May 2021

Position Paper

on the proposal for a Regulation on Batteries and Waste Batteries

MWE welcomes the Commission's proposal to adapt the 2006 Batteries Directive to current and future needs by making it a Regulation and taking into account the aims of the Circular Economy Action Plan 2.0 and the European Green Deal to electrify transport. MWE is well aware of the expected increase in battery manufacture driven by the energy transition which will result in a greater number of batteries entering the waste stream yearly. Given the importance of this new Regulation and the crucial role of municipalities, MWE invites EU legislators to take into consideration our comments on the following points:

Definitions

MWE welcomes the extension of the definition of portable batteries in Art. 2.7, which includes two-wheeled e-vehicles such as pedelecs, e-bikes and e-scooters. However, MWE asks for **clarification of the definition of 'industrial uses' set out in Art. 2.11**.

Collection

MWE welcomes the increased ambition in collection rates and support the increase of the portable battery collection target from 45% today to 65% by 2025 and 70% by 2030. However, MWE believes that, **if two-wheeled light e-vehicles such as pedelecs, e-bikes and e-scooters are included in the definition of portable batteries, they should also be included under Art.48(4) *Collection of waste portable batteries*, being also part of the collection targets established by the Regulation.**

Furthermore, before Deposit Return Schemes (DRS) can be introduced in the legislation, questions on major technical matters need to be answered. For example, which type of batteries should be subject to the DRS, how should batteries built into electric and electronic equipment be treated and how can DRS be administered especially without the need to pay cash money at civic amenity sites. Therefore, **MWE recommends the European Commission to further study the potential contribution of DRS to an increase of the collection rates and answer the above-mentioned questions before recommending the system.**

MWE welcomes Art. 48.12, which sets the control of collection via compositional surveys every 5 years.

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Waste Management Authorities: Responsibilities

Amendment to clarify on Art. 53 in connection with Art. 49.1c. The obligations of waste management authorities established in Art. 53 in connection with Article 49.1c are not clearly defined in terms of language. It is not clear whether the waste management authorities must set up collection points for waste batteries or can participate in the collection on a voluntary basis. It is important to note that waste management authorities are not regularly set up in practice to collect industrial batteries (batteries used for 'industrial purposes' according to the current definition) and electrical vehicle batteries – in fact, specialized collection points of distributors or car repair shops exist for this purpose. Therefore, **in Art. 53, which refers to all waste batteries, a differentiation should be made between the types of waste batteries and the waste management authority should be mentioned in Art. 49 only for the area of starter batteries**. We suggest that the wording of Art. 53 (1) be amended as read in the annex. Even in the case of starter batteries, however, the waste management authorities have a supplementary function alongside the car repair shops, which is why collection by the waste management authorities should only be voluntary in the case of starter batteries.

Extended Producer Responsibility (EPR)

Amendment of Art. 47 *Extended Producer Responsibility* and Art. 53 *Participation of public waste management authorities*. Lithium batteries are a part of municipal waste, thus the cost to municipalities of adapting civic amenity sites to collect them requires protection measures to safeguard against the added risks and the cost of training employees on safe handling and storage. The cost of specific materials and equipment are also covered by municipalities (for example, the insulation of open battery-containers or the storage in fireproof metal collection bins). These costs are currently not covered by EPR schemes for batteries. To account for this, **MWE calls for the amendment of the above-mentioned articles to include these costs as part of the producer obligation under EPR for batteries; in particular labour, material and equipment costs.**

MWE also welcomes the introduction of requirements for distributors to provide end-of-life information on batteries through their online markets.

High recycling targets with traceability from collection to recycling plants

MWE welcomes the more ambitious recycling targets established in Art. 57 Abs. 2. Nonetheless, we remind policy-makers that **precise and transparent data is a necessary basis on which to verify quantities of material recycled. Such data should be collected and verified by the Commission and made publicly available**.

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Recycled content

MWE welcomes the introduction of mandatory recycled content in Art. 8. These mandates will foster demand for recycled raw materials, closing this material loop and encouraging investment in battery recycling. However, while the increased recycling targets apply to all types of batteries, mandatory recycled content does not apply to portable batteries in the proposal. Therefore, **MWE calls for the revision of Art. 8 to include all batteries as mandatory recycled content should apply to all batteries.** We ask to include the amendment suggested in the annex.

Ecodesign

Amendment of Art. 11.2b and 11.3. MWE also welcomes the requirement imposed on manufacturers to guarantee the easy removability and 'replaceability' of portable batteries. An important requirement to add to ecodesign is the need to design for safety. However, **Art. 11.2b and 11.3 are open to interpretation and misuse. It should therefore explicitly exclude appliances which do not suffer any loss of functionality while having a removable battery. The guidance document introduced in Art.11.3 should give examples of appliances which fit the criteria of 11.2b and appliances which do not.**

Shipment of waste batteries

MWE welcomes Art. 58(1) but calls for **effective control and enforcement mechanisms to avoid illegal exports and illegal EU-intra shipments of used batteries.** Links should be made with the Waste Shipments Regulation.

Labelling of batteries

Amendment of Art. 13, *Labelling of batteries*, changing each mention of 2027 to 2024. MWE welcomes the establishment of a registration and monitoring system, however, the labelling for portable batteries should be mandatory for producers from 2024 and not from 2027 onwards.

Ban on landfilling and incineration & obligation to recycle

MWE supports the ban sets out in Art. 56.1 and the obligation to recycle batteries in Art. 57.1.

Hazardous substances

MWE welcomes the restrictions in the use of hazardous substances in batteries to protect human health and the environment.

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Boosting recycling capacity in the EU

Finally, MWE asks the EU institutions to take into account growing research and innovations on batteries in the decision-making process. The market is constantly changing and new technologies and batteries will be placed on the market before this Regulation is revised again. These will certainly bring forth new challenges for collection and treatment of waste batteries, requiring some adaptability of the Regulation.

Moreover, **closing the loop for the valuable raw materials in batteries within the EU and reducing extraction is the right way forward**. MWE calls for tailored policy strategies and investment on innovation to keep these raw materials in batteries within the EU as a priority over extraction of virgin raw materials. In so doing we build EU resilience in critical raw materials, reduce EU dependency on their extraction while boosting the energy transition and reducing the EU's environmental footprint.

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ANNEX

Article 53
Participation of public waste management authorities

1. ~~Waste batteries originating from private, non-commercial users may be discarded in separate collection points set up by public waste management authorities~~.

1. The public waste management authorities participate in the collection of used portable batteries originating from private households. Furthermore, they may also participate in the collection of automotive batteries originating from private households.

Article 8
Recycled content in industrial batteries, electric vehicle batteries, portable batteries and automotive batteries

From 1 January 2027, industrial batteries, electric vehicle batteries, ***portable batteries*** *and automotive batteries* ***~~with internal storage and a capacity above 2 kWh~~*** *that contain cobalt, lead, Lithium or nickel in active materials shall be accompanied by technical documentation containing information about the amount of cobalt, lead, Lithium or nickel recovered from waste present in active materials in each battery model and batch per manufacturing plant.*

By 31 December 2025, the Commission shall adopt an implementing act laying down the methodology for the calculation and verification of the amount of cobalt, lead, Lithium or nickel recovered from waste present in active materials in the batteries referred to in the first subparagraph and the format for the technical documentation. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 74(3).

2. *From 1 January 2030, industrial batteries, electric vehicle batteries,* ***portable batteries*** *and automotive batteries* ***~~with internal storage and a capacity above 2 kWh~~*** *that contain cobalt, lead, Lithium or nickel in active materials shall be accompanied by technical documentation demonstrating that those batteries contain the following minimum share of cobalt, lead, Lithium or nickel recovered from waste present in active materials in each battery model and batch per manufacturing plant:*
   (a) 12% cobalt;
   (b) 85% lead;
   (c) 4% Lithium;
   (d) 4% nickel.

3. *From 1 January 2035, industrial batteries, electric vehicle batteries****, portable batteries*** *and automotive batteries* ***~~with internal storage and a capacity above 2 kWh~~*** *that contain cobalt, lead, Lithium or nickel*

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in active materials shall be accompanied by a technical documentation demonstrating that those batteries contain the following minimum share of cobalt, lead, Lithium or nickel recovered from waste present in active materials in each battery model and batch per manufacturing plant:

(a) 20% cobalt;

(b) 85 % lead;

(c) 10% Lithium;

(d) 12% nickel.

4. *Where justified and appropriate due to the availability of cobalt, lead, Lithium or nickel recovered from waste, or the lack thereof, the Commission shall be empowered to adopt, by 31 December 2027, a delegated act in accordance with Article 73, to amend the targets laid down in paragraphs 2 and 3.*

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