

JOINT BATTERY INDUSTRY DOCUMENT
BATTERY DIRECTIVE COMITOLGY ISSUES

Brussels, 11 December 2006

The battery industry - EPBA, EUROBAT and RECHARGE - hereby provides a summary overview to the decision makers on the issues for comitology that will be discussed at the first Battery Directive TAC meeting scheduled for 15 December 2006. In addition to the key-issues subject to the Comitology process it also outlines the industry's views on some of the issues that are of importance for the general transposition and implementation of the Directive on national level.

We are looking forward sharing our battery expertise with the Commission and the Member States in order to ensure an efficient and workable transposition and implementation of the Battery Directive.

A. TAC related issues

1. Calculation annual sales of portable batteries- art. 10(4)(b) – TAC deadline: 26 September 2007

2. Registration requirements – art. 17 – No TAC deadline

A clear, simple & transparent methodology for the calculation of annual sales should be established within a strict and unambiguous registration procedure to prevent free riders. It is also essential that it includes clauses for an efficient control mechanism.

The calculation of annual sales and the registration requirement are linked as they represent the basic information for the fulfilment of the Monitoring Compliance requirement according to Annex I of the Directive and the evaluation of the collection efficiency of spent portable batteries (Article 10). The reporting system towards the government on the basis of which the annual sales will be calculated should be kept simple in order to avoid an increased administrative burden.

Member States will need to include details of the producer registration procedure within the national implementing legislation. This will include clarification on the definition of a producer and define qualifying criteria for exemption under the “de minimis” rule. Industry is willing to make proposals for clarification on this item. A part of the registration process - which should be carried out by the Collection and Recycling Organisation(s) (or “CRO”) - would require producers and importers to report sales of batteries expressed in weight. This is essential data to enable Member States to determine their annual rate of battery collection. The responsibility of the producer/importer should be fully supported by distributors when placing batteries on the market in a given Member State.

3. Capacity marking portable and automotive batteries – art. 21(2) – TAC deadline : 26 March 2009

The battery industry questions whether a workable system for all types of portable and automotive batteries is possible due to the technical complexity of the requirement.

The battery industry underlines that any discussion on capacity marking should take into account *all* critical factors which influence the capacity value such as the battery's intended use, the conditions of use or environmental factors.

The case of Consumer batteries.

In particular for consumer batteries a capacity marking requirement will result in misleading information towards the consumer. Capacity marking for general purpose batteries does not provide a measure of the battery's ability to deliver energy, nor clear and transparent information to the consumer.

The total dischargeable energy from a general purpose battery during real life operation by the consumer is highly dependent on the appliance and its conditions during use:

- Intermittent/continuous
- Time between two uses
- Temperature conditions (house, garage, outside, winter/summer)
- End voltage of the specific device (will vary from brand to brand)

Based on the complexity and the difficulty of marking, we consider that general purpose portable batteries should be exempted from the capacity marking requirement.

The case of Portable Rechargeable Battery Packs.

The TAC should take into account existing standards developed by the IEC especially regarding Portable Rechargeable Battery Packs.

Currently, for portable rechargeable batteries, the capacity is labeled by the Portable Rechargeable Battery manufacturer in accordance with specifications imposed by the Original Equipment Manufacturer. Such information is indicated in Ah (ampere-hour) on the battery pack; the open cell voltage is also indicated in volts. In this case the battery (pack) can only be used with the application for which it was manufactured.

The case of automotive batteries.

The battery industry underlines that any discussion on capacity marking should take into account *all* critical technical factors

For automotive batteries, in order to achieve the goal of providing relevant consumer information, it seems appropriate to base the labelling of automotive batteries on the performance of the battery, expressed in cold cranking amperes, rather than on capacity, expressed in ampere hours and based on one single discharge rate for many different types of batteries and uses.

In addition, TAC should focus in particular on the enforcement of the capacity marking requirement in order to avoid false declarations which will impede the general objective of the capacity marking requirement i.e. providing reliable consumer information.

In order to help producers meet their capacity labelling requirements it is essential that the TAC complete its work as early as possible.

4. Exemptions from labelling requirements – art. 21(7) – No TAC deadline

The exemptions should reflect a practical approach of the legal requirements. and should subsequently avoid e.g. double labelling

In the case of memory back-up batteries attached to parts of an electrical and electronic equipment (EEE), those memory back-up batteries should be exempted from the labelling requirements (crossed-out wheeled bin) as it is mandatory to label the EEE in which they are installed with an identical label.

When the crossed-out wheeled bin labelling is applied to the external jacket or casing of a portable pack, individual cells in the portable pack should be exempted of the labelling requirement.

5. Recycling efficiency calculation – Art. 12(6) – TAC deadline: 26 March 2010

A clear, simple & transparent methodology is to be established

Determination of a common methodology for measuring the recycling efficiency of processes and facilities that recycle batteries across all EU Member States is a very complex technical matter. Any solution needs to ensure that it does not favour certain process and facilities over others and therefore does not lead to a reduction in competition among service providers within the EU. The solution must also be sufficiently flexible not to restrict or hinder new developments and innovation in battery recycling technology in the future. In addition, the requirements should not hinder developments in new battery systems. To avoid these negative outcomes and still produce a simple yet transparent methodology that is applicable to all battery recycling plants and processes within the EU will require the TAC to rely on third party expertise (maybe, an academic input to analyse the diverse processes) prior to agreement being reached. Industry would support such an initiative.

B. Transposition related issues

1. Implementation date – art. 26 & 28

The Battery Industry underlines the need to have a harmonized implementation date regarding the application of the substance ban and the labelling requirements in order to safeguard the proper functioning of the Internal Market.

According to Article 28, the Battery Directive 91/157/EC will be repealed with effect from 26 September 2008 and Member States will have to implement the new Battery Directive 2006/66/EC by the same date. There is a need for a harmonized implementation date of the Directive in particular for those Articles covered by Article 95 of the EC Treaty.

2. Financing – art. 16

There is a need for a clear definition of the respective responsibilities of the three battery sectors (portable, industrial and automotive) towards the financing of collection and recycling schemes as well as relative to financing public information campaigns.

Producers of automotive and/or industrial batteries should not be required to finance costs arising the collection, treatment and recycling of waste portable batteries and related public information campaigns. There is a need for clarification on this point.

3. Collection schemes for automotive and industrial batteries – art. 8(3)

It seems inappropriate in the Business to Business context of placing industrial and automotive batteries on the market to ask a producer/importer of industrial or automotive batteries to take back any type of battery in absence of knowledge of the take back conditions of other battery chemistries than those included in its commercial activity.