June 7, 2012

To: The Commission on Environmental Cooperation (via info@cec.org)
From: Perry Gottesfeld, Occupational Knowledge International
Re: Request for comments on the transboundary movement and recycling of spent lead-acid batteries dated May 11, 2012

Occupational Knowledge International (OK International) is a non-governmental organization that works to address inequities in standards between developed and developing countries. Our report "Exporting Hazards: U.S. shipments of used lead batteries to Mexico take advantage of lax environmental and worker health regulations" brought attention to an alarming increase in lead battery exports to Mexico following the release of more stringent regulations on lead emissions under the U.S. Clean Air Act.

As noted, we are very pleased that the CEC has taken up this investigation on the transboundary movement and recycling of used lead batteries under Article 13. However, much of what was outlined in the scope of the investigation covers information that was summarized in our report that we released last year and was subsequently reported by the New York Times in December 2011. Therefore, we urge CEC to avoid embarking on a lengthy investigation and to instead focus on the appropriate recommendations to address environmental health and safety issues already documented by others.

The following comments focus on developing constructive recommendations to help improve the management of used lead batteries and address the environmental health impacts to vulnerable populations.

1) Our investigation had indicated that there are substantial differences in U.S. and Mexican regulations regarding environmental protection and public health that pertain to the lead battery recycling industry. In addition, Canadian provinces are inconsistent in their regulations, which in many cases are less stringent than U.S. requirements.

   The CEC should recommend that all governments within the NAFTA framework work towards enacting legislation, standards and enforcement mechanisms on parity with the most restrictive requirements currently in place for regulating lead emissions, occupational exposures, transport, and recycling of used lead batteries. This recommendation should outline specific areas of divergence on critical public health and environmental provisions including but not limited to ambient air standards, stack emissions, provisions for monitoring and limiting occupational exposures to lead measured in air and employee's blood, water emissions, and provisions for

other key parameters. In addition, the CEC should provide technical assistance to the Mexican authorities for drafting regulations or Normas Oficiales Mexicanas (NOMs) that are legally required but in many cases have not been promulgated.

2) CEC should recommend the establishment of a trilateral committee under the CEC to monitor progress towards enacting the specific legislation, regulation and enforcement capacity to put the U.S., Mexico, and all Canadian Provinces on parity with the most restrictive requirements currently in place for regulating lead emissions, occupational exposures, transport and recycling of used lead batteries. The committee shall also monitor available data on emissions reporting, transboundary shipments and other publicly available data to gauge the progress of these efforts going forward and to report back to the CEC.

3) The CEC should identify discrepancies in the current regulatory framework for reporting, tracking and manifesting used lead batteries under the OECD Decision and recommend specific measures for all three governments to come into compliance with provisions of this guideline covering notification and consent, movement documents (i.e. waste manifests), and certificates of recovery from the recycling facilities. Such recommendations should specifically state that each transboundary shipment be tracked with a waste manifest form to identify the intended and actual recipient of all used lead batteries. There should also be a requirement to submit copies of these waste manifests to government authorities in both the importing and exporting countries.

4) The CEC should work with the Mexican authorities to improve transparency of the lead battery recycling industry by obtaining all required Registro de Emisiones y Transferencia de Contaminantes (RETC) data on lead releases from all primary and secondary lead smelters and provide the resulting data to the public in a timely fashion on a dedicated internet website. Note that only nine of 21 secondary smelters in Mexico actually reported any lead emissions in recent years.

   The CEC should also urge the three member countries to collect and disseminate all required ambient air monitoring data from every domestic primary and secondary lead smelter and make this information publicly available in a timely fashion on a dedicated Internet website.

5) The CEC should convene and financially support a multi-stakeholder process to develop a comprehensive voluntary certification for lead battery recycling facilities to promote best practices. This certification would recognize facilities that demonstrate that they meet the requirements of a certification standard to be developed under this process based on an annual independent audit. The certification standard should include industry-

specific performance parameters to be initially established at levels that are in compliance with the most restrictive provisions in existing laws and regulations governing environmental and occupational exposures in lead battery recycling industries among Canada, Mexico and the U.S. Our Better Environmental Sustainability Targets (BEST) certification standard for lead battery manufacturing can serve as a model for this effort.

6) CEC should solicit assistance from governments and other experts to encourage Mexican authorities to investigate lead exposures in communities around lead battery recycling facilities. In 2011, the U.S. Center for Disease Control completed an investigation of children of workers in a lead smelter in Puerto Rico. The investigation revealed some children with elevated blood lead levels. Simultaneously U.S. EPA conducted its own investigation and ordered the company to take various actions to reduce air and water pollution from the plant. (see "EPA Orders Battery Recycling Company to Reduce Air and Water Pollution at Arecibo, Puerto Rico Lead Smelting Facility" available online at: http://yosemite.epa.gov/opa/admpress.nsf/d10ed0d99d826b068525735900400c2a/625c8cb0d35315fb852578e80063d49f!OpenDocument) CEC should encourage Mexican authorities to undertake similar investigations in order to protect public health and the environment in these communities.

If you have any questions, please contact me at (415) 221-8900 or at the address below:

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