

Questions asked at the I Battery Regulation Webinar on 19 March 2024

The answers have been prepared in collaboration with the Ministry of the Environment; the Centre for Economic Development, Transport and the Environment of Pirkanmaa (Pirely); and the Finnish Safety and Chemicals Agency (Tukes). The answers were prepared at the start of April 2024, and they reflect the situation at the time of writing. The answers are not legally binding as they are. The approach may still change when more specific legislation (such as delegated decrees) is issued. The Court of Justice of the European Union has exclusive jurisdiction to render binding interpretation of Union law.

- **Will market surveillance be carried out at all points of sale in Finland and/or the EU (incl. distance selling beyond the EU's borders)? Thank you to the organisers and speakers for a great webinar.**

Tukes: The market surveillance to be carried out pursuant to the Battery Regulation has yet to be planned in more detail. In the initial phase, the main focus will be on advisory services, as there are still a large number of batteries on the market that were placed on the market prior to the obligations laid down in the Regulation entering into effect.

- **Do batteries really have to be labelled with not only the manufacturer's information but also the importer's complete information? The text may be quite small... Is it sufficient to provide this information on the packaging and in the user instructions?**

Tukes: According to the Regulation (Articles 38 and 41), the information of the manufacturer and the importer importing the battery to the EU must be provided on the battery. If this is not possible due to the size or nature of the battery, the required information must be provided on the packaging or in a document accompanying the battery.

- **Regarding battery labelling requirements, does all of the information have to be on the battery itself or is it sufficient for it to be provided on the packaging and/or in the accompanying user instructions?**

*Tukes: In principle, the labels and markings must be affixed to the battery. Articles 38 and 41 provide that the information of the manufacturer and the importer importing the battery to the EU, as well as the model identification and batch or serial number, or product number or another element allowing their identification, must be provided on the battery. If this is not possible due to the size or nature of the battery, the required information must be provided on the packaging or in a document accompanying the battery.
It is not known what the Commission's implementing acts (Article 13(10)) will provide for.*

- **Has the minimum font size been specified for the information provided on the battery?**

Tukes: The Regulation does not specify the font size. It is not known what the Commission's implementing acts (Article 13(10)) will provide for.

- **Does the Regulation prohibit the use of lead gel batteries in portable devices? Which definition of portability will be applied?**

Tukes: The Battery Regulation will restrict the use of lead in portable batteries placed on the market from 18 August 2024 onwards.

The restriction as laid down in Annex I to the Battery Regulation:

<p>3. Lead CAS No 7439-92-1 EC No 231-100-4 and its compounds</p>	<p>1. From 18 August 2024, portable batteries, whether or not incorporated into appliances, shall not contain more than 0.01% of lead (expressed as lead metal) by weight.</p> <p>2. The restriction set out in point 1 shall not apply to portable zinc-air button cells until 18 August 2028.</p>
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With regard to the restriction laid down in the Battery Regulation, the definition of a portable battery provided in the Regulation will be applied.

‘Portable battery’ means a battery that is sealed, weighs 5 kg or less, is not designed specifically for industrial use and is neither an electric vehicle battery, an LMT battery, nor an SLI battery.

- **Does this five-year spare part requirement also apply to a waterproof device in which the battery cannot be replaced by the customer?**

Tukes: Yes, it does. The five-year spare part requirement applies to products equipped with portable batteries or LMT batteries. The requirement does not comment on the removability of batteries.

- **If the battery has no labels or markings, how can its disposal/treatment (e.g. transport of dangerous goods) be carried out safely?**

Tukes: According to the Act on the Transport of Dangerous Goods ([541/2023](#)), the sender is responsible for the correct categorisation and packaging of the consignment, as well as the information provided about the consignment. If the battery has no labels or markings, its chemical composition and other details may be a mystery, and it may be necessary to assume that the battery contains lithium or another reactive substance. Ordinary alkaline batteries are usually not categorised for transport, but batteries containing lithium may easily be mixed in with them. Sometimes it may be necessary to treat certain potentially harmless consignments as consignments of dangerous goods and classify certain consignments into a higher category if the category is not completely certain, just in case. Damaged batteries that may cause a dangerous reaction during transport also pose their own risk, and it is essential to identify them from among other batteries.

[Traficom’s regulation on the transport of dangerous goods by road](#), which includes the technical regulations concerning the transport of dangerous goods, contains special regulations, such as SP 377 and SP 636, which are applicable to lithium batteries and cells. These regulations exempt lithium batteries and cells being transported for disposal or

recycling from some of the technical requirements applicable to new batteries and cells, so complete information is not necessarily always required:

377 Litiumionikennot ja -akut ja litiummetallikennot ja -akut tai tällaisia kennoja ja akkuja sisältävät laitteet, joita kuljetetaan hävitettäväksi tai kierrätykseen pakattuina yhdessä muiden ei-litiumakkujen kanssa tai ilman niitä, saa pakata kohdan 4.1.4.1 pakkaustavan P909 mukaisesti. Nämä kennot ja akut eivät ole kohdan 2.2.9.1.7 (a) – (g) vaatimusten alaisia. Kolleissa on oltava merkintä: "LITIUMAKKUJA HÄVITYKSEEN" tai "LITIUMAKKUJA KIERRÄTYKSEEN". Vahingoittuneiksi tai puutteellisiksi katsotut kennot tai akut on kuljetettava erityismääräyksen 376 mukaisesti.

636 Kuljetuksessa välikäsittelylaitokselle lajitteluun, hävitettäväksi tai kierrätykseen kerätyt bruttomassaltaan enintään 500 g:n litiumkennot ja -akut, nimelliskapasiteetiltaan enintään 20 Wh:n litiumionikennot, nimelliskapasiteetiltaan enintään 100 Wh:n litiumioniakut, litiumin määrältään enintään 1 g:n litiummetallikennot ja litiumin kokonaismäärältään enintään 2 g:n litiummetalliakut, jotka eivät sisälly laitteisiin, eivät ole näiden määräysten muiden vaatimusten alaisia, mukaan lukien erityismääräys 376 ja kohta 2.2.9.1.7, jos seuraavat ehdot täyttyvät:
(a) kennot ja akut pakataan kohdan 4.1.4.1 pakkaustavan P909 mukaisesti lukuun ottamatta lisämääräyksiä 1 ja 2,
(b) on olemassa laadunvarmistusohjelma sen varmistamiseksi, että litiumkennojen tai -akkujen kokonaismäärä kuljetusyksikössä ei ylitä 333 kg,
Huom. Kuorman litiumkennojen ja -akkujen kokonaismäärän saa arvioida laadunvarmistusohjelmassa kuvatulla tilastollisella menetelmällä. Laadunvarmistusohjelma on oltava toimivaltaisen viranomaisen pyynnöstä saatavilla.
(c) kolleihin tehdään merkintä: "LITIUMAKKUJA HÄVITYKSEEN" tai "LITIUMAKKUJA KIERRÄTYKSEEN".

- **How about custom batteries? Are they considered to have been placed on the market once imported?**

Tukes: If they are imported from outside the EU, they are placed on the market during importation at the latest when the intention is to sell them or otherwise move them forward in the distribution chain.

The Commission's Blue Guide may be referred to for help with interpretation:

[The Blue Guide on the implementation of the product rules 2022 is published – European Commission \(europa.eu\)](#)

Pirely: Regarding producer responsibility, if you import batteries to Finland from abroad, the batteries are usually made available on the market when imported, unless the batteries are imported as part of a product manufacturing process. In this case, the batteries are made available on the market when the end product is made available on the market.

- **If you have a custom battery that is an internal battery and so small in size that not all of the required information can fit on it, where should this information be provided? In the product's user instructions?**

Tukes: Articles 38 and 41 provide that the information of the manufacturer and the importer importing the battery to the EU, as well as the model identification and batch or serial number, or product number or another element allowing their identification, must be provided on the battery. If this is not possible due to the size or nature of the battery, the required information must be provided on the packaging or in a document accompanying the battery.

It is not known what the Commission's implementing acts (Article 13(10)) will provide for.

- **So the manufacturer is always responsible for the QR code, regardless of whether the manufacturing takes place within or outside the EU. The importer and distributor are responsible for verifying the accuracy of this information (to the extent possible). Is this correct?**

Tukes: In principle, the manufacturer is responsible for ensuring that the product meets the requirements laid down in applicable laws. According to Article 38 of the Battery Regulation, the manufacturer must ensure that the battery is labelled and marked in accordance with Article 13.

For batteries imported to the EU, the importer (as per Article 41) and the distributor (as per Article 42) are obligated to verify that the batteries are labelled and marked in accordance with Article 13.

In certain situations, the importer importing the battery to the EU or the distributor is considered to be the manufacturer, in which case they are subject to the same obligations imposed on manufacturers.

Article 44: Case in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of a manufacturer under Article 38, where any of the following applies:

- a) a battery is placed on the market or put into service under that importer's or distributor's own name or trademark;*
- b) a battery already placed on the market or put into service is modified by that importer or distributor in such a way that compliance with the relevant requirements of this Regulation could be affected; or*
- c) the purpose of a battery already placed on the market or put into service is modified by that importer or distributor.*

- **Who decides what information can fit and what cannot? Someone may think that the information can fit, but this may be difficult to implement in practice.**

Tukes: The manufacturer affixes the labels and markings and decides what information can fit. The market surveillance authority does not approve labels and markings in advance. The authority inspects the labels and markings in conjunction with surveillance measures.

- **How does Tukes assess whether a battery is safe and compliant?**

Tukes: Tukes does not have its own battery testing laboratory, which is why it uses a third party testing laboratory in the assessment of product safety and compliance.

Tukes is able to carry out monitoring of documents, labels and markings on its own.

- **Do the same rules apply to both B2C and B2B producers?**

Tukes: In regards to product requirements, yes.

Pirely: In regards to producer responsibility, the rules are the same regardless of whether the products are B2C or B2B products.

- **What is the order of prevalence for the labels and markings to be affixed to small batteries (e.g. button cell battery LR44) when not all of the required labels and markings fit? What information may be provided on the packaging and what must be provided on the battery itself? The battery model, CE marking, +/-, separate collection symbol, substance symbols etc.**

Ministry of the Environment and Tukes: The legislation does not specify the order of prevalence of labels and markings. Finland will seek to find out the Commission's view on this matter.

- **How is the category of each battery defined? Is it defined by the manufacturer or the user? Is it decided according to the purpose of use or the design? (The case example being a battery sold as a starter battery that may also be used for another purpose.)**

Pirely and Tukes: Each battery is placed into one of the categories provided in the Battery Regulation in accordance with the definitions laid down in the Regulation and the purpose of use specified by the manufacturer. In other words, if the battery manufacturer manufactures starter batteries, the batteries are categorised as SLI batteries, regardless of the purpose for which the consumer uses the battery. If a professional economic operator changes the battery's purpose of use, the operator's definition of the purpose for which the battery will be used in the future may change the battery category.

- **A QR code requirement will enter into effect later. Will the QR code lead to a website maintained by the manufacturer or will a database maintained by the EU be introduced? (cf. SCIP)**

Tukes: At this time, no further information is available on the matter.

- **What does the obligation of the importer and distributor to verify that the manufacturer has fulfilled their own obligations cover? For example, do they have to verify that the**

technical specifications have been prepared correctly and that the DoC meets the formal requirements?

Tukes: The importer shall verify that the EU declaration of conformity and technical documentation have been drawn up and that the relevant conformity assessment procedure referred to in Article 17 has been carried out by the manufacturer. (Article 41(2a)) Importers shall, for 10 years after the battery has been placed on the market, keep a copy of the EU declaration of conformity at the disposal of the national authorities and ensure that the technical documentation referred to in Annex VIII is made available to those authorities, upon request. (Article 41(7))

The distributor is not obligated to verify that the EU declaration of conformity and technical documentation have been drawn up. The distributor must, at the request of the national authority, provide the authority with all of the required information and documentation.

Both the importer and the distributor are obligated to verify that the battery is accompanied by the documents required pursuant to Articles 6 to 10 and Articles 12, 13 and 14 and by instructions and safety information as determined by the Member State in which the battery is to be made available on the market or put into service. A requirement that the documents and instructions intended for end-users must be provided in Finnish and Swedish will be added to national legislation. Documents delivered only to the authority may also be in another language accepted by the authority.

Pirely: Additionally, pursuant to Article 42, the distributor must verify that the producer of the battery is registered in the register of producers referred to in Article 55. The producers registered in the register of producers in Finland can be found in the Waste Management Compass (in Finnish and Swedish only): <https://jatehuoltokompassi.fi/>

- **If the battery's physical size is 15x15 mm, do the same labelling requirements also apply to it?**

Tukes: The labelling requirements apply to all batteries regardless of size. If the labels and markings cannot be affixed to the battery itself, they must be provided on the packaging or in an accompanying document.

- **Could you repeat your answer to the question about product redesign? If the product model is currently on sale in the EU (not a product family but a specific product model). Does it have to be redesigned or not to allow the same product model to still be sold after five years? Yes or no.**

Tukes: The product must meet the legal requirements at the time of its placement on the market. The concept of being placed on the market applies to a single product, not a product model. Products manufactured and placed on the market in five years must meet the Battery Regulation's requirements valid at the time in question.

For example, if the product model's battery is not currently removable but should be so pursuant to Article 11, the product must be redesigned. At this point in time, without more specific information on the content of the Commission's instructions related to Article 11, this question cannot be answered thoroughly. The lead restriction may also affect the need to redesign the product.

- **Does the Battery Regulation introduce changes to the definition of a 'producer' in producer responsibility?**

Pirely: Yes, it does. The definition of a producer will expand. In the future, the definition of a producer will be in accordance with the Battery Regulation:

'Producer' means any manufacturer, importer or distributor or other natural or legal person that, irrespective of the selling technique used, including by means of distance contracts, either:

a) is established in a Member State and manufactures batteries under its own name or trademark, or has batteries designed or manufactured and supplies them for the first time under its own name or trademark, including those incorporated in appliances, light means of transport or other vehicles, within the territory of that Member State;

b) is established in a Member State and resells within the territory of that Member State, under its own name or trademark, batteries, including those incorporated in appliances, light means of transport or other vehicles, manufactured by others, on which the name or trademark of those other manufacturers does not appear;

c) is established in a Member State and supplies for the first time in that Member State on a professional basis, batteries, including those incorporated in appliances, light means of transport or other vehicles, from another Member State or from a third country; or

d) sells batteries, including those incorporated in appliances, light means of transport or other vehicles, by means of distance contracts directly to end-users, whether or not they are private households, in a Member State, and is established in another Member State or in a third country.

Additionally, Article 56(2) of the Battery Regulation states that a producer is: an economic operator that makes available on the market for the first time within the territory of a Member State a battery that results from preparation for re-use, preparation for repurposing, repurposing or remanufacturing operations shall be considered to be the producer of such battery for the purposes of this Regulation and shall have extended producer responsibility.

- **Is a wholesaler that both imports products and sells products purchased from Finnish manufacturers a distributor or an importer?**

Tukes: A wholesaler may be both a distributor and an importer. The role may differ depending on the product. If the batteries are imported to Finland from outside the EU, the wholesaler is an importer with regard to the product requirements.

Pirely: A wholesaler may also be both a distributor and an importer with regard to producer responsibility. The role may differ depending on the product. If the batteries are imported to Finland from abroad, the wholesaler is an importer with regard to producer responsibility.

- **Should the products currently on sale in the EU be redesigned in order for them to also meet the requirements of the Battery Regulation in a few years? The equipment category is portable devices, such as watches.**

Tukes: The product must meet the legal requirements at the time of its placement on the market. The concept of being placed on the market applies to a single product, not a product model. Products manufactured and placed on the market in five years must meet the Battery Regulation's requirements valid at the time in question.

For example, if the product model's battery is not currently removable but should be so pursuant to Article 11, the product must be redesigned. At this point in time, without more specific information on the content of the Commission's instructions related to Article 11, this question cannot be answered thoroughly. The lead restriction may also affect the need to redesign the product.

- **Going back to the questions. You said that you will also provide answers to them afterwards, is that right? You did not answer my question, 'should all existing portable products be redesigned to allow their sale to continue?'. Or, rather, you did answer it, but I did not understand the question. Could you simply answer it with a 'yes' or 'no'?**

Tukes: Based on this information, a 'yes' or 'no' answer is not possible. The range of different portable products is broad, and different products have different properties. For example, Article 11 may require a product to be redesigned.