

Questions and Answers from the III Battery Regulation Webinar, October 23, 2024

The answers have been prepared in cooperation with the Ministry of the Environment, the Pirkanmaa ELY Center, and the Finnish Safety and Chemicals Agency (Tukes). These answers were prepared in November 2024 and reflect the current situation at that time. The responses are not legally binding. The approach may still change as additional legislation (e.g., delegated regulations) is enacted. The European Court of Justice has sole jurisdiction to interpret EU law in a binding manner.

- **If a flea market rents out table spaces, is it responsible for the individual sellers' products?**
 - *The person acting as the seller is responsible for the product, not the flea market operator. However, the operator must remove a dangerous product from sale if necessary. If the flea market sells a product on its own behalf, then the flea market itself is responsible.*

- **If a company in Finland is a subsidiary of a parent company that imports batteries into Europe, is the subsidiary considered a distributor?**
 - *The situation depends on the corporate structure. Each business ID is considered a separate legal entity. In terms of producer responsibility, the producer is the entity that places the product on the market in Finland.*

- **How long can ready-to-sell products in inventory that do not meet labeling requirements be sold? Is there a deadline, perhaps August 18, 2027?**
 - *Products placed on the market before the requirement comes into effect can be sold, considering all transitional periods. It is advisable to keep all necessary documentation to demonstrate that the product was placed on the market before the requirements became effective.*

- **How is it practically ensured that the necessary documents are available? Should the distributor send physical copies to their customer if the documents come with the battery? What if they are in digital form?**
 - *Documents may be digital, and the manufacturer must retain the original. Other actors must ensure the documents are accessible. If the battery is placed on the market as part of a device, the requirements for the device must also be considered.*

- **Is there a storage limit for consumer batteries that would require special fire safety considerations?**
 - *Fire safety authorities have jurisdiction over fire safety issues. This matter is also reviewed in the context of national implementation.*

- **Where can larger batteries, such as lithium traction batteries, be sent for disposal to receive certification of proper disposal? The battery manufacturer typically requires a disposal certificate.**
 - *Suomen Autokierrätys operates as the producer organization for traction batteries used in electric vehicles, and they provide more detailed information about recycling these batteries. [https://autokierratys.fi/yrytysesittely/](https://autokierratys.fi/yrytyisesittely/)*

- **Does our company qualify as a manufacturer if we import hearing aid batteries from a non-EU manufacturer under our own brand for our online store? The battery packaging is already labeled with our brand by the manufacturer, and we only sell them through our online store.**
 - Yes.
- **Do operating instructions always need to be physically included with each product? For example, if an importer supplies 1,000 batteries to a distributor who sells them as individual units.**
 - *Essential operating and safety instructions must be included with the device, but supplementary instructions can be available electronically.*
- **Who is responsible for translating instructions into Finnish, the Finnish distributor or the importer?**
 - *The distributor must ensure that instructions are available in Finnish, and if they are not already translated, it is the distributor's responsibility unless otherwise agreed with the importer.*
- **If distributing devices that contain a battery, what kind of battery safety instructions should be included?**
 - *General guidelines for user instructions can be found on Tukes' website: [Product user instructions and markings for safe use | Finnish Safety and Chemicals Agency \(Tukes\)](#)*
- **Who has the responsibility and ownership of the operating instructions, the importer or the distributor?**
 - *The manufacturer, who knows the product best, is ultimately responsible for preparing the instructions. Other parties must ensure the instructions are available and, if necessary, translated into national languages.*
- **If a customer only wants instructions in English rather than Finnish/Swedish, must the instructions still be available in Finnish/Swedish?**
 - *The Language Act requires that instructions for consumer products sold in Finland must be available in the national languages. Additional languages may also be provided. This is also reviewed in the context of national implementation.*
- **If a battery is part of a measuring device that we manufacture, and the battery is branded, for example, by Varta, is the battery treated as a Varta product or as ours?**
 - *From a market surveillance perspective, the battery in the device is considered to be made by the battery manufacturer unless modifications have been made that alter it so that the original manufacturer no longer recognizes it as their product.*
 - *In terms of producer responsibility, the entity that first makes the product available on the market is the producer, which in this case is the manufacturer of the measuring device, unless the battery was purchased on the Finnish market for inclusion in the product.*
- **Did I understand correctly that distributors must retain records for 10 years of which products were purchased from each manufacturer and to whom they were sold? For**

comparison, the Accounting Act only requires purchase and sales invoices to be kept for six years. Does this 10-year retention requirement also apply to consumer customers?

Has the Data Protection Ombudsman's opinion on this matter been clarified?

- *Clarification on this point relates to the definitions in the Battery Regulation, particularly regarding product requirements. If a company purchases products from a manufacturer outside the EU, it is considered an importer and must fulfill importer obligations. If the company buys products within the EU, it is considered a distributor.*
- **Did I understand your interpretation correctly? If there is an agreement with a European manufacturer to produce goods under a registered trademark, this entity is classified as a distributor.**
 - *Producer responsibility: if goods are manufactured under a private label, then the brand owner is considered the producer in those EU countries where it places the product on the market.*
 - *If the trademark rights have been transferred to the manufacturer (e.g., "This trademark is the property of company XXX..."), then the entity is either an importer (if the manufacturer is outside Europe) or a distributor.*
- **Supplying consumer batteries to a retailer. Does this process fall under ADR (transport of dangerous goods)?**
 - *This question is still under review.*
- **How many penalty fees have been issued?**
 - *Producers generally comply after being issued a warning. Two penalty fees have been issued. Legal oversight and sanctions related to the Waste Act are intended to be revised as part of the Circular Economy Legislation project.*
- **If a producer has joined a producer organization but neglects reporting or other obligations and is subsequently expelled, does the producer need to rejoin the organization?**
 - *This depends on the terms and sanctions in the membership agreement between the producer organization and the member, but if expulsion occurs, the relevant producer organizations must accept the producer as a member.*
- **Do we, as a new distributor, have the responsibility to accept batteries in the future? We supply batteries to domestic retailers but do not sell directly to end-users. Does this obligation fall on the retailer selling to end-users?**
 - *The question lacks sufficient detail about the circumstances. It is unclear whether the entity is a producer or distributor under producer responsibility. If the entity imports batteries from the EU or outside the EU and sells them to domestic retailers, it is considered a producer. If batteries are purchased from a domestic entity and sold to other domestic entities, it is considered a distributor. Distributors' take-back obligations apply to all distributors at their retail location or in its immediate vicinity, in accordance with Article 62(1). If the distributor does not have a retail location but sells batteries for end-use (regardless of whether it is B2B or B2C sales), the distributor is still subject to the take-back obligation under Articles 62(4) and 62(5).*

- **We are a distributor and supply batteries to companies that manufacture products for end-users. Is the take-back obligation for batteries therefore with us or with the manufacturer of the end-user product? The battery can certainly be removed, but we lack a network since we sell only from a single point to businesses, not to consumers.**
 - *The question lacks sufficient detail about the circumstances. It is unclear whether the entity is a producer or distributor under producer responsibility. If the entity imports batteries from the EU or outside the EU and sells them to domestic retailers, it is considered a producer. If batteries are purchased from a domestic entity and sold to other domestic entities, it is considered a distributor. Distributors' take-back obligations apply to all distributors at their retail location or in its immediate vicinity, in accordance with Article 62(1). If the distributor does not have a retail location but sells batteries for end-use (regardless of whether it is B2B or B2C sales), the distributor is still subject to the take-back obligation under Articles 62(4) and 62(5).*

- **According to Article 62(1), does the take-back obligation broadly follow the principle of “you take back what you sell”?**
 - *Yes, the take-back obligation applies to the type of battery sold.*

- **If there is no retail location, is there a take-back obligation? (A company that sells battery-containing devices by order, not to consumers). Therefore, no retail location exists since this is not retail but B2B sales, and the batteries are removable.**
 - *The question lacks sufficient detail about the circumstances. It is unclear whether the entity is a producer or distributor under producer responsibility. If the entity imports batteries from the EU or outside the EU and sells them to domestic retailers, it is considered a producer. If batteries are purchased from a domestic entity and sold to other domestic entities, it is considered a distributor. Distributors' take-back obligations apply to all distributors at their retail location or in its immediate vicinity, in accordance with Article 62(1). If the distributor does not have a retail location but sells batteries for end-use (regardless of whether it is B2B or B2C sales), the distributor is still subject to the take-back obligation under Articles 62(4) and 62(5).*

- **Used industrial batteries must also be accepted without charge. They are heavy and can even be hazardous. Who pays the shipping costs to the collection point?**
 - *Producers are responsible for costs from the collection point onwards, so the waste holder is responsible for the cost of transportation to the collection point.*
 - *Producer responsibility collection networks are organized differently by producer organizations (and with different statutory requirements) across producer responsibility sectors. If a producer organization offers a fixed collection point where the end-user can return waste, the waste holder brings the waste to the collection point at their own expense. For producer responsibility waste, producer organizations and their partners also arrange collection services where waste is picked up directly from the waste holder free of charge (for example, using vehicles).*
 - *A collection network has not yet been established for large industrial batteries, so it is challenging to provide a definitive answer to this question. If producers (on behalf of producer organizations) organize a network of fixed collection points, end-users return their waste batteries there at their own expense. If producers organize collection services for large industrial batteries, these costs are part of the producers' expenses.*

- *According to Article 61(1) of the Battery Regulation: “If waste industrial batteries are to be removed in advance from private, non-commercial premises, the producer’s obligation to take back such waste batteries does not include an obligation to cover any costs incurred by such users for the removal and collection of the waste batteries.”*
- **If a store is located in a shopping center that has a shared recycling point for batteries, does the store still need to have its own collection point, or can the collection point in, for example, the parking hall lobby, be considered “in the immediate vicinity”?**
 - *If the distributor has agreed with the shopping center that the shared recycling point also serves as the distributor’s collection point, then the collection point located on the same premises can function as the distributor’s collection point.*
- **Does the distributor have to accept, free of charge, recyclable products of brand X, even if the distributor does not distribute that particular brand?**
 - *Yes, the take-back obligation applies to all batteries within the relevant battery category, regardless of their chemical composition, brand, or origin.*
- **We sell consumer batteries to retailers. Do we need to join a producer organization and accept batteries from consumers, even though we don’t sell directly to consumers? Or is this obligation on the retailer?**
 - *The question lacks sufficient detail about the circumstances. It is unclear whether the entity is a producer or distributor under producer responsibility. If the entity imports batteries from the EU or outside the EU and sells them to domestic retailers, it is considered a producer. If batteries are purchased from a domestic entity and sold to other domestic entities, it is considered a distributor. Distributors’ take-back obligations apply to all distributors at their retail location or in its immediate vicinity, in accordance with Article 62(1). If the distributor does not have a retail location but sells batteries for end-use (regardless of whether it is B2B or B2C sales), the distributor is still subject to the take-back obligation under Articles 62(4) and 62(5).*
- **Is it possible to be both a distributor and a manufacturer? (if we are a B2B wholesaler and importer)**
 - *From the perspectives of market surveillance and producer responsibility, an entity is considered a manufacturer for its private-label products but can act as an importer or distributor for other brands.*
- **How are waste disposal operators who receive batteries in their own name without an agreement with a producer organization monitored or sanctioned?**
 - *Producer responsibility authorities oversee this in cooperation with other authorities. If a receiver is not cooperating with the producer organization(s), they can be reported to the producer responsibility authority. Legal oversight and sanctions will be reviewed as part of the Circular Economy Legislation project.*
- **How can national legislation regarding the Battery Regulation be implemented (already), given that binding regulations may not be finalized until next year?**
 - *Since this is a regulation, its articles and delegated/implementing acts are primarily binding as such. National legislation does not reiterate or interpret the articles of the*

regulation; rather, supplementary national regulations refer to the regulation's articles or future implementing acts where necessary. Additionally, national regulations are required for various administrative responsibilities and penalties.

- **Could you provide more information on the standardization work for the digital product passport at the EU Commission level?**
 - *Unfortunately, no additional information is available. We only know that the Commission has submitted a request to standardization organizations.*

- **It is still unclear if we are only selling to retailers, are we required to take back used batteries from end-users?**
 - *The question lacks sufficient detail about the circumstances. It is unclear whether the entity is a producer or distributor under producer responsibility. If the entity imports batteries from the EU or outside the EU and sells them to domestic retailers, it is considered a producer. If batteries are purchased from a domestic entity and sold to other domestic entities, it is considered a distributor. Distributors' take-back obligations apply to all distributors at their retail location or in its immediate vicinity, in accordance with Article 62(1). If the distributor does not have a retail location but sells batteries for end-use (regardless of whether it is B2B or B2C sales), the distributor is still subject to the take-back obligation under Articles 62(4) and 62(5).*

- **What will happen to the current conformity documentation once the digital product passport is in use? Or will both be required in the future?**
 - *Both will be required in the future.*

- **If there is an agreement with a service provider for hazardous waste collection, how are free-of-charge batteries distinguished, or does the receiver manage that, or will there be a separate collection system for batteries under producer responsibility?**
 - *The question lacks sufficient detail about the circumstances. If the waste is generated from a company's operations, then the company itself is responsible for organizing its waste management. If the company does not return end-of-life batteries through the producer's system but hires an external provider for this service, the producer organization or its partner may charge for the additional service.*

- **As a general question, is there, or could you prepare, a comparative table or list that briefly outlines the responsibilities of manufacturers, importers, and distributors? For example, similar to a comparison of different "membership" levels with different benefits. Will there be a review of this table under the Battery Regulation by Tukes?**
 - *There is a general table of responsibilities for manufacturers, importers, and sellers on the website of the Finnish Safety and Chemicals Agency (Tukes). However, this table has not yet been reviewed specifically for the Battery Regulation, so it is advisable to verify requirements directly from the regulation.*
 - *Tukes' website is being updated regarding the Battery Regulation. The table is general and applies to various economic operators' obligations under different regulations within the scope of market surveillance legislation. The table is unlikely to be updated solely with requirements specific to the Battery Regulation. Additionally, there is a separate page for batteries on the Tukes website that provides more detailed*

information on the regulation: [Batteries | Finnish Safety and Chemicals Agency \(Tukes\)](#).

- **Was there any statistic on the number of fires at retailers' collection points?**
 - *(Speaker from the Federation of Finnish Commerce, Petri Käyhkö): There is no such aggregate statistic. Retail does not compile an aggregate report, and I am unaware if the Rescue Department's Pronto system has such data. (Recser Oy): Each year, we ask for information about potential hazards related to batteries as part of our annual collection point survey. Through this, we learn of a few cases each year, but not all incidents are reported to us. Additionally, we have compiled statistics on "zombie batteries"—i.e., discarded batteries that were improperly sorted or otherwise mishandled—for the Zombie Battery Campaign. The findings are available at the bottom of this page: <https://zombiakku.fi/fi/materiaalit/>.*

- **Is it possible to train retail or other staff so that battery sorting can be done at the collection point? This could improve safety and optimize transport packaging. Is it possible to organize the collection so that the bins contain only batteries?**
 - *(Speaker from the Federation of Finnish Commerce, Petri Käyhkö):*
 - *Training staff is possible, and it has been done and will continue to be conducted.*
 - *Collection points vary and are located in different areas of buildings. At many locations, the collection point setup does not allow extensive employee involvement. Sorting needs to be "automated" so that customers do the right thing from the start. In some cases, employees could be involved in the process.*
 - *The collection bin designs are being refined, and, in theory, it is possible to separate batteries into their own bins. However, differentiating battery-shaped batteries is more challenging, and the likelihood of success is generally lower.*

- **Currently, the boxes contain a variety of unwanted waste, and, at worst, for example, hypodermic needles.**
 - *(Speaker from the Federation of Finnish Commerce, Petri Käyhkö): Unfortunately, some people are unaware or indifferent to the importance of proper recycling. Awareness can be improved with educational materials and signage, but I do not believe this issue will ever be entirely eliminated. However, we can address the problem through planning and collaboration.*