

## **Analysis of the Relationship between the Battery Directive, with its amendments, and the WEEE and RoHS Directives**

This document is intended to clarify battery industry's understanding of which battery related legislation is applicable in the transposition of the WEEE and RoHS Directives in the EU Member States.

Based on [a legal analysis](#) of the wording of the various Directives, as well as on statements from EU Institution officials with regard to the political intention of these Directives, this document shows that:

- the Battery Directive is the most specific and therefore prevailing waste management legislation applicable to all types of batteries;
- once removed from WEEE, spent batteries (individual cells, battery packs or soldered batteries) are governed by the Battery Directive;
- the marketing restrictions contained in the RoHS Directives do not apply to batteries;
- under current legislation, batteries containing lead or cadmium, as well as button cells with a mercury content of no more than 2% by weight can be used in EEE after 1.7.2006.

### **I. Introduction**

Since 1991, the marketing of batteries is regulated by the EU “Battery Directive” 91/157/EEC on batteries and accumulators containing certain dangerous substances (as amended by Directives 93/86/EEC and 98/101/EC).

On 13.02.2003, two new EU Directives were published in the Official Journal:

1. “WEEE” Directive 2002/96/EC on waste electrical and electronic equipment.
2. “RoHS” Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment,

With a view to the transposition of these two Directives at EU Member State level, their relationship with the Battery Directive requires clarification.

This paper provides such clarification, based on a legal analysis as well as on statements made by representatives of the European Commission and the European Parliament.

## **II. Directives of relevance.**

The EU Battery Directive 91/157/EEC provides *inter alia measures* for the separate collection and recycling of batteries and accumulators containing certain quantities of lead, mercury or cadmium (as specified in Annex I of the Directive). The 1993 amendment establishes marking arrangements for the identification of these batteries to be collected. The 1998 amendment also provides measures for the marketing prohibition of certain types of batteries containing mercury<sup>1</sup>. The Battery Directive is currently under revision in order to improve its effectiveness.

The RoHS Directive provides for a restriction on the use of certain hazardous substances in electrical and electronic equipment. Under its Article 4, Member States must ensure that from 1 July 2006 new equipment placed on the market does not contain, *inter alia*, lead, mercury and cadmium.

The WEEE Directive provides, *inter alia*, for the separate collection and recycling of waste from electrical and electronic equipment (WEEE), for financing of such collection and recycling, as well as for marking of new equipment. The Directive provides in its Annex II provisions for the removal of batteries from WEEE.

As batteries have to be removed from any separately collected WEEE, the question arises to what extent the WEEE and RoHS Directives apply to batteries and whether batteries containing, e.g., mercury, lead or cadmium can be used in such new equipment from 1 July 2006.

## **III. Conclusions**

The following conclusions can be drawn from assessing the legal provisions of the WEEE, RoHS and Battery Directives.

The marketing restriction, as provided for in the RoHS Directive, on new equipment containing e.g. mercury, lead and cadmium does not apply to batteries used with or incorporated in electrical and electronic equipment.

---

<sup>1</sup> 98/101/EC provides for a marketing restriction on batteries containing more than 0,0005% of mercury by weight, except for button cells with a mercury content of no more than 2% by weight.

2. The WEEE Directive applies to spent batteries collected together with WEEE and requires their removal and separate collection. Once removed from WEEE, spent batteries are governed by the Battery Directive.

The Battery Directive 91/157/EEC specifically mentions in its Article 9: “Member States may not impede, prohibit or restrict the marketing of batteries and accumulators covered by this Directive [...]”

Therefore, batteries containing lead or cadmium, as well as button cells with a mercury content of no more than 2% by weight can be used in electrical and electronic equipment after 1.7.2006. This applies to individual cells, battery packs or batteries attached to the equipment (i.e. soldered to parts of the equipment).

---

EPBA is the European Portable Battery Association – [www.epba-europe.org](http://www.epba-europe.org). It is the trade association representing the interests of the portable battery industry (manufacturers and importers of both rechargeable and primary batteries) active in the European market.

Eurobat is the European Storage Battery Association formed by industrial batteries manufactures and automotive batteries manufacturers in Europe – [www.eurobat.org](http://www.eurobat.org).

CollectNiCad is the European Association formed by portable and industrial nickel cadmium battery manufacturers and by Original Equipment Manufacturers incorporating those batteries in their equipment – [www.collectnicad.org](http://www.collectnicad.org)

Contacts:

EPBA, Rachel Barlow/ Tel.: + 32 (0) 2 774. 96. 02. Fax: + 32 (0) 2 774 96 90, email: [epba@eyam.be](mailto:epba@eyam.be)

Eurobat, Alfons Westgeest/ Tel.: + 32 (0) 2 774. 96. 53, Fax: + 32 (0) 2 774 96 90, email: [eurobat@eyam.be](mailto:eurobat@eyam.be)

CollectNicad, Jill Ledger/Tel.: +33 (0)1 49.93.17.77, Fax : +33 (0)1 49 93 19 55, e:mail: [jill.ledger@saft.alcatel.fr](mailto:jill.ledger@saft.alcatel.fr)