

# New Lithium Battery Proposed Rulemaking Expected Before Year-End

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As a result of overwhelming opposition from industry and foreign governments, the U.S. Department of Transportation (DOT) has decided not to finalize the lithium battery air transportation rule proposed in early 2010, but instead to issue a Supplemental Notice of Proposed Rulemaking (SNPRM). That notice probably will appear late this year, with a 60-day comment period. The result likely will be to push the effective date of any final new U.S. lithium battery shipping requirements into late 2012 or early 2013.

The DOT originally published a Notice of Proposed Rulemaking on lithium batteries on January 11, 2010. One of the most controversial elements in the proposed rule would have required shippers of consumer-type lithium ion or lithium metal batteries and portable electronic equipment (e.g., cellular phones, notebooks) containing these batteries to package these materials as fully regulated hazardous materials when offered for air transport. Approximately 125 of the 130 comments filed on the rulemaking opposed the Agency's proposed changes. In addition, the European Commission filed comments opposing the rulemaking, and the governments of Korea and Japan met with the White House Office of Management and Budget to register their opposition. Commenters overwhelmingly supported a regulatory scheme for shipping lithium batteries that is harmonized with existing international transport regulations.

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