b) A tank constructed and maintained in full compliance with the requirements of a Specification DOT-105A500W is authorized for larger capacities of bromine. However, this tank may be marked DOT-105A300W and may be equipped with manway cover plates, safety valves, venting valves, loading valves, and unloading valves that are in compliance with the requirements of a Specification DOT-

(2) Spec. 12B (§ 178.205 of this subchapter). Fiberboard boxes, when the liquid is in a strong bottle not exceeding 16 fluid ounces, which must be securely closed and cushioned as prescribed in paragraph (a) of this section. Not more than 12 such packages may be packed under the provisions of § 173.25.

(3) Electrolyte, acid, or alkaline corrosive battery fluid, in separate inside acid or alkaline fluid resistant containers not over 5 gallons capacity each included with electronic equipment and actuating devices, are authorized in strong, tightly closed steel drums.

[29 FR 18725, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967, and amended by Amdt. 173-94, 41 FR 16070, Apr. 15, 1976; Amdt. 173-140, 46 FR 40900, Oct. 8, 1981]

§ 173.260 Electric storage batteries, wet.

(a) Electric storage batteries, containing electrolyte acid or alkaline corrosive battery fluid, must be completely protected so that short circuits will be prevented; they must not be packed with other articles except as provided in §§ 173.250 and 173.259, portable searchlights properly cushioned, battery parts, or hydrometers, securely packed in a separate container. The batteries either with or without other articles must be packed in specification containers as follows:

(1) Spec. 15D or 16B (§ 178.171 or § 178.186 of this subchapter). Wooden or wirebound wooden boxes except as provided in paragraphs (b) and (c) of this section.

(2) Spec. 12B (§ 178.205 of this subchapter). Fiberboard box as authorized by §§ 178.205-25(a), 178.205-28(a), and 178.205-35(a) of this subchapter.

(3) Electric storage batteries with case of asphaltum composition, impregnated rubber, steel case type, synthetic resin (plastic), or wooden battery box type, protected against short circuits and firmly secured to skids or pallets capable of withstanding the shocks normally incident to transportation, are exempt from specification packaging requirements for transportation by rail freight, highway, or water. The height of the completed unit must not exceed 1½ times the width of the skid or pallet. The unit must weigh not less than 300 pounds gross and must not fall under a superimposed weight equal to two times the weight of the unit or a superimposed weight of 4,000 pounds if the weight of the unit exceeds 2,000 pounds. Battery terminals must not be relied upon to support any part of the superimposed weight. Unless specifically exempt from marking and labeling, each pallet or skid must be marked and labeled as required by Part 172.

(4) Electric storage batteries weighing 500 pounds or more, with case of asphaltum composition, impregnated rubber, steel case type, synthetic resin (plastic), or wooden battery box type, consisting of carriers' equipment may be shipped by rail freight when mounted on suitable skids and protected against short circuits. Such shipments must not be offered in interchange.

(b) Electric storage batteries with case of asphaltum composition, impregnated rubber, steel case type, synthetic resin (plastic), or wooden battery box type; packing authorized as follows:

(1) One to three batteries not over 25 pounds each in outside box, gross weight not over 75 pounds; specification container not required.

(2) Not more than four batteries not over 15 pounds each may be packed in strong outside fiberboard or wooden boxes, when securely cushioned and packed to prevent short circuits; specification container not required. Authorized gross weight 65 pounds.

(3) Not more than five batteries not over 10 pounds each may be packed in strong outside fiberboard or wooden boxes, when securely cushioned and packed to prevent short circuits; specification container not required. Authorized gross weight 65 pounds.

(c) Single batteries not exceeding 75 pounds each, in addition to requirements of paragraphs (a) and (b) of this section, may be shipped in 5-sided slip covers or in completely closed fiberboard boxes, of solid or double-faced corrugated fiberboard complying with the following: (See paragraph (a)(1) of this section for more than one battery in an outside container.)

(1) Slip cover or fiberboard box must fit snugly and provide inside top clearance of at least ½ inch above battery terminals and filler caps with reinforcement in place. Assembled for shipment, the bottom edges of the slip cover may extend to the base of the battery but must not expose more than 1 inch thereof.

(2) Top of slip cover or fiberboard box design must comply with the following:

(i) Top of slip cover or fiberboard box must have interior reinforcement (insert or saddle) of fiberboard, wood, or other material of equal strength and rigidity so formed that any superimposed weight will bear only and directly downward on the top edges of the battery case or intercell connectors (straps), or plastic battery terminal covers designed to transmit any superimposed weight directly to the top inner wall of the battery case, or fiberboard boxes with chip board and chip board jute lined tubes which shall fit directly over the terminal posts and rest directly on battery cell covers.

(ii) Or be protected by a scored one piece cover-liner of 200-pound test (Mullen or Cady) double-faced corrugated fiberboard extending from the base of the battery on one side, across the top of the battery and to the base of the battery on the opposite side.

(iii) Or a five-sided slip cover having top of only one thickness of fiberboard, with lengthwise inner flaps roll folded to form a reinforcement of such height as to provide clearance required by paragraph (c)(1) of this section which shall rest on the side edges of the battery. Outer end flaps to overlap approximately one inch and shall be butt folded and tucked into a center slot cut in the inner flaps. The requirements of paragraphs (c)(2) (i) and (iv) of this section do not apply.

(iv) When top of slip cover or fiberboard box consists of only one thickness of material, reinforcement must have a plane surface of same interior dimensions and thickness. Reinforcement must be of such height as to provide minimum clearance required above and must be constructed to remain securely in place or be fastened to slip cover or fiberboard box.

(3) All fiberboard must be at least 200 pound test (Mullen) and completed package (battery and slip cover or fiberboard box) must be capable of withstanding top-to-bottom compression test of at least 500 pounds without damage to battery terminals, battery cell covers, and filler caps.

(d) Nonspillable wet electric storage batteries capable of withstanding the tests prescribed in paragraphs (c) (1) and (2) of this section without leakage of battery fluid are excepted from all other requirements of this subchapter when protected against short circuits and securely packaged so as to withstand conditions normal to transportation.

(1) *Vibration test.* Battery is rigidly clamped to the platform of a vibration machine and a simple harmonic motion having an amplitude of 0.03 inches (0.06 inches maximum total excursion) is applied. The frequency is varied at the rate of one cycle per second per minute between the limits of 10 to 55 cycles per second. The entire range of frequencies and return is traversed in 95± minutes for each mounting position (direction of vibrator) of the battery. The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if any, in an inverted position) for equal time periods.

(2) *Pressure differential test.* Following the vibration test, the battery is stored for six hours at 76°F. ± 7°F. under an external partial pressure of 2 pounds per square inch absolute. The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if any, in an inverted position) for at least six hours in each position.

(e) Electric storage batteries containing electrolyte or corrosive battery fluid are not subject to the requirements of this subchapter for carriage by highway or rail if:

(1) No other hazardous materials are transported in the same vehicle,

(2) The batteries are loaded or braced so as to prevent damage and short circuits in transit,

(3) Any other material loaded in the same vehicle is blocked, braced, or otherwise secured to prevent contact with or damage to the batteries, and

(4) The transport vehicle is carrying no material shipped by any person

other than the shipper of the batteries.

(f) [Reserved]

(g) Electric storage batteries, containing electrolyte or corrosive battery fluid in a coil from which it is injected into the battery cells by a gas generator and initiator assembled with the battery, and which are nonspillable and leakproof, are excepted from Parts 170-189 of this title when examined by the Bureau of Explosives and approved by the Director, OHMT.

[29 FR 18725, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967]

EDITORIAL NOTE: For Federal Register citations affecting § 173.260, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

§ 173.261 Fire-extinguisher charges.

(a) Fire-extinguisher charges consisting of sulfuric acid in glass inside containers securely closed may be packed with bicarbonate of soda in specification containers as follows:

(1) Specification 15A, 15B, 15C, 16A, 19A, or 19B (§§ 178.168, 178.169, 178.170, 178.185, 178.190, 178.191 of this subchapter). Wooden boxes with inside glass containers not over 5 pints each, and cushioned with an appropriate cushioning material.

(2) Spec. 21C (§ 178.224 of this subchapter). Fiber drums with a single inside container consisting of a glass bottle not over 64 fluid ounces capacity filled with not over six pounds by weight of sulfuric acid (approximately 50 fluid ounces by volume). Bottle must be suspended in center of outside container by means of adequate supports and surrounded by bicarbonate of soda in sufficient quantity to fill drum and neutralize contents in the event of breakage

(b) Limited quantities of fire-extinguisher charges as described in paragraphs (b) (1) through (3) of this section are excepted from labeling (except labeling is required for transportation by air) and the specification packaging requirements. In addition, shipments are not subject to Subpart F of Part 172 of this subchapter, to Part 174 of this subchapter except § 174.24 and to Part 177 of this subchapter, except § 177.817.

(1) Fire-extinguisher charges consisting of sulfuric acid in strong 8-fluid ounce or smaller bottles, securely closed and packed with bicarbonate of soda completely surrounding the bottles of acid in outside fiberboard or wooden boxes. Closure must consist of a metal cap lined with an acid-resistant washer or a composition stopper of material that will not be attacked by the acid.

(2) Fire-extinguisher charges, consisting of chlorosulfonic acid in a hermetically sealed bottle not exceeding 2 ounces capacity, securely packed in a metal container inclosed in another metal container, the inner metal container being cushioned in the outer metal container with an appropriate fire-resistant cushioning material and the completed package embedded in potassium carbonate in outside fiberboard or wooden boxes.

(3) Fire-extinguisher charges, consisting of sulfuric acid in 10-ounce or smaller bottles, securely closed, packed in a tight fiber carton. Closure must consist of a metal cap lined with an acid-resistant washer or a composition stopper of material that will not be attacked by the acid. The bottle and carton packed in either potassium carbonate or potassium carbonate and alkali packed in a cylindrical tin can, with slip cover, secured by tape in outside fiberboard or wooden boxes

[29 FR 18725, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967, and amended by Amdt. 173-84, 41 FR 16076, Apr. 15, 1976; Amdt. 173-94A, 41 FR 40682, Sept. 20, 1976; Amdt. 173-141, 45 FR 62082, Sept. 18, 1980; Amdt. 173-149, 46 FR 49900, Oct. 8, 1981]

§ 173.262 Hydrobromic acid.

(a) Hydrobromic acid not over 49 percent strength must be packed in specification containers as follows:

(1) Specification 1A, 1D, or 1M (§§ 178.1, 178.4, 178.17 of this subchapter). Carboys in boxes or expanded polystyrene packagings. Not authorized for transportation by aircraft.

(2) Spec. 1X (§ 178.5 of this subchapter). Boxed carboys; single-trip (for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

(3) [Reserved]

(4) Specification 15A, 15B, 15C, 16A, 19A, or 19B (§§ 178.168, 178.169, 178.170, 178.185, 178.190, 178.191 of this subchapter). Wooden boxes with inside glass or earthenware containers not over 1-gallon each, except that inside containers not over 3 gallons are authorized when only one is packed in each outside box.

(5) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(6) Specification 103B,[1] 103BW, or 111A60W5 (§§ 179.200, 179.201 of this subchapter). Tank cars.

(7) Spec. 12A (§ 178.210 of this subchapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

Shipper must have established that the completed package meets test requirements prescribed by § 178.210-10 of this subchapter.

(8) Specification 37P (§ 178.133 of this subchapter). Steel drum, not over 5 gallons capacity, with polyethylene liner (non-reusable container). A drum exceeding 1 gallon capacity must be constructed of at least 24 gauge metal. Not authorized for transportation by air.

(9) Spec. 22C (§ 178.198 of this subchapter). Plywood drum as prescribed by § 178.198-2(a) of this subchapter, with inside Spec. 2T (§ 178.21 of this subchapter) polyethylene container.

(10) Spec. 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Spec. 2S (§ 178.35 of this subchapter) polyethylene container.

(11) Specification MC 310, MC 311, MC 312, or DOT 412 (§§ 178.345, 178.348 of this subchapter) cargo tank motor vehicle, subject to the following conditions:

[1] The use of existing tanks authorized but new construction not authorized.

(i) The cargo tank is lined with rubber or other material of equivalent or greater strength, durability, and acid-resistance.

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345-11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

(12) Specification 37M (§ 178.134 of this subchapter) (non-reuseable) cylindrical steel overpack with inside Specification 2SL (§ 178.35a of this subchapter) polyethylene container. Overpack must have rolled hoops and be constructed of 20-gauge body and 18-gauge head.

(13) In IM portable tanks as prescribed in paragraph (b)(6) of this section.

(b) Hydrobromic acid greater than 49 percent strength but not over 63 percent strength must be packed in specification containers as follows:

(1) Spec. 22C (§ 178.198 of this subchapter). Plywood drum as prescribed by § 178.198-2(a) of this subchapter, with Spec. 2T (§ 178.21 of this subchapter) polyethylene container. The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(2) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene container. The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(3) Specification 15A or 19B (§§ 178.168, 178.191 of this subchapter). Wooden boxes with one inside polyethylene bottle, with screw-cap closure, not over 1-gallon capacity. The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(4) Cargo tank motor vehicles as prescribed in paragraph (a)(11) of this section.

(5) Specification IM 101 portable tanks (§§ 178.270, 178.271 of this sub-

Bob Williams

acceptance of hazardous, restricted, or perishable matter

UNITED STATES POSTAL SERVICE
U.S. MAIL

Publication 52
January 1989

h. Potassium peroxide

i. Sodium chlorite

j. Tetranitromethane

k. Zirconium picramate

l. Zinc ammonium nitrite

m. Zirconium picramate

322.35 Mailability Rulings

322.351 Since the change in spelling of one letter of an item's name can change its classification, the item's chemical name and any popular or common names should be included in the request for ruling.

322.352 Except for certain oxidizers that are always nonmailable (see 322.34), individual rulings always should be obtained.

322.36 Air Transportation Requirements. See Exhibits 624.11 and 624.12c. For specific nonmailable oxidizers, see 322.34.

322.4 Matches

322.41 General Requirements (Domestic Mail)

322.411 Strike-anywhere matches are NONMAILABLE.

322.412 Safety matches, to be mailable whether book, card, or strike-on-box, must be a type that:

a. Will not ignite spontaneously when subjected for eight consecutive hours to a temperature of 200 F in a properly conducted lab test.

b. Will not ignite spontaneously under normal conditions of transportation.

c. Can readily be ignited by friction ONLY by striking on the manufacturer's (or similar) box, book, or card.

322.413 Whenever matches are discovered in the mailstream that are nonmailable under DMM 124, promptly notify the nearest Rates and Classification Center in accordance with DMM 124.128.

322.42 General Packaging and Marking Requirements

322.421 Quantities/Packaging for Matches. Matches must be tightly packed to prevent movement within the container and to prevent ignition by rubbing against adjoining boxes, books, or cards. Safety matches must not exceed fifty pounds gross weight per parcel.

322.422 Marking. When packed with other nonflammable articles, shipments must be marked: *Book Matches--Safety Matches* .

322.43 International Mail. See 634.22.

323 Corrosives (DMM 124.34)

323.1 Definition. Corrosives are defined as materials that cause visible change or damage or destruction at the point of contact with skin tissue or with other material. In this guide *corrosives* include all items commonly referred to as acids, as well as batteries.

323.2 General Packaging and Marking Requirements: Liquids

323.21 Corrosives. Corrosive liquids that meet 49 CFR (DOT) packaging requirements from Consumer Commodity ORM-D generally are mailable, subject to the following requirements (specific liquids are listed in 49 CFR):

a. Volume is limited to sixteen ounces (500 milliliters) in inside, sealed bottles.

b. Bottles must be cushioned by incombustible, absorbent material and be securely packed in tightly closed metal containers in an outside metal, wooden, or fiberboard container.

c. Bottles and inside metal containers must have either screw caps with a minimum of 1-1/2 turns, soldering clips, or other means to effect secure closure. A friction-top closure is not acceptable.

323.22 Photographic Mixtures. Corrosive liquid solutions in quantities necessary for preparing photographic processing mixtures that are in securely closed and sealed bottles and effectively

cushioned may be packed in the same outside shipping container with required amounts of packaged dry chemicals not classified as hazardous materials (provided no dangerous reaction would occur should the contents of the bottles be mixed with the dry chemicals).

323.3 General Packaging and Marking Requirements: Solids. Corrosive solids that meet 49 CFR (DOT) packaging requirements for Consumer Commodity ORM-D are limited as follows (specific solids are listed in 49 CFR):

a. Five pounds in siftproof, inside, earthernware, glass, or paper containers; or ten pounds in siftproof, inside, metal, rigid fiber, or composition cans or cartons.

b. Inside packages must be packed in metal, wooden, or fiberboard containers not exceeding twenty-five pounds net weight.

323.4 Mailability

323.41 Nonmailable Corrosives

a. Batteries with liquid electrolyte are nonmailable.

b. Some high-energy, alkaline, dry-cell batteries (for example, the Mallory 9-volt dry cell) are nonmailable because of the danger of overheating and fire if a direct short occurs.

c. Electrolyte (battery acid). Nonmailable.

d. Nitric Acid. Nonmailable.

e. Hydrogen peroxide solutions above 40 percent are nonmailable.

f. Fuming and spent sulfuric acids are nonmailable.

323.42 Mailable Corrosives

a. Acetic Acid. Acceptable in solutions containing less than 80 percent acid, one pint or less.

b. Batteries

(1) Some paste electrolyte batteries, such as the Eldon "Super Power" battery, are mailable.

(2) Dry cell batteries generally are mailable, but they must be packaged so as to preclude a direct short.

c. Hydrochloric (Muriatic) Acid. Acceptable in solutions not exceeding 10 percent acid.

d. Hydrofluoric Acid. Acceptable in solutions not exceeding 10 percent acid; must be packed in nonmetal containers.

e. Hydrogen Peroxide. No restrictions on solutions up to 8 percent. Solutions exceeding 8 percent up to 40 percent are acceptable providing they meet the packaging requirements specified for liquid corrosives (above).

f. Sulfuric Acid (Oil of Vitriol). Acceptable in solutions less than 25 percent, one pint or less.

g. Dyes. Acceptable as provided in 323.21.

Note: As a general rule, liquid corrosives are limited to 15-percent solution or less unless otherwise specified.

324 Poisons

324.1 Definitions

324.11 General. There are four groups of materials under the heading *Poisons*--three groups specified in 49 CFR, and a fourth group of toxic materials that, although they may not be classified as poisons, are nevertheless hazardous. Exhibit 324.11 gives some idea of the nature of these groups.

Class A	Class B	Irritating materials	Other, nonclassified toxic materials
Nonmailable	Mailable only on a limited basis by specified mailers.	Nonmailable	Mailable under specified conditions

Exhibit 324.11, Poisons

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE FRAN ULMER

MEMORANDUM April 27, 1992

TO: Sen. Steve Frank, Chair
Community & Regional Affairs Committee

FROM: Rep. Fran Ulmer

SUBJ: Proposed CSHB 389 - "battery recycling bill."

After meeting with members of the C&RA committee members, battery recyclers and retail business people we have made some changes to reflect the concerns expressed.

Section 1 (a)

Disposal of batteries within areas covered under this bill, for purposes other than recycling, is prohibited.

Section 1 (b)

Wording has been added to require that batteries of <u>comparable</u> size be exchanged. This answers concerns that retailers will be required the accept batteries substantially smaller, or larger, than the type being sold.

Section 1 (c) and (e)

Wording has been added to require <u>used battery recyclers</u> to handle batteries <u>regardless of their condition</u>. Concerns had been raised that consumers would have no way to dispose of damaged batteries, and collect their deposit. The proposed CS provides for delivery of these batteries to recyclers who are trained in the special handling techniques required. Receipts provided by the recycler can be used by the purchaser to collect the refund from the retailer.

Section 1 (f)

The notice requirement has been changed to inform the public that damaged batteries may be returned to a recycler.

Section 1 (h) (2)

This wording allows persons buying batteries, who travel from areas outside the road and marine highway systems to make the purchase, to have the deposit waived by producing a valid identification.

State Capitol
Juneau, AK 99801-1182
(907) 465-4947
Fax 465-2108

Section 1 (i) (1) and (5)

The definition of battery has been modified to reflect their weight in pounds instead of kilograms, and to exclude small sealed batteries used in camcorders, laptop computers, etc. A "used battery recycler" is also defined.

Sections 3 and 4

The effective date of the bill is January 1, 1993. The effective date for small rural communities without highway, ferry or jet service is January 1, 1994. These delays will give retailers and recyclers time to make the necessary arrangements for collection of batteries.

7-LS1561\Y
Bannister
4/27/92

SENATE CS FOR CS FOR HOUSE BILL NO. 389 ( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ULMER, Brown, B.Davis, Boyer, Finkelstein, Koponen

A BILL

FOR AN ACT ENTITLED

"An Act relating to the recycling of lead acid batteries; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 46.06 is amended by adding a new section to read:

Sec. 46.06.105. LEAD ACID BATTERY RECYCLING. (a) A person may not dispose of a lead acid battery by a method other than recycling. This subsection does not apply to a person if the municipality or community where the person resides and disposes of the battery does not have a transporter or a used battery recycler who is reasonably available and willing to transport lead acid batteries for recycling under this section.

(b) A person who sells lead acid batteries at retail or at wholesale shall accept for recycling a used lead acid battery that is of comparable size, unbroken, and in reasonably sound and clean condition from a person who purchases a lead acid battery, and shall recycle the used batteries that are received under this subsection.

(c) A person who does not sell lead acid batteries at retail or at wholesale but who

accepts in the course of business operation used lead acid batteries for the purpose of recycling the batteries shall accept for recycling a used lead acid battery from a person who purchases a lead acid battery of comparable size from another person and shall recycle the used batteries that are received under this subsection.

(d) If a person who purchases a lead acid battery from a retailer does not provide the retailer with an unbroken and reasonably sound and clean used lead acid battery of comparable size when making the purchase, the retailer shall charge the purchaser an additional fee of not less than $5 but not more than $25. The retailer shall refund the fee to the purchaser if within 30 days of the purchase that purchaser provides the retailer with an unbroken and reasonably sound and clean used lead acid battery of comparable size. The retailer may keep the fee if the purchaser does not claim the fee within the 30 days.

(e) The retail purchaser of a lead acid battery who does not provide the retailer with a used lead acid battery under (c) of this section may return a used lead acid battery of comparable size, whatever its condition, to a used battery recycler. In exchange for the used battery, the used battery recycler shall provide the purchaser with a receipt indicating that the purchaser has returned a used battery to the used battery recycler. A retailer shall refund the fee under (c) of this section if, within the time allowed for claim of the fee, the purchaser presents to the retailer

(1) the receipt showing the purchaser's previous purchase of a new lead acid battery from the retailer; and

(2) the receipt of the used battery recycler issued under this subsection.

(f) A retailer shall post in a manner that is clearly visible to purchasers of lead acid batteries a notice that is at least 8-1/2 inches by 11 inches, that contains the universal recycling symbol, and that states:

NOTICE: USED BATTERIES

This retailer is required to accept a used lead acid battery of comparable size for recycling when you purchase a lead acid battery from the retailer. If you do not give the retailer the used lead acid battery when you make your purchase, the retailer must charge you an additional fee of not less than $5 but not more than $25. The retailer is required to refund the fee to you if you provide the retailer with a used lead acid battery of comparable size within 30 days after you purchase the battery from the retailer. The retailer is also required to refund the fee to you

if you provide the retailer, within 30 days after you purchase the battery from the retailer, (1) the receipt of purchase for the battery, and (2) the receipt written by a used battery recycler to show that you have provided a used lead acid battery of comparable size to the recycler. If you do not claim the fee within the 30 days, the retailer may keep the fee. A retailer is not required to accept a used battery from you unless the battery is unbroken and in reasonably sound and clean condition. You may return a battery in any condition to a used battery recycler.

(g) A retailer who advertises lead acid batteries shall indicate in the advertisement that an extra charge will be added to the price of the battery at the time of the sale if an unbroken and reasonably sound and clean used lead acid battery of comparable size is not exchanged for the new one.

(h) This section does not apply to the sale of a lead acid battery if the sale

(1) occurs in, or the seller delivers or arranges for the delivery of the battery to the purchaser in, a municipality or unincorporated community that does not have a transporter or used battery recycler who is reasonably available and willing to transport lead acid batteries for recycling under this section; or

(2) is a retail sale made to a person who

(A) resides in a municipality or community that is not on the state highway system or marine highway system;

(B) purchases the battery in a municipality or community other than the municipality or community where the person resides; and

(C) provides the retailer at the time of the sale with a valid Alaska driver's license or a valid identification card issued under AS 18.65.310, and the license or card indicates that the person resides in a community or municipality that is not on the state highway system or marine highway system.

(i) In this section,

(1) "battery" or "lead acid battery" means a battery that has a core consisting of elemental lead and that weighs 55 pounds or less when filled with all necessary fluids, but does not include a sealed battery that weighs 25 pounds or less and is designed to be used for purposes other than starting, lighting, or ignition;

(2) "recycle" and "recycling" have the meaning given to "recycled" under 40

CFR 261.1;

(3) "retailer" means a person who sells lead acid batteries at retail;

(4) "transporter" means a person who possesses a current valid federal Environmental Protection Agency identification number under 40 CFR 263.11;

(5) "used battery recycler" means a person who accepts in the course of business operation used lead acid batteries for the purpose of recycling the batteries.

* **Sec. 2.** AS 45.50.471(b) is amended by adding a new paragraph to read:

(31) failing to comply with AS 46.06.105(b) - (g).

* **Sec. 3.** APPLICABILITY. (a) AS 46.06.105(b) - (g), enacted by sec. 1 of this Act, does not apply until January 1, 1994, to the sale of a lead acid battery if the sale occurs in a municipality or unincorporated community that has a population less than 1,000, that is not on the state highway system or marine highway system, and that does not have regular jet service.

(b) AS 46.06.105(a), enacted by sec. 1 of this Act, does not apply until January 1, 1994, to the disposal of a lead acid battery if the person who disposes of the battery resides in, and the disposal takes place in, a municipality or unincorporated community that has a population less than 1,000, that is not on the state highway system or marine highway system, and that does not have regular jet service.

* **Sec. 4.** This Act takes effect January 1, 1993.

(3) Specification 15A, 15B, 15C, 16A, 19A, or 19B (§§ 178.168, 178.169, 178.170, 178.185, 178.190, 178.191 of this subchapter). Wooden boxes with inside glass or earthenware containers not over 1-gallon each, or with inside metal cans, not over 5 gallons each.

(c) Limited quantities of alkaline corrosive liquids, n.o.s., alkaline liquids, n.o.s., alkaline corrosive battery fluids, and liquid sodium aluminate in inside packagings of not more than 8 fluid ounces capacity each, packed in strong outside packagings, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are excepted from labeling (except labeling is required for transportation by air) and specification packaging requirements of this subchapter. In addition, shipments are not subject to Subpart F of Part 172 of this subchapter, to Part 174 of this subchapter except § 174.24 and to Part 177 of this subchapter except § 177.817.

(d) Special exceptions for shipment of certain alkaline in the ORM-D class are provided in Subpart N of this part.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

[29 FR 18726, Dec. 30, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967]

EDITORIAL NOTE: For Federal Register citations affecting § 173.249, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

EFFECTIVE DATE NOTE: At 54 FR 25009, June 12, 1989, § 173.249 was amended by revising paragraphs (a) (1) and (6), effective December 12, 1989. At 54 FR 38233, Sept. 15, 1989, the effective date was delayed to February 12, 1990. At 54 FR 50382, Dec. 6, 1989, the effective date was further delayed to June 12, 1990. At 55 FR 21035, May 22, 1990, the effective date was further delayed to September 1, 1990. At 55 FR 37028 and 37051, Sept. 7, 1990, the effective date was further delayed to December 31, 1990, and paragraph (a)(6)(iv) was further revised, effective December 31, 1990. For the convenience of the user, the superseded text follows:

§ 173.249 Alkaline corrosive liquids, n.o.s.; alkaline liquids, n.o.s.; alkaline corrosive battery fluid; potassium fluoride solution; potassium hydrogen fluoride solution; sodium aluminate, liquid; sodium hydroxide solution; potassium hydroxide solution.

(a) * * *

(1) In containers prescribed in § 173.245.

* * * * *

(6) Specification MC 303, MC 310, MC 311 or MC 312 (§ 178.343 of this subchapter). Cargo tanks. Specification MC 303 is authorized for alkaline corrosive liquids, n.o.s. and alkaline liquids, n.o.s. only and is not authorized for transportation by water. Bottom outlets are authorized if they meet the requirements of § 178.343-5 of this subchapter.

* * * * *

§ 173.249a Cleaning compound, liquid; coal tar dye, liquid; dye intermediate, liquid; mining reagent, liquid; and textile treating compound or mixture, liquid.

(a) A liquid cleaning compound subject to this section must not contain any corrosive material specifically named in § 172.101 of this subchapter, except phosphoric acid, acetic acid, and not over 15 percent sodium or potassium hydroxide.

(b) A liquid dye intermediate is a ring compound, containing amino, hydroxy, sulfonic acid, or quinone group or a combination of these groups, used in the manufacture of dyes, and not otherwise specifically named in § 172.101 of this subchapter.

(c) A liquid textile treating compound mixture is a mixture used to treat woven, knit or otherwise manufactured fabrics. It does not include mixtures used only to treat fibers, filaments, or yarn used in making the fabric.

(d) Liquid coal tar dye, liquid cleaning compound, liquid dye intermediate liquid mining reagent, and liquid textile treating compound mixture must be packaged as follows:

(1) In specification packaging as prescribed in § 173.245, except § 173.245 (a)(29).

(2) In packagings meeting all of the specific requirements prescribed in § 173.245 including packaging type and quantity limitations for inside packagings. The packagings are not required to meet the detailed specification requirements of Part 178 of this subchapter except that size and weight limitations for package types as prescribed in Part 178 may not be exceeded. Not authorized for shipment by aircraft.

(3) Removable (open) head or tight-head fiber drum inside with a pl... 55-gallon capac... shipment by air

(4) Removab... drum, not over ... authorized for ...

(5) Removab... ylene drum, no... ity. Not autho... aircraft.

(6) Specifica... MC 306, MC 307, MC 310, MC 311, MC 312, DOT 407 or DOT 412 (§§ 178.345, 178.347, 178.348 of this subchapter) cargo tank motor vehicle, subject to the following conditions:

(i) Each cargo tank meets the corrosion protection requirements in § 178.345-2(c) of this subchapter.

(ii) A Specification MC 303 cargo tank is made from steel or stainless steel. The cargo tank is not authorized for transportation by vessel.

(iii) A Specification MC 306 cargo tank is fabricated from Type 316 stainless steel of not less than 0.100 inch thick. The cargo tank is not authorized for transportation by cargo vessel.

(iv) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345-11 of this subchapter; and Specification MC 303, MC 304, MC 306, MC 307, MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

[Amdt. 173-77, 38 FR 35471, Dec. 28, 1973, as amended by Amdt. 173-121, 43 FR 40844, Oct. 13, 1978; Amdt. 173-212, 54 FR 25009, June 12, 1989; 55 FR 37051, Sept. 7, 1990]

EFFECTIVE DATE NOTE: At 54 FR 25009, June 12, 1989, § 173.249a was amended by revising paragraph (d)(1) and adding paragraph (d)(6), effective December 12, 1989. At 54 FR 38233, Sept. 15, 1989, the effective date was delayed to February 12, 1990. At 54 FR 50382, Dec. 6, 1989, the effective date was further delayed to June 12, 1990. At 55 FR 21035, May 22, 1990, the effective date was further delayed to September 1, 1990. At 55 FR 37028 and 37051, Sept. 7, 1990, the effective date was further delayed to December 31, 1990, and paragraph (d)(6)(iv) was revised, effective December 31, 1990. For the convenience of the user, the superseded text follows:

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To Sen. Frank	From Leg. Ref. Ltb.
Co. attn: Sarah	Co. Brien
Dept.	Phone # 465-3808
Fax # 4714	Fax #

§ 173.250 Automobiles, other self-propelled vehicles, engines or other mechanical apparatus.

(a) Except as provided in paragraph (b) of this section, automobiles and other self-propelled vehicles equipped with wet electric storage batteries are excepted from all other requirements of this subchapter when shipped as prescribed in paragraph (a)(1) or (2) of this section, unless other hazardous materials are transported on the self-propelled vehicles, in which instance the regulations covering these other materials apply.

(1) When batteries are removed from the self-propelled vehicles and loaded in the transport vehicle therewith, the batteries must be so loaded, blocked and braced as to prevent short circuits, spillage of battery fluid or movement within the transport vehicle.

(2) When batteries are installed in self-propelled vehicles they must be completely protected against short circuits and so secured that spillage of battery fluid will not occur under conditions normal to transportation.

(b) For transportation by aircraft or vessel the following provisions apply:

(1) For transportation by passenger-carrying aircraft, wheelchairs equipped with wet electric storage batteries must be shipped as prescribed in § 175.10 of this subchapter.

(2) Spec. 12B (§ 178.205 of this subchapter). Fiberboard boxes, when the liquid is in a strong bottle not exceeding 16 fluid ounces, which must be securely closed and cushioned as prescribed in paragraph (a) of this section. Not more than 12 such packages may be packed under the provisions of § 173.25.

(3) Electrolyte, acid, or alkaline corrosive battery fluid, in separate inside acid or alkaline fluid resistant containers not over 5 gallons capacity each included with electronic equipment and actuating devices, are authorized in strong, tightly closed steel drums.

[29 FR 18726, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967, and amended by Amdt. 173-94, 41 FR 16076, Apr. 15, 1976; Amdt. 173-149, 46 FR 49900, Oct. 8, 1981]

§ 173.260 Electric storage batteries, wet.

(a) Electric storage batteries, containing electrolyte acid or alkaline corrosive battery fluid, must be completely protected so that short circuits will be prevented; they must not be packed with other articles except as provided in §§ 173.250 and 173.258, portable searchlights properly cushioned, battery parts, or hydrometers, securely packed in a separate container. The batteries either with or without other articles must be packed in specification containers as follows:

(1) Spec. 15D or 16B (§ 178.171 or § 178.186 of this subchapter). Wooden or wirebound wooden boxes except as provided in paragraphs (b) and (c) of this section.

(2) Spec. 12B (§ 178.205 of this subchapter). Fiberboard box as authorized by §§ 178.205-25(a), 178.205-28(a), and 178.205-35(a) of this subchapter.

(3) Electric storage batteries with case of asphaltum composition, impregnated rubber, steel case type, synthetic resin (plastic), or wooden battery box type, protected against short circuits and firmly secured to skids or pallets capable of withstanding the shocks normally incident to transportation, are exempt from specification packaging requirements for transportation by rail freight, highway, or water. The height of the completed unit must not exceed 1½ times the width of the skid or pallet. The unit must weigh not less than 300 pounds gross and must not fall under a superimposed weight equal to two times the weight of the unit or a superimposed weight of 4,000 pounds if the weight of the unit exceeds 2,000 pounds. Battery terminals must not be relied upon to support any part of the superimposed weight. Unless specifically exempt from marking and labeling, each pallet or skid must be marked and labeled as required by Part 172.

(4) Electric storage batteries weighing 500 pounds or more, with case of asphaltum composition, impregnated rubber, steel case type, synthetic resin (plastic), or wooden battery box type, consisting of carriers' equipment may be shipped by rail freight when mounted on suitable skids and protected against short circuits. Such shipments must not be offered in interchange.

(b) Electric storage batteries with case of asphaltum composition, impregnated rubber, steel case type, synthetic resin (plastic), or wooden battery box type; packing authorized as follows:

(1) One to three batteries not over 25 pounds each in outside box, gross weight not over 75 pounds; specification container not required.

(2) Not more than four batteries not over 15 pounds each may be packed in strong outside fiberboard or wooden boxes, when securely cushioned and packed to prevent short circuits; specification container not required. Authorized gross weight 65 pounds.

(3) Not more than five batteries not over 10 pounds each may be packed in strong outside fiberboard or wooden boxes, when securely cushioned and packed to prevent short circuits; specification container not required. Authorized gross weight 65 pounds.

(c) Single batteries not exceeding 75 pounds each, in addition to requirements of paragraphs (a) and (b) of this section, may be shipped in 5-sided slip covers or in completely closed fiberboard boxes, of solid or double-faced corrugated fiberboard complying with the following: (See paragraph (a)(1) of this section for more than one battery in an outside container.)

(1) Slip cover or fiberboard box must fit snugly and provide inside top clearance of at least ½ inch above battery

terminals and filler caps with reinforcement in place. Assembled for shipment, the bottom edges of the slip cover may extend to the base of the battery but must not expose more than 1 inch thereof.

(2) Top of slip cover or fiberboard box design must comply with the following:

(i) Top of slip cover or fiberboard box must have interior reinforcement (insert or saddle) of fiberboard, wood, or other material of equal strength and rigidity so formed that any superimposed weight will bear only and directly downward on the top edges of the battery case or intercell connectors (straps), or plastic battery terminal covers designed to transmit any superimposed weight directly to the top inner wall of the battery case, or fiberboard boxes with chip board and chip board jute lined tubes which shall fit directly over the terminal posts and rest directly on battery cell covers.

(ii) Or be protected by a scored one piece cover-liner of 200-pound test (Mullen or Cady) double-faced corrugated fiberboard extending from the base of the battery on one side, across the top of the battery and to the base of the battery on the opposite side.

(iii) Or a five-sided slip cover having top of only one thickness of fiberboard, with lengthwise inner flaps roll folded to form a reinforcement of such height as to provide clearance required by paragraph (c)(1) of this section which shall rest on the side edges of the battery. Outer end flaps to overlap approximately one inch and shall be butt folded and tucked into a center slot cut in the inner flaps. The requirements of paragraphs (c)(2) (i) and (iv) of this section do not apply.

(iv) When top of slip cover or fiberboard box consists of only one thickness of material, reinforcement must have a plane surface of same interior dimensions and thickness. Reinforcement must be of such height as to provide minimum clearance required above and must be constructed to remain securely in place or be fastened to slip cover or fiberboard box.

(3) All fiberboard must be at least 200 pound test (Mullen) and completed package (battery and slip cover or fiberboard box) must be capable of withstanding top-to-bottom compression test of at least 500 pounds without damage to battery terminals, battery cell covers, and filler caps.

(d) Nonspillable wet electric storage batteries capable of withstanding the tests prescribed in paragraphs (d) (1) and (2) of this section without leakage of battery fluid are excepted from all other requirements of this subchapter when protected against short circuits and securely packaged so as to withstand conditions normal to transportation.

(1) *Vibration test.* Battery is rigidly clamped to the platform of a vibration machine and a simple harmonic motion having an amplitude of 0.03 inches (0.06 inches maximum total excursion) is applied. The frequency is varied at the rate of one cycle per second per minute between the limits of 10 to 55 cycles per second. The entire range of frequencies and return is traversed in 95± minutes for each mounting position (direction of vibrator) of the battery. The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if any, in an inverted position) for equal time periods.

(2) *Pressure differential test.* Following the vibration test, the battery is stored for six hours at 75°F. ± 7°F. under an external partial pressure of 2 pounds per square inch absolute. The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if any, in an inverted position) for at least six hours in each position.

(e) Electric storage batteries containing electrolyte or corrosive battery fluid are not subject to the requirements of this subchapter for carriage by highway or rail if:

(1) No other hazardous materials are transported in the same vehicle,

(2) The batteries are loaded or braced so as to prevent damage and short circuits in transit,

(3) Any other material loaded in the same vehicle is blocked, braced, or otherwise secured to prevent contact with or damage to the batteries, and

(4) The transport vehicle is carrying no material shipped by any person

other than the shipper of the batteries.

(f) [Reserved]

(g) Electric storage batteries, containing electrolyte or corrosive battery fluid in a coil from which it is injected into the battery cells by a gas generator and initiator assembled with the battery, and which are nonspillable and leakproof, are excepted from Parts 170-189 of this title when examined by the Bureau of Explosives and approved by the Director, OHMT.

[29 FR 18725, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967]

EDITORIAL NOTE: For Federal Register citations affecting § 173.260, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

§ 173.261 Fire-extinguisher charges.

(a) Fire-extinguisher charges consisting of sulfuric acid in glass inside containers securely closed may be packed with bicarbonate of soda in specification containers as follows:

(1) Specification 15A, 15B, 15C, 16A, 19A, or 19B (§§ 178.168, 178.169, 178.170, 178.185, 178.190, 178.191 of this subchapter). Wooden boxes with inside glass containers not over 5 pints each, and cushioned with an appropriate cushioning material.

(2) Spec. 21C (§ 178.224 of this subchapter). Fiber drums with a single inside container consisting of a glass bottle not over 64 fluid ounces capacity filled with not over six pounds by weight of sulfuric acid (approximately 50 fluid ounces by volume). Bottle must be suspended in center of outside container by means of adequate supports and surrounded by bicarbonate of soda in sufficient quantity to fill drum and neutralize contents in the event of breakage

(b) Limited quantities of fire-extinguisher charges as described in paragraphs (b) (1) through (3) of this section are excepted from labeling (except labeling is required for transportation by air) and the specification packaging requirements. In addition, shipments are not subject to Subpart F of Part 172 of this subchapter, to Part 174 of this subchapter except § 174.24 and to Part 177 of this subchapter, except § 177.817.

(1) Fire-extinguisher charges consisting of sulfuric acid in strong 8-fluid ounce or smaller bottles, securely closed and packed with bicarbonate of soda completely surrounding the bottles of acid in outside fiberboard or wooden boxes. Closure must consist of a metal cap lined with an acid-resistant washer or a composition stopper of material that will not be attacked by the acid.

(2) Fire-extinguisher charges, consisting of chlorosulfonic acid in a hermetically sealed bottle not exceeding 2 ounces capacity, securely packed in a metal container inclosed in another metal container, the inner metal container being cushioned in the outer metal container with an appropriate fire-resistant cushioning material and the completed package embedded in potassium carbonate in outside fiberboard or wooden boxes.

(3) Fire-extinguisher charges, consisting of sulfuric acid in 10-ounce or smaller bottles, securely closed, packed in a tight fiber carton. Closure must consist of a metal cap lined with an acid-resistant washer or a composition stopper of material that will not be attacked by the acid. The bottle and carton packed in either potassium carbonate or potassium carbonate and alkali packed in a cylindrical tin can, with slip cover, secured by tape in outside fiberboard or wooden boxes

[29 FR 18725, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967, and amended by Amdt. 173-94, 41 FR 16076, Apr. 15, 1976; Amdt. 173-94A, 41 FR 40682, Sept. 20, 1976; Amdt. 173-141, 45 FR 62082, Sept. 18, 1980; Amdt. 173-149, 46 FR 49900, Oct. 8, 1981]

§ 173.262 Hydrobromic acid.

(a) Hydrobromic acid not over 49 percent strength must be packed in specification containers as follows:

(1) Specification 1A, 1D, or 1M (§§ 178.1, 178.4, 178.17 of this subchapter). Carboys in boxes or expanded polystyrene packagings. Not authorized for transportation by aircraft.

(2) Spec. 1X (§ 178.5 of this subchapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the

United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

(3) [Reserved]

(4) Specification 15A, 15B, 15C, 16A, 19A, or 19B (§§ 178.168, 178.169, 178.170, 178.185, 178.190, 178.191 of this subchapter). Wooden boxes with inside glass or earthenware containers not over 1-gallon each, except that inside containers not over 3 gallons are authorized when only one is packed in each outside box.

(5) Specification 34 (§ 178.19 of this subchapter). Polyethylene drum. The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(6) Specification 103B,[1] 103BW, or 111A60W5 (§§ 179.200, 179.201 of this subchapter). Tank cars.

(7) Spec. 12A (§ 178.210 of this subchapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

Shipper must have established that the completed package meets test requirements prescribed by § 178.210-10 of this subchapter.

(8) Specification 37P (§ 178.133 of this subchapter). Steel drum, not over 5 gallons capacity, with polyethylene liner (non-reusable container). A drum exceeding 1 gallon capacity must be constructed of at least 24 gauge metal. Not authorized for transportation by air.

(9) Spec. 22C (§ 178.198 of this subchapter). Plywood drum as prescribed by § 178.198-2(a) of this subchapter, with inside Spec. 2T (§ 178.21 of this subchapter) polyethylene container.

(10) Spec. 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Spec. 2S (§ 178.35 of this subchapter) polyethylene container.

(11) Specification MC 310, MC 311, MC 312, or DOT 412 (§§ 178.345, 178.349 of this subchapter) cargo tank motor vehicle, subject to the following conditions:

(i) The cargo tank is lined with rubber or other material of equivalent or greater strength, durability, and acid-resistance.

(ii) Bottom outlets on Specification DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345-11 of this subchapter; and Specification MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

(12) Specification 37M (§ 178.134 of this subchapter) (non-reuseable) cylindrical steel overpack with inside Specification 2SL (§ 178.35a of this subchapter) polyethylene container. Overpack must have rolled hoops and be constructed of 20-gauge body and 18-gauge head.

(13) In IM portable tanks as prescribed in paragraph (b)(5) of this section.

(b) Hydrobromic acid greater than 49 percent strength but not over 63 percent strength must be packed in specification containers as follows:

(1) Spec. 22C (§ 178.198 of this subchapter). Plywood drum as prescribed by § 178.198-2(a) of this subchapter, with Spec. 2T (§ 178.21 of this subchapter) polyethylene container. The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(2) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene container. The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(3) Specification 15A or 19B (§§ 178.168, 178.191 of this subchapter). Wooden boxes with one inside polyethylene bottle, with screw-cap closure, not over 1-gallon capacity. The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(4) Cargo tank motor vehicles as prescribed in paragraph (a)(11) of this section.

(5) Specification IM 101 portable tanks (§§ 178.270, 178.271 of this sub-

[1] The use of existing tanks authorized but new construction not authorized.

(2) For transportation by vessel, the requirements in § 176.905 apply.

(c) When wet electric storage batteries or batteries packed in containers with battery fluid are shipped as part of carload or truckload shipments of automobile parts or assembly materials, they are subject to no other requirements of this subchapter when the batteries and battery fluid are boxed or crated and so loaded, blocked and braced as to prevent short circuits of the batteries, spillage of battery fluid and movement of the materials in the transport vehicle under conditions normal to transportation. When other hazardous materials are included in the shipments, the regulations covering these other materials apply.

(d) Engines or mechanical apparatus of such size or weight as to require securement to skids to facilitate handling may have electric storage batteries, wet, necessary for the operation thereof, either securely fastened in the holder provided on the equipment and protected, including battery terminals, in such manner as to prevent damage thereto or short circuits, or completely boxed in containers of sound lumber and with filling holes upright, securely fastened to the skids upon which the engine or mechanical apparatus is mounted to prevent accidental tipping or looseness in transportation. Electric storage batteries, wet, as described herein are exempt from specification packaging.

[29 FR 18725, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967, and amended by Amdt. 173-94, 41 FR 16075, Apr. 15, 1976; Amdt. 173-94A, 41 FR 40682, Sept. 20, 1976; Amdt. 173-15, 47 FR 24586, June 7, 1982; Amdt. 173-160, 48 FR 54822, Dec. 6, 1983; Amdt. 173-215, 54 FR 36795, Sept. 20, 1989]

§ 173.250a Benzene phosphorus dichloride and benzene phosphorus thiodichloride.

(a) Benzene phosphorus dichloride and benzene phosphorus thiodichloride must be packaged as follows:

(1) In specification packagings prescribed in § 173.245, except § 173.245(a)(29), which are made of or lined with materials compatible with the lading.

(2) Specification MC 304, MC 307, MC 310, MC 311, MC 312, DOT 407 or DOT 412 (§§ 178.345, 178.347, 178.348 of this subchapter) cargo tank motor vehicle, subject to the following conditions:

(i) The cargo tank meets the corrosion protection requirements in § 178.345-2(c) of this subchapter.

(ii) Bottom outlets on Specification DOT 407 or DOT 412 cargo tanks are equipped with stop-valves meeting the requirements of § 178.345-11 of this subchapter; and Specification MC 304, MC 307, MC 310, MC 311, or MC 312 cargo tanks are equipped with stop-valves capable of being remotely closed within 30 seconds of actuation by manual or mechanical means.

(3) Spec. 103AW (§§ 179.200 and 179.201 of this subchapter) tank cars. Tanks must be lined.

(4) Specification IM 101 portable tanks (§§ 178.270, 178.271 of this subchapter) are authorized under conditions specified in the IM Tank Table.

[Amdt. 173-8, 34 FR 9868, June 26, 1969, as amended by Amdt. 173-133, 44 FR 60101, Oct. 18, 1979]

EDITORIAL NOTE: For Federal Register citations affecting § 173.250a, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

EFFECTIVE DATE NOTE: At 54 FR 25009, June 12, 1989, § 173.250a was amended by revising paragraphs (a) (1) and (2), effective December 12, 1989. At 54 FR 38233, Sept. 15, 1989, the effective date was delayed to February 12, 1990. At 54 FR 50382, Dec. 6, 1989, the effective date was further delayed to June 12, 1990. At 55 FR 21035, May 22, 1990, the effective date was further delayed to September 1, 1990. At 55 FR 37028 and 37051, Sept. 7, 1990, the effective date was further delayed to December 31, 1990, and paragraph (a)(2)(ii) was further revised, effective December 31, 1990. For the convenience of the user, the superseded text follows:

§ 173.250a Benzene phosphorus dichloride and benzene phosphorus thiodichloride.

(a) * * *

(1) In packagings prescribed in § 173.245 which are made of or lined with materials compatible with the lading.

(2) Spec. MC 310, MC 311, or MC 312 (§ 178.343 of this subchapter) cargo tanks. Corrosion protection must be provided in accordance with spec. MC 312. Bottom outlets

are authorized if they meet the requirements of § 178.343-5 of this subchapter.

* * * * *

§ 173.251 Boron trichloride and boron tribromide.

(a) Boron trichloride must be packed in specification containers as follows:

(1) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

(2) Specification 105A300W or 106A500X (§§ 179.100, 179.101, 179.300, 179.301 of this subchapter). Tank cars.

(b) Boron tribromide must be packed in specification packagings as follows:

(1) Specification 15A, 15B, 15P, or 15B (§§ 178.168, 178.169, 178.170, 178.182, 178.191 of this subchapter). Wooden or plywood boxes with inside glass receptacles not over 1 quart capacity each. Each glass receptacle must have a positive closure (not friction) and as prepared for shipment must be capable of withstanding an internal gage pressure of at least 15 p.s.i. The receptacle must be cushioned with sufficient absorbent incombustible material to completely absorb the contents in the event of leakage and must be packed within a securely closed metal can. Each can must then be cushioned with incombustible material within the prescribed outside packaging. Completed packaging for shipment must be capable of passing the tests prescribed in § 178.182-3(a)(1) of this subchapter.

(2) Specification 5C or 5M (§§ 178.83, 178.90 of this subchapter). Metal drums not exceeding 30 gallons capacity. Specification 5C drums must be constructed of at least 14-gauge stainless steel.

(3) Specification 37A (§ 178.131 of this subchapter). Steel drums not over 30-gallon capacity each with inside glass receptacles not over 1-quart capacity each. Inside containers and cushioning must comply with paragraph (b)(1) of this section. Not more than four 8-ounce glass receptacles or two 1-quart glass receptacles may be packed within one 8-gallon 37A drum. Not more than twelve 8-ounce glass receptacles or six 1-quart glass receptacles may be packed within one 30-gallon 37A drum. Completed package must meet test requirements of § 178.131-11 of this subchapter.

[29 FR 18725, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967]

EDITORIAL NOTE: For Federal Register amendments affecting § 173.251, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

§ 173.252 Bromine.

(a) Bromine must be packed in specification containers as follows:

(1) Specification 15A, 15B, or 15B (§§ 178.168, 178.169, 178.191 of this subchapter). Wooden boxes with inside glass containers not over 1-quart each; or with stone or earthenware jugs not over 1-gallon each.

(2) [Reserved]

(3) Specification 105A300W (§§ 179.100, 179.101 of this subchapter). Tank car. Each tank must have a nickel cladding material on the inside surface comprising at least 20 percent of the total thickness, or be lined with lead no less than 1/16-inch thick. Openings in tank heads to facilitate application of lead lining are authorized and must be closed in an approved manner. All closures and appurtenances which are in contact with the lading must be lead lined or must be made of metal not subject to rapid deterioration by contact with the lading. All interior welds in nickel clad tanks must be protected by pure nickel butt straps. Except as otherwise provided herein, the water weight capacity of the tank must not be more than 20,400 pounds, and the maximum quantity of liquid bromine loaded into the tank must not be more than 60,000 pounds or 300 percent of the water weight capacity of the tank, whichever quantity is less. The total quantity loaded must not be less than 98 percent of the quantity the tank is authorized to carry.

(i) A tank constructed and maintained in full compliance with the requirements of a Specification DOT-105A500W is authorized for larger capacities of bromine. However, this tank may be marked DOT-105A300W and may be equipped with manway cover plates, safety valves, venting valves, loading valves, and unloading valves that are in compliance with the requirements of a Specification DOT-

GREATER FAIRBANKS CHAMBER OF COMMERCE
SUGGESTIONS REGARDING HB389

1. It is suggested that HB389 be used to establish a voluntary commission of Alaskan citizens, consisting of nine individuals concerned with environmentally sound battery disposal.

2. The voluntary commission will commence their work on or before June 15, 1992 and complete their work on or before February 1, 1993, at which time they will make recommendations to the appropriate House Committee charged with the responsibility of making laws regarding the safe recycling of lead acid batteries.

3. The voluntary commissioners shall be appointed by the Governor. Each of the following sectors shall be represented on the commission:

a. Battery manufacturing
b. Battery distribution and sale
c. Battery users
d. Battery recyclers
e. Battery processors
f. A member of an unincorporated city or municipality who is interested in or responsible for battery disposal in his/her municipality
g. A member of an incorporated city who is interested in or responsible for battery disposal in his/her city
h. Legislative aide or advisor
i. A member of an environmental group who is knowledgeable regarding EPA regulations concerning recyclable material

4. All members of the commission are voting members. The Chairperson of the commission shall be appointed by the Governor from among the private sector commissioners.

5. The commission is strictly voluntary, whose meetings and travel are not funded by the State of Alaska, although the members are free to seek environmental agency of Federal government grants for their activities.

6. The commission shall be charged with the responsibility of suggesting the parameters under which a bill shall be written by the House in 1993 that will, within the guidelines, constraints and definitions of Federal EPA regulations, adequately protect Alaska's environment from inappropriately disposed lead acid batteries while allowing battery manufacturers, distributors, processors and users the right to freely regulate themselves to meet Federal EPA law.

Suggestions made by the commission should include, but are not limited to, financial and business incentives to manufacturers, distributors, processors and recyclers to serve the public's best interest in helping to establish a profitable recycling program, and an incentive to the public to recycle their used, damaged or undamaged, lead acid batteries.

Suggestions should, as much as is practical, eliminate the need for growth in State regulatory employment and if practical, show means by which current regulator's may assure that safe recycling is accomplished while making other inspection or compliance visits.

7. Inasmuch as the Greater Fairbanks Chamber of Commerce supports legislation that allows the greatest amount of individual freedom while providing for a safe and sound environment, the Board of Directors endorses and respectfully submits these recommendations.

TO: Interior Delegation

FROM: Greater Fairbanks Chamber of Commerce Board of Directors

DATE: April 21, 1992

SUBJECT: Opposition to HB389 - "An Act Relating to the Recycling of Lead Acid Batteries," as written.

The Greater Fairbanks Chamber of Commerce and the Environmental Concerns Committee reviewed HB389 and appointed a sub-committee to make recommendations concerning the bill. This memorandum states the Chamber's opposition to the bill as written and makes recommendations which the Chamber could support if adopted.

Section 1. AS 46.06.105 (a):

The bill addresses the recycling of "unbroken, reasonable sound and clean" batteries only. Broken and clean are not defined. Any battery that has been used may show evidence of corrosion and could, therefore, be considered unclean. Any battery with a loose terminal, the most common problem with used batteries, could be considered broken. Thus, the bill, as written, addresses for the most part, only the recycling of unused batteries. No provision is made for recycling batteries that have been used and that may be showing signs of use and wear.

The committee understands that there has been widespread opposition to "forcing" retailers of batteries to accept used batteries for disposal because of the potential liability to the retailer in transporting and disposing of these items. *The committee agrees that retailers that are unwilling to be in the business of disposing of used batteries should not be required to in- that business.*

Nonetheless, writing a law that requires retailers to be in a business they do not wish to undertake and which also does not solve the problem - disposing of batteries that have the greatest potential for damaging the environment if disposed of in land fills, along roadsides, etc., begs the question of what to do about batteries vis a vis the environmental issues.

Therefore, the Greater Fairbanks Chamber of Commerce opposes HB389 inasmuch as it does not accomplish its intended objective, protecting the environment from the potential damage of inappropriate disposal of used batteries.

Section 1. AS 46.06.105 (b):

"...the retailer shall charge the purchaser an additional fee of not less than $5 but not more than $25. The retailer shall refund the fee to the purchaser..."

This bill gives a limited incentive to the purchaser of lead batteries to bring the battery back to the retailer for recycling. However, the fee should be fixed according to the weight of each battery since the consumer should not be expected to shop the best value for the battery as well as the best value for a government enforced tariff. Our recommended fee structure for batteries by weight is attached.

Additionally, if retailers are expected to finance the appropriate disposal of said batteries, the retailer should:

a. be *allowed* to charge a fee that will compensate for the additional expense of storage, transportation and disposal of the battery. That should be included in the government enforced tariff.

b. be *allowed* to profit from accepting the risk involved in being in the business of environmental protection on behalf of the government.

The Chamber feels that a potential business exists in accepting used -broken or unbroken- batteries and transporting them to safe disposal sites and that there are individuals in the State of Alaska willing to be in that business. If an entrepreneur wishes to be in this business, the fees should compensate him/her for being in the collection business on behalf of the government and for the cost of dealing with recyclable material.

Section 1. AS 46.06.105 (f):

"This section does not apply to sale of a lead acid battery if (1) the sale of the battery occurs in .....a municipality or unincorporated community;"

The Chamber sees no need to write a law that has different standards for different sections of the State. If a law is written that mandates that battery users dispose of their used batteries in a certain manner, it should apply to all battery users irrespective of their address within the State. The Committee understands that it is more difficult for individuals who live in "the bush" to deal with issues concerning recyclable material. Those difficulties come with the choice of life styles. All batteries should either be recycled - or none should.

Section 1. AS 46.06.105 (f) (2) (A):

(f) this section does not apply to the sale of a lead acid battery if (2) the municipality or community does not have a person located in the municipality or community who (A) possesses a current valid federal Environmental Protection Agency identification number under 40 CFR 263.11:

Once again, this is discriminatory legislation. What if an incorporated city does not have a person with a EPA permit. This provision first required the unincorporated community business to have a permit that is not required of incorporated communities in order to be in the collection business. Second, it eliminates the recycling obligation of battery users who are rural dwellers.

These discriminatory provisions should be eliminated.

Section 1. AS 46.06.105 (f) (2) (B) (1) (B):

"weighs 25 kilograms or less when filled with all necessary fluids"

Unless there is some law or ethic that requires the State law to discuss weights in European measure, the weight should be indicated as 55 pounds which equates to 25 kilograms.

This weight provision further endangers the environment as it requires only car battery users to comply. All industrial users with large batteries are exempt from compliance. One of the most dangerous disposal problems exist when industrial batteries are inappropriately disposed. Transporting a 400 pound battery from an industrial site can be expensive - a real incentive to "dump" the battery inappropriately. This bill, if redrafted, should include all lead core battery users.

Section 3. APPLICABILITY

"ACT does not apply....in a municipality or unincorporated community that has a population less than 1,000 that is not on the state road or marine highway system, and that does not have regular jet service."

Discriminatory.

Municipality of Anchorage

Solid Waste Services

1111 East 56th Avenue, 99518
P.O. Box 196650 • Anchorage, Alaska 99519-6650

Tom Fink, Mayor

Telephone: (907) 561-1908

April 9, 1992

Senator Steve Frank, Chairman
Community & Regional Affairs Committee
State Capitol, Room 417
Juneau, AK 99801-1182

Dear Senator Frank:

Re: CS For House Bill No. 389

The Municipality of Anchorage, Department of Solid Waste Services encourages the Seventeenth Legislature to pass CS HB No. 389.

In our opinion the act relating to recycling of lead acid batteries will significantly reduce the potential for environmental pollution caused by the batteries now ending up in many landfills and dump sites across the state. Too, if passed, valuable natural resources will be conserved.

In Anchorage, over the last three years, more than 17,000 batteries have been removed from the solid waste stream and prevented from being disposed of at the area's landfill. However, at a cost of $5 each, it has not been inexpensive to our utility and its ratepayers to prevent the batteries from entering our landfill. Passage of CS HB No. 389 will place the economic burden of proper reuse or disposal upon the battery generator, rather than all the ratepayers. We believe this bill is worthy of support.

Sincerely,

Joel Grunwaldt, Director
Solid Waste Services

/ld

cc: Bill Sponsors

STATE OF ALASKA
1992 LEGISLATIVE SESSION

FISCAL NOTE

No. 1
Bill Version HB 389
(H) Publish Date: 2/7/92

Revision Date: _____ Department Affected: Environmental Conservation
Title: Recycling of automobile batteries BRU: Environmental Quality
Component: Solid & Hazardous Waste Management
Sponsor: Rep. Ulmer
Requestor: (H) Resources COMPONENT SERIAL NO. 1 4 2 7

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Janice Adair Phone: 465-5050
Division: Commissioner's Office Date: January 26, 1992
Approved by Commissioner: Dan A. Sanders
Agency: Environmental Conservation Date: 1/27/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBB, Co[illegible], Other Impacted Agency(ies).

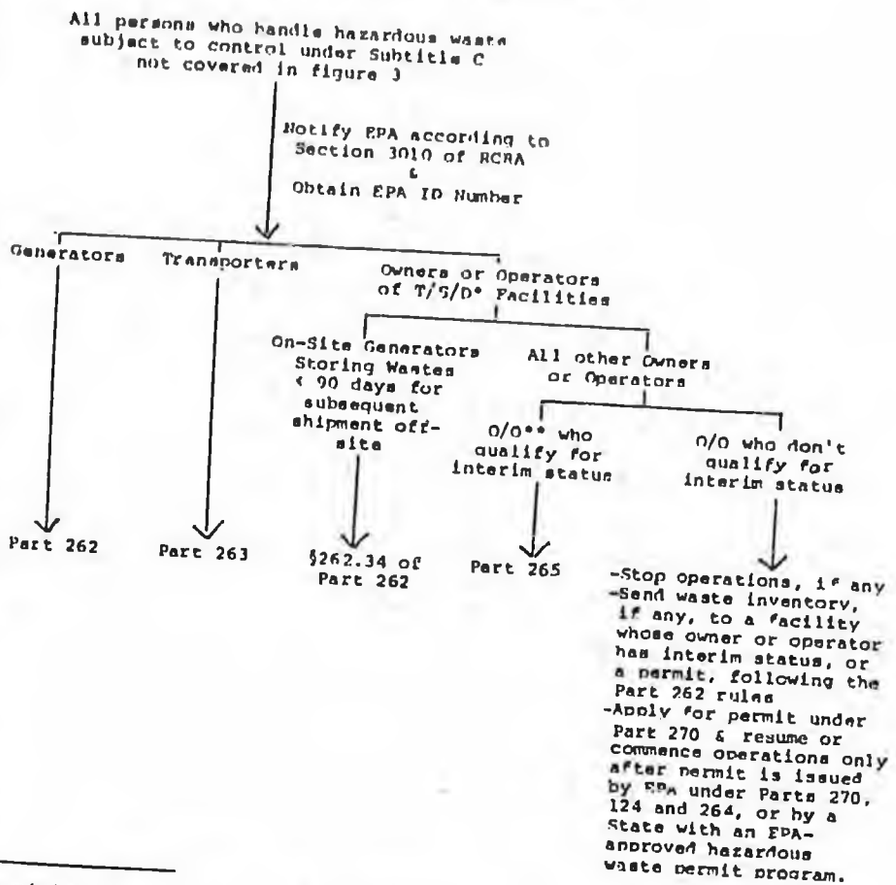
Rev 10/7/91 CO

Fiscal Note - DEC 2/7/92

Page ___ of ___

FIGURE 4

REGULATIONS FOR HAZARDOUS WASTE NOT COVERED IN DIAGRAM 1



* T/S/D stands for Treatment, Storage, or Disposal
** O/O stands for Owners or Operators

[45 FR 33073, May 19, 1980, as amended at 48 FR 14293, Apr. 1, 1983]

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subpart A—General

AUTHORITY: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

SOURCE: 45 FR 33119, May 19, 1980, unless otherwise noted.

Subpart A—General

§ 261.1 Purpose and scope.

(a) This part identifies those solid wastes which are subject to regulation as hazardous wastes under parts 262 through 265, 268, and parts 270, 271, and 124 of this chapter and which are subject to the notification requirements of section 3010 of RCRA. In this part:

(1) Subpart A defines the terms "solid waste" and "hazardous waste", identifies those wastes which are excluded from regulation under parts 262 through 266, 268 and 270 and establishes special management requirements for hazardous waste produced by conditionally exempt small quantity generators and hazardous waste which is recycled.

(2) Subpart B sets forth the criteria used by EPA to identify characteristics of hazardous waste and to list particular hazardous wastes.

(3) Subpart C identifies characteristics of hazardous waste.

(4) Subpart D lists particular hazardous wastes.

(b)(1) The definition of solid waste contained in this part applies only to wastes that also are hazardous for purposes of the regulations implementing Subtitle C of RCRA. For example, it does not apply to materials (such as non-hazardous scrap, paper, textiles, or rubber) that are not otherwise hazardous wastes and that are recycled.

(2) This part identifies only some of the materials which are solid wastes and hazardous wastes under sections 3007, 3013, and 7003 of RCRA. A material which is not defined as a solid waste in this part, or is not a hazardous waste identified or listed in this

40 CFR 261.1, 40 CFR 263.1

part, is still a solid waste and a hazardous waste for purposes of these sections if:

(i) In the case of sections 3007 and 3013, EPA has reason to believe that the material may be a solid waste within the meaning of section 1004(27) of RCRA and a hazardous waste within the meaning of section 1004(5) of RCRA; or

(ii) In the case of section 7003, the statutory elements are established.

(c) For the purposes of §§ 261.2 and 261.6:

(1) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing;

(2) "Sludge" has the same meaning used in § 260.10 of this chapter;

(3) A "by-product" is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

(4) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.

(5) A material is "used or reused" if it is either:

(i) Employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

(ii) Employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

(6) "Scrap metal" is bits and pieces of metal parts (*e.g.*,) bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (*e.g.*, radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

(7) A material is "recycled" if it is used, reused, or reclaimed.

(8) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (*e.g.*, slags from a single smelting process) that is recycled in the same way (*i.e.*, from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under § 261.4(c) are not be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

[45 FR 33119, May 19, 1980, as amended at 48 FR 14293, Apr. 1, 1983; 50 FR 663, Jan. 4, 1985; 51 FR 10174, Mar. 24, 1986; 51 FR 40636, Nov. 7, 1986]

§ 261.2 Definition of solid waste.

(a)(1) A *solid waste* is any discarded material that is not excluded by § 261.4(a) or that is not excluded by variance granted under §§ 260.30 and 260.31.

(2) A *discarded material* is any material which is:

(i) *Abandoned*, as explained in paragraph (b) of this section; or

(ii) *Recycled*, as explained in paragraph (c) of this section; or

(iii) Considered *inherently waste-like*, as explained in paragraph (d) of this section.

(b) Materials are solid waste if they are *abandoned* by being:

(1) Disposed of; or

(2) Burned or incinerated; or

(3) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

(c) Materials are solid wastes if they are *recycled*—or accumulated, stored, or treated before recycling—as specified in paragraphs (c)(1) through (4) of this section.

(1) *Used in a manner constituting disposal.* (i) Materials noted with a "*" in Column 1 of Table I are solid wastes when they are:

(A) Applied to or placed on the land in a manner that constitutes disposal; or

(B) Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which cases the product itself remains a solid waste).

(ii) However, commercial chemical products listed in § 261.33 are not solid wastes if they are applied to the land and that is their ordinary manner of use.

(2) *Burning for energy recovery.* (i) Materials noted with a "*" in column 2 of Table 1 are solid wastes when they are:

(A) Burned to recover energy;

(B) Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste).

(ii) However, commercial chemical products listed in § 261.33 are not solid wastes if they are themselves fuels.

(3) *Reclaimed.* Materials noted with a "*" in column 3 of Table 1 are solid wastes when reclaimed.

(4) *Accumulated speculatively.* Materials noted with a "*" in column 4 of Table 1 are solid wastes when accumulated speculatively.

TABLE 1

	Use constituting disposal (§ 261.2(c)(1)) (1)	Energy recovery/fuel (§ 261.2(c)(2)) (2)	Reclamation (§ 261.2(c)(3)) (3)	Speculative accumulation (§ 261.2(c)(4)) (4)
Spent Materials	(*)	(*)	(*)	(*)
Sludges (listed in 40 CFR part 261.31 or 261.32)	(*)	(*)	(*)	(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)		(*)
By-products (listed in 40 CFR part 261.31 or 261.32)	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic of hazardous waste	(*)	(*)		(*)
Commercial chemical products listed in 40 CFR 261.33	(*)	(*)		
Scrap metal	(*)	(*)	(*)	(*)

Note: The terms "spent materials", "sludges", "by-products," and "scrap metal" are defined in § 261.1.

(d) *Inherently waste-like materials.* The following materials are solid wastes when they are recycled in any manner:

(1) Hazardous Waste Nos. F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028.

(2) Secondary materials fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste as defined in subparts C or D of this part.

(3) The Administrator will use the following criteria to add wastes to that list:

(i)(A) The materials are ordinarily disposed of, burned, or incinerated; or

(B) The materials contain toxic constituents listed in appendix VIII of part 261 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

INSTRUCTIONS—CONTINUATION SHEET, U.S. EPA FORM 8700-22A

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard.

This form must be used as a continuation sheet to U.S. EPA Form 8700-22 if:

- More than two transporters are to be used to transport the waste;
- More space is required for the U.S. DOT description and related information in Item 11 of U.S. EPA Form 8700-22.

Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the uniform hazardous waste manifest (EPA Form 8700-22) and, if necessary, this continuation sheet (EPA Form 8700-22A) for both inter- and intrastate transportation.

GENERATORS

Item 21. Generator's U.S. EPA ID Number—Manifest Document Number

Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in item 1 on the first page of the Manifest.

Item 22. Page ——

Enter the page number of this Continuation Sheet.

Item 23. Generator's Name

Enter the generator's name as it appears in item 3 on the first page of the Manifest.

Item 24. Transporter —— Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter *3* Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 25. U.S. EPA ID Number

Enter the U.S. EPA twelve digit identification number of the transporter described in item 24.

Item 26. Transporter —— Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 27. U.S. EPA ID Number

Enter the U.S. EPA twelve digit identification number of the transporter described in item 26.

Item 28. U.S. DOT Description Including Proper Shipping Name, Hazardous Class and ID Number (UN/NA)

Refer to item 11.

Item 29. Containers (No. and Type)

Refer to item 12.

Item 30. Total Quantity

Refer to item 13.

Item 31. Unit (Wt./Vol.)

Refer to item 14.

Item 32. Special Handling Instructions

Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States are *not* authorized to require additional, new, or different information in this space.

* * * * *

TRANSPORTERS

Item 33. Transporter —— Acknowledgement of Receipt of Materials

Enter the same number of the Transporter as identified in item 24. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 24. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 34. Transporter —— Acknowledgement of Receipt of Materials

Enter the same number as identified in item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

* * * * *

OWNERS AND OPERATORS OF TREATMENT, STORAGE, OR DISPOSAL FACILITIES

Item 35. Discrepancy Indication Space

Refer to item 19.

Items L-R are not required by Federal regulations for intra- or interstate transportation. However, States may require generators and owners or operators of treatment, storage, or disposal facilities to complete some or all of items L-R as part of State manifest reporting requirements. Generators and owners and operators of treatment, storage, or disposal facilities are advised to contact State officials for guidance on completing the shaded areas of the manifest.

[49 FR 10501, Mar. 20, 1984, as amended at 51 FR 28685, Aug. 8, 1986; 51 FR 35192, Oct. 1, 1986; 53 FR 45091, Nov. 8, 1988]

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

Subpart A—General

Subpart B—Compliance With the Manifest System and Recordkeeping

Subpart C—Hazardous Waste Discharges

AUTHORITY: Secs. 2002(a), 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978, (42 U.S.C. 6912a, 6922, 6923, 6924, 6925).

SOURCE: 45 FR 33151, May 19, 1980, unless otherwise noted.

Subpart A—General

§ 263.10 Scope.

(a) These regulations establish standards which apply to persons transporting hazardous waste within the United States if the transportation requires a manifest under 40 CFR part 262.

NOTE: The regulations set forth in parts 262 and 263 establish the responsibilities of generators and transporters of hazardous waste in the handling, transportation, and management of that waste. In these regulations, EPA has expressly adopted certain regulations of the Department of Transportation (DOT) governing the transportation of hazardous materials. These regulations concern, among other things, labeling, marking, placarding, using proper containers, and reporting discharges. EPA has expressly adopted these regulations in order to satisfy its statutory obligation to promulgate regulations which are necessary to protect human health and the environment in the transportation of hazardous waste. EPA's adoption of these DOT regulations ensures consistency with the requirements of DOT and thus avoids the establishment of duplicative or conflicting requirements with respect to these matters. These EPA regulations which apply to both interstate and intrastate transportation of hazardous waste are enforceable by EPA.

DOT has revised its hazardous materials transportation regulations in order to encompass the transportation of hazardous waste and to regulate intrastate, as well as interstate, transportation of hazardous waste. Transporters of hazardous waste are cautioned that DOT's regulations are fully applicable to their activities and enforceable by DOT. These DOT regulations are codified in title 49, Code of Federal Regulations, subchapter C.

EPA and DOT worked together to develop standards for transporters of hazardous waste in order to avoid conflicting requirements. Except for transporters of bulk shipments of hazardous waste by water, a transporter who meets all applicable requirements of 49 CFR parts 171 through 179 and the requirements of 40 CFR 263.11 and 263.31 will be deemed in compliance with this part. Regardless of DOT's action, EPA retains its authority to enforce these regulations.

(b) These regulations do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.

(c) A transporter of hazardous waste must also comply with 40 CFR part 262, Standards Applicable to Generators of Hazardous Waste, if he:

(1) Transports hazardous waste into the United States from abroad; or

(2) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.

[45 FR 33151, May 19, 1980, as amended at 46 FR 86968, Dec. 31, 1980]

§ 263.11 EPA identification number.

(a) A transporter must not transport hazardous wastes without having received an EPA identification number from the Administrator.

(b) A transporter who has not received an EPA identification number may obtain one by applying to the Administrator using EPA Form 8700-12. Upon receiving the request, the Administrator will assign an EPA identification number to the transporter.

§ 263.12 Transfer facility requirements.

A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of § 262.30 at a transfer facility for a period of ten days or less is not subject to regulation under parts 270, 264, 265, and 268 of this chapter with respect to the storage of those wastes.

[45 FR 86968, Dec. 31, 1980, as amended at 48 FR 14294, Apr. 1, 1983; 51 FR 40637, Nov. 7, 1986]

Subpart B—Compliance With the Manifest System and Recordkeeping

§ 263.20 The manifest system.

(a) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of 40 CFR 262.20. In the case of exports, a transporter may not accept such waste from a primary exporter or other person (1) if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and (2) unless, in addition to a manifest signed in accordance with the provisions of 40 CFR 262.20, such waste is also accompanied by an EPA Acknowledgment of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).

(b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.

(c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the EPA Acknowledgment of Consent also accompanies the hazardous waste.

(d) A transporter who delivers a hazardous waste to another transporter or to the designated facility must:

(1) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest; and

(2) Retain one copy of the manifest in accordance with § 263.22; and

(3) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(e) The requirements of paragraphs (c), (d) and (f) of this section do not apply to water (bulk shipment) transporters if:

(1) The hazardous waste is delivered by water (bulk shipment) to the designated facility; and

(2) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports, an EPA Acknowledgment of Consent accompanies the hazardous waste; and

(3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and

(4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with § 263.22.

(f) For shipments involving rail transportation, the requirements of paragraphs (c), (d) and (e) do not apply and the following requirements do apply:

(1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must:

(i) Sign and date the manifest acknowledging acceptance of the hazardous waste;

(ii) Return a signed copy of the manifest to the non-rail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next non-rail transporter, if any; or,

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States;

(iv) Retain one copy of the manifest and rail shipping paper in accordance with § 263.22.

(2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports an EPA Acknowledgment of Consent accompanies the hazardous waste at all times.

NOTE: Intermediate rail transporters are not required to sign either the manifest or shipping paper.

(3) When delivering hazardous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with § 263.22.

(4) When delivering hazardous waste to a non-rail transporter a rail transporter must:

(i) Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with § 263.22.

(5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.

(g) Transporters who transport hazardous waste out of the United States must:

(1) Indicate on the manifest the date the hazardous waste left the United States; and

(2) Sign the manifest and retain one copy in accordance with § 263.22(c); and

(3) Return a signed copy of the manifest to the generator; and

(4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

(h) A transporter transporting hazardous waste from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month need not comply with the requirements of this section or those of § 263.22 provided that:

(1) The waste is being transported pursuant to a reclamation agreement as provided for in § 262.20(e);

(2) The transporter records, on a log or shipping paper, the following information for each shipment:

(i) The name, address, and U.S. EPA Identification Number of the generator of the waste;

(ii) The quantity of waste accepted;

(iii) All DOT-required shipping information;

(iv) The date the waste is accepted; and

(3) The transporter carries this record when transporting waste to the reclamation facility; and

(4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

[45 FR 33151, May 19, 1980, as amended at 45 FR 86973, Dec. 31, 1980; 51 FR 10176, Mar. 24, 1986; 51 FR 28685, Aug. 8, 1986]

§ 263.21 Compliance with the manifest.

(a) The transporter must deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:

(1) The designated facility listed on the manifest; or

(2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

Alaska State Legislature

HOUSE RESOURCES COMMITTEE

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3715

6 February, 1992

Commissioner John Sandor
Department of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795

Dear Commissioner Sandor:

The House Resources Committee has considered House Bill 389 "An Act relating to recycling of lead acid batteries." During our deliberations, an issue arose that the committee feels is beyond the scope of this legislation, but requires the prompt attention by the Department of Environmental Conservation.

House Bill 389 would require retailers to charge a deposit on the purchase price of a lead acid battery, refundable upon receipt of a used battery. Retailers would then send the batteries to recyclers so that the lead may be recycled for use in new batteries.

House Bill 389 is designed to encourage the recycling of lead acid batteries in the future. However, the Committee notes that there is no provision for dealing with safe disposal of lead acid batteries currently causing health problems and threatening the well-being of Alaskans. This condition is especially acute in rural communities where proper disposal facilities and the ability to transport hazardous waste are significantly limited. In addition, little or no "information programs" or efforts are available to alert rural residents of the health hazards of the lead acid battery problem wherever they are improperly disposed of in the environment.

The effective date for rural communities as proposed in CSHB289(RES) will be one year after enactment of this legislation. During that one year period of time, in an effort to address the problem outlined above, the Committee request the Department

2/6/92 Ltr from HRES to ADEC

consider expanding the existing Household Hazardous Waste Program to specifically address removing used lead acid batteries from communities with limited access to the major transportation hubs in Alaska.

The Committee also asks the Department to work with the Alaska Municipal League's Municipal Pollution Prevention Roundtable and representatives of rural communities, particularly from the unorganized borough, to assist them in planning for lead-acid battery recyling. The Household Hazardous Waste Program, in conjunction with HB 389, presents your Department with a unique opportunity to focus your efforts on the health menace posed by lead acid batteries and to clean up this problem before it is unmanageable.

Thank you for your cooperation in this matter.

Sincerely,

Cliff Davidson

Representative Cliff Davidson
Chairman, House Resources Committee

cc: DEC budget subcommittee
Alaska Municipal League

UNITED BATTERY
UNITED BATTERY SYSTEMS INC.
143 N.E. Columbia Blvd. • Portland, OR 97211 • (503) 289-
Telex: 151443 UBS

July 11, 1987

E.P.A, Region X

Dear Mr. Russel:

United Battery Systems Inc. has established several battery collection stations for the purpose of recycling spent lead acid batteries, one such station is located in Anchorage Alaska, at this station some of the batteries collected were recovered from a land fill and consquently were broken up (apparently from freezing and land fill 'bulldozer's.. running over them). United Battery Systems Inc. is not and never have been a battery breaker, we simply transport them for reclamation. But since they were broken up they require special packaging to meet the Department of Transportation (D. O. T.) title 49 regulations (i.e. by placing them in 55 gallon salvage drums).

The Alaska station included 4 such salvage drums in a 40 foot Sea Land container along with the intact, palletized, spent batteries.

The Sea Land Shipping Company is the only shipping company that has the capabilities to ship from the state of Alaska to the Pacific Rim Countries. The containers go from Alaska to Tacoma then to the Pacific Rim Countries, while in Tacoma a Coast Guard routine inspection spotted the salvage drums, looked inside and could not decide how to classify the broken batteries, they called the Seattle E.P.A. to get a determination as to what the broken batteries should be classified as, the reply was, "hazardous waste" and we were told we could not move them until we obtain a E.P.A. number.

In the past we thought subpart G of Title 40 CFR 266.80 applied.

266.80 Applicability and Requirements

(A) The regulations of this supart apply to persons who reclaim spent lead-acid batteries that are recyclable materials ("spent batteries"). Persons who generate, transport, or collect spent batteries but do not reclaim them are not subject to regulation under parts 262 through 266 or part 270 or 124 of this chapter, and also are not subject to the requirements of section 3010 of RCRA.

The problem is this, classified as a hazardous waste, Sea Land Shipping Company will not transport them, also 5% to 10% of all spent batteries brought to our other collection stations are not intact, if we cannot ship them then we will have to refuse them.

Comments from United Battery, Craig Taylor reps, AK Battery

UNIIED BATTERY
UNITED BATTERY SYSTEMS INC.
143 N.E. Columbia Blvd. • Portland, OR 97211 • (503) 289-8
Telex: 151442 UBS

The ones in Alaska will remain in the land fill and if we won't accept the other 5 to 10% from our established suppliers because they are "hazardous waste" it would be a good bet they will just dump them.

The 5 to 10% loss in product isn't of any great concern to us, but the polluting of the environment is, so we appeal to you to help us resolve this matter.

We feel battery cells in intact salvage drums is as safe as battery cells in intact battery cases and that all such materials should be classified "recyclable materials".

Our collection stations comprise a 5 state region, Alaska, Hawaii, Montana, Oregon and Washington and is quite small compared to national standards, but it should be noted we export approximately 2000 tons per month. It has been estimated that United States production of replacement and original equipment batteries is the largest in the world amounting to about 74 million units in 1985.

In conclusion it seems the classification "hazardous waste" is self defeating, where the material was once recycled for profit it now will remain in the environment to eat up tax dollars for clean up.

Sincerely:

Howard E. Cyphers

Howard E. Cyphers
President
United Battery Systems Inc.

cc: E.P.A. Wash. D. C.
sm. bus. Ombudsman off.
Mr. Malcomb
solid wste. and emer. resp.
Mr. Jay Winston Portter

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

SEP 22 1987

REPLY TO ATTN OF HW-112

Howard Cyphers, President
United Battery Systems Inc.
143 N.E. Columbia Boulevard
Portland, Oregon 97211

Dear Mr. Cyphers:

This is in response to your July 11, 1987 letter requesting clarification on the requirements under the Resource Conservation and Recovery Act (RCRA) for shipment of spent batteries.

The Agency regulates spent lead-acid batteries only when stored before reclamation at battery cracking, battery smelting, and battery refining operations. Our headquarters staff considers battery cracking to be deliberate breaking of the battery to recover the lead cells. Based upon the information you supplied on the battery collection centers in Anchorage, Alaska, it appears as though these facilities were not deliberatly breaking batteries for recovery of lead and therefore batteries originating from these collection facilities would be considered exempt from regulation under RCRA until they arrive at a reclamation facility that reclaims the lead plates. This interpretation differs with a previous one made by our office which indicated these batteries were subject to the RCRA manifesting and export notification requirements. These batteries will, however be subject to the regulatory requirements of 40 CFR Part 266 Subpart G when they arrive at a battery reclamation facility.

We appreciate your patience in resolution of this matter. If you have any additional questions contact Bill Adams of my staff at (206) 442-2806.

Sincerely

Kenneth D. Feigner, Chief
Waste Management Branch

cc: Captain Felton, U.S. Coast Guard

EXHIBIT "A"

SINCE 1969

UNITED BATTERY

UNITED BATTERY SYSTEMS INC.

143 N.E. Columbia Blvd. • Portland, OR 97211-1415 • (503) 289-6644

Fax: (503) 285-8916

April 3, 1992

State Senator Steve Frank
% Sarah Fischer
Alaska State Senate
State Capital
Juneau, AK 99801-1182

RE: House Bill No. 389
Recycling of Lead-Acid Batteries
Sponsor(s): Representatives Ulmer, Brown, B. Davis, Boyer, Finkelstein, Koponen

Dear Sarah:

Per our conversation today, I am Federal Expressing you what we have put together with respects to HB 389.

I am very much in support of this form of legislation. Please let me know if you have any questions and how I can be of assistance.

I look forward to hearing from you.

Sincerely,

Howard

Howard E. Cyphers
President
United Battery Systems, Inc.

HEC:jcc

Enclosures

UNITED BATTERY

From United Battery - Oregon

SUBJECT: HOUSE BILL NO. 389
STATE OF ALASKA

In a news article by Brian S. Akre, Associated Press, Juneau, stated that Rep. Fran Ulmer-D, Juneau, said, "many of the 3,000-plus tons of batteries sold in Alaska each year are improperly dumped."

HB 389 DOES NOT ADDRESS TWO MAJOR AREAS:

1. BROKEN, CRACKED OR DAMAGED BATTERIES

2. BATTERIES OVER 55 LBS. (25 KILOGRAMS)

1. BROKEN, CRACKED OR DAMAGED BATTERIES:

We estimate that approximately 20 to 25 percent of the automotive and commercial batteries collected in the lower 48 states are broken or damaged. This figure could be even higher in the state of Alaska. Twenty percent of 3,000-plus tons equates to approximately 32,876 broken or damaged batteries in Alaska every year.

If broken batteries under HB 389 are not accepted, it is a good bet they can be added to the many batteries that Rep. Ulmer states are improperly dumped. (i.e., "thrown from marine docks, abandoned by the roadside, left in piles to decompose, these batteries pose a significant health risk.") Not to mention the environmental risks.

Intact unbroken batteries are regulated as hazardous material by The Department of Transportation, broken or cracked batteries are regulated as hazardous waste, however, EPA in a letter to Howard Cyphers of United Battery Systems, Inc., states, "that if the batteries are not deliberately broken for recovery of lead, they would be considered exempt from regulations under RCRA until they arrive at a reclamation facility that reclaims the lead plates. (REFER TO EXHIBIT A).

Broken batteries require special packaging which is regulated by The Department of Transportation, Title 49 CFR 173.3(c). (REFER TO EXHIBIT B). The special risk management, safety procedures and packaging requirements for handling broken batteries is very costly even more so than the cost of returning intact batteries. In our opinion the funds to pay for these costs should be addressed in HB 389 to insure that these broken batteries can be collected and disposed of properly along with the intact batteries.

We feel that HB 389 should reach 100 percent recycling.

UNITED Battery

2. BATTERIES OVER 55 LBS. (25 KILOGRAMS):

Approximately 90 percent of the commercial batteries manufactured in the United States exceeds the 55 lb. limit.

NOTE: MOST UNITED STATES BATTERY MANUFACTURERS USE AN AVERAGE WEIGHT OF 36.5 LBS. PER BATTERY UNIT. (ALL AUTOMOTIVE BATTERIES HAVE A ONE (1) BATTERY UNIT VALUE...36.5 LBS.)

Commercial batteries range from 1.5 battery units...55 lbs. to 4.0 battery units...146 lbs., with 4.0 battery units being the highest battery unit rating for commercial batteries...146 lbs.

For instance a group size 8D battery is rated as a 4.0 battery unit value, examples of group size 8D's applications are heavy equipment, boats, trucks, busses, hi-lifts, motor homes, etc.

In addition, there are a multitude of commercial batteries that fall under the above mentioned ratings of 1.5 battery units to 4.0 battery units.

Since HB 389 is presently limited to batteries 55 lbs. and under, it is inadequate for Alaska's needs, as a good share of Alaska's battery sales are in the commercial battery market.

We strongly recommend that HB 389 also include guidelines and regulations for batteries over 55 lbs. since they pose just as significant a health risk and environmental problem as batteries under 55 lbs.

"EXHIBIT C" will give you an idea of the battery unit value rating for various group sizes of all automotive and commercial batteries.

OUR PROPOSAL would be to change the $5.00 per battery fee to an $8.00 per battery unit fee (one battery unit = 36.5 lbs.), with $5.00 of the fee being refunded if the battery is returned within 30 days from the date of purchase, and $3.00 of the per battery unit fee being retained by the seller to pay for the costs of compliance to all applicable regulations, the risk management, the safety equipment required for handling and for the proper disposal for all the batteries collected, broken and intact alike.

CRAIG TAYLOR EQUIPMENT COMPANY
733 E. WHITNEY ROAD
ANCHORAGE, ALASKA 99501-1694
(907) 276-5050
FAX: (907) 276-0889

April 3, 1992

Senator Steve Frank
Alaska State Senator
P.O. Box V
Juneau, Alaska 99811

Ref: HB-389

Dear Senator Frank,

Thanks for sending me a copy of The House Bill 389. As a businessman of over 35 years in Alaska and with Four store locations in the State (Anchorage, Fairbanks, Wasilla, and Soldotna). I see no need whatsoever for this legislation.

First: The Bill is unenforceable to All Alaskans, as stated in Sec 3. "The act does not apply to the sale of a lead acid battery, if the sale occurs in a Municipality or unincorporated community thac has a population less than 1,000, that is not on the State Road or Marine Highway System, and does not have regular Jet Service." This means this Law would apply to many Alaskan citizens but not all of them. If its unenforceable in "Bush Alaska" why should the rest be subjected to it.

Second: The Municipalities where our businesses are located have taken care of the problem. We wouldn't dare put an old battery in the trash. Every store location we have collects old, used and broken batteries and deliver them to the proper recycler. We have for years received batteries and stored them in covered containers until they are delivered. We have no problems with old batteries. If there might be a problem its in "Bush Alaska" and this legislation exempts most or all of the Bush.

Third: Why make laws for laws sake. There is no need for this legislation in 10% of Alaska where 90% of the population lives. Its all ready being taken care of by the Local Municipalities. We are careful, we recycle and we are good citizens in our state. I urge you to vote against this HB-389 because its not needed except maybe in the area the Bill exempts, and it doubtful that it will ever be enforceable there.

Yours Very Truly,

CRAIG TAYLOR EQUIPMENT COMPANY

Jack H. Richardson
Jack Richardson
President

CRAIG TAYLOR

ALASKAN BATTERY ENTERPRISES, INC.

157 Old Richardson Hwy. • Fairbanks, Alaska 99701-7699

(907) 451-0594

FAXSIMILE TRANSMISSION. Date: 17 March 1992

From: Earl Romans Phone: (907) 456-4900 Fax (907) 451-7888

To: Mark Boyer Phone: 452-6275 Fax: 465-3841

NUMBER OF PAGES (including this page): 4

If the number of pages indicated above does not arrive in proper order, please call (907) 451-0594 or (907) 451-7888 for a Faxsimile Retransmission.

Mark, I just returned from Russia and see that HB389 has changed in scope. The intent and purpose was to promote and facilitate a clean environment. If the bill passes as currently worded, in my opinion the following will happen. ① It will place an unnecessary problem and burden on small business which is 85% of Alaska, and ② it will pollute Alaska's back communities with unreturned batteries, and ③ it will pollute all of Alaska with unreturned broken and damaged batteries, and ④ it will change the current EPA ruling on broken batteries at federal level from recyclable to hazardous waste at the state level. I am inclosing my recomendations to correct this. I am not sure the purpose will be accomplished if 20¢ per lb is the fee price on all batteries in all parts of Alaska. I am sure you'll have questions on the clean, give me a call and we can work on it.

Sincerely,

Earl F. Romans

Earl Romans ABE

Suggestions from Earl Romans

7-LS1561\M

CS FOR HOUSE BILL NO. 389 (L&C) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Amended: 3/6/92
Offered: 2/26/92

Sponsor(s): REPRESENTATIVES ULMER, Brown, B.Davis, Boyer, Finkelstein, Koponen

A BILL

FOR AN ACT ENTITLED

"An Act relating to the recycling of lead acid batteries."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 46.06 is amended by adding a new section to read:

Sec. 46.06.105. LEAD ACID BATTERY RECYCLING. (a) Each of the following shall accept for recycling a used lead acid battery ~~that is unbroken and in reasonably sound and clean condition~~ from a person who purchases a lead acid battery, and shall recycle the used batteries that are received under this subsection:

(1) a person who sells lead acid batteries at retail or at wholesale;

(2) a person other than the seller of lead acid batteries at retail or at wholesale if in the course of business operations the person accepts used lead acid batteries for the purpose of recycling the batteries.

(b) If a person who purchases a lead acid battery from a retailer does not provide the retailer with ~~an unbroken and reasonably sound and clean~~ a used lead acid battery when making the purchase, the retailer shall charge the purchaser an additional fee of ~~not less than $5 but not~~ 20¢/lb.

New Text Underlined [DELETED TEXT BRACKETED]

~~more than $25.~~ The ~~retailer~~ seller shall refund the fee to the purchaser if within 30 days of the purchase the purchaser provides the retailer with ~~an unbroken and reasonably sound and clean~~ a used lead acid battery. The ~~retailer~~ seller may keep the fee if the purchaser does not claim the fee within the 30 days.

(c) The purchaser of a lead acid battery who does not provide the ~~retailer~~ seller with a used lead acid battery under (b) of this section may return ~~an unbroken and reasonably sound and clean~~ a used lead acid battery to a person who handles used batteries under (a)(2) of this section. In exchange for the used battery, the used battery handler shall provide the purchaser with a receipt indicating that the purchaser has returned a used battery to the handler. A purchaser may claim the fee under (b) of this section if, within the time allowed for claim of the fee, the purchaser presents to the retailer

(1) the receipt showing the purchaser's previous purchase of a new lead acid battery from the retailer; and

(2) the receipt of the used battery handler issued under this subsection.

(d) A ~~retailer~~ seller shall post in a manner that is clearly visible to purchasers of lead acid batteries a notice that is at least 8-1/2 inches by 11 inches, that contains the universal recycling symbol, and that states:

NOTICE: USED BATTERIES

The ~~retailer~~ seller is required to accept your used lead acid battery for recycling when you purchase a lead acid battery from the ~~retailer~~ seller. If you do not give the ~~retailer~~ seller a used lead acid battery when you make your purchase, the ~~retailer~~ seller must charge you an additional fee of ~~not less than $5 but not more than $25.~~ 20¢/lb. The ~~retailer~~ seller is required to refund the fee to you if you provide the retailer with a used lead acid battery within 30 days after you purchase the battery from the ~~retailer~~ seller, or return. The ~~retailer~~ seller is ~~also~~ required to refund the fee to you if you provide the ~~retailer~~ seller, within 30 days after you purchase the battery from the ~~retailer~~ seller, (1) the receipt of purchase for the battery, and (2) the receipt written by a used battery recycler to show that you have provided a used battery to the recycler. If you do not claim the fee within the 30 days, the ~~retailer~~ seller may keep the fee. ~~A retailer or used battery recycler is not required to accept a used battery from you unless the battery is unbroken and reasonably sound and clean condition.~~ A proper container will be provided by the seller or recycler for sorting and storing, a shipping of broken or damaged batteries.

(c) A ~~retailer~~ seller who advertises lead acid batteries shall indicate in the advertisement that an extra charge will be added to the price of the battery at the time of the sale if ~~an~~ a unbroken ~~and reasonably sound and clean~~ used lead acid battery is not exchanged for the new one.

~~(d)~~ This section does not apply to the sale of a lead acid battery if

(1) the sale of the battery occurs in, or the seller delivers or arranges for the delivery of the battery to the purchaser in, a municipality or unincorporated community; and

(2) the municipality or unincorporated community does not have a person located in the municipality or community who

(A) possesses a current valid federal Environmental Protection Agency identification number under 40 CFR 263.11; and

(B) is reasonably available and willing to transport lead acid batteries for recycling or reclaiming under this section; in this paragraph, "reclaiming" has the meaning given to "reclaimed" in 40 CFR 261.1.

(f) ~~(e)~~ In this section,

~~(1)~~ (1) "battery" or "lead acid battery" means a battery that

~~(A)~~ has a core consisting of elemental lead; ~~and~~

~~(B) weighs 25 kilograms or less when filled with all necessary fluids;~~

(2) "recycle" and "recycling" have the meaning given to "recycled" under 40 CFR 261.1;

(3) "~~retailer~~ seller" means a person who sells lead acid batteries ~~at retail~~.

* **Sec. 2.** AS 45.50.471(b) is amended by adding a new paragraph to read:

(31) failing to comply with AS 46.06.105.

* **Sec. 3.** APPLICABILITY. For ~~one year~~ all of Alaska within one year after the effective date of this Act, AS 46.06.105, enacted by sec. 1 of this Act, does not apply to the sale of a lead acid battery if the sale occurs in a municipality or unincorporated community that has a population less than 1,000, that is not on the state road or marine highway system, and that does not have regular jet service.

N C MACHINERY CO.

COPY

CAT

March 2, 1992

Representative Fran Ulmer
House of Representatives
State of Alaska
Pouch V
Juneau, Alaska 99811

Re: HB 389

Dear Representative Ulmer:

All of us at NC who worked with you and your staff on this bill wish to thank you for the time and consideration you gave to our comments regarding the bill. We still have some concerns and would like to have seen some protection against persons who would recycle or reclaim batteries improperly. Nonetheless, we consider this latest draft to be a significant improvement and we appreciate your willingness to work with us on these points.

If the bill passes, we will monitor it to see how it works in our various communities. If we have any other issues which we feel require further consideration, we will let you know.

Again, our thanks to you, Caleb and Barnaby for your courtesies.

Very truly yours,

N C MACHINERY CO.

Lynn Edelstein Du Bey
Secretary & General Counsel

LED:vmm

Corporate Headquarters: P.O. Box 3862, Seattle, Washington 98124
Branches: Seattle, Mt. Vernon, Everett, Port Angeles, Chehalis, Yakima, Wenatchee, and Omak, Washington;
Anchorage, Fairbanks, Juneau, Ketchikan, Kodiak, and Dutch Harbor, Alaska

17035 W. Valley Hwy.
Tukwila, WA 98188
(206) 251-9800
FAX (206) 251-5986

Letters of Support

NAPA Batteries

Exide Corporation
P.O. Box 14205, Reading, PA 19612-4205
215/378-0500

TO: REPRESENTATIVE ULMER
JANUARY 30 1992

FROM: DARBY ROCKNEY EXIDE CORP.
C\O CAPITOL MOTORS

SUBJECT: RECYCLING OF SPENT BATTERIES

THE ATTACHED LETTER EXPLAINS OUR SPENT BATTERY PRACTICES. THESE PRACTICES HAVE BEEN IN PLACE IN ALASKA SINCE OCT. 87 IF YOU HAVE ANY QUESTIONS THAT I MAY BE OF SERVICE ON, PLEASE CALL ME AT 1-800-553-9433. I WILL ALSO BE IN JUNEAU ON MARCH 17. I WOULD BE PLEASED TO STOP AT YOUR OFFICE AND HELP YOU UNDERSTAND THE BATTERY INDUSTRY FURTHER.

BEST REGARDS
DARBY W ROCKNEY
REGIONAL SALES MANAGER

NAPA Batteries & Chargers

P.O. Box 14205, Reading, PA 19612-4205
215/378-0500 FAX: 215/378-0388

November 30, 1990

TO: ALL NAPA BATTERY CUSTOMERS

FROM: EXIDE CORPORATION ENVIRONMENTAL RESOURCES DEPARTMENT

SUBJECT: RECYCLING OF SPENT LEAD-ACID BATTERIES

To help you understand the regulations for spent lead-acid batteries and Exide's management practices. Outlined below are a few pertinent facts:

- In most states, spent lead-acid batteries are exempt from management as hazardous waste when they are being recycled. This means that if you generate, transport, collect or store spent batteries prior to recycling but do not recycle them yourself, you do not need to comply with federal or state requirements for hazardous waste labels, markings, manifest, etc.

- The spent battery exemption applies only to spent lead-acid batteries and only when they are being recycled/reclaimed. If you dispose of these batteries in any other way, or if you generate any other type of spent battery (for example: nickel-cadmium, nickel-iron, etc.), you must comply with hazardous waste regulations. Exide Corporation facilities are authorized to handle only lead-acid batteries.

- Many states have enacted laws which prohibit the disposal of spent lead-acid batteries in any manner other than shipment to a recycling facility, such as a secondary lead smelter. (For information regarding such a law in your state, contact your Exide Account Representative).

- Spent lead-acid batteries returned to Exide Corporation are recycled for lead recovery at one of several secondary lead smelters operated in the U.S. Exide itself owns and operates three secondary lead smelters for the recycling of spent batteries (lead-acid only) and other recyclable lead-bearing materials:

Facility	Location	EPA Identification No.
General Battery Corp.	Reading, PA	PAD990753089
Dixie Metals Company	Dallas, TX	TXD068999622
General Battery Corp.	Muncie, IN	IND000717959

- Exide's Reading smelter is currently operating under a hazardous waste facility permit issued by the U.S. EPA and the PA Department of Environmental Resources. The smelter facilities located in Dallas and Muncie are operating under interim status, as provided by the U.S. EPA and applicable state regulatory agencies, pending approval of Part B permit applications which have been submitted for these facilities.

- New batteries and spent batteries destined for recycling are packaged and shipped by Exide Corporation in accordance with applicable U.S. DOT regulations for hazardous materials.

- Wastes which are generated at Exide's recycling facilities are recycled, treated, discharged and/or disposed of in accordance with all applicable environmental regulations.

Exide's "vertically-integrated" operations are designed to provide a recycling chain for our products, and assure you of the best possible management option for your spent lead-acid batteries.

EXIDE CORPORATION

Environmental Resources Department

Battery Council International

WASHINGTON OFFICE:
Weinberg, Bergeson & Neuman
1300 Eye Street, N.W.
Suite 600 East
Washington, D.C. 20005
(202) 962-8585/FAX (202) 962-8599

February 6, 1991

The Honorable Representative Cliff Davidson
Resources Committee
P.O. Box V
Juneau, AK 99811

Re: Lead Battery Recycling Legislation

Dear Representative Davidson:

The Battery Council International ("BCI") writes to encourage you to introduce our model lead battery recycling legislation.[1/] (See enclosed) As you likely are aware, there is significant public pressure to ensure that recyclable materials are not discarded in trash, but rather are returned for recycling. Lead batteries are among these materials. Two years ago, BCI developed its model recycling bill both in response to environmental concerns, and the fact that as an industry, we want to improve the existing system so that a 100 percent recycling rate is achieved.

To date, due mostly to BCI's efforts, twenty-eight states have enacted prohibitions on the disposal of lead batteries in the municipal solid waste stream. (See also the enclosed list of states with enacted legislation) Twenty-four of these states have gone further than this by also mandating specific take back requirements similar, and in many cases identical, to those contained in BCI's model legislation.

Nationally, lead batteries are recycled at an 80 to 90 percent recycling rate. The industry's ability to achieve this rate is predicated on the fact that there is a sophisticated reverse distribution system, which ensures that the batteries are returned to the recycling chain. Yet, BCI knows that some

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1/ BCI is a nonprofit trade association whose members are engaged in the production of lead storage batteries for automotive, marine, industrial, stationary, specialty and commercial uses. BCI's members also include entities engaged in the reclamation and recycling of lead batteries once they are spent. BCI represents more than 99 percent of the nation's domestic lead battery manufacturing capacity and more than 92 percent of its lead battery recycling capacity. Our members include all the large, multi-plant domestic manufacturers as well as the majority of the nation's smaller firms.

batteries do escape recycling. To close the remaining gap, BCI recommends enacting requirements similar to those contained in our model legislation. Specifically BCI's model would:

- Prohibit used lead batteries from being discarded in the solid waste stream;
- Require all persons who sell lead batteries to take them back; and
- Require that persons who sell lead batteries to educate their customers by posting point-of-sale signs indicating that it is illegal to discard lead batteries in the trash, that lead batteries are recyclable, and that state law requires retailers, and everyone else in the recycling chain, to take back lead batteries for recycling.

BCI believes that requirements such as these will close any remaining gap in the recycling chain efficiently and cost effectively. In this regard, and for the reasons outlined above, we strongly encourage you to review the model and consider introducing it in your state.

BCI is very interested in working with the State of Alaska on this issue. If you have questions on the information provided above or enclosed, or if you want BCI's participation in the legislative process, please contact Jodi Bakst, in our Washington, D.C. office, at (202) 962-8573.

Sincerely,

Tom Douglas

Tom Douglas, President
BCI

Enclosures

NORTH SLOPE BOROUGH

DEPARTMENT OF INDUSTRIAL DEVELOPMENT

BARROW GAS FIELDS
P.O. Box 1120
Barrow, Alaska 99723
Phone: (907) 852-0395
Fax: (907) 852 8971

ANCHORAGE LIAISON OFFICE
3201 C Street, Suite 602
Anchorage, Alaska 99503
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Fax: (907) 562-1940

JERRY WILT, Director

January 23, 1992

Caleb Stewart
Office of Representative Fran Ulmer
State Capitol
Juneau, Alaska 99801-1182

Don Thornburgh, Compliance Officer
North Slope Borough
3201 C St, Suite 602
Anchorage, Alaska 99503

RE: HB 389 BATTERY RECYCLING BILL

Dear Mr. Stewart,

We are pleased to support your proposed House Bill NO. 389. The recycling of used lead acid automobile batteries is another step towards the elimination of the unsafe disposal of regulated hazardous wastes.

The manner in which the North Slope Boroughs Service Area Ten Operation in Prudhoe Bay disposes of its used batteries is to turn them in to Prudhoe Bay Commercial Store, where for a fee of $10.00 used batteries are accepted for recycling.

Thank You for the opportunity to support your Bill, if you need additional data or other information, please call.

Sincerely,

Don Thornburgh

Don Thornburgh

cc: Jerry Wilt, Director
Department of Industrial Development

NAPA Auto Parts
Capitol Motor Supply, Inc.
47 Egan Drive
Juneau, Alaska 99801

Resources, Labor & Commerce Committee
Re: House Bill 389

To whom it may concern:

We would like to express our support for this measure.

We have been voluntarily recycling our batteries for about eighteen months.

Because batteries are manufactured in many sizes to suit various applications, their prices very according to their lead content. We now charge from $7.50 up to $29.00 in addition to the regular battery price, hereafter to be known as the core deposit. This core deposit reflects the amount of recyclable lead in the battery, and is subject to change as the metals market fluctuates. If the wording in the bill was changed to, "The retailer may charge the purchaser an additional fee, minimum $5.00", we would not have to make any changes in the software which we use to control our inventory. This would also allow us to charge accordingly for larger batteries which contain more lead. The consumer would receive a refund identical in amount as previously invoiced, upon return of their core.

We don't impose a time limit for the consumer. However, we verbally request they return the core within thirty days.

Thank you for taking the time to read this. We hope it will assist you.

Rick Wallace
Capitol Motors

Rick Wallace

E&L AUTO
NOVEMBER 13, 1991

REPRESENTATIVE FRAN ULMER
DISTRICT 4B JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811-3100

SUBJECT: Enforcement of battery recycling bill
work order no. 71s-1561

To respond to your letter dated November 7, 1991 we are glad to see some type of bill go into law because we need a way to control how meany batteries that end up all over the area. In the past there have been people that dump there batteries in the water and forrest and other places.

We at E&L Auto have a free drop off for batteries but people thank that we are out of the way so they just don't bring in there batteries to us. We even pick up batteries when we see them on are roadways.

We have talked to other people that sale batteries and they thank it is a good way to get people to turn in the batteries that they buy at there location.

They only store that require a core charge at least in Juneau is NAPA stores.

Thank You for sending a draft of the bill to us.

Staff from E&L Auto
Garry O. Strickler

CHANNEL CORPORATIONS

CHANNEL SANITATION CORP
CHANNEL EQUIPMENT RENTAL I
CHANNEL LANDFILL

1) File w/ this bill file
2) BD followup w/ 11/26

November 20, 1991

Representative Fran Ulmer
Alaska State Legislature
PO Box V
Juneau, AK 99811-3100

Dear Representative Ulmer;

We would like to congratulate you on addressing a very important issue with your proposed house bill concerning battery regulation. Our only suggestion might be to increase the fee from $5.00 to $10.00 as that figure may be more inducement to allow your bill to do what it was intended. We might also suggest the bill not only be for automobile batteries but for any transportation battery such as, motorcycle, snowmobile, trucks, and any other heavy equipment.

You are aware that Channel currently charges $.06 per pound or a minimum of $2.50 for each battery disposed. One average automobile battery costs $2.50. I would assume the retailer would add this disposal fee to the price of each new battery purchased so at the time of purchase if the buyer presented a used battery, there would be no additional charge. However, if the customer did not present an old battery at the time of purchase, the customer would pay an additional $10.00 fee. Hopefully, this would deter people from not bringing in their old battery. One question, who keeps the $10.00?

Again, thank you for your efforts in helping to solve our environmental problems.

Very truly,

Gerald A. Wilson
President

GAW/jak
cc:file

P.O. Box 21267 Juneau, Alaska 99802-1267 (907) 780-4288