

***Proposal for implementation of Directive 2006/66/EC of the European Parliament and of the Council, of 6 September 2006, on batteries and accumulators, and waste batteries and accumulators, etc***

**Ordinance (0000:000) on Producer Responsibility for Batteries**

Section 1

The purpose of this Ordinance is to ensure that batteries are designed and manufactured in a way that prevents waste and, in the case of the waste that is nevertheless generated, that:

1. Producers shall provide systems for separate collection of waste batteries in order to reduce the discarding of batteries as unsorted waste;
2. Waste batteries can be recycled;
3. Collection rates for batteries are to be as high as possible, with achievement of at least the rates shown in Appendix 2 of this Ordinance;
4. The targets shown in Section 13, first paragraph (3), are achieved.

**Definitions**

Section 2

For the purposes of this Ordinance, *waste* has the same meaning as in Chapter 15, Section 1, of the Environmental Code.

For the purposes of this Ordinance, the term *discarding of waste* has the same meaning as in the Waste Ordinance (2005:1063).

For the purposes of this Ordinance, the term *electrical and electronic products* has the same meaning as in the Ordinance (2005:209) on Producer Responsibility for Electrical and Electronic Products.

Section 3

For the purposes of this Ordinance, the following definitions are applied:

*Battery*: A source of electrical energy comprising one or more battery cells and where the energy is generated through direct conversion of chemical energy, including battery package, accumulator, button cell and batteries included in electrical and electronic products or vehicles.

*Producer*: A person who professionally sells or transfers batteries in Sweden for the first time, or who imports batteries to Sweden for personal use in professional activities.

*Distributor*: A person who professionally sells or transfers batteries in Sweden to end-users.

*Waste battery*: A battery that comprises waste.

*Environmentally hazardous batteries*: Batteries containing more than (1) 0.0005 percent of mercury by weight, (2) 0.025 percent of cadmium by weight, or (3) 0.4 percent of lead by weight.

*Battery Fund:* A fund kept for environmentally hazardous batteries that are transferred in the Swedish market or that are imported to Sweden for personal use in professional activities before 26 September 2008. The fund is made up of fees paid to the state in accordance with Sections 15-18 of the Battery Ordinance (1997:645), and shall be used to pay the costs relating to collection, sorting, recycling and discarding of environmentally hazardous batteries, and for costs relating to the dissemination of information to prevent the discharge to the environment of cadmium, mercury and lead from environmentally hazardous batteries.

*Portable batteries:* Batteries that are sealed and portable, and that are not industrial or automotive batteries.

*Automotive battery:* Battery used for start motors, lighting or ignition systems.

*Industrial battery:* Battery designed exclusively for industrial or other professional use, or that is used in electric vehicles.

*Directive 2006/66/EC:* Directive 2006/66/EC of the European Parliament and of the Council, of 6 September 2006, on batteries and accumulators and waste batteries and accumulators, and repealing Directive 91/157/EEC.

## Scope

### Section 4

This Ordinance shall apply to all types of batteries, regardless of their shape, volume, weight, material composition and use.

### Section 5

This Ordinance shall not apply to batteries used in:

1. Equipment used in conjunction with protection of essential security interests in a Member State of the European Union, arms, munitions or war material, if the equipment has been manufactured for a specifically military purposes; or
2. Equipment designed to be sent into space.

The provisions in Sections 9-15 do not apply to producers who sell or transfer batteries in Sweden, or who import batteries to Sweden for personal use in professional activities, in quantities that do not exceed the following:

| <i>Type of battery</i>                     | <i>Quantity per year</i> |
|--------------------------------------------|--------------------------|
| Batteries exceeding 3 kg that contain lead | 250 kg                   |
| Other lead batteries                       | 100 kg                   |
| Batteries that contain mercury             | 1 kg                     |
| Batteries that contain cadmium             | 2 kg                     |
| Other batteries                            | 100 kg                   |

### Section 6

The provisions in Chapter 15, Section 8 of the Swedish Environmental Code state that municipalities are responsible for transport and recycling or discarding of household waste. The provisions in this Ordinance only limit this responsibility in the case of waste that, under

the terms of this Ordinance, is deposited with a producer or distributor or in a collection system in accordance with Section 12.

## **Registration**

### Section 7

A producer shall submit name and address and provide information to the Swedish Environmental Protection Agency, if the provisions of the Ordinance (2005:209) on Producer Responsibility for Electrical and Electronic Products or the Ordinance (2007:185) on Producer Responsibility for Cars apply to the producer.

The Swedish Environmental Protection Agency shall compile in a register the information provided by producers according to the first paragraph.

## **Labelling of batteries**

### Section 8

A producer shall ensure that the batteries that he sells or transfers in Sweden, or imports to Sweden for personal use in professional activities, are labelled in the manner indicated in Appendix 1.

## **Obligation to manage batteries**

### Section 9

A producer shall manage waste batteries that the producer has sold or transferred in Sweden, or imported to Sweden for personal use in professional activities.

### Section 10

A distributor shall take back waste batteries without charge. This obligation applies to batteries of the type that the distributor sells or transfers in Sweden, regardless of the batteries' chemical composition or origin.

### Section 11

A producer shall fulfil his obligation for waste batteries in accordance with Section 9 by:

1. Ensuring the availability of one or more suitable collection systems for waste batteries;
2. Ensuring that the waste batteries deposited at the collection system(s) as described in (1), or deposited with a distributor in accordance with Section 10, are transported, treated, reused, recycled or managed in some other way that is acceptable from an environmental perspective.

In the case of portable batteries and automotive batteries from households, a system according to (1) above shall be provided without charge to the end-users, and may not be combined with an obligation for end-users to purchase a new battery.

If an end-user requests this, a producer of industrial batteries shall take back waste batteries from the end-user. This obligation applies regardless of the batteries' chemical composition or

origin. After accepting the battery, the producer shall ensure fulfilment of the obligations according to the first paragraph (2).

#### Section 12

A collection system is considered suitable if it:

1. Is easily accessible and offers good service to households, municipalities, distributors and other parties that can be assumed to want to deposit waste batteries;
2. Makes it easy for households and other parties to separate batteries from other waste;
3. Offers collection points with suitable geographical distribution in relation to the expected use of the batteries sold, the population density and other circumstances;
4. Is designed so that parties managing the batteries in the system are not exposed to health or safety risks on account of the batteries' characteristics;
5. Is accessible to all producers on non-discriminatory terms.

In a collection system for municipalities and distributors in accordance with the first paragraph (1), batteries can be deposited in the collection system, or collected by a party representing the collection system, at one of the sites set up by the municipality in question for management of waste batteries. The municipality and the producer may agree on deviations from this requirement.

A collection system that fulfils the requirements set forth in the Ordinance (2005:205) on Producer Responsibility for Electrical and Electronic Products, the Ordinance (2007:185) on Producer Responsibility for Car Products, or the Ordinance (2007:193) on Producer Responsibility for Certain Radioactive Products and Orphan Sources is regarded as suitable for batteries included in electrical and electronic products, vehicles and radioactive products.

#### Section 13

In the case of batteries that are accepted in the collection system(s) referred to in Section 11, the producer shall ensure that:

1. The operator treating waste batteries, as a minimum, removes all fluids and acids;
2. Treatment and storage of waste batteries takes place at sites with impermeable surfaces and suitable weatherproof covering or in suitable containers;
3. By 26 September 2010, a minimum of
  - a) 65 percent of the average weight of lead batteries is recycled, including recycling of the lead content to the highest degree;
  - b) 75 percent of the average weight of nickel cadmium batteries is recycled, including recycling of the cadmium content to the highest degree;
  - c) 98 percent of the mercury content of mercury batteries is to undergo special treatment;
  - d) 50 percent of the average weight of other batteries is recycled.

Section 10a of the Ordinance (2001:512) on the Landfill of Waste sets forth provisions on the prohibition of dumping waste that comprises or includes batteries.

Section 6 of the Ordinance (2002:1060) on Waste Incineration sets forth provisions against incinerating waste that comprises or includes batteries.

#### **Financing to guarantee fulfilment of producer responsibility, etc**

#### Section 14

Assuming funds are available, disbursements may be made from the Battery Fund to producers who, in accordance with Sections 9-12, collect, sort, recycle or discard environmentally hazardous batteries that have been sold or transferred in Sweden, or imported to Sweden for personal use in professional activities, before 26 September 2008. Payment is in proportion to the quantity handled and the cost of management, according to a tariff set by the Swedish Environmental Protection Agency.

Assuming funds are available, the Swedish Environmental Protection Agency may use the Battery Fund for disseminating information aimed at preventing discharge to the environment of cadmium, mercury and lead from environmentally hazardous batteries as described in the first paragraph of this section.

The Swedish Environmental Protection Agency makes judgements on issues relating to payments from the Battery Fund.

#### Section 15

In the case of batteries that are transferred in the Swedish market, or are imported to Sweden for personal use in professional activities, after 25 September 2008, the producer shall guarantee that financing is available for fulfilment of the obligation to manage batteries in accordance with Section 9 compared with Section 12, even if the producer's activities cease or if the producer, for some other reason, fails to fulfil the obligation.

The guarantee shall be regarded as suitable if, in view of the expected use and length of life of the sold batteries and other circumstances, it is likely that the obligation will be fulfilled, or that the party fulfilling the producer's obligation can receive payment for the costs arising from fulfilment of the obligation.

### **Obligation to provide information about the content and management of the batteries**

#### Section 16

For each calendar year, a producer shall provide the following information to the Swedish Environmental Protection Agency:

1. The types of batteries and quantities of each type that the producer has sold or transferred in Sweden, or imported for personal use in professional activities;
2. The quantity of batteries collected in the collection system as referred to in Section 11, or deposited with the producer in accordance with Section 10, first paragraph, and recycled, discarded or exported from Sweden for recycling or discarding;
3. The recycling efficiency attained in accordance with Section 13, first paragraph (3);
4. How the producer has fulfilled his obligations in accordance with this Ordinance.

**Kommentar [C1]:** Översättarens kommentar: I den svenska texten står det "första stycket" men det finns bara ett stycke i 10 §. "first paragraph," är därför onödig.

The first paragraph in this section (4) does not apply to how local collection fulfils the requirements in Sections 11 and 12.

In the case of information about recycling or discarding that takes place outside the European Union, the producer shall be able to show that the batteries have been managed in a manner equivalent to the requirements in Directive 2006/66/EC.

#### Section 17.

Through national campaigns or similar, a producer shall inform households and other users about:

1. The potential effects on human health and the environment resulting from the substances used in batteries;
2. The meaning of the labelling described in Section 8, with the exception of information about batteries' capacity;
3. The obligation to sort waste comprising batteries in accordance with the provisions in the Waste Ordinance (2001:1063) and how the sorting shall take place;
4. The collection systems to which the users have access;
5. How the users can help recycle waste batteries.

The information shall be exhaustive and be designed and provided in such a way that it reaches parties that can be assumed to want to deposit waste batteries with the producer or in a collection system.

#### Section 18

A distributor shall inform the end-users about the possibility of discarding waste portable batteries in accordance with Section 10.

### **Reporting and supervision**

#### Section 19

The *supervisory authority* shall report the relevant information to the European Commission as set forth in Articles 10, 12 and 22 in Directive 2006/66/EC.

#### Section 20

Provisions regarding supervision and fees can be found in Chapter 26 of the Swedish Environmental Code, the Ordinance (1998:900) on Supervision under the Environmental Code, and the Ordinance (1998:940) on Fees for Examination and Supervision.

### **Authorisation**

#### Section 21

The Swedish Environmental Protection Agency may announce the regulations required for application of Sections 7, 12 and 15-18, and regulations for labelling in accordance with Article 21.2 of Directive 2006/66/EC, and notify exemptions from the labelling requirements in accordance with Article 21.7 of Directive 2006/66/EC.

### **Penalties**

#### Section 22

A party that, deliberately or through negligence, does not fulfil the following obligations will pay a penalty fine:

1. Ensures that batteries are labelled in accordance with Section 8;
2. Manages waste batteries in accordance with Section 9 and 11, first paragraph;
3. Guarantees financing in accordance with Section 15.

A party violating an injunction or prohibition imposed in accordance with Chapter 26 of the Swedish Environmental Code may not be penalised in accordance with this Ordinance for actions that are the subject of the injunction or prohibition.

The party is not held responsible in accordance with this Ordinance if the actions are penalised in accordance with Section 29 of the Swedish Environmental Code.

### **Appeals**

Section 23

Chapter 19, Section 1 of the Swedish Environmental Code sets forth provisions regarding appeals.

### **Entry into force**

This Ordinance enters into force on 26 September 2008, after which the Battery Ordinance (1997:645) no longer applies.

## Appendix 1

In labelling in accordance with Section 8, the following symbol shall be used.

### *Bild*

The symbol shall cover at least three percent of the area of the largest side of the battery. In the case of cylindrical batteries, the symbol shall cover 1.5 percent of half of the surface area of the battery. However, the symbol is not to exceed 5 x 5 cm. If the battery is so small that three percent of the battery's surface would be smaller than 0.5 x 0.5 cm, a symbol 1 x 1 cm shall be printed on the battery's packaging.

### Batteries containing

- More than 0.0005 percent of mercury by weight shall be marked with Hg
- More than 0.002 percent of cadmium by weight shall be marked with Cd
- More than 0.004 percent of lead by weight shall be marked with Pb.

The symbol indicating the heavy metal content shall be printed beneath the symbol of the wheeled bin, and shall cover an area of at least one-quarter the size of that symbol.

By 26 September 2009, portable batteries and automotive batteries are to be labelled with information about the capacity in accordance with the Swedish Environmental Protection Agency regulations under the terms of Section 8, second paragraph.

The labels shall be printed visibly, legibly and indelibly.

**Kommentar [C2]:** Översättarens kommentar: Section 8 har bara ett stycke. Undrar om det skulle vara "Section 17 (2)" istället?

## **Appendix 2**

### Collection rates for batteries

|                                             |                                                                                                                       |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| Automotive and industrial batteries of lead | 95 percent of the total number of batteries pre-sold                                                                  |
| Other automotive and industrial batteries   | 95 percent of the total number of batteries pre-sold                                                                  |
| Other batteries                             | 60 percent of the total number of batteries pre-sold by<br>26 September 2012, and 70 percent by 26 September<br>2016. |

Collection rates are to be calculated in accordance with Annex 1 of Directive 2006/66/EC.