

FEDERAL LEGAL GAZETTE FOR THE REPUBLIC OF AUSTRIA

Year 2008 Issued on 15 May 2008 Part II

159. Regulation: Batteries regulation
[CELEX-No.: 32006L0066]

159. Regulation of the Federal Minister for Agriculture and Forestry on prevention of waste, and the collection and treatment of end-of-life batteries and accumulators (batteries regulation)

Based on §§ 13, 13a, 13b, 14, 19, 23 Para. 1 and 3, 28a and 36 of the recycling law of 2002 (AWG 2002), BGBl. I no. 102, most recently amended by Federal law BGBl. I No. 54/2008, the following is decreed in agreement with the Federal Minister for the Economy and Labour:

Section 1

General provisions

Goals

§ 1. The goals of this regulation are:

1. the improvement of the environmental sustainability of batteries during their entire life cycles,
2. the prevention of batteries waste and (insofar as this waste is unavoidable) the material recycling and other forms of the recycling of such waste, to reduce the quantity of waste in the sense to be disposed of with the aim of sustainable materials flow regulation and an improvement in the environmental situation; this should occur through the involvement of all of the parties involved in the life cycle of batteries, e.g. the manufacturer, distributor, consumer and waste processor,
3. the extensive separate collection of end-of-life batteries and the avoidance of final disposal as unsorted municipal waste, whereby as a minimum goal for device end-of-life batteries at least 25% of the mass of batteries placed in circulation annually (collection quota) should be reached by 26 September 2012 and at least 45% by 26 September 2016,
4. the securing of a high level of material recycling of end-of-life batteries and
5. the restriction of the use of dangerous substances in batteries to make a contribution to protecting people's health, combating dangers to the natural living conditions of animals or plants or the soil and to ensure the environmentally sustainable recycling and disposal of end-of-life batteries.

Scope of application

§ 2. (1) This regulation applies to all types of batteries, regardless of shape, volume, weight, material composition or use. It applies without prejudice to the end-of-life regulation, BGBl. II No. 407/2002, and the end-of-life electrical devices regulation (EAG-VO), BGBl. II no. 121/2005, in the relevant valid versions.

(2) This regulation excludes batteries which

1. are used in items of equipment, weapons, munitions and war equipment which are specifically intended for military purposes and whose importance serves Austria's essential security interests or

2. used in items of equipment for use in space.

BGBI. II – Issued on 15 May 2008 - No. 159 2 of 17
www.ris.bka.gv.at

Designation of terms

§ 3. In the sense of this regulation the following is (are):

1. 'Battery': a source of electrical energy which is obtained by direct conversion of chemical energy comprising one or more (non rechargeable) primary cells or one or more (rechargeable) secondary cells;

2. 'Set of batteries': a group of batteries, that are bound together in such a way and/or built together in an external casing that they form a full unit that cannot be separated or opened by the final consumer;

3. 'Device batteries': batteries, round cell batteries, sets of batteries or accumulators,

a) which are encapsulated and

b) which can be held in the hand and

c) which are neither industrial batteries of vehicle batteries unless the industrial batteries are in electrical and electronic devices for private household use;

4. 'Round cell batteries': small, round device batteries, whose diameter is greater than their height and which are intended for special purposes such as hearing aids, wrist watches, small portable devices or reserve power supplies;

5. 'Vehicle batteries': batteries or accumulators for the starter, lighting or ignition of vehicles; industrial batteries or accumulators which are used as vehicle batteries depending on the type or style of construction count as vehicle batteries or accumulators;

6. 'Industrial batteries': batteries or accumulators, which are intended for industrial or commercial purposes or for electrical vehicles of all types;

7. 'End-of-life batteries': batteries or accumulators, which count as waste in accordance with § 2 AWG 2002;

8. 'Own importer': a final consumer, which acquires device or vehicle batteries for the operation of its company from abroad and who accumulates these as waste in the company;

9. 'Disposal': the procedure which can be used based on **Annex 2** Point 2 of AWG 2002;

10. 'Processing': all activities which are performed on end-of-life batteries following handover to a plant for sorting, preparation of material recycling or for preparation for disposal;

11. 'Devices': electrical and electronic devices in the sense of directive 2002/96/EC on electrical and electronic end-of-life devices, ABI. no. L 37 of 13.02.2003 p. 24, which are or can be fully or partially with batteries;

12. 'Final distributor': every party that offers batteries to the final consumer commercially;

13. 'Final consumer': every person who acquires batteries for use;

14. 'Putting into circulation': the commercial handover of batteries to another legal person;

15. 'Collection points':

a) points set up by districts or federations of districts in accordance with § 28a AWG 2002 or

b) points set up by manufacturers of device batteries in accordance with § 13a Para. 1 AWG 2002 at which device end-of-life batteries can be handed in;

16. 'Cordless electrical tool': a handheld device for maintenance, construction or gardening operated with a battery or accumulator;

17. 'Collection quota': the percentage rate, which comprises the weight of the device end-of-life batteries, which is collected in a Member State in a calendar year in accordance with §§ 5, 6, 7, 10 and 17 EAG-VO or in accordance with §§ 9 f, in relation to the weight of device batteries, which the manufacturers sell directly to the final consumer or supply to third parties so that they can be sold to the final consumer on a yearly average for the relevant calendar year and the previous two calendar years in a specified Member State;

18. 'Mass share': the mass of device batteries put into circulation or imported for final consumption reported by a collection and recycling system in relation to the total mass of device batteries put into circulation as reported by the collection and recycling system;

BGBI. II – Issued on 15 May 2008 - No. 159 3 of 17
www.ris.bka.gv.at

Substance bans and avoidance

§ 4. (1) Without prejudice to the end-of-life vehicle regulation, it is forbidden to place:

1. batteries containing a percentage weight of mercury of over 0.0005, regardless of whether these are built into devices or not,

2. device batteries, which contain a percentage weight of more than 0.002 of cadmium, including those that are built into devices

into circulation at any commercial level. 'Placed into circulation' in the sense of this provision is the paid-for or free delivery or preparation to or for a third party inside the European Union, including import into the European Union customs area.

(2) Para. 1 Z 1 does not apply to round cell batteries with a mercury content of at most two percent in weight.

(3) Para. 1 Z 2 does not apply to device batteries, which are intended for use in the following devices and systems:

1. emergency systems and alarm systems, including emergency lighting;
2. medical devices;
3. cordless electrical tools.

(4) Para. 1 does not apply to batteries, provided these are brought into circulation for the first time in the European Union before 26 September 2008.

Processing of end-of-life batteries

§ 5. (1) Manufacturers must ensure in a demonstrable way for recovered end-of-life batteries that

1. these are processed in accordance with contemporary standard industrial practice,
2. the requirements under the waste processing obligation regulation, BGBI. II no. 459/2004, in the relevant version in force, have been fulfilled,
3. the minimum efficiencies stated in **Annex 1** are reached by 26 September 2011 at the latest,
4. the ongoing records are kept with respect to calculation of the targets under Z 3 concerning the mass of end-of-life batteries, which

- a) are brought to a recycling plant or
- b) are transported to another processing plant or leave it.

§ 17 Para. 5 sentence one to three of AWG 2002 apply correspondingly for the records in accordance with Z4.

(2) End-of-life batteries which are exported from the European Union can only be taken into account for the calculation of the minimum efficiencies stated in **Annex 1**, if

1. the manufacturer proves that the requirements under Para. 1 have been complied with and
2. export takes place correctly in accordance with Community law provisions.

(3) Every waste collector (in particular districts or associations of districts), which takes over end-of-life batteries from a final consumer and does not return these to the manufacturer must comply with the provisions in accordance with Para. 1 and 2.

Labelling

§ 6. (1) Manufacturers, which put batteries or sets of batteries into circulation, must label these with the symbol depicted in **Annex 2**.

(2) Manufacturers, which put device or vehicle batteries into circulation, must put their capacity on the battery in a visible, legible and durable format on the battery by 26 September 2009 at the latest.

(3) Manufacturers, which place batteries into circulation that contain more than 0.0005% of mercury, more than 0.002% of cadmium or more than 0.004% of lead must label these with the chemical symbol for the relevant metal (Hg, Cd or Pb) in accordance with **Annex 2**.

(4) If the size of this symbol or the chemical sign is smaller than 0.5 x 0.5 cm due to the dimensions of the battery or set of batteries, the battery or set of batteries does not have to be labelled; instead the symbol or chemical sign is to be printed on the packaging at a size of at least 1 x 1 cm.

BGBI. II – Issued on 15 May 2008 - No. 159 4 of 17
www.ris.bka.gv.at

Information for final consumers

§ 7. (1) Manufacturers must provide the final consumers of batteries with access to information about at least the following information in a suitable way, e.g. in print and through the Internet:

1. the possible effects of the materials contained in batteries on the environment and human health;
2. the purpose and goal of the separate collection of end-of-life batteries and the disadvantages of disposal together with unsorted municipal waste;
3. the return and collection facilities available;
4. the usefulness of material recycling and other forms of recycling end-of-life batteries ;
5. the importance of the symbols of crossed-out waste bins on wheels and the chemical signs Hg, Cd and Pb shown in **Annex 2**. Manufacturers of device batteries must agree the information stated in Z3 with the operators of collection points in accordance with § 3 Z 15 section. a.

(2) Final distributors of device or vehicle batteries must inform the final consumer about the possibility of recovering device and vehicle end-of-life batteries at their points of sale.

Section 2

Device batteries

Removal of device batteries

§ 8. Manufacturers of electrical and electronic devices in accordance with § 13a AWG 2002 must design devices in such a way that device batteries can be removed without difficulty. Devices, with built-in device batteries, must contain instructions on how these can be removed safely, and information about the type of the built-in device batteries must be added for the consumer. This does not apply in cases where an uninterruptible power supply and a constant connection between the device and battery are needed for reasons of safety, power, for medical reasons and data completeness reasons.

Return of device end-of-life batteries

§ 9. (1) Final consumers can at least return device end-of-life batteries free of charge

1. at collection points in accordance with § 3 Z 15 section. a,
2. at collection points in accordance with § 3 Z 15 section. b,
3. at other return facilities, which the manufacturers or collection and recycling systems set up for this purpose,
4. at the final distributor of device batteries.

(2) In the case of legal enterprises, in which the final distributor distributes device batteries in the context of a mail order business, including an electronic mail order business, the final distributor can fulfil its recovery obligation under Para. 1 Z 4 by setting up at least two publicly accessible points per political district, where device end-of-life batteries can be handed in by final consumers. These points and their opening times are to be notified to the final consumer in a suitable way.

(3) Manufacturers of device batteries must set up at least one collection point in each political district where device end-of-life batteries can be handed over by final distributors of device batteries.

(4) Final distributors of device batteries, collection and recycling systems for electrical and electronic end-of-life devices in accordance with § 10 EAG-VO can hand over device end-of-life batteries at least free of charge at

1. collection points in accordance with § 3 Z 15 section. b,
2. collection points in accordance with § 3 Z 15 section. a, insofar as corresponding contracts between a collection and recycling system and the collection point and the legal and technical prerequisites exist.

Recovery of device end-of-life batteries

§ 10. (1) Manufacturers of device batteries must recover device end-of-life batteries from collection points in accordance with § 3 Z 15 section. a, from final distributors, from collection and recycling systems for electrical and electronic end-of-life devices or final consumers at collection points in accordance with § 3 Z 15 section. b and, insofar as they have set up other recovery facilities, from final consumers at least free of charge.

*BGBl. II – Issued on 15 May 2008 - No. 159 5 of 17
www.ris.bka.gv.at*

(2) Manufacturers of device batteries must fulfil their recovery obligation under Para. 1 concerning the mass of the device batteries they put into circulation relative to the mass of the entire device batteries put into circulation by participating in a collection and recycling system in accordance with § 16. A change between various collection and recycling systems is only permitted at the end of a calendar quarter.

Collection points

§ 11. (1) The collection and preparation of device end-of-life batteries must at least occur separately at the collection points under § 3 Z 15 from the other collection and processing categories stated in **Annex 3**.

(2) Insofar as no contract concerning the collection of device end-of-life batteries with one or more collection and recycling systems, the local districts (federations of local districts), in the context of the separate collection of device end-of-life batteries in accordance with § 28a AWG 2002

1. if the quantity threshold stated in **Annex 3** is met or
2. if the quantity threshold under **Annex 3** was not reached within six months, can notify the coordination point under § 20 of a need for collection in accordance with Para. 4.

(3) A collection and recycling system can notify the coordination point of a need for collection in accordance with Para. 4 of a collection point under § 3 Z 15 section. b insofar as

1. the collection and recycling system has already recovered device end-of-life batteries in relation to the reported device batteries it has put into circulation in comparison to all of the reported device batteries put into circulation recovered by all of the collection and recycling systems and

2. the quantity threshold cited in **Annex 3** was reached.

(4) The reporting of a need for collection must contain the following details:

1. GLN (global location number) of the collection point,
2. the collection and processing category,
3. estimated mass and
4. the number, type, shape and size of the collection containers.

(5) The reporting of a need for collection under Para. 2 Z 1 and Para. 3 must take place on 1 December 2008 at the earliest.

Section 3

Vehicle batteries

Return of vehicle end-of-life batteries

§ 12. (1) Final consumers can return vehicle end-of-life batteries at least free of charge to

1. the final distributor of vehicle batteries,
2. other return facilities which manufacturers or collection and recycling systems set up for this or
3. collection points, which the local districts (federations of local districts) set up for this purpose.

(2) In the case of legal enterprises where the final distributor distributes vehicle batteries in the context of a mail order business, including an electronic mail order business, the final distributor can fulfil its recovery obligation under Para. 1 Z 1 by establishing at least two publicly accessible points in each political district where vehicle end-of-life batteries can be handed in by final consumers. These points and their opening times are to be notified to the final consumer in a suitable way.

Recovery of vehicle end-of-life batteries

§ 13. (1) Manufacturers of vehicle batteries must recover vehicle end-of-life batteries

1. from final distributors,
2. from end-of-life vehicle collection and recycling systems or
3. collection points operated by local districts (federations of local districts) at least free of charge.

*BGBI. II – Issued on 15 May 2008 - No. 159 6 of 17
www.ris.bka.gv.at*

(2) Manufacturers of vehicle batteries must fulfil their recovery obligation under Para. 1 by participating in a collection and recycling system under § 16. A change between different collection and recycling systems is only permitted at the end of a calendar quarter.

Collection and retrieval

§ 14. (1) The collection and preparation of vehicle end-of-life batteries must at least occur separately from the other collection and processing categories stated in **Annex 3**.

(2) At the request of a final distributor, a collection and recycling system for end-of-life vehicles or the operator of a collection point for a local district, manufacturers of vehicle batteries must collect vehicle

end-of-life batteries from this distributor, this collection and system or this district (this federation of local districts)

1. if the quantity threshold stated in **Annex 3** is reached, within 20 days or
2. if this quantity threshold under **Annex 3** is not reached, at least once in a calendar year within six weeks, free of charge.

Section 4

Industrial batteries

§ 15. (1) Manufacturers, which put industrial batteries into circulation, must recover industrial end-of-life batteries independently of the date of their entry into use and regardless of their origin or chemical composition.

(2) Manufacturers can reach agreements on the financing of the collection or processing with the final consumers of industrial batteries.

Section 5

Collection and recycling systems and coordination

Participation in a collection and recycling system

§ 16. (1) Manufacturers of device or vehicle batteries must

1. fulfil their recovery obligation under § 10 or § 13 by participating in a collection and recycling system and

2. contractually tie the obligations under §§ 5 Para. 1 and 2, 7 Para. 1, 9 Para. 3, 14 Para. 2, 22 Para. 1 Z 6, 24 Para. 1 and 25 Para. 1 per collection and processing category entirely to a collection and recycling system for device or vehicle end-of-life batteries approved for this purpose, whereby the corresponding obligations are transferred to the operator of the system.

(2) Manufacturers of industrial batteries can contractually tie the obligations under §§ 5 Para. 1 and 2, 7 Para. 1 and 15 Para. 1 per collection and processing category entirely to a collection and recycling system for industrial end-of-life batteries approved for this purpose, whereby the corresponding obligations are transferred to the operator of this system.

(3) Manufacturers and own importers must grant the relevant collection and recycling system the corresponding testing rights, especially concerning the mass of batteries which they put into circulation.

Prerequisites for the establishment and operation of a collection and recycling system

§ 17. (1) The collection and recycling system for end-of-life batteries can only be set up and operated for the takeover of the obligations under § 16 Para. 1 or 2 on an entire basis for one or more collection and processing categories.

(2) Collection and recycling systems for device end-of-life batteries must demonstrate a corresponding geographically extensive cover in the entire federal territory, whereby in any case at least one collection point for each political district must be set up in accordance with the obligation under § 9 Para. 3 and a disposal logistics plan must be drawn up to demonstrate that collection can take place from the collection points in accordance with § 3 Z 15.

(3) Collection and recycling systems for vehicle end-of-life batteries must draw up a disposal logistics plan to demonstrate that collection from distributors, collection and recycling systems for end-of-life vehicles and collection points of the local districts (federations of local districts) can take place in all political districts.

(4) The collection of resources must take place in accordance with the following principles:

1. Generally valid rates are to be stipulated relative to a collection and processing category or, insofar as this is materially justified, relating to a group of end-of-life batteries, which are comparable with respect to collection and processing (groups of end-of-life batteries, categories of rates); all of the contractual partners are to act here in accordance with the same principles.

2. Based on a comprehensible cost calculation, the rates are to be organised in such a way that the expected costs for the (identified) end-of-life batteries collected in a calendar year of a collection and processing category or group of end-of-life batteries including their processing costs as well as the expenditure for the coordination point are to be applied to the entire mass of the corresponding collection and processing category or group of end-of-life batteries expected to be put in circulation for which participation in the system occurs.

3. Collection and recycling systems must contractually ensure suitable cooperation by the manufacturers participating in the system with respect to auditing the collection of resources, especially a full report on the total masses of batteries put into circulation in the calendar quarter for each collection and processing category, for which participation occurs in the relevant system, as well as assignment to the relevant rates.

(5) Collection and recycling systems for device or vehicle end-of-life batteries must present the agreement signed by the relevant firm in accordance with § 29 Para. 4 AWG 2002 to the Federal Minister for Agricultural and Forestry, the Environment and Aquaculture as an application document for approval of the system. A modification of the agreement or the conclusion of a new agreement must also be submitted, but does not produce a modification permit in accordance with § 29 Para. 1 AWG 2002.

(6) As a prerequisite for the operation of their system, collection and recycling systems must prove annually through the report under § 19 Para. 1 Z 1 (initially for the calendar year following the approval by 10 April in the second year following the approval) that either:

1. a mass share of at least 5% of the total batteries put into circulation in the relevant collection and processing category or
2. a mass share of at least 8% of the batteries put into circulation annually, which is produced by summing the mass shares of the individual collection and processing categories for which the collection and recycling system is authorised,

has been reached. If the mass shares are not reached following the stipulation of a suitable period, the Federal Minister for Agriculture and Forestry, the Environment and Aquaculture under § 31 Para. 2 Z 5 section. b AWG 2002 must correspondingly restrict or withdraw the approval to operate the collection and recycling system with the expiry of the current calendar quarter.

(7) Para. 6 does not apply to approved collection and recycling systems for electrical end-of-life devices which contain batteries or for end-of-life vehicles.

(8) A collection and recycling system for end-of-life batteries can only discontinue its operation at the end of a calendar quarter.

(9) Collection and recycling systems must offer manufacturers and own importers of device batteries, that put very small masses into circulation proportionate inclusive solutions which reflect the representative masses.

Own collection performances by collection and recycling systems

§ 18. (1) A collection and recycling system for device end-of-life batteries can also set up additional recovery facilities for device end-of-life batteries in addition to the collection points set up under § 3 Z 15.

The end-of-life batteries collected there are to be subjected to processing in accordance with § 5.

(2) Collection and recycling systems must offer an agreement on crediting for the mass of end-of-life batteries in the relevant collection and processing category collected demonstrably from their participants and sent for processing in accordance with § 5.

(3) The mass of device end-of-life batteries collected at collection points in accordance with Para. 1 and 2 under § 3 Z 15 and sent or to be sent for processing in accordance with § 5, which are not reported as a collection need and forwarded via the coordination point to a collection and recycling system are to be viewed by the coordination point when working out the obligation share under **Annex 4** as an own collection performance by the collection and recycling system, insofar as the coordination point is notified of each handover of device end-of-life batteries to another legal person (a commissioned recipient) while stating the following data in the register under § 22 Para. 1 AWG 2002 by the collection and recycling system within 30 days from the first of the month following the collection:

*BGBI. II – Issued on 15 May 2008 - No. 159 8 of 17
www.ris.bka.gv.at*

1. the locations where collections were made and, insofar as these are available, the GLNs for these locations,
2. the commissioned contractor,
3. the masses collected or sent for reuse or processing or those which are still be sent for reuse or processing,
4. proof of compliance with § 5 Para. 1 Z 2 and
5. the date of collection.

The documents confirming this information is be stored by the collection and recycling system. § 17 Para. 5 sentence one to three of AWG 2002 applies correspondingly.

Additional proof obligations for collection and recycling systems

§ 19. (1) Without prejudice to the contractually accepted obligation of proof, the operator of a collection and recycling system must notify the Federal Minister of Agriculture and Forestry, the Environment and Aquaculture of the following to prove its orderly business affairs by 10 April of the following year:

1. a list of the participants, especially the manufacturers and own importers while stating the GLN, and the mass of the batteries put into circulation or imported for own consumption for which participation in the system occurred, separated according to the collection and processing categories and

2. an activity report.

The listing in accordance with Z 1 is to be communicated via the register. For the 2008 calendar year the report must include the mass under Z 1 of the batteries put into circulation or imported for own use from 26 September 2008.

(2) Moreover, the operator of a collection and recycling system must provide the Federal Minister for Agriculture and Forestry, the Environment and Aquaculture with a business report annually by 10 September of each year (in each case included the extended annual accounts cited in the annex) concerning the past calendar year showing the financial situation for the sector under § 17 Para. 1.

(3) The operator of a collection and recycling system must publish the general conditions of business in a suitable way. Before modifying the general conditions of business, this intended modification is to be communicated to the Federal Minister for Agriculture and Forestry, the Environment and Aquaculture.

Coordination point

§ 20. (1) The coordination tasks under § 13b Para. 1 AWG 2002 are performed by the Federal Minister for Agriculture and Forestry, the Environment and Aquaculture or the legal entity which he appoints as the coordination point.

(2) The agreements with the collection and recycling systems for device end-of-life batteries must include the following clarifying content in accordance with § 13b Para. 1 Z 1 AWG 2002:

1. the completion of collections from collection points in accordance with § 3 Z 15, especially:

a) determination of the possibility of take over collections reported by operators of collection points within a certain time frame,

b) time frames for the implementation of collection in accordance with § 11 Para. 2 or 3,

c) agreement with the direct commissioning of a commissioned party taking over the collection and recycling system by the coordination point at the expense of the system insofar as collection by the system does not occur on time;

2. determination of inclusive amounts for the user costs for the collection infrastructure of the local districts or federations of local districts in the context of collection coordination; account is to be taken here of:

a) the quantities of waste to be expected, the equipment required for the fulfilment of the communal collection, the duration of use of the equipment and possibilities for increasing efficiency with respect to collection;

b) the inclusive amounts for financing the collection infrastructure include

aa) the container costs, insofar as these are borne by the local district or federation of local districts

*BGBI. II – Issued on 15 May 2008 - No. 159 9 of 17
www.ris.bka.gv.at*

bb) the possibly required covering measures and construction measures for device end-of-life batteries insofar as these are required under the waste processing obligations regulation;

the inclusive sums are to be reduced proportionately, relating to the individual mass of the collected device end-of-life batteries, if these are not returned to the manufacturers in the context of collection coordination;

c) the collection and recycling systems must bear the inclusive amounts in accordance with their mass share, whereby the collection points' provable paid infrastructure costs in the context of their own collection performance under § 3 Z 15 section. a, related to the individual mass of the device end-of-life batteries collected in this way, can be charged to a maximum to the proportional inclusive sum;

3. Determination of payment for the costs of ensuring uniform information to the final consumer by the local districts or federation of local districts with respect to the population of residents; the collection and recycling systems must bear this cost in accordance with their mass share;

4. Determination of bodies which can be appointed as an arbitration centre, the possible arbitration cases, and the length and cost bearing for arbitration procedures.

(3) The coordination must include the following clarifying measures under § 13b Para. 1 Z 2 AWG 2002:

1. Identification of the obligation share borne by the collection and recycling systems for device end-of-life batteries and the forwarding of a reported collection need to the collection and recycling system with the highest obligation share;

2. The allocation of the inclusive amount under Para. 2 Z 2 and payment according to Para. 2 Z 3;

3. Development of an annual concept of the information activity under § 7 while involving the operators of collection points in accordance with § 3 Z 15.

(4) The coordination point must comply with the stipulations in **Annex 4** when performing its tasks.

(5) In the clarification of the content of § 13b Para. 1 Z 1 AWG 2002 the agreements with the collection and recycling systems for vehicle end-of-life batteries must stipulate that the agreement of the system for the settlement of collections especially from collection points operated by local districts (federations of local districts) will be issued by the coordination point under the direct commissioning of a commissioned contractor for the collection and recycling system at the system's expense, if collection by the system does not occur on time. Moreover, the coordination of information for the final consumer on the free-of-charge recovery obligation and recovery possibilities are to be fixed in this agreement.

Reporting and forwarding of a collection need

§ 21. (1) Collection and recycling systems for device end-of-life batteries must collect end-of-life batteries in accordance with their obligation share under **Annex 4** from collection points under § 3 Z 15, if the coordination point sends them a collection need for device end-of-life batteries electronically via the register. The forwarding of the collection need must contain the following details:

1. GLN of the collection point,
2. the estimated mass and

3. the number, type, shape and size of the collection containers.

(2) The collection and recycling system must inform the coordination point of the GLN of the commissioned contractor without delay through the register.

(3) The commissioned entrepreneur must inform the coordination point before the takeover of device end-of-life batteries of the date of collection (date of start of transport) and the GLN of the location where the waste is intended to be brought via the register.

(4) The commissioned entrepreneur must inform the coordination point following successful collection of the GLN of the location where the waste was brought, the date of receipt and the weighed amount via the register.

(5) Collection and recycling systems for device end-of-life batteries can use the reporting structures under Para. 1 to 5 for the identification of own collections. In this case the commissioned entrepreneur, in deviation from Para. 2 and 3, must state the collection and recycling system for which the own collection performance should be identified.

*BGBI. II Issued on 15 May 2008 - No. 159 10 of 17
www.ris.bka.gv.at*

Section 6

Registration and reporting obligations

Registration of parties bearing obligations

§ 22. (1) Manufacturers must register the following data electronically via the website edm.gv.at in the register under § 22 Para. 1 AWG 2002 and ensure that this data is available by 1 September 2008 at the latest:

1. The names, addresses (e.g. headquarters) of the manufacturer and the decisive business address for the notification,
2. where applicable company book numbers, association register numbers, supplementary register numbers or in the case of physical persons the sector-specific personal identifier,
3. Sector allocations (four part) in accordance with Regulation (EC) No. 1893/2006 on establishing the state system of commercial sectors NACE Revision 2 and amending regulation (EEC) no. 3037/90 as well as some EC regulations on certain statistical areas, ABI. No. L 393 of 30.12.2006 p. 1,
4. Contact addresses, including available e-mail addresses and contact persons,
5. the batteries put into circulation while stating the collection and processing category,
6. the collection points for device batteries under § 3 Z 15 section. b by stating the GLN,
7. the relevant collection and recycling system, insofar as possible as participation occurs or should occur.

Manufacturers that put batteries into use for the first time after 2 August 2008 communicate the data under Z 1 to 7 to the register within one month of starting their activity. Modifications to data under Z 1 to 7 is to be communicated to the register within one month.

(2) Collection and Recycling systems must forward the registration data under Para. 1 Z 1 to 5 and 7 to the register at the request of their participants.

(3) In addition to the registration under AWG 2002, operators of collection points under § 3 Z 15 must communicate the type of collection point (§ 3 Z 15 lit. a or lit. b) to the register by 1 August 2008. In addition to the registration under AWG 2002, operators of collection points which first enter service after 2 July 2008 must communicate the type of collection point (§ 3 Z 15 section. A or section. b) to the register within one month of starting their activity. Changes must be communicated to the register within one month.

(4) Own importers must register the following data in the register electronically via the website under § 22 Para. 1 AWG 2002 and ensure that this data is available at latest on 1 September 2008:

1. the own importer's name, address (e.g. headquarters) and the decisive business address for the notification,
2. company book numbers, association register numbers, supplementary register numbers or in the case of physical persons the sector-specific personal identifier,
3. The sector classification (four part) in accordance with Regulation (EC) No. 1893/2006 on the establishment of the statistical system of economic sectors NACE Revision 2 and amending Regulation (EEC) no. 3037/90 as well as some EC regulations on certain statistical areas, ABI. no. L 393 of 30.12.2006 p. 1,
4. contact addresses, including the email addresses present and contact persons,
5. the acquired device and vehicle batteries while stating the collection and processing category,
6. the relevant collection and recycling system, if participation under § 26 Z 2 occurs. Own importers which acquire device and vehicle batteries first after 2 August 2008 must communicate the data under Z 1 to 6 to the register within one month of starting their activity. Modifications of the data under Z 1 to 6 are to notified to the register within one month.

Publication by manufacturers, own importers, collection points and processors

§ 23. The Federal Minister for Agriculture and Forestry, the Environment and Aquaculture must publish and update a list of

BGBI. II – Issued on 15 May 2008 - No. 159 11 of 17
www.ris.bka.gv.at

1. manufacturers of device or vehicle batteries,
2. collection points under § 3 Z 15 while stating the type of collection point (§ 3 Z 15 section. a or section. b),
3. processors of batteries, whereby processors are registered under § 16 of the Environment management law (UMG), BGBI. I No. 96/2001, in the version of the Federal law BGBI. I No. 99/2004, who are to be labelled separately in the list and
4. own importers under § 26 on the website of the Federal Ministry for Agriculture and Forestry, the Environment and Aquaculture.

Reporting of batteries put into circulation

§ 24. (1) Manufacturers of device batteries must notify the coordination point of the mass of batteries put into circulation in the calendar quarter in Austria at latest seven weeks after the expiry of the reporting quarter electronically via the register. The report must include the masses of device batteries and the statement of the calendar quarter. If no device batteries were put in circulation in a calendar quarter an empty report is to be submitted. The first report is to be made for the third quarter of 2008.

(2) Collection and recycling systems report an overall sum of the masses of device batteries put into circulation or imported for own use by their participants in Austria for each calendar quarter at latest seven weeks following the expiry of the reporting quarter electronically via the register, whereby the reporting obligation borne is to be fulfilled by the manufactures participating in this collection and recycling system under Para. 1.

Reporting on collection and processing

§ 25. (1) Manufacturers of device or vehicle batteries must inform the coordination point of the masses of end-of-life batteries separately based collection and processing categories via the register by 10 April of each calendar year for the previous calendar year, showing items that

1. were collected or recorded,
2. materially recycled,
3. recycled overall,
4. exported to another EU Member State or
5. were exported from the European Union.

(2) Each waste collector (especially local districts and federations of local districts) which takes over end-of-life batteries from a final consumer (excluding an own importer) and does not return these to the manufacturer must draw up the report for the coordination point for the end-of-life batteries in accordance with Para. 1 via the register.

(3) Every waste processor, which processes end-of-life batteries, must make the data under Para. 1 Z 2 and 3 per figure to the relevant to the party bound to make a report under Para. 1 and 2 via the register.

(4) For 2008, the reports under Para. 1 and 2 must relate to the end-of-life batteries collected from 26 September 2008 to 31 December 2008.

Section 7

Concluding provisions

The own importers' obligations

§ 26. Own importers (§ 3 Z 8) are obliged when no manufacturers are available for the recovery of device or vehicle end-of-life batteries

1. either
 - a) to record the device or vehicle end-of-life batteries as waste and
 - b) to act in accordance with § 5 and
 - c) to make a report for these device or vehicle end-of-life batteries under § 25 Para. 1 or
2. participate in a collection and recycling system for these device or vehicle batteries.

*BGBI. II – Issued on 15 May 2008 - No. 159 12 of 17
www.ris.bka.gv.at*

The free of charge handover of these device or vehicle end-of-life batteries under § 9 Para. 1 or § 12 Para. 1 is not permitted.

Implementation of Community Law

§ 27. This regulation implements Directive 2006/66/EC on batteries and accumulators as well as end-of-life batteries and end-of-life accumulators and rescinds Directive 91/157/EEC, ABI. No. L 266 of 26.09.2006 p. 1.

Entry into force and exit from force

§ 28. (1) Unless Para. 2 stipulates otherwise, this regulation enters into force on the day following its announcement.

(2) The §§ 4 to 21, 23 and 26 enter into force on 26 September 2008.

(3) The regulation on the recovery and restriction of pollution from batteries and accumulators, BGBl. No. 514/1990, in the version of regulation BGBl. II No. 495/1999, and § 1 Z 7, § 26 as well as Annex G Point 1 of the chemicals regulation 1999, BGBl. II No. 81/2000, in the version of regulation BGBl. II No. 62/2007 exit from force on the expiry of 25 September 2008.

Pröll

BGBl. II – Issued on 15 May 2008 - No. 159 13 of 17
www.ris.bka.gv.at

Annex 1

Minimum efficiencies

The following minimum efficiencies for material recycling must be reached with the recycling procedure:

- a) material recycling of 65% of the average weight of lead-acid batteries with a maximum of recycling of the lead content that is technically possible without disproportionate costs;
- b) material recycling of 75% of the average weight of nickel-cadmium batteries with a maximum recycling of the cadmium that is technically possible without disproportionate costs;
- c) material recycling von 50% of the average weight of other end-of-life batteries .

Annex 2

Labelling of batteries, accumulators and sets of batteries for separate collection

The symbol for 'separate collection' for all batteries comprises a crossed-out waste bin on wheels as shown below:

The symbol must occupy at least 3% of the biggest side area of the battery, accumulator or set of batteries, although at most an area of 5 × 5 cm. In the case of cylindrical formats, the symbol must occupy at least 1.5% of the surface of the battery or accumulator, although at most a surface of 5 × 5 cm.

The chemical symbol with the heavy metal contained is to be printed beneath the symbol; the chemical symbol must occupy a space of at least one quarter of the symbol's size.

The symbols and label must be printed to ensure that they are easily visible, legible and durable.

BGBl. II – Issued on 15 May 2008 - No. 159 14 of 17
www.ris.bka.gv.at

Annex 3

Classification of end-of-life batteries and quantity thresholds

Collection and processing category

Quantity threshold in kg for the reporting of a collection need under § 14

Device end-of-life batteries	300 kg
Vehicle end-of-life batteries	600 kg
Industrial end-of-life batteries	-

Annex 4

Rules for the coordination point in accordance with § 20

1. Mass share of device batteries

The masses of device batteries put into circulation or imported for own use and reported by collection and recycling systems are to be used to calculate the mass shares. For 2008, the masses of device batteries put into circulation or imported for own use and reported by collection and recycling systems from the third calendar quarter are to be used to calculate the mass shares.

The mass share is to be identified separately for each collection and recycling system per calendar quarter and is to be determined at latest two weeks after the expiry of the reporting deadline under § 24 and will be effective for the calculation of the obligation share for the next calendar quarter.

If a collection and recycling system discontinues its activity at the end of a calendar quarter the masses put into circulation by this system in the quarter preceding the termination are no longer used in the calculation of the mass share for the remaining systems in the quarter following the termination.

The determined mass share of the collection and recycling systems are to be published in each case. A system's mass share is calculated as follows:

A system's mass share (MAs) is the mass of batteries (Ms) reported by the system (its participants) divided by the total of all masses of batteries reported by all systems (M_{total}) as a percentage:

$$\text{MAs in \%} = 100 \times \text{Ms} / \text{M}_{\text{total}}$$

The mass share changes depending on the reports on the batteries put into circulation or imported for own use (per quarter).

2. Consideration of collected device end-of-life batteries in accordance with § 18 (own collection performance)

The masses collected in the context of an own collection performance are first considered, when a report in accordance with the stipulations of § 18 Para. 3 has been made.

The coordination point tests the submitted reports in accordance with § 18 Para. 3 without delay for plausibility and correspondingly recalculates the reported masses of the obligation share for the collection and recycling system.

BGBI. II – Issued on 15 May 2008 - No. 159 15 of 17
www.ris.bka.gv.at

3. Selection criteria for the forwarding of a collection need

The selection criterion for forwarding a collection need to a collection and recycling system is the obligation share which is calculated from the mass share and collection share:

3.1. Collection share

The collection share must be worked out continually on the basis of device end-of-life batteries collected so that by the collection and recycling system during the year.

In the case where a collection and recycling system discontinues its business at the end of a calendar year, the collected masses for this system in the quarter preceding the termination are no longer to be included in the calculation of the collection shares of the remaining systems in the quarter following the termination.

A system's collection share is calculated as follows:

The collection share (AAs) of a system is the system's collected (carried away) mass of end-of-life batteries (As) divided by the system's entire masses of collected (carried away) device end-of-life batteries (A_{total}) as a percentage:

$$\text{AAs in \%} = 100 \times \text{As}/\text{A}_{\text{total}}$$

The collection share changes due to

- a) a forwarding of the collection need due to a voluntary takeover of the collection need under Point 4.a),
 - b) a forwarding of the collection need under Point 4.b),
 - c) the consideration of an own collection performance under Point 2.,
 - d) possible corrections after weighing and reporting of the actual collected mass,
 - e) charges and offsetting due to an annual balancing in accordance with Point 5.
- The collection share is used for the calculation of the obligation share.

3.2. Obligation share

The obligation share is the basis for forwarding a collection need to collection and recycling system for the coordination point.

The obligation share is expressed numerically as a percentage, which represents the level of the obligation borne by a collection and recycling system to collect prepared device end-of-life batteries in collection points under § 3 Z 15. The obligation share represents the individual mass share on 1 October 2008 and following this at the start of each calendar year.

After each change in the collection share, the obligation share must be calculated afresh and announced electronically to the individual system and published on the coordination point's website.

A system's obligation share is calculated as follows:

The identification of the ongoing obligation share of a system (VAs) is to be done on the basis of the mass shares (MAs) under Point 1. divided by the ongoing identified collection share (AAs) in accordance with Point 3.1.

$$\text{VAs in \%} = 100 \times \text{MAs}/\text{AAs}$$

After a calendar quarter is exceeded the newly designated mass share of the collection and recycling systems are to be used during the calculation of the obligation share.

BGBI. II – Issued on 15 May 2008 - No. 159 16 of 17
www.ris.bka.gv.at

4. Forwarding of a collection need to a collection and recycling system

The coordination point must hold and update a list of all collection and recycling systems for device end-of-life batteries, ranked according to the ensuing obligation shares.

This list to be made known to the collection and recycling systems.

The forwarding of a collection need to a collection and recycling system has to take place via the

register as follows:

- a) The forwarding due to a voluntary takeover of the collection need under § 20 Para. 2 Z 1 section. a must take place to the collection and recycling system that has stated it is prepared for a voluntary takeover; insofar as several systems have stated that are prepared to perform a voluntary takeover, the coordination point must select a system from among these that has the highest obligation share at the end of the period for the declaration of the voluntary takeover of the collection need.
- b) If no system has stated that it is prepared to commit itself to voluntary takeover, the forwarding of the collection need to the collection and recycling system is to occur to the system that shows the highest quantitative obligation share at the arrival of a collection point's collection under § 3 Z 15. If the

obligation shares of two or more systems are identical, the system with the higher mass share is to be used.

The time of the arrival of a collection need and the end of the period for the declaration of the voluntary takeover are to be determined to the exact minute. The obligation share of the collection and recycling system that is bound to make a collection is to be calculated afresh for the processing of a new collection need, which means that a new ranking of the obligation shares is produced.

A change in the obligation share after the forwarding of a collection does not influence transmissions that have already occurred.

5. Annual balance

The annual balance is used to balance out fluctuations between the quarterly collection quantities and to avoid the resulting possible uneven framework conditions in the obligations borne by collection and recycling systems for device end-of-life batteries. The annual balance is to be carried out by the end of the second quarter of the calendar year following the calculation. The annual balance is to be worked out as follows:

5.1. An addition is made of the total accrued device end-of-life batteries prepared for collection in the calendar year in the collection points in accordance with § 3 Z 15 and the own collection performances considered under Point 2. (SL_{total}).

5.2. The collection performances of the collection and recycling systems in the calendar year (SLs) are added.

As of 1 January 2010, initially for the annual balance calculation of 2010, the consideration of collection performance only extends to 10% of an over-fulfilment of the mass, which the collection and recycling system had to collect in the relevant calendar year due to its obligation share.

5.3. The mass share of a system for the entire calendar year is calculated on the basis of the mass of device batteries from a system (its participants) put into circulation in the calendar year or imported for its own use and reported in accordance with § 19 Para. 1 Z 1 divided by the entire mass of all masses of device batteries reported as put into circulation or imported for own consumption in the calendar year (MA_{S_year}).

5.4. A collection and recycling system has fulfilled its collection obligations for a calendar year if the following condition is met:

$$SL_S = SL_{total} \times MA_{S_year}$$

5.5. If a collection and recycling system has over-fulfilled its collection obligation for a calendar year, insofar as a larger mass was collected overall, this mass difference is to be charged as a fictitious collection in the system's collection share at the beginning of the third quarter of the following calendar year. This mass is to be charged as a collection performance by the collection and recycling system for the annual balance for the next calendar year.

5.6. If a collection and recycling system under-fulfills its collection obligation for a calendar year, whereby a smaller mass was collected overall, this mass difference is to be offset against the system collection from the start of the third quarter of the following calendar year during the working out of the collection share until the actual collection in the magnitude of the mass difference. Collected masses, which are used to balance an under-fulfilment in the previous year are not to be viewed as collected yet for the current calendar year.

BGBI. II – Issued on 15 May 2008 – no. 159 17 of 17
www.ris.bka.gv.at

6. Termination of a system

In the case of the termination of a collection and recycling system on the basis of a legally binding decision the coordination point must carry out and publish a new calculation of the mass share on the basis of the reported masses in accordance with Point 1 for the remaining collection and recycling

systems for the next calendar quarter. Past calculations of the mass share are therefore invalid for the calendar quarter following the termination.