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Your reference:

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Proposal for implementing the EU directive on batteries and discarded batteries

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**The EU Council Directive on batteries and discarded batteries is to be implemented in Norwegian legislation; however, many of the requirements are already in force in Norway. The most important new thing is that all batteries are to be collected, not only those containing pollutants, as the requirement is today. We will be removing an uncertainty's moment related to whether the batteries are to be collected or not, and the result is expected to be fewer batteries containing pollutants gone astray. The new requirements we are suggesting will be implemented by changing the product regulation and the waste regulation. The costs associated with the new requirements may give a minimal price increase on batteries.**

**Deadline for comments on the regulation proposal is 15.02.2012.**  
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The Ministry of the Environment has given the Climate and Pollution Agency the task of submitting a proposal for changing battery regulations for consultation.

### **Legal basis**

The EU directive 2006/66/EF on batteries and accumulators and discarded batteries and accumulators, from now on called the battery directive, replaces directive 91/157/EF on batteries and accumulators containing hazardous substances. The battery directive was approved on 26 September 2006 and entered into force in the EU on 26 September 2008.

The directive's articles 4, 6 and 21 (on prohibition, marketing and labelling) are warranted in article 95 of the EU Treaty. This means that for these provisions member countries are not allowed to establish more stringent or more lenient requirements. The rest of the directive is warranted in article 175 of the EU Treaty. This means that each country must as a minimum implement the requirements established in the battery directive, but it is possible to establish more stringent requirements nationally.

## Scope

The battery directive is valid for all batteries regardless of shape, volume, weight, composition and use, with the exception of batteries used in equipment for defending the nation's safety and batteries in equipment meant for use in space.

The battery directive shall not affect the use of directive 2000/53/EF (discarded vehicles) and directive 2002/96/EF (EE waste) which already regulate collection of embedded batteries. However, the battery directive makes new requirements to dismantling of embedded batteries in discarded vehicles and EE waste and that these are included in the collection data for batteries, and that the battery directive's requirements are followed.

### *Main requirements for batteries as a product*

Norway already has provisions requiring labelling and upper limits for allowed content of some heavy metals in batteries, cf. chapter 3 of the product regulation. These regulations cover many of the requirements in the new EU directive. However, the directive makes further requirements stated below:

- Prohibition of sale and marketing of portable batteries (removable and mounted) with a cadmium content of more than 0.002 weight percent (except for use in emergency or alarm systems, medical equipment and wireless power tools).
- Products are to be designed so that it is easy and safe to remove batteries and shall be accompanied by a manual for dismantling and information on battery type.
- All batteries are to be labelled with a crossed out waste bin and heavy metal content, if any. Car batteries and portable batteries shall also have capacity labelling. This is an extension of the previous obligation to label some of the batteries.

It is proposed that these requirements are implemented through changes to §§ 3-13 and 3-14 and a new §3-14a in the product regulation.

### *Main requirements for discarded batteries*

Norway already has provisions regulating safe processing of discarded environmentally hazardous batteries and other rechargeable batteries in chapter 3 of the waste regulation. These regulations cover many of the requirements in the new EU directive. Norway also already has manufacturer's responsibility and an established recycling scheme which to a large extent meet the requirements of the directive. However, the directive requires that all batteries are collected and recycled, and several of these batteries are not covered by the current Norwegian regulations. The directive operates with three categories of batteries, which are car batteries (lead batteries), industrial batteries and portable batteries. The new requirements are:

- Manufacturers and importers of lead batteries and portable batteries shall fund collection, reception and recycling, and manufacturers of industrial batteries shall cover the costs of reception and recycling.



- Manufacturers and importers shall cover information costs for all types of batteries and for portable batteries also national information campaigns. End users shall be informed that they can deliver discarded batteries to vendors, as well as of health and environment effects and of collection and recycling schemes.
- Measures shall be implemented in order to ensure that portable batteries do not end up with the residual waste. It shall be easy for end users to deliver discarded portable batteries free of charge. For portable batteries the collection rate shall be 30%. The regulation gives further information on how to calculate the collection rate.
- By 20 September 2011 the recycling rate shall be at least 65% of the average weight for lead batteries, 75% of the average weight for nickel cadmium batteries and at least 50% of the average weight for other discarded batteries. Lead and cadmium shall be recycled as much as technically possible.
- Land filling or incinerating industrial and lead batteries is prohibited. However, remnants of processing and recycling may be land filled or incinerated.
- A manufacturer registry shall be established containing among other things an overview of who the manufacturer/importer is, date of joining a recycling company and the number of batteries in each category put on the market.
- The countries shall report to the Commission on how the directive is implemented and on whether collection goals and recycling rate are met.

The changes to chapter 3 of the waste regulation must safeguard the directive's expansion of scope and several new requirements, as well as ensure that operators in other affected recycling schemes implement the directive's obligations (chapter 1 of the waste regulation on EE waste and chapter 4 on discarded vehicles). These changes make a major revision of chapter 3 necessary. At the same time the Climate and Pollution Agency wishes to make some changes in order to harmonize regulation of the recycling arrangement for batteries with the regulation of other recycling schemes for waste.

## Description of current regulation and systems

### *Current regulations*

The requirements for content of pollutants and labelling of batteries are currently regulated through the following environment regulations:

#### *Regulation of 1 June 2004 no.922 on limitation of the use of chemicals and other products hazardous to health and environment (product regulation)*

Chapter 3: Regulated product groups § 3-13, § 3-14

- Attachment I - Labelling of batteries
- Attachment II - Batteries, exemption from the prohibition against embedded batteries.

Batteries containing mercury are prohibited, however, up to 2% of mercury is allowed in button cell batteries. Environmentally harmful batteries, i.e. batteries containing mercury, cadmium or lead, shall be labelled with the chemical character of these substances, Hg, Cd or Pb respectively. They are also to be labelled with a pictogram of a crossed-out waste container.

The labelling can also be on the battery packaging or on the product if the product has embedded batteries. Products with embedded environmentally hazardous batteries which cannot easily be removed by the consumer are prohibited.

- Current requirements for collection and processing collected batteries are further regulated in *Regulation of 1 June 2004 no. 930 on recycling and processing of waste (waste regulation) chapter 3*. Environmentally hazardous batteries § 3-1 to § 3-8

The regulation is valid for lead batteries, nickel-cadmium batteries and other rechargeable batteries. The regulation imposes on manufacturers and importers of these batteries to organize and fund nationwide collection and recycling or safe end processing. Batteries are to be delivered to the vendor, who is obligated to receive them, or to a collection point for hazardous waste. Enterprises having discarded batteries are imposed a delivery duty.

Batteries are also mentioned or indirectly regulated in the following parts of the waste regulation:

- Chapter 1: Discarded electrical and electronic products
- Chapter 4: Discarded vehicles
- Chapter 11: Hazardous waste
- Chapter 12: Fees for declaration of hazardous waste
- Chapter 13: Cross-border transport of waste

### *Voluntary agreements*

For manufacturers' and importers' responsibility for collection and recycling of environmentally hazardous batteries, the following agreements have been made:

- Agreement between the Ministry of the Environment and the lead battery industry on organizing and funding a return scheme for used lead batteries in Norway.
- Agreement between the Ministry of the Environment and the battery industry on reduction, collection, recycling and environmentally safe end processing of discarded portable rechargeable batteries and industrial batteries.

## **The Climate and Pollution Agency's proposal for implementation**

We have prepared a proposal for changing the product regulation and the waste regulation in order to ensure that Norway meets the requirements of the directive. The regulatory changes give a wider scope compared to existing regulations and will set requirements for more operators than before.

The product regulation is changed in accordance with the directive's requirements and is not described further here since the requirements are implemented more or less verbatim (see enclosed regulation proposal).

We suggest the following main changes to the waste regulation in order to meet the new requirements of the battery directive.



Manufacturer's responsibility is implemented for all batteries, i.e. even for non-rechargeable, non-environmentally hazardous portable batteries. These are currently not regulated.

All manufacturers/importers of batteries must be associated with a recycling company approved by the Climate and Pollution Agency. This requirement is specific for Norway, which is based on our experience with such arrangements, which we believe will be suitable for meeting the directive's requirements.

There will be new requirements for collection rate for portable batteries, as well as new recycling requirements for all types of batteries. The recycling companies shall ensure that Norway also reaches the new collection and recycling goals of the directive.

The recycling companies will through extended reporting of information on their members form the basis for Norway's manufacturer registry.

Recycling companies for EE waste and discarded vehicles are now imposed new recycling requirements and reporting requirements.

All battery vendors get a receiving duty for discarded batteries in the same category as the ones they sell. This means that among other things that about 4,500 kiosks and gas stations will be obligated to receive and store batteries.

The Climate and Pollution Agency also proposes certain changes which do not follow from the directive, but which are necessary in order to harmonize chapter 3 of the waste regulation on discarded batteries with a.o. Chapter I on electrical and electronic waste.

In this work we have had dialogues with the recycling companies for batteries and EE waste, as well as Avfall Norge. We have chosen solutions based on already well established systems and believe this will create continuity and ensure that the practical implementation will give the desired results quickly.

Through the attached law mirror it is demonstrated that the directive's requirements are maintained. We have also followed some of the directive's recommendations for formulating requirements, but we have not used any of the directive's alternative solutions which have requirements for approval in the EU Commission.

The Climate and Pollution Agency asks the consultative parties pay special attention to and comment on formulation of reception duty for vendors, collection duty for recycling companies and requirements to collection rate.

### **Estimated costs associated with the proposal**

Collection, processing and recycling portable batteries constitute the largest costs. The battery directive is expected to give a total increased cost of 4.8 million NOK every year until the collection requirements are met. Then the cost will drop to about 2.5 million NOK per year for the following years.



The bulk of the costs will be shouldered by the importers through membership in recycling companies. However, we expect the importers to make up for this by increasing the cost slightly on each battery sold. The estimated price increase per battery is about 4 øre.

### **Deadline for consultative statements**

Enclosed are proposals for regulatory changes and an impact assessment where community benefit and costs are evaluated.

The Climate and Pollution Agency asks the consultative bodies to comment on the proposal by 15.02.2012.

Yours sincerely

Ellen Hambro  
Director

Marit Kjeldby  
Deputy Director

*Copy to: The Ministry of the Environment, P.O. Box 8013 Dep., 0032 Oslo*

*Attachments:*

Proposal for new waste regulation  
chapter 3, etc.  
Law mirror  
Impact assessment