Questions and Answers Presented at the IV Battery Regulation Webinar on 4 December 2024

The answers have been prepared in collaboration with the Ministry of the Environment, the Pirkanmaa Centre for Economic Development, Transport and the Environment (ELY Centre), and the Finnish Safety and Chemicals Agency (Tukes). These responses were drafted in December 2024 and reflect the situation at that time. The answers are not legally binding as such. The approach may still change as clarifying legislation (e.g., delegated regulations) is issued. The European Court of Justice has exclusive authority to interpret EU law in a binding manner.

- **"Placed on the market or put into use"—what does this practically mean? For example, products in consumer use, imported products, or something else?**
    - From a market surveillance perspective:
      "Placing on the market" means making a battery available for the first time on the Union market. Making available on the market refers to the supply of a battery on the Union market in the course of a commercial activity for distribution or use, either for payment or free of charge. A product is typically placed on the market only once. When the product changes ownership within the distribution chain, this does not count as placing it on the market. Placing on the market is product-specific, not model-specific.
    - The Battery Regulation defines "putting into use" as follows: "Putting into use" means the first use of a battery for its intended purpose within the Union, where it has not been previously placed on the market.

- **How will making information publicly available work in practice? Will there be a national or EU-level system for storing the data, such as a producer organization service, or will each entity placing products on the market need to establish its own service for making information accessible?**
    - The Commission will issue an implementing regulation in this regard (Article 77, Paragraph 9).

- **Who is responsible for creating the battery passport for a product? The manufacturer? Importer? Can the importer demand this from the manufacturer?**
    - According to the Battery Regulation, the "economic operator" is responsible for the battery passport. An economic operator refers to the manufacturer, authorized representative, importer, distributor, or provider of distribution services, or any other natural or legal person with obligations related to the manufacture, preparation for reuse, repurposing, remanufacturing, making available on the market, or putting into use of batteries under the Battery Regulation.

  - The creator of the battery passport is typically the manufacturer, but it could also be another actor in the battery supply chain. In some cases, this may require agreements between companies.
  - The fundamental principle of EU product regulation is that all members of the product supply chain actively ensure that products placed on the EU market comply with EU law. If the manufacturer does not fulfill its obligations, the responsibility ultimately falls on the seller or entity putting the product into use.

- **Regarding industrial batteries with a capacity of more than 2 kWh: Is this capacity defined for a single battery or the entire battery system? This question is posed from the perspective of traditional lead-acid stationary batteries.**
  - This depends on case-specific interpretation.
  - According to the Battery Regulation:
    - ‘battery’ means any device delivering electrical energy generated by direct conversion of chemical energy, having internal or external storage, and consisting of one or more non-rechargeable or rechargeable battery cells, modules or of packs of them, and includes a battery that has been subject to preparation for re-use, preparation for repurposing, repurposing or remanufacturing;
    - ‘industrial battery’ means a battery that is specifically designed for industrial uses, intended for industrial uses after having been subject to preparation for repurposing or repurposing, or any other battery that weighs more than 5 kg and that is neither an electric vehicle battery, an LMT battery, nor an SLI battery;
    - ‘stationary battery energy storage system’ means an industrial battery with internal storage that is specifically designed to store from and deliver electric energy to the grid or store for and deliver electric energy to end-users, regardless of where and by whom the battery is being used;

- **Who qualifies as the economic operator placing the battery on the market? Is it the importer or the manufacturer? For instance, is the wholesaler placing it on the market, or is it the retailer selling the battery to consumers?**
  - An economic operator includes manufacturers, authorized representatives, importers, distributors, or service providers, as well as any other natural or legal person responsible for manufacturing, reuse preparation, repurposing, remanufacturing, making available on the market, or putting batteries into use, including online sales.
  - From the perspective of market surveillance, the economic operator placing the battery on the market depends on the case. It could be the manufacturer if the product is made within the EU or the importer if the product is placed on the EU market for the first time.

- **Responsibility for the battery passport transitions to the producer or producer organization—what does this mean in practice?**
    - All waste batteries fall under extended producer responsibility, meaning they are the property of producers. When a battery becomes waste, it is handed over to a producer-organized collection system, which updates the battery passport to reflect that the battery is waste. If the waste battery is prepared for reuse, the responsibility for the passport transitions to the economic operator preparing it for reuse (Article 77, Paragraph 7). The passport ceases to exist once the battery is recycled.

- **How is this interpreted in a B2B context, where batteries are not used by consumers but instead are imported to a company facility within the EU and then internally shipped to another EU country?**
    - The battery passport obligation also applies to B2B products. As noted in Article 77, every light means of transport battery, industrial battery with a capacity exceeding 2 kWh, and electric vehicle battery placed on the market or put into use must have an electronic record (the "battery passport") starting 18 February 2027.

- **Would it also be possible to share the link through which feedback can be provided to the preparers? I unfortunately missed it.**
    - *Digital product passport – rules for service providers*

- **Does the battery passport replace the UN Manual of Tests and Criteria, Section III, Subsection 38.3.5 test summary requirement for batteries?**
    - Based on the Battery Regulation and its recitals, the battery passport does not replace this requirement, as the manual is not mentioned in the regulation.

- **What about measurement devices containing batteries? If purchased within the EU, will these devices come with a battery passport?**
    - Measurement devices likely contain portable batteries, which are not subject to the battery passport requirement.
    - The battery passport requirement applies to light means of transport batteries, industrial batteries with a capacity exceeding 2 kWh, and electric vehicle batteries.
    - According to Article 13 of the Battery Regulation, all batteries must be marked with a QR code starting 18 February 2027, and the required information varies by battery type.

- **Does the battery management system (BMS) fall under one of those categories? Personally, I think the battery management system should have its own section because it is a key safety factor.**
    - Information about the battery management system must be provided in the battery passport.

  - The battery management system for stationary battery-based energy storage systems, batteries of light means of transport, and traction batteries of electric vehicles is regulated in Article 14 of the Battery Regulation, and the requirements are specified further in Annex VII.

- **For example, large industrial lead-acid batteries do not have a system that records data on usage, number of charges, etc. Will this information then simply be omitted from the battery passport for these products?**
  - This question cannot be answered with the available information. The battery management system for stationary battery-based energy storage systems, batteries of light means of transport, and traction batteries of electric vehicles is regulated in Article 14 of the Battery Regulation, and the requirements are specified further in Annex VII.
  - As of 18 August 2024, the battery management system for stationary battery-based energy storage systems, batteries of light means of transport, and traction batteries of electric vehicles must include up-to-date information on variables to determine the battery's state of health and expected lifetime, as outlined in Annex VII.

- **The battery passport data on the blockchain will be supplemented over time > is this possible to add via blockchain?**
  - Using blockchain, stakeholders can collaboratively produce and maintain decentralized databases.

- **Thank you for the excellent seminar. I previously inquired about how this affects entities that do not supply batteries to consumers but instead recycle industrial batteries within the EU in a B2B manner. Information on this would be valuable for my sector. Is there any further information available on this topic?**
  - As stated in Article 77, for each light means of transport battery, industrial battery with a capacity of more than 2 kWh, and traction battery of electric vehicles placed on the market or put into service, an electronic record, hereinafter referred to as a 'battery passport,' must be available starting from 18 February 2027.
  - The concept of placing on the market is not limited to B2C activities but also includes B2B activities.