



**Battery
Council
International**

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March 21, 2001

Docket Management, Room PL-401,
National Highway Traffic Safety Administration,
U.S. Department of Transportation,
400 Seventh Street, SW
Washington, DC 20590

DEPT OF TRANSPORTATION
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Re: Docket No. NHTSA 2001-8677; Notice 1 - 10

Dear Sir or Madam:

The Battery Council International (BCI)¹ submits the following comments on the Advanced Notice of Public Rulemaking (ANPRM), published on January 22, 2001 (66 F.R. 6531), by the National Highway Traffic Safety Administration's (NHTSA or the Administration), addressing the creation of "early warning reporting requirements" for vehicle and vehicle equipment manufacturers. The Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act of 2000 authorizes NHTSA to proceed with this rulemaking, with the objective of enhancing the Administration's ability to identify defects related to motor vehicle safety.

BCI believes that, as applied to battery manufacturers, additional reporting requirements would serve no valid highway safety-related purpose. BCI agrees with NHTSA that the most logical place to begin to require the reporting of defects is with motor vehicle equipment that has historically exhibited highway safety-related defects. As far as BCI is aware, however, there has never been a report of a highway death or serious injury caused by a defect in a battery.

Exclusion of batteries from additional reporting requirements is consistent with NHTSA's approach of tying defect reporting to existence of Federal Motor Vehicle Safety Standards (FMVSS). These standards identify equipment that has been acknowledged, through the rulemaking process, to have a critical bearing on safe vehicle operation. Batteries intentionally have been excluded from these standards.

¹ BCI is a non-profit trade association representing commercial entities involved in the manufacture, distribution, sale, and reclamation of lead-acid batteries. BCI's members and associate members include manufacturers and distributors of lead-acid storage batteries for automotive, marine, industrial, stationary, specialty, consumer and commercial uses, and secondary lead smelters that reclaim or recycle the batteries once they are spent. BCI's membership represents more than 99 percent of the nation's domestic lead-acid battery manufacturing capacity and more than 85 percent of the nation's lead battery recycling or secondary smelting capacity.

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On the October 12, 1989 (54 F.R. 41854), and again on August 13, 1990 (55 F.R. 32928), NHTSA considered petitions to create such a FMVSS for auto batteries. The petitions were the result of concerns regarding battery explosions. NHTSA analyzed a significant amount of safety data, including accident information from the Consumer Product Safety Commission's (CPSC) National Electronic Injury Surveillance System (derived from hospital emergency room information), in order to determine whether there existed a significant safety-related problem caused by batteries. The Administration concluded that there had never been a fatality and that 98% of battery accidents were "not severe" (i.e. those injured were treated and released from a hospital without requiring additional hospital care).

Further, NHTSA determined that there was a decided downward trend in battery injuries, due to improved battery design (e.g. sealed batteries, flame arresters to prevent ignition from external sources, side terminals to divert potential sparks away from explosive gas that collects at the top of the battery, among others). Based on this information, the Administration determined that standards were unnecessary because batteries presented insignificant highway safety risk. For this reason, no FMVSS exists for auto batteries. BCI is not aware of any changes in experience with batteries in the last decade that would indicate that these conclusions should be revisited.

A close look at the NHTSA analysis referred to above shows that the vast majority of injuries identified in it were due to skin or eye irritation from acid vapors, spillage, and splashing during ordinary battery handling and servicing, not from incidents involving travel on highways. This supports the current regulatory scheme whereby the CPSC, through its jurisdiction over safety-related defects in consumer products, serves as the principal Federal agency overseeing battery safety (see CPSC regulations at 16 C.F.R. Subchapter C).

In light of the Administration's historical record of findings regarding auto battery safety, and the current CPSC oversight BCI thus requests that NHTSA specifically exclude battery manufacturers from the early warning reporting requirements referred to in the ANPRM. As the Administration states in the ANPRM, "There seems little safety need to require manufacturers of accessory equipment ... to report to us unless there is a death or serious injury allegedly involving a defect in their products." (66 F.R. 6536). Battery manufacturers fall squarely into this category.

Please feel free to contact me at (336) 650-7220, or BCI's Washington counsel, David B. Weinberg at (202) 383-7435, if we can be of further assistance.

Sincerely yours,

A handwritten signature in black ink that reads "John Hoover" followed by a stylized monogram "JHW".

John Hoover
Chairman
BCI Product Safety Committee