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Subject:	Proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020 - Revised Presidency compromise text

Delegations will find in the Annex a revised compromise text on the above Commission proposal.

Changes to the previous compromise text (doc. 13135/21) are highlighted as follows: new text is set out in **bold underlined**, while ~~strikethrough~~ indicates deletions.

ANNEX

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof **and Article 192(1) thereof in relation to Articles 45g to 62 of this Regulation**,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

1 OJ C , , p. .
2 OJ C , , p. .

Whereas:

(1) The European Green Deal[3] is Europe's growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. A shift from the use of fossil fuels in vehicles to electromobility is one of the prerequisites for reaching the climate neutrality goal in 2050. In order for the Union's product policies to contribute to lowering carbon emissions on a global level, it needs to be ensured that products marketed and sold in the Union are sourced and manufactured in a sustainable manner.

(2) Batteries are thus an important source of energy and one of the key enablers for sustainable development, green mobility, clean energy and climate neutrality. It is expected that the demand for batteries will grow rapidly in the coming years, notably for electric road transport vehicles using batteries for traction, making this market an increasingly strategic one at the global level. Significant scientific and technical progress in the field of battery technology will continue. In view of the strategic importance of batteries, and to provide legal certainty to all operators involved and to avoid discrimination, barriers to trade and distortions on the market for batteries, it is necessary to set out rules on sustainability parameters, performance, safety, collection, recycling and second life of batteries as well as on information about batteries. It is necessary to create a harmonised regulatory framework for dealing with the entire life cycle of batteries that are placed on the market in the Union.

(3) Directive 2006/66/EC of the European Parliament and of the Council[4] has brought about an improvement in the environmental performance of batteries and established some common rules and obligations for economic operators, in particular through harmonised rules for the heavy metal content and labelling of batteries and rules and targets for the management of all waste batteries, based on extended producer responsibility.

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3 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal (COM (2019) 640 final).

4 Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266, 26.9.2006, p. 1)

(4) The Commission's reports on the implementation, impact and evaluation of Directive 2006/66/EC[5] highlighted not only the achievements but also the limitations of that Directive, in particular against a fundamentally changed context characterised by the strategic importance of batteries and their increased use.

(5) The Commission's Strategic Action Plan on Batteries[6] sets out measures to support efforts to build a battery value chain in Europe, embracing raw materials extraction, sustainable sourcing and processing, sustainable battery materials, cell manufacturing as well as re-use and recycling of batteries

(6) In the European Green Deal, the Commission confirmed its commitment to implement the Strategic Action Plan on Batteries and stated that it would propose legislation to ensure a safe, circular and sustainable battery value chain for all batteries, including to supply the growing market of electric vehicles.

(7) The Council in its conclusions of 4 October 2019 on 'More circularity – Transition to a sustainable society' called, inter alia, for coherent policies supporting the development of technologies that improve the sustainability and circularity of batteries to accompany the transition to electro-mobility. Furthermore, the Council called for an urgent revision of Directive 2006/66/EC, which should include all relevant batteries and materials and which should consider, in particular, specific requirements for lithium and cobalt as well as a mechanism allowing the adaptation of that Directive to future changes in battery technologies.

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5 Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 9 April 2019 on the implementation and the impact on the environment and the functioning of the internal market of Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (COM(2019) 166 final) and Commission Staff Working Document on the evaluation of the Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (SWD(2019) 1300 final).

6 Annex 2 to Communication from the Commissions to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 17 May 2018, EUROPE ON THE MOVE - Sustainable Mobility for Europe: safe, connected and clean (COM(2018)293 final).

(8) The new Circular Economy Action Plan adopted on 11 March 2020[7] states that the proposal for a new regulatory framework for batteries will consider rules on recycled content and measures to improve the collection and recycling rates of all batteries, in order to ensure the recovery of valuable materials and to provide guidance to consumers and will address the possible phasing out of non-rechargeable batteries where alternatives exist. Furthermore, it is stated that sustainability and transparency requirements will be considered, taking into account the carbon footprint of battery manufacturing, the ethical sourcing of raw materials and the security of supply in order to facilitate re-use, repurposing and recycling of batteries.

(9) Addressing the entire life cycle of all batteries placed on the Union market requires the setting up of harmonised product and marketing requirements, including conformity assessment procedures, as well as requirements to fully address the end-of-life stage of batteries. Requirements concerning the end-of-life stage are necessary to address the environmental implications of the batteries and, in particular, to support the creation of recycling markets for batteries and markets for secondary raw materials from batteries in order to close the materials loops. In order to reach the envisaged objectives to address the whole life cycle of a battery in one legal instrument while avoiding barriers to trade and a distortion of competition and safeguarding the integrity of the internal market, the rules setting out the requirements for batteries should be of uniform application for all operators across the Union, and not give room for divergent implementation by Member States. Directive 2006/66/EC should therefore be replaced by a Regulation.

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7 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 11 March 2020, A new Circular Economy Action Plan – For a cleaner and more competitive Europe (COM(2020)98 final).

(9a) The Regulation should prevent and reduce adverse impacts of batteries on the environment and ensure a safe and sustainable battery value chain for all batteries, taking into account, for instance, the carbon footprint of battery manufacturing, ethical sourcing of raw materials and security of supply, and facilitating reuse, repurposing and recycling. It should seek to improve the environmental performance of batteries and of the activities of all economic operators involved in the life cycle of batteries, e.g. producers, distributors and end-users and, in particular, those operators directly involved in the treatment and recycling of waste batteries. Such measures should ensure transition to a circular economy and the long-term competitiveness of the Union and should contribute to the efficient functioning of the internal market.

(10) This Regulation should apply to all ~~types~~**categories** of batteries ~~and accumulators~~ placed on the market or put into service within the Union, whether on their own or incorporated into appliances or otherwise supplied with electrical and electronic appliances**, light means of transport** and vehicles. This Regulation should apply regardless of whether a battery is specifically designed for a product or is of general use and regardless of whether it is incorporated into a product or is supplied together with or separately from a product in which it is to be used.

(11) Products placed on the market as battery packs, which are batteries or groups of cells that are connected and/or encapsulated within an outer casing so as to form a complete unit ready for use **by end-users or in applications** that the end-user is not intended to split up or open and which conform to the definition of batteries, **or battery cells that conform to the definition of batteries,** should be subject to requirements applicable to batteries. Products placed on the market as battery modules, which conform to the definition of battery pack, should be subject to requirements applicable to battery packs.

(12) Within the Regulation's wide scope, it is appropriate to distinguish between different categories of batteries in accordance with their design and use, independent of the battery chemistry. The classification into portable batteries, on one hand, and industrial batteries and ~~automotive~~**SLI** batteries on the other hand under Directive 2006/66/EC should be further developed to better reflect new developments in the use of batteries. Batteries that are used for traction in electric vehicles and which under Directive 2006/66/EC fall in the category of industrial batteries, constitute a large and growing part of the market due to the quick growth of electric road transport vehicles. It is therefore appropriate to classify those batteries that are used for traction in road vehicles as a new category of electric vehicle batteries **[and …. light means of transport batteries]**. Batteries used for traction in other transport vehicles including rail, waterborne and aviation transport **or off-road machinery**, continue to fall under the category of industrial batteries under this Regulation. The industrial battery ~~type~~**category** encompasses a broad group of batteries, intended to be used for industrial activities, communication infrastructure, agricultural activities**, excluding traktors,** or generation and distribution of electric energy. In addition to this non exhaustive list of examples, any battery that is neither a portable battery nor an ~~automotive~~**SLI** battery nor an electric vehicle battery should be considered an industrial battery. Batteries used for energy storage in private or domestic environments~~.~~**,** are considered industrial batteries for the purposes of this Regulation. Furthermore, in order to ensure that all batteries used in light means of transport, such as ebikes and scooters, are classified as **separate category and as** portable batteries **only if their weight is below 5 kg**, it is necessary to ~~clarify~~ **include** the definition of **a new category of light means of transport batteries and to clarify** portable batteries and to introduce a weight limit for such batteries.

(13) Batteries should be designed and manufactured so as to optimise their performance, durability and safety and to minimise their environmental footprint. It is appropriate to lay down specific sustainability requirements for ~~rechargeable~~ **light means of transport batteries,** industrial batteries and electric vehicle batteries with ~~internal storage~~ with a capacity above 2 kWh**, except those with exclusively external storage,** as such batteries represent the market segment which is expected to increase most in the coming years.

(14) In order to ensure that obligations arising from this Regulation are carried out and to monitor and verify compliance of producers and producer responsibility organisations with the requirements of this Regulation, it is necessary that Member States designate one or more competent authorities.

(15) The use of hazardous substances in batteries should be restricted in order to protect human health and the environment and to reduce the presence of such substances in waste. Thus, in addition to the restrictions set out in Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council[8], it is appropriate to set out restrictions for mercury and cadmium in certain ~~types~~**categories** of batteries. Batteries used in vehicles which benefit from an exemption under Annex II to Directive 2000/53/EC of the European Parliament and of the Council[9] should be excluded from the prohibition to contain cadmium.

(16) In order to ensure that hazardous substances that pose an unacceptable risk to human health or to the environment when used in batteries, can be duly addressed, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending restrictions on hazardous substances in batteries.

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8 Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1)

9 Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34).

(17) The procedure for adopting new and amending current restrictions on hazardous substances in batteries should be fully streamlined with Regulation (EC) No 1907/2006. To ensure effective decision-making, coordination and management of the related technical, scientific and administrative aspects of this Regulation, the European Chemicals Agency set up under Regulation (EC) No 1907/2006 ('the Agency') should carry out specified tasks with regard to the evaluation of risks from substances in the manufacture and use of batteries, as well as those that may occur after their end-of-life as well as the evaluation of the socio-economic elements and the analysis of alternatives, in accordance with relevant guidance by the Agency. Consequently, the Committees for Risk Assessment and Socio-economic Analysis of the Agency should facilitate the carrying out of certain tasks conferred on the Agency by this Regulation.

(18) The expected massive deployment of batteries in sectors like mobility and energy storage should reduce carbons emissions, but to maximise this potential it is necessary that their overall life cycle has a low carbon footprint. According to the Product Environmental Footprint Category Rules for High Specific Energy Rechargeable Batteries for Mobile Applications[10], climate change is the second highest related impact category for batteries after the use of minerals and metals. The technical documentation for ~~rechargeable~~ **light means of transport batteries,** industrial batteries and electric vehicle batteries with ~~internal storage and~~ a capacity above 2 kWh**, except those with exclusively external storage,** placed on the Union market should therefore be accompanied by a carbon footprint declaration~~,~~, which should be specific, if necessary, per manufacturing batch. Batteries are manufactured in batches, made in specific amounts within certain timeframes**.** Harmonising the technical rules for calculating the carbon footprint for all ~~rechargeable~~ **light means of transport batteries,** industrial batteries and electric vehicle batteries with ~~internal storage with~~ a capacity above 2 kWh, **including for batteries that are not produced in series or batteries that are placed on the market after having been subject of preparing for re-use, preparing for repurpose or repurposing, except those with exclusively external storage**, placed on the Union market is a prerequisite for introducing a requirement for the technical documentation of the batteries to include a carbon footprint declaration and subsequently establishing carbon footprint performance classes that will allow identifying the batteries with overall lower carbon footprints. Information and clear labelling requirements on batteries' carbon footprint is not expected in itself to lead to the behavioural change necessary to ensure that the Union's objective to decarbonise the mobility and energy storage sectors is achieved, in line with the internationally agreed objectives on climate change[11]. Therefore, maximum carbon thresholds will be introduced, further to a dedicated impact assessment to determine those values. In proposing the level of the maximum carbon footprint threshold, the Commission will, inter alia, take into account the relative distribution of the carbon footprint values in batteries on the market, the extent of progress in the reduction of carbon footprint of batteries placed on the Union market and the effective and potential contribution of this measure to the Union's objectives on sustainable mobility and climate neutrality by 2050. In order to bring about

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10 Product Environmental Footprint - Category Rules for High Specific Energy Rechargeable Batteries for Mobile Applications https://ec.europa.eu/environment/eussd/smgp/pdf/PEFCR_Batteries.pdf

11 Paris agreement (OJ L 282, 19.10.2016, p. 4) and the United Nations Framework Convention on Climate Change, available at https://unfccc.int/resource/docs/convkp/conveng.pdf

transparency on the batteries' carbon footprint-, and shift the Union market towards lower carbon batteries, regardless of where they are produced, a gradual and cumulative increase in the carbon footprint requirements is justified. As a result of these requirements, the avoided carbon emissions in batteries' life cycle, will contribute to the Union's objective of reaching climate neutrality by 2050. This may also enable other policies at Union and national level, such as incentives or green public procurement criteria, fostering the production of batteries with lower environmental impacts.

(19) Certain substances contained in batteries, such as cobalt, lead, lithium or nickel, are acquired from scarce resources which are not easily available in the Union, and some are considered critical raw materials by the Commission. This is an area where Europe needs to enhance its strategic autonomy and increase its resilience in preparation for potential disruptions in supply due to health or other crises. Enhancing circularity and resource efficiency with increased recycling and recovery of those raw materials, will contribute to reaching that goal.

(20) The increased use of recovered materials would support the development of the circular economy and allow a more resource-efficient use of materials, while reducing Union dependency on materials from third countries. For batteries, this is particularly relevant for cobalt, lead, lithium and nickel. Therefore, it is necessary to promote the recovery of such materials from waste, establishing a requirement on the level of recycled content in batteries using cobalt, lead, lithium and nickel in active materials. This Regulation sets mandatory recycled content targets for cobalt, lead, lithium and nickel and which should be met by 2030. For cobalt, lithium and nickel increased targets are established by 2035. All targets, should take into account the availability of waste, from which such materials can be recovered, the technical feasibility of the involved recovery and manufacture processes as well as the time needed by the economic operators to adapt their supply and manufacturing processes. Therefore, before such mandatory targets become applicable, the requirement related to recycled content should be limited to disclosure of information on recycled content.

(21) In order to take into account the risk of supply of cobalt, lead, lithium and nickel and to assess their availability, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the targets for the minimum share of recycled cobalt, lead, lithium or nickel present in active materials in batteries.

(22) In order to ensure uniform conditions for the implementation of the rules on calculating and verifying, per battery model ~~and batch~~ per manufacturing plant, the ~~amount~~ **share** of cobalt, lead, lithium or nickel recovered from waste present in active materials in batteries and the information requirements for technical documentation, ~~implementing~~ **delegated** powers should be conferred on the Commission.

(23) Batteries placed on the Union market should be durable and highly performant. It is therefore necessary to set out performance and durability parameters for portable batteries of general use as well as for ~~rechargeable~~ **light means of transport batteries,** industrial batteries and electric vehicle batteries. For electric vehicle batteries, the informal UNECE Working Group on Electric Vehicles and the Environment is developing in-vehicle durability requirements, so this Regulation is refraining from setting additional durability requirements. On the other hand, in the area of batteries for energy storage, existing measurement methods to test battery performance and durability are not considered sufficiently precise and representative to enable introducing minimum requirements. The introduction of minimum requirements related to performance and durability of these batteries should be accompanied by available adequate harmonised standards or common specifications.

(24) In order to reduce the life cycle environmental impact batteries, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the performance and durability parameters and establishing minimum values for those parameters for portable batteries of general use and for ~~rechargeable~~ **light means of transport batteries,** industrial batteries **and electric vehicle batteries**.

(25) Some non-rechargeable batteries of general use may imply an inefficient use of resources and energy. Objective requirements regarding the performance and durability of such batteries should be established in order to ensure that fewer low performing non-rechargeable portable batteries of general use are placed on the market, in particular, where, based on a life cycle assessment, the alternative use of rechargeable batteries would result in overall environmental benefits.

(26) In order to ensure that portable batteries incorporated into appliances are subject to proper separate collection, treatment and high quality recycling once they have become waste, provisions to ensure their removability and replaceability in such appliances are necessary. **The possibility to substitute** ~~U~~**u**sed **or defective** batteries ~~should also be replaceable so as to prolong the expected lifetime of the appliances they are part of~~**will improve the reparability, durability and re-use of appliances, and increaase the potential of proper recycling of batteries. Where portable batteries are to be removed or replaced in an appliance, this should be done while securing consumer safety, in line with EU safety standards and legislation**. The general provisions of this Regulation may be complemented with requirements set up for particular products powered by batteries under implementing measures under Directive 2009/125/EC of the European Parliament and of the Council[12]. Where other Union legislation lays down more specific requirements, for safety reasons, regarding the removal of batteries from products (e.g. toys), those specific rules should apply.

(27) Reliable batteries are fundamental for the operation and safety of many products, appliances and services. Therefore, batteries should be designed and manufactured to ensure their safe operation and use. This aspect is particularly relevant for stationary ~~battery~~ energy storage system **batterie**s, which are currently not covered by other Union legislation. Parameters to be considered in safety tests should therefore be laid down for those energy storage systems. ***[.. to mention that other categories of batteries are better regulated elsewhere in the EU legislation …]***

(28) In order to provide end-~~-~~users with transparent, reliable and clear information about batteries and their main characteristics, and waste batteries, to enable the end-~~-~~users to make informed decisions when buying and discarding batteries and to enable waste operators to appropriately treat waste batteries, batteries should be labelled. Batteries should be labelled with all the necessary information concerning their main characteristics, including their capacity and content of certain hazardous substances. To ensure the availability of information over time, that information should also be made available by means of QR codes.

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12 Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10).

(29) Information about the performance of batteries is essential to ensure that end-users as consumers are well and timely informed and in particular that they have a common basis to compare different batteries before making their purchase. Therefore, portable batteries of general use ~~and automotive batteries~~ should be marked with a label containing the information on their minimum average duration when used in specific applications. Additionally, it is important to guide the end-user to discard waste batteries in an appropriate way.

(30) ~~Rechargeable~~**Light means of transport batteries,** industrial batteries and electric vehicle batteries with ~~internal storage with~~ a capacity above 2 kWh**, except those with exclusively external storage,** should contain a battery management system that stores data so that the state of health and expected lifetime of batteries may be determined at any time by the end-user or any other third party acting on his behalf. In order to repurpose or remanufacture a battery, access to the battery management system should be provided to the person that has purchased the battery or any third party acting on its behalf at any time for evaluating the residual value of the battery, facilitating the re**-**use~~,~~ **or** repurposing or remanufacturing of the battery and for making the battery available to independent aggregators, as defined in Directive (EU) 201/944 of the European Parliament and of the Council[13], which operate virtual power plants in electricity grids. This requirement should apply in addition to Union law on type ~~of~~ approval of vehicles, including technical specifications that may originate from the work of the informal UNECE Working Group on Electric Vehicles and the Environment on data access in electric vehicles.

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13 Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125)

(31) A number of product-specific requirements under this Regulation, including on performance, durability, repurposing and safety, should be measured by using reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art measurements and calculation methodologies. In order to ensure that there are no barriers to trade on the internal market, standards should be harmonised at Union level. Such methods and standards should, to the extent possible, take into account the real-life usage of batteries, reflect the average range of consumer behaviour and be robust in order to deter intentional and unintentional circumvention. Once a reference to such a standard has been adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council[14] and published in the Official Journal of the European Union, presumption of conformity shall be established with those product-specific requirements adopted on the basis of this Regulation, provided that the outcome of such methods demonstrate that the minimum values established for those substantive requirements are attained. In the absence of published standards at the time of the application of product-specific requirements, the Commission should adopt common specifications through implementing acts and the compliance with such specifications should also give rise to the presumption of conformity. In cases where the common specifications are, at a later stage, found to have shortcomings, the Commission should by implementing act amend or repeal the common specifications in question. **Any common specifications should be repealed at the moment when reference numbers of harmonised standards are being published in the Official Journal, with a reasonable period in order to allow manufacturers to take into account the changes.**

(32) To ensure effective access to information for market surveillance purposes, to adapt to new technologies and to ensure resilience in case of global crises, such as the Covid-19 pandemic, it should be possible to give information regarding conformity with all Union acts applicable to batteries online in the form of a single EU declaration of conformity.

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14 Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12)

(33) Regulation (EC) No 765/2008 of the European Parliament and of the Council[15] lays down rules on the accreditation of conformity assessment bodies, provides a framework for the market surveillance of products and for controls on products from third countries, and lays down the general principles of the CE marking. That Regulation should be applicable to batteries covered by this Regulation in order to ensure that products benefiting from the free movement of goods within the Union fulfil requirements providing a high level of protection of public interests such as human health, safety and the environment.

(34) In order to enable economic operators to demonstrate and the competent authorities to verify that batteries made available on the market comply with the requirements of this Regulation, it is necessary to provide for conformity assessment procedures. Decision No 768/2008/EC of the European Parliament and of the Council[16] establishes modules for conformity assessment procedures, ranging from the least stringent to the most stringent depending on the level of risk involved and the level of safety required. According to Article 4 of that Decision, where conformity assessment is required, the procedures to be used for that assessment are to be chosen from among those modules.

(35) The chosen modules do not however reflect certain specific aspects of batteries and thus, it is necessary to adapt the modules chosen for the conformity assessment procedure. In order to take account of the novelty and complexity of the sustainability, safety and labelling requirements set out in this Regulation and for the purpose of ensuring the conformity of batteries placed on the market with the legal requirements, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the conformity assessment procedures by adding verifications steps or changing assessment module, on the basis of developments on the battery market or in the battery value chain.

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15 Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30)

16 Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC, O**J L 218, 13.8.2008, p. 82**

(36) The CE marking on a battery indicates the conformity of that battery with this Regulation. General principles governing the CE marking and its relationship to other markings are set out in Regulation (EC) No 765/2008. Those principles should apply to the CE marking on batteries. In order to ensure that the battery is stored, used and discarded in a manner which is safe from the point of view of protecting human health and the environment, specific rules governing the affixing of the CE marking in the case of batteries should be laid down.

(37) The conformity assessment procedures set out in this Regulation require the intervention of conformity assessment bodies. In order to ensure a uniform implementation of the provisions in this Regulation, those bodies should be notified by the Member State authorities to the Commission.

(38) Due to the novelty and complexity of the sustainability, safety and labelling requirements for batteries and in order to ensure a consistent level of quality in the performance of conformity assessment of batteries, it is necessary to set requirements for notifying authorities involved in the assessment, notification and monitoring of notified bodies. In particular, it should be ensured that the notifying authority is objective and impartial with regard to its activity. Furthermore, notifying authorities should be required to safeguard the confidentiality of the information it obtains but should nonetheless be able to exchange information on notified bodies with national authorities, the notifying authorities of other Member States and the Commission to ensure consistency in the conformity assessment.

(39) It is essential that all notified bodies perform their functions to the same level and under conditions of fair competition and autonomy. Therefore, requirements for conformity assessment bodies wishing to be notified in order to provide conformity assessment activities should be set. Those requirements should continue to apply as a prerequisite for the maintenance of the competence of the notified body. To ensure its autonomy, the notified body and the staff it employs should be required to maintain independence from economic operators in the battery value chain and from other companies, including business associations and parent companies and subsidiaries. The notified body should be required to document its independence and provide that documentation to the notifying authority.

(40) If a conformity assessment body demonstrates conformity with the criteria laid down in harmonised standards it should be presumed to comply with the corresponding requirements set out in this Regulation.

(41) Conformity assessment bodies frequently subcontract parts of their activities linked to the assessment of conformity or have recourse to a subsidiary. Certain activities and decision-making processes, both regarding the conformity assessment of batteries and other activities internal to the notified body, should however exclusively be carried out by the individual notified body itself, in order to ensure its independence and autonomy. Furthermore, in order to safeguard the level of protection required for batteries to be placed on the Union market, conformity assessment subcontractors and subsidiaries should fulfil the same requirements as notified bodies in relation to the performance of conformity assessment tasks under this Regulation.

(42) Since the services offered by notified bodies in a Member State might relate to batteries made available on the market throughout the Union, it is appropriate to give the other Member States and the Commission the opportunity to raise objections concerning a notified body. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in order to request the notifying authority to take corrective action in case a notified body does not meet or no longer meets the requirements of this Regulation.

(43) In the interests of facilitating and accelerating the conformity assessment procedure, the certification and ultimately the market access and in view of the novelty and complexity of the sustainability, safety and labelling requirements for batteries, it is crucial that notified bodies have continuous access to all testing equipment and testing facilities needed and that they apply the procedures without creating unnecessary burdens for economic operators. For the same reason, and to ensure equal treatment of economic operators, it is necessary that the notified bodies apply the conformity assessment procedures consistently.

(44) Prior to taking a final decision on whether the battery can be granted a conformity certificate, the economic operator that wishes to place a battery on the market should be allowed to complement ~~once~~ the documentation on the battery.

(45) The Commission should enable appropriate coordination and cooperation between notified bodies.

(46) It is appropriate to lay the obligations linked to the placing on the market or putting into service of a battery on the economic operators, which include the manufacturer, the authorised representative, the importer, the distributor, the fulfilment service providers, or any other legal person who takes on the legal responsibility in relation to the manufacture of batteries, making them available or placing them on the market or putting them into service**, including batteries that have been subject of preparing for re-use, preparing for repurpose or repurposing, or re-use, which includes remanufacturing**. **It is appropriate to ensure that requirements for a battery, which is put into service without being placed on the market beforehand, are the same as for batteries placed on the market.**

(47) Economic operators should be responsible for the compliance of batteries with the requirements of this Regulation, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as human health, safety and protection of property and the environment.

(48) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market batteries which are in conformity with this Regulation. It is necessary to provide for a clear and proportionate distribution of obligations which correspond to the role of each economic operator in the supply and distribution chain.

(49) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure. Conformity assessment should therefore remain solely the obligation of the manufacturer.

(50) The manufacturer should provide sufficiently detailed information on the intended use of the battery so as to allow its correct and safe placing on the market, putting into service, use and ~~end-of-life~~**waste** management, including possible repurposing.

(51) In order to facilitate communication between economic operators, market surveillance authorities and consumers, economic operators should, as part of their contact details, indicate a website address in addition to the postal address.

(51a) A fairer single market should ensure equal conditions for competition to all economic operators and protection against unfair competition. To this end, strengthened enforcement of Union harmonisation legislation on batteries is necessary. Good cooperation between economic operators and the market surveillance authorities is a key element, allowing immediate intervention and corrective action in relation to batteries. It is important that there should be an economic operator established in the Union so that market surveillance authorities have someone to whom requests can be addressed, including requests for information regarding a battery's compliance with Union harmonisation legislation, and who can cooperate with market surveillance authorities in making sure that immediate corrective action is taken to remedy instances of non-compliance. The economic operators who should perform those tasks are the manufacturer, or the importer when the manufacturer is not established in the Union, or an authorised representative mandated by the manufacturer for this purpose, or a fulfilment service provider established in the Union for batteries handled by it when no other economic operator is established in the Union.

(52) It is necessary to ensure that batteries from third countries entering the Union market comply with the requirements of this Regulation, whether imported as self-standing batteries or contained in products, and in particular that appropriate conformity assessment procedures have been carried out by manufacturers with regard to those batteries. Provision should therefore be made for importers to make sure that the batteries they place on the market and put into service comply with the requirements of this Regulation and that the CE marking on batteries and documentation drawn up by manufacturers are available for inspection by the national authorities**, whether imported as new or used batteries or batteries that have been subject to preparing for reuse, preparing for repurpose or repurposing**.

(53) When placing a battery on the market or putting it into service, every importer should indicate on the battery the importer’s name, registered trade name or registered trade mark as well as the postal address. Exceptions should be provided for in cases where the size of the battery does not allow it. This includes cases where the importer would have to open the packaging to put the name and address on the battery or where the battery is too small in size to affix this information..

(54) As the distributor makes a battery available on the market after it has been placed on the market or put into service by the manufacturer or the importer, the distributor should act with due care to ensure that its handling of the battery does not adversely affect its compliance with the requirements of this Regulation.

(55) Any importer or distributor that either places a battery on the market or puts it into service under the importer’s or distributor’s own name or trademark or modifies a battery in such a way that compliance with the requirements of this Regulation may be affected or modifies the purpose of a battery that is already place on the market should be considered to be the manufacturer and should assume the obligations of the manufacturer.

(56) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by the national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the battery concerned.

(57) Ensuring traceability of a battery throughout the whole supply chain helps to make market surveillance simpler and more efficient. An efficient traceability system facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market or put into service non-compliant batteries. The economic operators should therefore be required to keep the information on their transactions of batteries for a certain period of time.

(58) The extraction, processing and trading of natural mineral resources is fundamental in providing the necessary raw materials for the production of batteries. Battery manufacturers, regardless of their position or leverage over suppliers and of their geographical location, are not insulated from the risk of contributing to adverse impacts in the mineral supply chain. For some raw materials, over half of global production is for use in battery applications. For example, over 50% of the global demand for cobalt and over 60% of the world's lithium is used for battery production. About 8% of global natural graphite production and 6% of global nickel production goes into battery manufacturing.

(59) Only few countries supply those materials and, in some cases, low standards of governance may exacerbate environmental and social problems. Both cobalt and nickel mining and refining are related to a large range of social and environmental issues, including environmental hazard potential and human health. While the social and environmental impacts for natural graphite are less severe, its mining has high shares of artisanal and small scale operations, which mostly takes place in informal settings and can lead to serious health and environmental impacts, including no regular mine closure and no rehabilitation, which results in the destruction of ecosystems and soils. For lithium, the expected increase in its use in battery manufacturing is likely to put additional pressure on extraction and refining operations, what would recommend including lithium in the scope of the supply chain due diligence obligations. The expected massive increase in demand for batteries in the Union should not contribute to an increase of such environmental and social risks.

(60) Some of the raw materials in question, such as cobalt, lithium and natural graphite, are considered as critical raw materials for the EU[17] and their sustainable sourcing is required for the EU battery ecosystem to perform adequately.

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17 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Critical Raw Materials Resilience: Charting a Path towards greater Security and Sustainability (COM(2020) 474 final).

(61) A number of voluntary efforts from actors in the battery supply chain are already in place in order to encourage adherence to sustainable sourcing practices, including the Initiative for Responsible Mining Assurance (IRMA), the Responsible Minerals Initiative (RMI) and the Cobalt Industry Responsible Assessment Framework (CIRAF). However, voluntary efforts to set up due diligence schemes may not ensure that all economic operators placing batteries in the Union market abide by the same set of minimum rules.

(62) In the Union, general requirements on due diligence in relation to certain minerals and metals were introduced by Regulation (EU) No 2017/821 of the European Parliament and of the Council[18]. That Regulation does not, however, address the minerals and materials used for battery production.

(63) Therefore, in view of the expected exponential growth in battery demand in the EU, the economic operator that places a battery on the EU market should set up a supply chain due diligence policy. The requirements therefore should be laid down, with the objective to address the social and environmental risks inherent in the extraction, processing and trading of certain raw materials for battery manufacturing purposes.

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18 Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas (OJ L 130, 19.5.2017, p. 1)

(64) When putting in place a risk-based due diligence policy, it should be based on internationally recognised due diligence principles in the Ten Principles of the United Nations Global Compact[19], the Guidelines for Social Life Cycle Assessment of Products[20], the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy[21], and the OECD Due Diligence Guidance for Responsible Business Conduct (RBC)[22], which reflect a common understanding amongst governments and stakeholders, and should be tailored to the specific context and circumstances of each economic operator. In relation to the extraction, processing and trading of natural mineral resources used for battery production, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas [23](‘OECD Due Diligence Guidance’) represents a long-standing effort by governments and stakeholders to establish good practice in this area.

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19 The Ten Principles of the UN Global Compact, available at https://www.unglobalcompact.org/what-is-gc/mission/principles

20 UNEP Guidelines for social life cycle assessment of products, available at https://www.lifecycleinitiative.org/wp-content/uploads/2012/12/2009%20-%20Guidelines%20for%20sLCA%20-%20EN.pdf

21 Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, available at https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf

22 OECD (2018), OECD Due Diligence Guidance for Responsible Business Conduct, available at http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf

23 OECD (2016), OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition, OECD Publishing, Paris, https://doi.org/10.1787/9789264252479-en.

(65) According to the OECD Due Diligence Guidance[24], due diligence is an on-going, proactive and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict.[25]. Risk-based due diligence refers to the steps companies should take to identify and address actual or potential risks in order to prevent or mitigate adverse impacts associated with their activities or sourcing decisions A company can assess risk posed by its activities and relationships and adopt risks mitigating measures in line with relevant standards provided under national and international law, recommendations on responsible business conduct by international organisations, government-backed tools, private sector voluntary initiatives and a company's internal policies and systems. This approach also helps to scale the due diligence exercise to the size of the company's activities or supply chain relationships.

(66) Mandatory supply chain due diligence policies should be adopted or modified and address, at least, the most prevalent social and environmental risk categories. This should cover the current and foreseeable impacts, on one hand, on social life, in particular human rights, human health and safety as well as occupational health and safety and labour rights, and, on the other hand, on the environment, in particular on water use, soil protection, air pollution and biodiversity, including community life.

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24 Page 15 of the OECD Due Diligence Guidance.

25 OECD (2011), OECD Guidelines for Multinational Enterprises, OECD, Paris; OECD (2006), OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones, OECD, Paris; and, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (Report of the Special Represantative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, John Ruggie, A/HRC/17/31, 21 March 2011).

(67) As regards the social risk categories, due diligence policies should address the risks in the battery supply chain in relation to the protection of human rights, including human health, protection of children and gender equality, in line with international human rights law[26]. The due diligence policies should include information on how the economic operator has contributed to the prevention of human rights abuses and on the instruments in place with the operator's business structure to fight corruption and bribery. The due diligence policies should also ensure correct implementation of the rules of fundamental conventions of the International Labour Organisation[27] as listed in Annex I of the ILO Tripartite Declaration.

(68) As regards the environmental risk categories, the due diligence policies should address the risks in the battery supply chain in relation to protection of the natural environment and of the biological diversity in line with the Convention on Biological Diversity[28], which includes also the consideration of local communities, and the protection and the development of those communities.

(69) The supply chain due diligence obligations on the identification and mitigation of social and environmental risks associated with raw materials going into battery manufacturing should contribute to the implementation of UNEP Resolution 19 on Mineral Resource Governance, which recognizes the important contribution of the mining sector towards the achievement of the 2030 Agenda and the Sustainable Development Goals.

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26 Including The Universal Declaration of Human Rights, The International Covenant on Economic, Social and Cultural Rights, The International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

27 The eight fundamental Conventions are 1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), 2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 3. Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol), 4. Abolition of Forced Labour Convention, 1957 (No. 105), 5. Minimum Age Convention, 1973 (No. 138), 6. Worst Forms of Child Labour Convention, 1999 (No. 182), 7. Equal Remuneration Convention, 1951 (No. 100), 8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

28 Such as set out in the Convention on biological diversity, available at https://www.cbd.int/convention/text/ and, in particular, Decision COP VIII/28 "Voluntary guidelines on Biodiversity-Inclusive impact assessment, available at https://www.cbd.int/decision/cop/?id=11042 .

(70) Other EU legislative instruments that lay down requirements regarding supply chain due diligence should apply in so far as there are no specific provisions with the same objective, nature and effect in this Regulation which may be adapted in the light of future legislative amendments.

(71) In order to adapt to developments in the battery value chain, including to changes in the scope and nature of the relevant environmental and social risks, as well as to technical and scientific progress in batteries and battery chemistries, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the list of raw materials and risk categories and the supply chain due diligence requirements.

(72) Harmonised rules for waste management are necessary to ensure that producers and other economic operators are subject to the same rules across the Member States in the implementation of the extended producer responsibility for batteries. Maximising separate collection of waste batteries and ensuring that all batteries collected are recycled through processes that reach common minimum recycling efficiencies is necessary to attain a high level of material recovery. The evaluation of the Directive 2006/66/EC found that one of its shortcomings is lack of detail in its provisions, leading to uneven implementation and creating significant barriers to the functioning of recycling markets and suboptimal levels of recycling. Consequently, more detailed and harmonised rules should avoid distortion of the market for the collection, treatment and recycling of waste batteries, ensure even implementation of the requirements across the Union, further harmonisation of the quality of waste management services provided by economic operators and facilitate the markets of secondary raw materials.

(73) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC of the European Parliament and of the Council[29], which should be adapted to reflect the specific situation of batteries. For the collection of waste batteries to be organised in the most effective way, it is important that this is done in close connection to the place where the batteries are sold in a Member State, and close to the end-user. Also, waste batteries may be collected both together with waste electrical and electronic equipment and with end-of-life vehicles, by way of national collection schemes set up on the basis of Directive 2012/19/EU of the European Parliament and of the Council[30], and of Directive 2000/53/EC. While the current Regulation sets up specific rules for batteries there is a need for a coherent and complementary approach, building upon and further harmonising existing waste management structures. Consequently, and in order to effectively realise extended producer responsibility related to the waste management, obligations should be laid down with respect to the Member State where batteries are made available on the market for the first time.

(74) In order to monitor that producers meet their obligations to ensure the waste treatment of batteries made available on the market for the first time within the territory of a Member State, it is necessary that a register is established in and managed by the competent authority in each Member State. Producers should be obliged to register, in order to provide the necessary information to allow the competent authorities to monitor that the producers comply with their obligations. Registration requirements should be simplified across the Union. In order to ensure uniform conditions across the Union for the application for registration and the information to be provided, by means of a harmonised format, implementing powers should be conferred on the Commission.

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29 Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

30 Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p.38).

(75) In view of the polluter pays principle, it is appropriate to lay the obligations for the end-of-life management of batteries on producers which should include any manufacturer, importer or distributor who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU of the European Parliament and of the Council[31], supplies a battery for the first time for distribution or use, including when incorporated into appliances**, light means of transport** or vehicles, within the territory of a Member State on a professional basis.

(76) Producers should have extended producer responsibility for the management of their batteries at the end-of-life stage. Accordingly, they should finance the costs of collecting, treating and recycling all collected batteries, for reporting on batteries and waste batteries and for the provision of information to end-users and waste operators about batteries and appropriate re-use and management of waste batteries. The obligations related to extended producer responsibility should apply to all forms of supply, including distance selling. Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation and they should document that they have the financial means to cover the costs entailed by the extended producer responsibility. Where necessary to avoid distortion of the internal market and to ensure uniform conditions for the modulation of the financial contributions paid to producer responsibility organisations by producers, implementing powers should be conferred on the Commission.

(77) This Regulation should regulate the extended producer responsibility for batteries exhaustively and therefore the rules laid down on extended producer responsibility schemes in Directive 2008/98/EC should not apply to batteries.

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31 Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

(78) In order to ensure high quality recycling in the batteries supply chains, boost the uptake of quality secondary raw materials and protect the environment, a high level of collection and recycling of waste batteries should be the rule. The collection of waste batteries is a fundamental crucial step for closing the loop for the valuable materials contained in batteries through their recycling and to keep the batteries value chain inside the Union, thus facilitating the access to the recovered materials that can further be used to manufacture new products.

(79) Producers of all batteries should be responsible for financing and organising the separate collection of waste batteries. They should do so by establishing a collection network that covers the whole territory of the Member States, that is close to the end-~~-~~user and that does not only target areas and batteries where the collection is profitable. The collection network should include any distributor, authorised treatment facility for waste electric and electronic equipment and end-of-life vehicles, civic amenity sites and other actors based on their own accord, such as public authorities and schools. In order to verify and improve the effectiveness of the collection network and the information campaigns, regular compositional surveys at least at NUTS 2 level[32]should be carried out on mixed municipal waste and waste electrical and electronic equipment collected to determine the amount of waste portable batteries therein.

(80) Batteries may be collected together with waste electrical and electronic equipment, by way of national collection schemes set up on the basis of Directive 2012/19/EU and with end-of-life vehicles in accordance with Directive 2000/53/EC. In this case, as an obligatory minimum treatment requirement, batteries should be removed from the collected waste appliances and end-of-life vehicles. After their removal, batteries should be subject to the requirements of this Regulation, notably they should be counted towards the attainment of the collection target for the ~~type~~**category** of battery in question and be subject to treatment and recycling requirements laid down in this Regulation.

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32 Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS)(OJ L 154 21.6.2003, p. 1).

(81) Considering the environmental impact and the loss of materials due to waste batteries not being separately collected, and consequently not treated in an environmentally sound way, the collection target for portable batteries already established under Directive 2006/66/EC should continue to apply and should be gradually increased. This Regulation entails that portable batteries also include batteries powering light means of transport. Since the current increase in sales of this ~~type~~**category** of batteries makes it difficult to calculate the amount of them that are placed in the market and collected at the end of their life, these portable batteries should be excluded from the current collection rate for portable batteries. This exclusion is to be reviewed along with the collection target for waste portable batteries, which may also address changes in the methodology to calculate the collection rate for portable batteries. The Commission shall prepare a report to underpin these reviews.

(82) The collection rate of portable batteries should continue to be calculated on the basis of average annual sales in the preceding years so as to have targets proportionate to the level of battery consumption in a Member State. In order to best reflect changes in the composition of the portable batteries category, as well as in the lifetime and consumption patterns of batteries, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the methodology to calculate and verify the collection rate for portable batteries.

(83) All ~~automotive~~**SLI batteries**, industrial **batteries** and electric vehicles batteries should be collected and for that purpose the producers of such batteries should be required to accept and take back free of charge, all waste ~~automotive~~**SLI batteries**, **waste** industrial **batteries** and **waste** electric vehicles batteries from end-users. Detailed reporting obligations should be established for all actors involved in the collection of waste ~~automotive~~**SLI batteries**, **waste** industrial **batteries** and **waste** electric vehicles batteries.

(84) In view of the waste hierarchy as established by Article 4 of Directive 2008/98/EC which prioritises prevention, preparing for re-use and recycling and in line with Article 11(4) of Directive 2008/98/EC and Article 5(3)(f) of Directive 1999/31/EC[33], batteries collected should not be incinerated or disposed of in landfill.

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33 Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p.1).

(85) Any permitted facility carrying out treatment and recycling operations of batteries should comply with minimum requirements to prevent negative environmental and human health impacts and to allow a high degree of recovery of materials contained in batteries. Directive 2010/75/EU of the European Parliament and of the Council[34] regulates a number of industrial activities involved in the treatment and recycling of waste batteries, for which it ensures specific permitting requirements and controls reflecting best available techniques. Where industrial activities relating to the treatment and recycling of batteries are not covered by Directive 2010/75/EC, operators should in any case be obliged to apply best available techniques, as defined in Article 3(10) of that Directive, and the specific requirements laid down in the present Regulation. The requirements regarding the treatment and recycling of batteries should, where relevant, be adapted by the Commission in the light of scientific and technical progress and emerging new technologies in waste management. Therefore, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending those requirements.

(86) Targets for the efficiency of the recycling processes and material recovery targets should be established to ensure the production of recovered materials of quality for the battery industry, while at the same time ensuring clear and common rules for recyclers and avoiding distortions of competition or other impediments to the smooth functioning of the internal market for secondary raw materials from waste batteries. Recycling efficiencies, as a measure of the total amount of materials recovered, should be established for lead-acid batteries, nickel-cadmium batteries and lithium batteries and targets should also be set out for the levels of recovered cobalt, lead, lithium and nickel materials to attain a high level of material recovery throughout the Union. The rules on the calculation and reporting on recycling efficiencies laid down in Commission Regulation (EU) No 493/2012[35] should continue to apply. In order to ensure uniform conditions for the calculation and verification of recycling efficiencies and recovery of materials in the recycling processes for batteries, implementing powers should be conferred on the Commission to the establishment of such rules. The Commission should also review

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34 Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

35 Commission Regulation (EU) No 493/2012 of 11 June 2012 laying down, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, detailed rules regarding the calculation of recycling efficiencies of the recycling processes of waste batteries and accumulators (OJ L 151, 12.6.2012, p. 9).

Commission Regulation (EU) No 493/2012 to properly reflect technological developments and changes occurred in industrial recovery processes, to extend their scope to cover existing and new targets, and to provide tools for the characterization of intermediate products. Treatment and recycling facilities should be encouraged to introduce certified environmental management schemes in accordance with Regulation (EC) No 1221/2009 of the European Parliament and of the Council[36].

(87) It should only be possible to carry out treatment and recycling outside the Member State concerned or outside the Union, where the shipment of waste batteries is in compliance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council[37] and Commission Regulation (EC) No 1418/2007[38] and where the treatment and recycling activities meet the requirements applicable for this type of wastes, according to their classification in Commission Decision 2000/532/EC-, as amended.[39] That Decision, as amended, should be revised to reflect all battery chemistries**, namely including codes for lithium-ion waste batteries, in order to enable proper sorting and reporting of lithium-ion waste batteries.**. Where such treatment or recycling takes places outside the Union, in order to be counted towards the recycling efficiencies and targets, the operator for whose account it is carried out should be obliged to report on it to the competent authority of the respective Member State and to prove that the treatment is carried out in conditions equivalent to those under this Regulation. In order to lay down what are the requirements for such treatment to be considered equivalent, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of laying down detailed rules containing criteria for the assessment of equivalent conditions.

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36 Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1)

37 Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

38 Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply (OJ L 316, 4.12.2007, p. 6).

39 2000/532/EC: Commission Decision of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste, OJ L 226, 6.9.2000, p. 3.

(88) Industrial **batteries** and electric vehicle batteries that are no longer fit for the initial purpose for which they were manufactured may be used for a different purpose as stationary energy storage batteries. A market for the second life of used industrial **batteries** and electric vehicle batteries is emerging and in order to support the practical application of the waste hierarchy, specific rules should thus be defined to allow responsible repurposing of used batteries while taking into account the precautionary principle and ensuring safety of use for end-users. Any such used battery should undergo an assessment of its state of health and available capacity to ascertain its suitability for use for any other than its original purpose. In order to ensure uniform conditions for the implementation of provisions related to the estimation of the state of health of batteries, implementing powers should be conferred on the Commission.

(89) Producers and distributors should be actively involved in providing information to end-users that batteries should be collected separately, that collection schemes are available and that end-users have an important role in ensuring an environmentally optimal management of waste batteries. The disclosure of information to all end-users as well as reporting on batteries should make use of modern information technologies. The information should be provided either by classical means, such as outdoors, posters and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the battery.

(90) To enable the verification of compliance with and the effectiveness of the obligations regarding the collection and treatment of batteries, it is necessary that the respective operators report back to the competent authorities. Producers of batteries and other waste management operators collecting batteries should report for each calendar year, where applicable, the data on batteries sold and waste batteries collected. Regarding treatment and recycling, reporting obligations should be incumbent upon the waste management operators and recyclers respectively.

(91) For each calendar year, Member States should provide the Commission with information on the amount of batteries supplied within their territory and the amount of waste batteries collected, by ~~type~~**category** and chemistry. With regard to portable batteries, data on batteries and waste batteries from light means of transport should be reported separately in view of the need to gather data to allow for adapting the collection target, considering the market share of such batteries and their specific purpose and characteristics. Such information should be provided electronically and be accompanied by a quality check report. In order to ensure uniform conditions for the reporting of that data and information to the Commission, as well as for the verification methods, implementing powers should be conferred on the Commission.

(92) For each calendar year, Member States should report to the Commission the ~~levels of~~ recycling efficiencies and the levels of recovered materials achieved taking into account all the individual steps of the recycling process and the output fractions.

(93) In order to enhance transparency along supply and value chains for all stakeholders, it is necessary to provide for an electronic system that maximises the exchange of information, enabling tracking and tracing of batteries, provides information about the carbon intensity of their manufacturing processes as well as the origin of the materials used, their composition, including raw materials and hazardous chemicals, repair, repurposing and dismantling operations and possibilities, and the treatment, recycling and recovery processes to which the battery could be subject to at the end of their life. That electronic system should be established in phases with a prototype system being made available to the concerned economic operators and Member States authorities at least a year in advance of the finalisation of the implementing measures defining the final features and the data access policy of the system to enable their input and timely compliance. Such data access policy should take into account the relevant principles established in EU legislation, including the Commission's proposal for a Regulation of the European Parliament and of the Council on European data governance (Data Governance Act).[40] In order to ensure uniform conditions for the implementation of the electronic exchange system for battery information, implementing powers should be conferred on the Commission.

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40 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020PC0767&from=DA

(94) A Battery Passport should be established, allowing economic operators to gather and re-use in a more efficient way the information and data on individual batteries placed on the market and to make better informed choices in their planning activities. In order to ensure uniform conditions for the implementation of the battery passport, implementing powers should be conferred on the Commission.

(95) Regulation (EU) 2019/1020 of the European Parliament and of the Council[41] lays down **the general** rules on market surveillance and control of products entering the Union market. In order to ensure that ~~products~~ **batteries** benefiting from the free movement of goods fulfil requirements providing a high level of protection of public interests such as human health, safety, protection of property and of the environment, that Regulation should apply to batteries covered by this Regulation. Therefore, **Annex I of** Regulation (EU) 2019/1020 should be amended accordingly **to ensure that Regulation (EU) 2019/1020 includes batteries in its scope of application. In addition to Regulation (EU) 2019/1020, this Regulation lays down rules on specific aspects of market surveillance and enforcement regarding batteries**.

(96) Batteries should be placed on the market only if they do not present a risk to human health, safety, property or the environment when properly stored and used for their intended purpose, or under conditions of use which can be reasonably foreseen, that is when such use could result from lawful and readily predictable human behaviour.

(97) A procedure should exist under which interested parties are informed of measures intended to be taken with regard to batteries presenting a risk to human health, safety, property or the environment. It should also allow market surveillance authorities in the Member States, in cooperation with the relevant economic operators, to act at an early stage in respect of such batteries. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers to adopt acts should be conferred on the Commission in order to determine whether national measures in respect of non-compliant batteries are justified or not.

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41 Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1)

(98) The market surveillance authorities should have the right to require economic operators to take corrective actions on the basis of findings that either the battery is not compliant with the requirements of this Regulation or the economic operator infringes the rules on the placing or making available on the market of a battery, or on sustainability, safety and labelling or on supply chain due diligence.

(99) Public procurement constitutes an important sector with regard to reducing the impacts on the environment of human activities and to stimulate market transformation towards more sustainable products. Contracting authorities, as defined in Directive 2014/24/EU[42] of the European Parliament and of the Council and Directive 2014/25/EU of the European Parliament and of the Council[43], and contracting entities as defined in Directive 2014/25/EU should take account of the environmental impacts when procuring batteries or products containing batteries, in order to promote and stimulate the market for clean and energy-efficient mobility and energy-storage and thus contribute to the environment, climate and energy policy objectives of the Union.

(100) In order to establish the equivalence of due diligence schemes that have been developed by governments, industry associations and groupings of interested organisation, implementing powers should be conferred on the Commission. In order to ensure that the list of raw materials and the associated social and environmental risks are kept up-to-date, as well the consistency with the Conflict Minerals Regulation and the OECD Due Diligence in terms of obligations for economic operators, implementing powers should be conferred on the Commission.

(101) In order to ensure uniform conditions for the implementation of the Commission's recognition of supply chain due diligence schemes, implementing powers should be conferred on the Commission.

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42 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65)

43 Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243)

(102) When adopting delegated acts under this Regulation, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[44]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(103) The implementing powers that are conferred on the Commission by this Regulation and that do not relate to the determination whether measures taken by Member States in respect of non-compliant batteries are justified or not should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[45].

(104) The advisory procedure should be used for the adoption of an implementing act in situations where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, in order to request the notifying authority to take the necessary corrective action, including withdrawal of the notification if necessary.

(105) The Commission should adopt immediately applicable implementing acts determining whether a national measure taken in respect of a compliant battery that presents a risk is justified or not where, in duly justified cases relating to the protection of human health, safety, property or the environment, imperative grounds of urgency so require.

(106) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive.

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44 OJ L 123, 12.5.2016, p.1

45 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)

(107) In view of the need to ensure a high level of environmental protection and the need to take into account new developments based on scientific facts, the Commission should submit to the European Parliament and to the Council a report on the implementation of this Regulation and its impact on the environment and the functioning of the internal market. The Commission should in its report include an evaluation of the sustainability, safety, labelling and information criteria provisions, the waste batteries management measures and the supply chain due diligence requirements. Where appropriate, the report should be accompanied by a proposal to amend relevant provisions of this Regulation.

(108) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised.

(109) In order to allow Member States to adapt the register of producers set up under Directive 2006/66/EC and to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, Directive 2006/66/EC should be repealed as of 1 July **[…]** ~~2023~~**[*18 months after the date of application of this Regulation*]**. Obligations under that Directive related to monitoring and reporting the collection rate of portable batteries and the recycling efficiencies of recycling processes shall remain in force until 31 December **[…]** ~~2023~~**[*24 months after the date of application of this Regulation*]**, and the related obligations for the transmission of data to the Commission shall remain in force until 31 December **[…]** ~~2025~~**[*48 months after the date of application of this Regulation*]**, in order to ensure continuity until new calculation rules and reporting formats are adopted by the Commission under this Regulation.

(110) Since the objective of this Regulation, namely to guarantee the functioning of the internal market while ensuring that batteries placed on the market fulfil the requirements providing for a high level of protection of human health, safety, property and the environment, cannot be sufficiently achieved by the Member States but can rather, by reason of the need for harmonisation, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,**l**

HAVE ADOPTED THIS REGULATION:

Chapter I
General provisions

Article 1

Subject matter and scope

1. This Regulation establishes requirements on sustainability, safety, labelling and information to allow the placing on the market or putting into service of batteries, as well as **minimum** requirements for the collection, treatment and recycling of waste batteries.

1a. This Regulation lays down the supply chain due diligence obligations of economic operators placing batteries on the market or putting them into service and requirements for green public procurement when procuring batteries or products ~~containing~~ **in which** batteries **are incorporated**.

2. This Regulation shall apply to all ~~types~~**categories** of batteries, namely portable batteries, ~~automotive~~**SLI** batteries, light means of transport batteries, electric vehicle batteries and industrial batteries, regardless of their shape, volume, weight, design, material composition, type, chemistry, use or purpose. It shall also apply to batteries designed to be or incorporated in**to** or added to products.

~~*Article 1a*~~

~~*Exemptions*~~

3. This Regulation shall not apply to batteries **designed to be or incorporated** in**to**:

(a) equipment connected with the protection of Member States' essential security interests, arms, munitions and war material, with the exclusion of products that are not intended for specifically military purposes; and

(b) equipment designed to be sent into space.

~~3a. For batteries with external storage, and for industrial batteries and electric vehicle batteries with internal storage and a nominal energy below or equal to 2 kWh, the following provisions shall not apply:~~

~~(a) sustainability requirements set out in Articles 7, 8 and 10;~~

~~(b) requirements on access to information set out in points (f), (g) and (h) of Article 13a(5);~~

~~(c) information on the state of health requirements set out in Article 14;~~

~~(d) due diligence obligations set out in Articles 45a to 45f;~~

~~(e) [*requirements related to the repurposing and remanufacturing set out in Article 59;*]~~

~~(f) requirements on electronic availability of information and data set out in Article 64; and~~

~~(g) requirements on battery passport set out in Article 65.~~

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) ‘battery’ means any source of 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 packs of them**, including a battery that has been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use**;

(1a) ‘battery pack’ means any set of battery cells **or modules** that are connected together or encapsulated within an outer casing, so as to form a complete unit that the end-user is not intended to split up or open;

(1b) ‘battery module’ means a set of battery cells that are connected together or encapsulated within an outer casing to protect the cells against external impact;

(2) ‘battery cell’ means the basic functional unit in a battery constituted by electrodes, electrolyte, container, terminals and, if applicable, separators, and containing the active materials the reaction of which generates electrical energy;

(3) ‘active materials’ means material which reacts chemically to produce electric energy when the battery cell discharges or to store electric energy when the battery is being charged;

(4) ‘non-rechargeable battery’ means a battery that is not designed to be electrically recharged;

(5) ‘rechargeable battery’ means a battery that is designed to be electrically recharged;

(6) ‘battery with external storage’ means a battery designed to have the energy stored exclusively in one or more attached external devices;

(7) ‘portable battery’ means any battery that:

– is sealed;

– weighs below or equal to 5 kg;

– is not designed exclusively for industrial purposes; and

– is neither an electric vehicle battery, nor a lights means of transport battery, nor an ~~automotive~~**SLI** battery;

~~Portable battery includes any battery incorporated in or designed for products that are considered as toys within the meaning of the Toy Safety Directive 2009/48/EC.~~

(8) ‘portable batteries of general use’ means rechargeable and non-rechargeable portable batteries specifically produced to be interoperable and with the common formats, such as: ~~4,5 Volts (3R12),~~ D, C, AA, AAA, ~~AAAA, A23,~~ 9 Volts (PP3);

(9) ‘light means of transport battery’ **or ‘LMT battery’** means any battery **that is sealed and** ~~with a~~ weight**s** below or equal to 25 kg, designed to provide traction to wheeled vehicles that can be powered by the electric motor alone or by a combination of motor and human power~~,~~ including vehicles of type-approved categories in the meaning of Regulation (EU) No 168/2013;

(10) ‘SLI battery’ means any battery designed to supply electric power for starter, lighting, **or** ignition~~, auxiliary or back-up purposes in~~ **of** vehicles, other means of transport or machinery;

(11) ‘industrial battery’ means any battery designed **exclusively** for industrial uses**, or any battery that has been subject to preparing for repurpose or repurposing for industrial uses,** and any other battery **with a weight above 5 kg** excluding ~~portable batteries, light means of transport~~**LMT** batteries, electric vehicle batteries and ~~automotive~~**SLI** batteries;

(12) 'electric vehicle battery' **or 'EV battery'** means any battery designed to provide traction to hybrid or electric vehicles of **type-approved** categories ~~M, N or O~~ in the meaning of Regulation (EU) 2018/858 or any battery ~~with a~~**that** weight**s** above 25 kg, designed to provide traction to vehicles of **type-approved categories** ~~category L~~ in the meaning of Regulation (EU) No 168/2013;

(13) 'stationary ~~battery~~ energy storage system **battery**' means a industrial battery with internal storage specifically designed to store and deliver electric energy from and into the grid or store and deliver electric energy to end-user, regardless of where and by whom this battery is being used;

~~(13a) 'nominal energy' means the amount of energy that can be withdrawn from the battery at a particular constant current, starting from a fully charged state;~~

(14) 'placing on the market' means the first making available of a battery on the Union market;

(15) 'making available on the market' means any supply of a battery for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

(16) 'putting into service' means the first use, for its intended purpose, in the Union, of a battery**, without** having been **placed on the market** previously;

(17) 'battery model' **means a version of a** ~~is any~~ battery **of which all units share the same technical characteristics relevant for sustainability and safety requirements or labelling, marking and information requirements pursuant to this Regulation and the same model identifier**~~that are manufactured in series~~;

(17a) 'battery presenting a risk' means a battery having the potential to affect adversely health or safety of persons, property or the environment to a degree which goes beyond that considered reasonable and acceptable in relation to its intended purpose or under the normal or reasonably foreseeable conditions of use of the battery concerned, including the duration of use and, where applicable, its putting into service, installation and maintenance requirements;

(18) ‘carbon footprint’ means the sum of greenhouse gas (GHG) emissions and GHG removals in a product system, expressed as carbon dioxide (CO2) equivalents and based on a Product Environmental Footprint (PEF) study using the single impact category of climate change;

(19) ‘economic operator’ means the manufacturer, the ~~manufacturer's~~ authorised representative, the importer, the distributor or the fulfilment service provider or any other natural or legal person who is subject to obligations in relation to manufacturing batteries, **preparing batteries for reuse, preparing batteries for repurpose, repurposing, or re-use, which includes remanufacturing, of batteries,** making them available or placing them on the market, including on-line placing on the market, or putting them into service in accordance with ~~the present~~**this** Regulation;

(20) ‘independent operator’ means a natural or legal person, other than or repairer or remanufacturer, who is independent from the manufacturer and the producer and is directly or indirectly involved in the repair, maintenance or repurposing of batteries, and include waste management operators, repairers, manufacturers or distributors of repair equipment, tools or spare parts, as well as publishers of technical information, operators offering inspection and testing services, operators offering training for installers, manufacturers and repairers of equipment for alternative-fuel vehicles;

(21) ‘QR code’ means a matrix barcode that links to information about a battery model;

(22) ‘battery management system’ means an electronic device that controls or manages the electric and thermal functions of the battery, that manages and stores the data on the parameters for determining the state of health and expected lifetime of batteries laid down in Annex VII and that communicates with the vehicle**, light mean of transport** or appliance in which the battery is incorporated**, or with a public of private charging infrastructure**;

(23) ‘appliance’ means any electrical or electronic equipment, as defined by Directive 2012/19/EU, which is fully or partly powered by a battery or is capable of being so;

(24) ‘state of charge’ means the available capacity in a battery expressed as a percentage of rated capacity as defined by the manufacturer;

(25) ‘state of health’ means a measure of the general condition of a rechargeable battery and its ability to deliver the specified performance compared with its initial condition;

(25a) ‘preparing for repurpose’ means any operation, by which parts of or a complete waste battery is prepared so that it can be used for a different purpose or application than the one that it was originally designed for;

(26) ‘repurposing’ means any operation that results in parts or the complete battery **that is not a waste battery**, being used for a different purpose or application than the one that the battery was originally designed for;

(26a) ‘remanufacturing’ means any technical operation that includes disassembly and use of used or waste batteries or their components which results in a battery with a level of performance and quality equivalent to that of the original battery, for the original or a different purpose; it may be part of either preparing for reuse, preparing for repurpose, re-use or repurposing;

(27) ‘manufacturer’ means any natural or legal person who manufactures a battery or has a battery designed or manufactured, and markets that battery ~~or puts it into service~~ under its own name or trademark **or puts it into service for its own purposes**;

(28) ‘technical specification’ means a document that prescribes technical requirements to be fulfilled by a product, process or service;

(29) ‘harmonised standard’ means a standard as defined in Article 2(1)(c) of Regulation (EU) No 1025/2012;

(30) ‘CE marking’ means a marking by which the manufacturer indicates that the battery is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing;

(31) ‘accreditation’ means accreditation as defined in Article 2(10) of Regulation (EC) No 765/2008;

(32) ‘national accreditation body’ **means** a national accreditation body as defined in Article 2(11) of Regulation (EC) No 765/2008;

(33) ‘conformity assessment’ means the process demonstrating whether the sustainability, safety, labelling and information requirements of this Regulation, relating to a battery have been fulfilled;

(34) ‘conformity assessment body’ means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

(34a) ‘third-party verification body’ means a body that performs verification of supply chain due diligence policies;

(35) ‘notified body’ means a conformity assessment body **or a third-party verificaton body** notified in accordance with Chapter V of this Regulation;

(36) ‘supply chain due diligence’ means the obligations of the economic operator, in relation to its management system, risk management, third party verifications and surveillance by notified bodies and disclosure of information with a view to identifying and addressing actual and potential risks linked to the sourcing, processing and trading of the raw materials required for battery manufacturing;

(37) 'producer' means any manufacturer, importer or distributor **or other natural or legal person** who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU**, alternatively**~~supplies a battery for the first time for distribution or use, including when incorporated into appliances or vehicles, within the territory of a Member State on a professional basis.~~:

(i) 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 vehicles, within the territory of that Member State;

(ii) 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 vehicles, manufactured by others. A reseller is not regarded as the 'producer' if the brand of the producer appears on the batteries, as provided for in point (i);

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

(iv) sells batteries, including those incorporated in appliances, light means of transport or vehicles, by means of distance communication directly to end-users, that are either private households or other than private households, in a Member State, and is established in another Member State or in a third country.

(37a) 'authorised representative for the EPR' means a legal or natural person established in Member State where the producer places batteries on the market and is different from the Member State where the producer is established, and is appointed by the producer in accordance with third subparagraph of Article 8a(5) of Directive 2008/98/EU for fulfilling the obligations of that producer under Chapter VIII of this Regulation;

(38) 'producer responsibility organisation' means a legal entity that financially or **financially and** operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;

(39) 'waste battery' means any battery which is waste within the meaning of Article 3(1) of Directive 2008/98/EC;

(40) 're-use' means **any operation, by which a battery that is not waste is used again for the same purpose or application than the one that it was originally designed for**~~the complete or partial direct re-use of the battery for the original purpose the battery was designed for~~;

(40a) 'preparing for re-use' means checking, cleaning repairing, or other operation, by which a waste battery is prepared so that it can be used for the same purpose or application than the one that it was originally designed for;

(41) 'hazardous substance' means a substance classified as a hazardous as a consequence of fulfilling the criteria laid down in ~~Parts 2 to 5 of the~~ Annex I of Regulation (EC) No 1272/2008 of the European Parliament and of the Council[46];

(42) 'treatment' means any activity carried out on waste batteries after they have been handed over to a facility for sorting**, preparing for re-use, preparing for repurpose** or preparation for recycling;

(43) 'voluntary collection points' means any non-profit, commercial or other economic undertaking or public body involved on their own initiative in the separate collection of waste portable batteries, by collecting the waste portable batteries it generates or which are generated by other end-users before they are ~~picked up by~~ **handed over to producers or to producer responsibility organisations**~~waste management operators for subsequent treatment~~;

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46 Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1)

(44) ‘waste management operator’ means any natural or legal person dealing on a professional basis with the separate collection, sorting, or treatment **or recycling** of waste batteries;

(45) ‘permitted facility’ means any facility that is permitted in accordance with Directive 2008/98/EC to carry out the treatment or recycling of waste batteries;

(46) ‘recycler’ means any natural or legal person ~~established in the Union~~who carries out recycling ~~processes~~ in a permitted facility;

(47) ‘lifetime’ of a battery means the period of time that starts when the battery is ~~placed on the market~~ **manufactured**, and ends when the battery becomes waste;

~~(48) ‘level of recycling’ means, for a given Member State in a given calendar year, the percentage obtained by dividing the weight of waste batteries that undergo treatment and recycling in accordance with Article 56 of this Regulation in that calendar year, by the weight of waste batteries collected in accordance with Articles 48 and 49 of this Regulation;~~

~~(49) ‘recycling process’ meansany recycling operation of waste batteries, excluding sorting and preparation for recycling, that may be carried out in a single or several permitted facilities;~~

(50) ‘recycling efficiency’ of a recycling process means the ratio obtained by dividing the mass of output fractions accounting for recycling by the mass of the **sorted** waste batteries input fraction, expressed as a percentage;

(51) ‘Union harmonisation legislation’ means any Union legislation harmonising the conditions for the marketing of products;

(52) ‘national authority’ means an approval authority or any other authority involved in and responsible for market surveillance as set out in Chapter IX or border control in a Member State in respect of batteries;

(53) ‘~~manufacturer’s~~ authorised representative’ means any natural or legal person established in the Union who has received a written mandate from a manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer’s obligations under the requirements of Chapter IV and VI of this Regulation;

(54) ‘importer’ means any natural or legal person established within the Union who places **on a professional basis** a battery from a third country on the market;

(55) ‘distributor’ means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a battery available on the market;

~~(56) ‘risk’ means the combination of the probability of an occurrence of a hazard causing harm to human health or safety of persons, to property or to the environment and the degree of severity of that harm.~~

The definitions of ‘waste’, ‘waste holder’, ‘waste management’, ‘prevention’, ‘collection’, ‘separate collection’, ‘extended producer responsibility scheme’, ~~‘preparing for re-use’,~~ ‘material recovery’ and ‘recycling’ laid down in Article 3 of Directive 2008/98/EC shall apply.

The definitions of~~,~~ ‘market surveillance’, ‘market surveillance authority’, ~~‘non-compliance’,~~ ‘fulfilment service provider’, ‘corrective action’, ‘end-user’, ‘recall’ and ‘withdrawal’**, as well as of ‘risk’ in relation to requirements of Chapters I, IV, VI, VII, IX and Annex V, Annex VIII and Annex XIII,** laid down in Article 3 of Regulation (EU) 2019/1020 shall apply.

The definitions of ‘independent aggregator’, ‘market participant’ and ‘energy storage’ laid down in Article 2 of Directive (EU) 2019/944 shall apply.

Article 3

Free movement

1. Member States shall not, for reasons relating to sustainability, safety, labelling and information requirements of batteries ~~or management of waste batteries~~ covered by this Regulation, prohibit, restrict or impede the making available on the market or the putting into service of batteries that comply with this Regulation.

2. At trade fairs, exhibitions, demonstrations or similar events, Member States shall not prevent the showing of batteries, which do not comply with this Regulation, provided that a visible sign clearly indicates that such batteries do not comply with this Regulation and that they are not for made available on the market or put into service until they have been brought into conformity.

Article 4

Sustainability, safety, labelling and information requirements for batteries

1. Batteries shall only be placed on the market or put into service if they meet:

   (a) the sustainability and safety requirements set out in Articles 6 to 10 and 12; and

   (b) the labelling and information requirements set out in Chapter III.

2. For any aspects not covered by Chapters II and III, batteries **referred to in paragraphs 1 and 1a** shall not present a risk to human health, to safety of persons, to property or to the environment.

[Article 5, Competent authority – moved to Chapter VII]

Chapter II

Sustainability and safety requirements

Article 6

*Restrictions of ~~hazardous~~ substances **that pose a risk to human health or the environment***

1. Without prejudice to the restrictions set out in Annex XVII of Regulation (EC) No 1907/2006, batteries shall not contain hazardous substances for which Annex I contains a restriction unless they comply with the conditions of that restriction.

2. **If the Commission or a Member State consider that** there is an unacceptable risk to human health or the environment, arising from the use of a substance in the manufacture of batteries, or from ~~a substance~~ **the** present**ce of a substance** in the batteries when they are placed on the market, or during their subsequent life cycle stages, including **during repurposing or during** the **treatment or recycling of** waste ~~phase~~**batteries**, that **is not adequately controlled** and needs to be addressed on a Union-wide basis, ~~the Commission shall, where appropriate, make legislative proposals to amend the restrictions in Annex I~~**Annex XVII to Regulation (EC) No 1907/2006 shall be amended by adopting new restrictions, or amending current restrictions therein, for the use of that substance in batteries, pursuant to the procedure se out under Article 68 to Article 73 of Regulation (EC) No 1907/2006**.

~~3. In making legislative proposals referred to in paragraph 2, the Commission shall take into account the socio-economic impact of the restriction, including the availability of alternatives for the hazardous substance.~~

3a. When preparing a dossier for a restriction proposal which conforms to the requirements of Annex XV to Regulation (EC) No 1907/2006, the Agency referred to in Article 75 of Regulation (EC) No 1907/2006 or Member States shall take into account any available information and refer to any relevant risk assessment submitted for the purposes of other Union legislation covering the life cycle of the substance used in the battery, including the waste phase. To this end other bodies established under Union law and carrying out a similar task shall provide information to the Agency or Member State concerned on request.

4. Restrictions adopted pursuant to paragraph 2 shall not apply to the use of a substance in scientific research and development (of batteries) as defined in Article 3(23) of Regulation (EC) No 1907/2006.

5. If a restriction adopted pursuant to paragraph 2 shall not apply to product and process oriented research and development, as defined in Article 3(22) of Regulation (EC) No 1907/2006, this exemption, as well as the maximum quantity of the substance exempted, shall be specified in Annex ~~I~~ **XVII to Regulation (EC) No 1907/2006**.

~~5a. In case Annex XVII of Regulation (EC) No 1907/2006 is amended the Commission shall, where appropriate, propose amendments to this Regulation.~~

5b. The definition of risk used for the purpose of this Article shall be without prejudice to Article 3 third subparagraph and Article 45a.

Article 7

*Carbon footprint of **LMT batteries,** electric vehicle batteries and industrial batteries*

1. From either 1 July **[…]** [*30/66 months after the start of application of this Regulation*] or 12 months after the ~~adoption~~**entry into force** of the delegated and implementing acts referred to in points (a) and (b) of the third subparagraph, whichever is the latest, **LMT batteries,** electric vehicle batteries and industrial batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** shall be accompanied by ~~documentation that includes~~, for each battery model ~~and batch~~ per manufacturing plant, a carbon footprint declaration drawn up in accordance with the delegated act referred to in the second subparagraph and containing, at least, the following information:

(a) administrative information about the manufacturer;

(b) information about the battery model for which the declaration applies;

(c) information about the geographic location of the battery manufacturing facility;

(d) the life-cycle carbon footprint of the battery, calculated as kg of carbon dioxide equivalent;

(e) the carbon footprint of the battery differentiated per life cycle stage as described in point 4 of Annex II;

~~(f) proof of third party verification by a notified body~~**identification number of the EU declaration of conformity of the battery**;

(g) a web link to get access to a public version of the study supporting the carbon footprint values referred to in points (d) and (e).

The carbon footprint declaration shall be ~~drawn up in the language or languages required by the Member State in which the battery is placed or made available on the market or put into service and shall be~~ accessible through the QR code referred to in Article 13(5).

The Commission shall, no later than 1 July **[…]** [*18/42 months after the ~~start~~**date** of application of this Regulation*], adopt:

(a) a delegated act in accordance with Article 73 to supplement this Regulation by establishing the methodology to calculate the values of carbon footprint of the battery referred to in point (d) and (e) of the first sub-paragraph, in accordance with the essential elements set out in points 1 to 7 of Annex II;

(b) an implementing act establishing the format for the carbon footprint declaration referred to in the first subparagraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 74(3).

2. From either 1 January **[…]** [*48/84 months after the ~~start~~**date** of application of this Regulation*] or 12 months after the ~~adoption~~**entry into force** of the delegated and implementing acts referred to in points (a) and (b) of the third subparagraph, whichever is the latest, **LMT batteries,** electric vehicle batteries and industrial batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** shall bear a conspicuous, clearly legible and indelible label indicating the carbon footprint performance class that the relevant battery model ~~and batch~~ per manufacturing plant corresponds to.

For batteries referred to in first subparagraph, the technical documentation referred to in Annex VIII shall demonstrate that the carbon footprint declared and the related classification into a carbon footprint performance class have been calculated in accordance with the methodology set out in the delegated acts adopted by the Commission pursuant to the point (a) of third subparagraph of paragraph 1 and point (a) of third subparagraph.

The Commission shall, no later than 31 December **[…]** [*36/60 months after the ~~start~~**date** of application of this Regulation*], adopt:

(a) a delegated act in accordance with Article 73 to supplement this Regulation by establishing the carbon footprint performance classes referred to in the first subparagraph. In preparing that delegated act, the Commission shall take into account the conditions set out in point 8 of Annex II;

(b) an implementing act establishing the formats for the labelling referred to in the first subparagraph and the format for the declaration on the carbon footprint performance class referred to in the second subparagraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 74(3).

The Commission shall, in accordance with the conditions set out in point 8 of Annex II, review the number of performance classes and the thresholds between them every three years and, where appropriate, adopt delegated acts in accordance with Article 73 to amend them in a view of keeping them representative of the market reality and its expected development.

3. From either 1 July **[…]** [*66/90) months after the ~~start~~**date** of application of this Regulation*] or 12 months after the ~~adoption~~**entry into force** of the delegated act referred to in the second subparagraph, whichever is later, for **LMT batteries,** electric vehicle batteries and industrial batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** the technical documentation referred to in Annex VIII shall demonstrate that the declared life cycle carbon footprint value for the relevant battery model ~~and batch~~ per manufacturing plant, is below the maximum threshold established in the delegated act adopted by the Commission pursuant to the third subparagraph.

The Commission shall, no later than 1 July **[…]** [*54/78 months after the ~~start~~**date** of application of this Regulation*], adopt a delegated act in accordance with Article 73 to supplement this Regulation by determining the maximum life cycle carbon footprint threshold referred to in the first subparagraph. In preparing that delegated act, the Commission shall take into account the relevant conditions set out in point 9 of Annex II.

The introduction of a maximum life cycle carbon footprint threshold shall trigger, if necessary, a reclassification of the carbon footprint performance classes of the batteries referred to in paragraph 2.

3a. The requirements laid down in paragraphs 1, 2 and 3 shall not apply to a battery that has been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing, where the economic operator placing that battery on the market or putting it into service demonstrates that the battery, before such operation, has been manufactured before the dates on which those obligations become applicable in accordance with those paragraphs.

Article 8

*Recycled content in **LMT batteries,** industrial batteries, electric vehicle batteries and ~~automotive~~**SLI** batteries*

1. From either 1 January **[…]** [*60/72 months after the ~~start~~**date** of application of this Regulation*] or 12 months after the ~~adoption~~**entry into force** of the delegated act referred to in second subparagraph, whichever is later, **LMT batteries,** industrial batteries, electric vehicle batteries and ~~automotive~~**SLI** batteries with a ~~nominal energy~~**capacity** above 2 kWh that contain cobalt, lead, lithium or nickel in active materials**, except those with exclusively external storage,** shall be accompanied by **a** document~~ation~~ containing information about the share of, respectively, cobalt, lithium or nickel recovered from waste present in active materials, and share of lead recovered from waste present in battery, in each battery model ~~and batch~~ per manufacturing plant.

By 31 December **[…]** [*48 months after the ~~start~~**date** of application of this Regulation*], the Commission shall adopt a delegated act in accordance with Article 73 to supplement this Regulation by establishing the methodology for the calculation and verification of the share of cobalt, lithium or nickel recovered from waste present in active materials, and share of lead recovered from waste present in battery, in the batteries referred to in the first subparagraph, and the format for the documentation.

2. From 1 January **[…]** [*96 months after the ~~start~~**date** of application of this Regulation*], for **LMT batteries,** industrial batteries, electric vehicle batteries and ~~automotive~~**SLI** batteries with a ~~nominal energy~~**capacity** above 2 kWh that contain cobalt, lead, lithium or nickel in active materials**, except those with exclusively external storage**, **the** technical documentation referred to in Annex VIII shall demonstrate that those batteries contain the following minimum share of, respectively, cobalt, lithium or nickel recovered from waste present in active materials, and share of lead recovered from waste present in battery, in each battery model ~~and batch~~ per manufacturing plant:

(a) 12% cobalt;

(b) 85% lead;

(c) 4% lithium;

(d) 4% nickel.

3. From 1 January**[…]** [*156 months after the ~~start~~**date** of application of this Regulation*], for **LMT batteries,** industrial batteries, electric vehicle batteries and ~~automotive~~**SLI** batteries with a ~~nominal energy~~**capacity** above 2 kWh that contain cobalt, lead, lithium or nickel in active materials**, except those with exclusively external storage**, **the** technical documentation referred to in Annex VIII shall demonstrate that those batteries contain the following minimum share of, respectively, cobalt, lead, lithium or nickel recovered from waste present in active materials, and share of lead recovered from waste present in battery, in each battery model ~~and batch~~ per manufacturing plant:

(a) 20% cobalt;

(b) 85 % lead;

(c) 10% lithium;

(d) 12% nickel.

3a. The requirements laid down in paragraphs 1, 2 and 3 shall not apply to a battery that has been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing, where the economic operator placing that battery on the market or putting it into service demonstrates that the battery, before such operation, has been manufactured before the dates on which those obligations become applicable in accordance with those paragraphs.

4. Where justified and appropriate due to the availability of cobalt, lead, lithium or nickel recovered from waste, or the lack thereof, or other considerable changes in battery technologies impacting the type of materials recovered, the Commission shall be empowered to adopt, by 31 December **[…]** [*72 months after the ~~start~~**date** of application of this Regulation*], a delegated acts in accordance with Article 73, to amend the targets laid down in paragraphs 2 and 3.

Article 9

Performance and durability requirements for portable batteries of general use

1. From either 1 January **[…]** [*60/72 months after the ~~start~~**date** of application of this Regulation*] or 12 months after the ~~adoption~~**entry into force** of the delegated act referred to in paragraph 2, whichever is later, portable batteries of general use shall meet the minimum values for the electrochemical performance and durability parameters set out in Annex III as laid down in the delegated act adopted by the Commission pursuant to paragraph 2.

2. By 31 December **[…]** [*48 months after the ~~start~~**date** of application of this Regulation*], the Commission shall adopt a delegated act in accordance with Article 73 to supplement this Regulation by establishing minimum values for the electrochemical performance and durability parameters laid down in Annex III that portable batteries of general use shall attain.

The Commission shall be empowered to adopt delegated acts in accordance with Article 73 to amend the electrochemical performance and durability parameters laid down in Annex III in view of technical and scientific progress.

In preparing the delegated act referred to in the first subparagraph, the Commission shall consider the need to reduce the life cycle environmental impact of portable batteries of general use and take into consideration relevant international standards and labelling schemes. The Commission shall also ensure that the provisions laid down by that delegated act do not have a significant negative impact on the functionality of those batteries or the appliances**,** **light means of transport or vehicles** into which those batteries are incorporated, the affordability and the cost for end-users and the industry's competitiveness. No excessive administrative burden shall be imposed on manufacturers of the batteries and the appliances**,** **light means of transport or vehicles** concerned.

3. By 31 December **[2030]** ~~[*108/48 months after the start of application of this Regulation*]~~, the Commission shall assess the feasibility of measures to phase out the use of non-rechargeable portable batteries of general use in view of minimising their environmental impact based on the life cycle assessment methodology. To that end, the Commission shall submit a report to the European Parliament and to the Council and take the ~~appropriate~~ **necessary** measures, including, if appropriate, the adoption of legislative proposals.

Article 10

*Performance and durability requirements for ~~light means of transport~~**LMT** batteries, industrial batteries and electric vehicle batteries*

1. From [*12 months after ~~start~~**date** of application of this Regulation*], ~~light means of transport~~**LMT** batteries, industrial batteries and electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** shall be accompanied by a document~~ation~~ containing values for the electrochemical performance and durability parameters laid down in Part A of Annex IV.

For batteries referred to in first subparagraph the technical documentation referred to in Annex VIII shall contain an explanation of the technical specifications, standards and conditions used to measure, calculate or estimate the values for the electrochemical performance and durability parameters. That explanation shall include, at least, the elements laid down in Part B of Annex IV.

2. From either 1 January **[…]** [*48 months after the ~~start~~**date** of application of this Regulation*] or 12 months after the ~~adoption~~**entry into force** of the delegated act referred to in paragraph 3, whichever is later, **LMT batteries, and** industrial batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** shall meet the minimum values laid down in the delegated act adopted by the Commission pursuant to paragraph 3 for the electrochemical performance and durability parameters set out in Part A of Annex IV.

2a. The requirements laid down in paragraphs 1 and 2 shall not apply to a battery that has been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing, where the economic operator placing that battery on the market or putting it into service demonstrates that the battery, before such operation, has been manufactured before the dates on which those obligations become applicable in accordance with those paragraphs.

3. By 31 December **[…]** [*36 months after the ~~start~~**date** of application of this Regulation*], the Commission shall adopt a delegated act in accordance with Article 73 to **amend the electrochemical performance and durability parameters laid down in Annex IV concerning LMT batteries and** supplement this Regulation by establishing minimum values for the electrochemical performance and durability parameters laid down in Part A of Annex IV that ~~light means of transport~~**LMT** batteries**,** and industrial batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** shall attain.

In preparing the delegated act referred to in the first subparagraph, the Commission shall consider the need to reduce the life cycle environmental impact of rechargeable industrial batteries with ~~internal storage and~~ a capacity above 2 kWh**, except of those with exclusively external storage,** and ensure that the requirements laid down therein do not have a significant negative impact on the functionality of those batteries or the appliances **light means of transport or vehicles** into which those batteries are incorporated, its affordability and industry's competitiveness. No excessive administrative burden shall be imposed on manufacturers of the batteries and the appliances**, light means of transport or vehicles** concerned.

3a. The Commission shall be empowered to adopt delegated acts in accordance with Article 73 to amend the electrochemical performance and durability parameters laid down in Annex IV in view of market development and technical and scientific progress.

~~3b. The Commission shall be empowered to adopt delegated acts to supplement this Regulation by establishing minimum values for the electrochemical performance and durability parameters laid down in Part A of Annex IV for light means of transport batteries.~~

Article 11

*Removability and replaceability of portable batteries **and LMT batteries***

1. From ~~either~~ 1 January **[…]** [*24 months after ~~start~~**date** of application of this Regulation*] ~~or [6 months] after the publication of the guideline referred to in paragraph 3, whichever is later,~~ **the economic operator that places on the market products with portable batteries or LMT batteries incorporated, shall ensure that those** portable ~~batteries~~ batteries **and LMT batteries** ~~incorporated in appliances or products~~ shall be readily removable and replaceable by the end-user or by independent operators during the lifetime of the appliance **or light mean of transport**, if the batteries have a shorter lifetime than the appliance **or light mean of transport**, or at the latest at the end of the lifetime of the appliance **or light mean of transport**. **Removability and replaceability requirements only apply to battery packs as a whole and not individual cells or other parts included in the battery pack.**

1a. A portable or LMT battery is readily removable where it can be removed from from an appliance or a light mean of transport without the use of specialized tools, thermal energy, or solvents to disassemble. An economic operator that places on the market products with portable batteries or LMT batteries incorporated shall ensure that those products are accompanied with instructions and safety information on the use and removal of the batteries.

A portable **or LMT** battery is readily replaceable where, after its removal from an appliance **or a light mean of transport** ~~or product~~, it can be substituted by a similar battery, without affecting the functioning or the performance **or safety** of that appliance **or light mean of transport**.

2. The obligations set out in paragraph 1 shall not apply where continuity of power supply is necessary and a permanent connection between the ~~appliance~~ **product** and the **respective** portable battery is required for safety, performance, medical or data integrity reasons.

3. By **1 July […]** [*18 months after ~~start~~**date** of application of this Regulation*], the Commission shall publish guidelines to facilitate harmonised application of the derogations set out in paragraph 2.

Article 12

*Safety of stationary ~~battery~~ energy storage system~~s~~ **batteries***

1. **By 1 July […] [*18 months after date of application of this Regulation*], ~~S~~an economic operator that places on the market s**tationary ~~battery~~ energy storage system **batterie**s **shall ensure that those batteries are** safe during their normal operation and use.

1a. ~~shall be accompanied by t~~**The t**echnical documentation **referred to in Annex VIII shall** demonstrat**e**~~ing~~ that ~~they~~ **the batteries referred to in paragraph 1** are **compliant with the requirements in accordance with paragraph 1**~~safe during their normal operation and use,~~**and shall** includ**e**~~ing~~ evidence that they have been successfully tested, at a minimum**,** for the safety parameters laid down in Annex V, for which state-of-the-art testing methodologies ~~should~~ **shall** be used.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 73 to amend the safety parameters laid down in Annex V in view of technical and scientific progress.

[2a. The technical documentation referred to in Annex VII shall include at least:

(a) an assessment of possible additional safety hazards, not addressed in Annex V, of the specific battery energy storage system, based on its technology and the specific application and environment of the battery energy storage system. The documentation should be reviewed if a battery is refurbished and reused for another application or in another environment,

(b) evidence that the additional hazards have been successfully mitigated and tested for which state-of-the-art testing methodologies should be used;

(c) mitigation instructions in case the identified hazards addressed in Annex V may occur, for example a fire or explosion.**]**

Chapter III

Labelling, marking and information requirements

Article 13

Labelling and marking of batteries

1. From **either** 1 January **[…]** [*60 months after the ~~start~~**date** of application of this Regulation*] **or 24 months after the entry into force of the implementing act referred to in paragraph 2, whichever is later**, all batteries shall be marked with a label containing the **general** information **about batteries** laid down in Part A of Annex VI.

2. From **either** 1 January **[…]** [*60 months after the start of application of this Regulation*] **or 24 months after the entry into force of the implementing act referred to in paragraph 2, whichever is later**, ~~non-~~rechargeable portable batteries and ~~automotive~~**SLI** batteries shall be marked with a label containing information on their capacity.

2a. From **either** 1 January **[…]** [*60 months after the ~~start~~**date** of application of this Regulation*]**or 24 months after the entry into force of the implementing act referred to in paragraph 2, whichever is later**, **non-**rechargeable portable batteries shall be marked with a label containing information on their minimum average duration when used in specific applications.

3. From 1 July **[…]** [~~*18*~~ ***24*** *months after the ~~start~~**date** of application of this Regulation*], all batteries shall be marked with the symbol indicating 'separate collection' in accordance with the requirements laid down in Part B of Annex VI.

Where the size of the battery is such that **it can not be marked in accordance with previous subparagraph, a symbol shall be printed on the packaging and on the documentation accompanying the battery in accordance with the requirements laid down in Part B of Annex VI.**

~~The symbol shall cover at least 3 % of the area of the largest side of the battery up to a maximum size of 5 × 5 cm.~~

~~In the case of cylindrical battery cells, the symbol shall cover at least 1,5 % of the surface area of the battery and shall have a maximum size of 5 × 5 cm.~~

~~the symbol would be smaller than 0,5 × 0,5 cm, the battery does not need to be marked but a symbol measuring at least 1 × 1 cm shall be printed on the packaging and on the documentation accompanying the battery.~~

4. From 1 July **[…]** [~~*18*~~ ***24*** *months after the ~~start~~**date** of application of this Regulation*], all batteries containing more than 0,0005 % mercury or more than 0,002 % cadmium or more than 0,004 % lead, shall be marked with the chemical symbol for the metal concerned: Hg or Cd or Pb.

The symbol indicating the heavy metal content shall be printed beneath the symbol shown in Part B of Annex VI and shall cover an area of at least one-quarter the size of that symbol.

4a. From **the date provided in Article 7(2)** ~~1 January … [*18 months after the start of application of this Regulation*]~~, industrial batteries**,** ~~and~~ **LMT batteries and** electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** shall be marked with a label containing the information in accordance with Article 7(2).

5. From 1 January **[…]** [*12 months after the **date** of application of this Regulation*], all batteries shall be marked with a QR code in accordance with Part C of Annex VI. **The** QR code shall provide access to the information ~~of the respective battery model, specified in Article 13a~~**on the respective battery model, laid down in Part D of Annex VI form the dates specified therein. This information shall be accurate, complete and up-to-date**.

5a. From **the date specified in Article 65(1)** ~~1 January … [*48 months after the start of application of this Regulation*], each individual~~ industrial **batteries, LMT batteries** and electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** shall be marked with a unique identifier in accordance with Article 65(2) **and with Part C of Annex VI**.

6. Labels, QR code and unique identifier referred to in paragraphs 1 to ~~7~~**5a** shall be printed or engraved visibly, clearly legibly and indelibly on the battery. Where this is not possible or not warranted on account of the nature and size of the battery, labels and QR code shall be affixed to the packaging and to the documents accompanying the battery.~~.~~

6a. Batteries that have been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing shall be marked with new labels or markings in accordance with this Article, and containing information on their change of status in accordance with Article 65(3)(b), which shall be accessible through QR code.

7. The Commission shall, by 31 December **[…]**[*48 months after the ~~start~~**date** of application of this Regulation*], adopt implementing acts to establish harmonised specifications for the labelling requirements referred to in paragraphs 1**,** ~~and~~ 2 **and 2a**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

Article 13a

Information, accessible electronically through QR code

QR code, referred to in Article 13(5), shall provide access to the following information of the respective battery model:(a) from 1 January [*60 months after the start of application of this Regulation*], for all batteries the information referred to in Article 13(1);

(b) from 1 January [*60 months after the start of application of this Regulation*], for portable batteries and automotive batteries the information specified in Article 13(2);

(c) from 1 January [*12 months after the start of application of this Regulation*], for all batteries the symbol referred to in Article 13(3);

(d) from 1 January [*12 months after the start of application of this Regulation*], for batteries containing more than 0,0005 % mercury or more than 0,002 % cadmium or more than 0,004 % lead, the symbol referred to in Article 13(4);

(e) from [*12 months after the start of application of this Regulation*], for industrial batteries and electric vehicle batteries the report referred to in Article 45e(6a);

(f) from 1 July [*30 months after the start of application of this Regulation*], for industrial batteries and for electric vehicle batteries with a nominal energy above 2 kWh the carbon footprint declaration referred to in Article 7(1);

(g) from 1 January [*48 months after the start of application of this Regulation*], for industrial batteries and for electric vehicle batteries with a nominal energy above 2 kWh the carbon footprint performance class referred to in Article 7(2);

(h) from 1 January [*60 months after the start of application of this Regulation*], for industrial batteries, automotive batteries and electric vehicle batteries with a nominal energy above 2 kWh the share of cobalt, lead, lithium or nickel recovered from waste and present in active materials in the battery, in accordance with Article 8;

~~(i) from 1 January [*12 months after the start of application of this Regulation*], for all batteries the EU declaration of conformity referred to in Article 18;~~

~~(j) from 1 July [*18 months after the start of application of this Regulation*], for all batteries the information referred to in points (a) to (f) of Article 60(1).~~

Article 14

Information on the state of health and expected lifetime of batteries ***containing a battery management system***

1. Industrial batteries**, LMT batteries** and electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh that include a battery management system**, except those with exclusively external storage,** shall contain in their battery management system up-to-date data on the parameters for determining the state of health and expected lifetime of batteries as laid down in Annex VII.

2. Read-only access to the data ~~in the battery management system~~ referred to in paragraph 1 shall be provided, respecting intellectual property rights of battery manu~~r~~**f**acturer, on a non-discriminatory basis to the legal or natural person who has legally purchased the battery **[or to waste management operators or any third party acting on their behalf]** at any time for the purpose of:

   (a) evaluating the residual value of the battery and capability for further use, based on the estimation of the state of health;

   (b) facilitating the **preparing for re-use, preparing for repurpose,** re**-**use~~,~~ **or** repurposing ~~or remanufacturing~~ of the battery;

   (c) making the battery available to independent aggregators or market participants through energy storage.

2a. The Commission shall be empowered to adopt a delegated act in accordance with Article 73 to ~~supplement this Regulation by establishing the requirements for the data and laying down the methodology for estimating the state of health of batteries~~**amend the parameters for determining the state of health and expected lifetime of batteries laid down in Annex VII in view of market development and technical and scientific progress, with due regard to the intellectual property rights of battery manufacturer**.

3. The provisions of this Article shall apply ~~in addition~~**without prejudice** to those laid down in Union law on type approval of vehicles.

Chapter IV
Conformity of batteries

Article 15

Harmonised standards

1. For the purposes of compliance and verification of compliance of batteries with the requirements set out in Articles 9, 10, 12, 13(2)**, 13(2a)** and ~~59(5)(a)~~**14(2)(a)** of this Regulation, test, measurements and calculations shall be made using ~~a~~ reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the-art methods, and whose results are deemed to be of low uncertainty, including methods set out in standards, the reference numbers of which have been published for that purpose in the Official Journal of the European Union.

2. Batteries which are in conformity with harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union shall be presumed to be in conformity with the requirements set out in Articles 9, 10, 12, 13(2)**, 13(2a)** and ~~59(5)(a)~~**14(2)(a)** to the extent that those requirements are covered by such harmonised standards or parts thereof, and, if applicable, to the extent that the minimum values established for those requirements are attained.

Article 16

Common specifications

1. The Commission shall be empowered to adopt implementing acts laying down common specifications for the requirements set out in Articles 9, 10, 12, 13(2)**, 13(2a)** ~~,~~ **and** ~~59(5)(a)~~**14(2)(a) or tests referred to in Article 15(1)**, where at least one of the following conditions have been fulfilled:

   (a) those requirements or tests are not covered by harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union; ~~or~~**and**

   – ~~(aa)~~ the request has not been accepted by any of the European standardisation organisations; or

   – ~~(b)~~ the Commission observes undue delays in the adoption of requested harmonised standards; or

   (c) the Commission has decided in accordance with the procedure referred to in Article 11(5) of Regulation (EU) No 1025/2012 to maintain with restriction or to withdraw the references to the harmonised standards or parts thereof by which those requirements or tests are covered.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

2. Batteries which are in conformity with common specifications or parts thereof shall be presumed to be in conformity with the requirements set out in Articles 9, 10, 12, 13(2)**, 13(2a)** and ~~59(5)(a)~~**14(2)(a)** to the extent that those requirements are covered by those common specifications or parts thereof, and, if applicable, to the extent that the minimum values established for those requirements are attained.

3. The Commission shall amend or repeal implementing acts refe**r**red to in paragraph 1 within a reasonable period **of at least one year** after publication of reference numbers of harmonised standards or parts thereof, covering the requirements or tests refer**r**ed to in paragraph 1, in the Official Journal of the European Union, in order to allow manufacturers to take into account the changes as referred to in Article 38(6).

Article 17

Conformity assessment procedures

[paragraph 1 deleted – duplication with Article 38(1) and (2)]

2. Conformity assessment of batteries with the requirements set out in Articles 6~~, 9, 10~~ **to 10**~~, 12, 13,~~ **and 12 to** 14 shall be carried out in accordance with **one of** the **following** procedure**s:**

For batteries manufactured in series:

(a) 'Module A - Internal production control', set out in Part A of Annex VIII **or**

(b) 'Module D1 - Quality assurance of the production process', set out in Part B of Annex VIII.

For batteries not manufactured in series, 'Module G - Conformity based on unit verification', set out in Part C of Annex VIII.

3. Conformity assessment of batteries with requirements set out in Articles 7 and 8 shall be carried out in accordance with **one of** the following procedures:

(a) 'Module D1 - Quality assurance of the production process' set out in Part B of Annex VIII **for batteries manufactured in series**; or

(b) 'Module G – Conformity based on unit verification' set out in Part C of Annex VIII **for batteries not manufactured in series**.

~~4. The Commission shall be empowered to adopt delegated acts in accordance with Article 73 to amend Annex VIII by replacing modules set out in Annex VIII by other modules set out in Decision No 768/2008/EC, if necessary after adapting them to the specific requirements for batteries.~~

4a. Conformity assessment of batteries that have been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing, shall be carried out in accordance with the 'Module A - Internal production control', set out in Part A of Annex VIII, considering the requirements set out in Articles 6 to 10 and 12 to 14.

5. Records and correspondence relating to the conformity assessment procedures of batteries shall be drawn up in the official language or languages of the Member State where the notified body carrying out the conformity assessment procedures is established, or in a language **or languages** accepted by that body.

Article 18

EU declaration of conformity

1. The EU declaration of conformity shall state that the fulfilment of the requirements set out in Articles 6 to 10 and 12 to 14 has been demonstrated.

2. The EU declaration of conformity shall have the model structure set out in Annex IX, shall contain the elements specified in the relevant modules set out in Annex VIII and shall be updated, if necessary. It shall be translated into the language or languages required by the Member State in which the battery is placed or made available on the market or put into service. It shall be drawn up in electronic form**at** and where requested, it shall be provided in paper form**at**.

3. Where a battery is subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references.

3a. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the battery with the requirements laid down in this Regulation.

3b. Without prejudice to paragraph 3, a single EU declaration of conformity may ~~be a dossier made up of relevant~~**be made up of one or more** individual EU declarations of conformity **already drawn up in compliance with a different Union act, in order to reduce the administrative burden on economic operators**.

3c. An additional EU declaration of conformity shall be drawn up before placing on the market or putting into service of a battery that has been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing.

Article 19

General principles of the CE marking

The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

Article 20

Rules and conditions for affixing the CE marking

1. The CE marking shall be affixed visibly, legibly and indelibly to the battery. Where that is not possible or not warranted due to the nature of the battery, it shall be affixed to the packaging and to the documents accompanying the battery.

2. The CE marking shall be affixed before the battery is placed on the market or put into service.

3. The CE marking shall be followed by the identification number of the notified bodywhere required under Annex VIII~~, Part B~~. That identification number shall be affixed by the notified body itself or, under its instructions, by the manufacturer or by its authorised representative.

4. The CE marking and the identification number referred to in paragraph 3 may be followed, if applicable, by any pictogram or other mark indicating a special risk, use or any danger linked to the use, storage, treatment or transport of the battery.

5. Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.

Chapter V

Notification of conformity assessment **and third-party verification** bodies

Article 21

Notification

1. Member States shall notify the Commission and the other Member States of conformity assessment bodies authorised to carry out conformity assessment **or third-party verification** in accordance with this Regulation.

1a. The requirements under this Chapter relating to the conformity assessment procedure and conformity assessment activities shall apply *mutatis mutandis* to, respectively, periodical audits in accordance with Article 45a(1a) and third-party verification in accordance with Article 45d, and third-party verification activities, unless otherwise specified.

1b. The requirements under this Chapter relating to the conformity assessment body shall apply *mutatis mutandis* to third-party verification body in accordance with Article 45d unless otherwise specified.

Article 22

Notifying authorities

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, including compliance with Article 27.

2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.

3. Where the notifying authority delegates or otherwise entrusts the assessment, notification or monitoring referred to in paragraph 1 of this Article to a body, which is not a governmental entity, that body shall be a legal entity and shall comply *mutatis mutandis* with the requirements laid down in Article 23. In addition, it shall have arrangements to cover liabilities arising out of its activities.

4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

Article 23

Requirements relating to notifying authorities

1. A notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.

1a. A notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.

2. A notifying authority shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment of the conformity assessment bodies applying for notification in accordance with Article 28.

3. A notifying authority shall not offer or provide any activities that conformity assessment bodies perform or consultancy services on a commercial or competitive basis.

4. A notifying authority shall safeguard the confidentiality of the information it obtains. However, it shall, upon request, exchange information on notified bodies with the Commission as well as with notifying authorities of other Member States and other relevant national authorities.

5. A notifying authority shall have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

Article 24

Information obligation on notifying authorities

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Article 25

Requirements relating to notified bodies

1. For the purposes of notification, a conformity assessment bodyshall meet the requirements laid down in paragraphs 2 to 11.

2. A conformity assessment body shall be established under the national law of a Member State and have legal personality.

3. A conformity assessment body shall be a third-party body independent from any and all business ties and from the batteries it assesses, in particular from battery manufacturers, the battery manufacturers' trade partners, shareholding investors on the battery manufacturers' plants and from other notified bodies and the notified bodies' business associations, parent companies or subsidiaries.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, importer, distributor, installer, purchaser, owner, user or maintainer of the batteries which they assess, nor the representative of any of those parties. This shall not preclude the use of assessed batteries that are necessary for the operations of the conformity assessment body or the use of such batteries for personal purposes.

   A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture, marketing, installation, use or maintenance of those batteries, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

   A conformity assessment body shall ensure that the activities of its parent or sister companies, subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of its conformity assessment activities.

5. A conformity assessment body and its personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of its conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

6. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it in Annex VIII**, periodical audits in accordance with Article 45a(1a)** and **third-party verification in accordance with** Article 45d in relation to which it has been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times, and for each conformity assessment procedure set out in Annex VIII**, periodical audits in accordance with Article 45a(1a)** and **third-party verification in accordance with** Article 45d, and for the batteries in relation to which it has been notified, a conformity assessment body shall have at its disposal the necessary:

(a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;

(b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures;

(c) appropriate policies and procedures to distinguish between activities that it carries out as a notified body and other activities;

(d) procedures for the performance of conformity assessment tasks which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the battery technology in question and the mass or serial nature of the production process.

A conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary testing equipment or facilities. **This shall include establishment and the supervision of internal procedures, general policies, codes of conduct or other internal rules, the assignment of personnel to specific tasks and the conformity assessment decisions, without delegating them to a subcontractor or a subsidiary.**

7. The personnel responsible for carrying out conformity assessment tasks shall have the following:

   (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body or a third-party verification body has been notified;

   (b) satisfactory knowledge of the requirements of the assessments or verifications they carry out and adequate authority to carry out those assessments or verifications;

   (c) appropriate knowledge and understanding of the requirements and obligations set out in Articles 6 to 10 and 12 to 14 and in Articles 45a to 45e, of the applicable harmonised standards referred to in Article 15 and common specifications referred to in Article 16 and of the relevant provisions of Union harmonisation legislation and of national legislation;

   (d) the ability to draw up certificates, records and reports demonstrating that conformity assessments or third-party verification have been carried out.

8. The impartiality of a conformity assessment body or a third-party verification body, its top level management and the personnel responsible for carrying out the conformity assessment or third-party verification tasks shall be guaranteed.

   The remuneration of the top level management and the personnel responsible for carrying out the conformity assessments or third-party verificaton tasks shall not depend on the number of conformity assessments carried out or on the results of those assessments.

9. A conformity assessment body or a third-party verification body shall take out liability insurance unless liability is assumed by the state in accordance with national law in the notifying Member State, or the Member State itself is directly responsible for the conformity assessment.

10. The personnel of a conformity assessment body or a third-party verification body shall observe professional secrecy with regard to all information obtained in carrying out the conformity assessment tasks in accordance with Annex VIII**, periodical audits in accordance with Article 45a(1a),** ~~and~~ **or third-party verification in accordance with** Article 45d, except in relation to the notifying authority and national authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.

11. A conformity assessment body shall participate in, or ensure that its personnel responsible for carrying out the conformity assessment tasks is informed of, the relevant standardisation activities and the activities of the notified body coordination group established pursuant to Article 37 and shall apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

Article 26

Presumption of conformity of notified bodies

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union it shall be presumed to comply with the requirements set out in Article 25 in so far as the applicable harmonised standards cover those requirements.

Article 27

Subsidiaries of and subcontracting by notified bodies

1. Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 25 and shall inform the notifying authority accordingly.

2. A notified body shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever those are established

client. ~~The establishment and the supervision of internal procedures, general policies, codes of conduct or other internal rules, the assignment of personnel to specific tasks and the decision on certification may not be delegated to a subcontractor or a subsidiary.~~

4. A notified body shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the work carried out by them under Annex VIII **and under Articles 45a(1a) and 45d**.

Article 28

Application for notification

1. A conformity assessment body or a third-party verification body shall submit an application for notification to the notifying authority of the Member State in which it is established.

2. The application for notification shall be accompanied by a description of the conformity assessment or third-party verification body activities, of the conformity assessment module or modules set out in Annex VIII ~~and~~ **or** the procedure**s** set out in Article**s 45a(1a) and** 45d, and of the batteries for which the conformity assessment body or the third-party verification body claims to be competent, as well as by an accreditation certificate, where applicable, issued by a national accreditation body attesting that the conformity assessment body or a third-party verification body fulfils the requirements laid down in Article 25.

3. Where the conformity assessment body or a third-party verification body concerned cannot provide an accreditation certificate as referred to in paragraph 2, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 25.

Article 29

Notification procedure

1. A notifying authority may notify only conformity assessment bodies or a third-party verification body which have satisfied the requirements laid down in Article 25.

2. The notifying authority shall send a notification to the Commission and the other Member States of each conformity assessment body or a third-party verification body referred to in paragraph 1 using the electronic notification tool developed and managed by the Commission.

3. The notification shall include full details of the conformity assessment or third-party verification activities, the conformity assessment module or modules ~~and~~ **or** the procedure**s** set out in Article**s 45a(1a) and** 45d, and the batteries concerned and the relevant attestation of competence.

4. Where a notification is not based on an accreditation certificate as referred to in Article 28(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 25.

5. The conformity assessment body concerned may perform the activities of a notified body only where no objections are raised by the Commission or the other Member States within two weeks of the notification where it includes an accreditation certificate referred to in Article 28(2) or within two months of the notification where it includes documentary evidence referred to in paragraph 4. Only such conformity assessment body shall be considered as notified body for the purposes of this Regulation.

6. The notifying authority shall inform the Commission and the other Member States of any subs~~s~~equent relevant changes to the notification referred to in paragraph 2.

Article 30

Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to a notified body.

   It shall assign a single such number even where the body is notified under several Union acts.

2. The Commission shall make publicly available the list of notified bodies under this Regulation, including the identification numbers that have been assigned to them and the conformity assessment activities for which they have been notified.

The Commission shall ensure that the list is kept up to date.

Article 31

Changes to notifications

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 25 or that it is failing to fulfil its obligations the notifying authority shall restrict, suspend or withdraw the notification, as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.

2. In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying authority shall take appropriate steps to ensure that the files of that body are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 32

Challenge of the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.

2. The notifying authority shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the notified body concerned.

3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.

4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall adopt an implementing act requiring the notifying Member State to take the necessary corrective action, including withdrawal of the notification if necessary. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article74(2).

Article 33

Operational obligations of notified bodies

1. A notified body shall carry out conformity assessments in accordance with the conformity assessment procedures set out in Annex VIII**, periodical audits in accordance with Article 45a(1a)** ~~and~~ **or third-party verification in accordance with** the procedure set out in Article 45d, as determined by its scope of notificaton.

2. A notified body shall carry out procedures referred to in paragraph 1 in a proportionate manner, avoiding unnecessary burdens for economic operators, and taking due account of the size of an undertaking, the sector in which the undertaking operates, the structure of the undertaking, the degree of complexity of the battery to be assessed and the mass or serial nature of the production process.

   In so doing, the notified body shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the battery with this Regulation.

3. Where a notified body finds that the applicable requirements set out in Articles 6 to 10 and 12 to 14, in corresponding harmonised standards referred to in Article 15, common specifications referred to in Article 16 or other technical specifications have not been met ~~by a manufacturer~~, it shall require ~~that~~ **the** manufacturer or ~~the~~ **other** relevant economic operator, to take appropriate corrective action in view of a second and final conformity assessment, unless the deficiencies cannot be remedied, in which case it shall not issue the certificate of conformity or approval decision.

3a. Where a notified body finds that the requirements set out in Articles 45b or 45c have not been met by the economic operator referred to in Article 45a, it shall include these findings in the verification report referred to in Article 45d and require that economic operator to take appropriate corrective actions. It shall not issue an approval decision.

4. Where, in the course of the monitoring of conformity following the issue of an approval decision, a notified body finds that a battery or the supply chain due diligence policies no longer comply, it shall require the manufacturer **or the economic operator referred to in Article 45a, respectively,** to take appropriate corrective action and shall suspend or withdraw the approval decision, if necessary.

5. Where corrective action is not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw the approval decision, as appropriate.

Article 34

Appeal against decisions of notified bodies

Member States shall ensure that an appeal procedure against the decisions of notified bodies is available.

Article 35

Information obligation on notified bodies

1. A notified body shall inform the notifying authority of the following:

   (a) any refusal, restriction, suspension or withdrawal of a certificate of conformity or approval decision;

   (b) any circumstances affecting the scope of, or the conditions for, its notification;

   ~~(c)~~© any request for information which it has received from market surveillance authorities regarding its conformity assessment activities;

(d) on request, any conformity assessment activities performed within the scope of its notification and any other activity performed, including cross-border activities and subcontracting.

2. A notified body shall provide other notified bodies carrying out similar conformity assessment activities or third-party verification activities referred to in Article 45d covering the same batteries with relevant information on issues relating to**:**

(a) negative and, on request, positive conformity assessment **or third-party verification** results~~,~~**;** ~~or~~

(b) any suspension, or withdrawal or other restriction of an approval decision~~s that have been refused, withdrawn, suspended or otherwise restricted, and, upon request, of approval decisions issued~~.

Article 36

Exchange of experience

The Commission shall provide for the organisation of exchange of experience between the Member States' authorities responsible for notification policy.

Article 37

Coordination of notified bodies

The Commission shall ensure that appropriate coordination and cooperation between notified bodies are put in place and properly operated in the form of a sectoral group of notified bodies.

Notified bodies shall participate in the work of that group, directly or by means of designated representatives.

Chapter VI

Obligations of economic operators other than the obligations in Chapters VI.A and VII

Article 38

Obligations of manufacturers

1. When placing a battery on the market or putting it into service, including for the manufacturers' own purposes, manufacturers shall ensure that the battery:

   (a) has been designed and manufactured in accordance with the **applicable** requirements set out in Articles 6 to 10, Article 12 and Article 14, and is accompanied by **clear, understandable and readable** instructions**,** ~~and~~ safety information **and carbon footprint declaration,** provided under those articles in a language or languages, which can be easily understood by end-users, as determined by the Member State in which the battery is to be placed on the market or put into service; and

   (b) is labelled in accordance with the **applicable** requirements set out in Article 13.

2. Before placing a battery on the market or putting it into service**,** manufacturers shall draw up the technical documentation referred to in Annex VIII and carry out the relevant conformity assessment procedure~~, as applicable and~~ referred to, in ~~paragraphs 2 and 3 of~~ Article 17, or have it carried out.

3. Where compliance of a battery with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in ~~paragraphs 2 and 3 of~~ Article 17, manufacturers shall draw up an EU declaration of conformity in accordance with Article 18 and affix the CE marking in accordance with Articles 19 and 20.

[paragraph 4 deleted - duplication with Article 18]

5. Manufacturers shall keep the technical documentation referred to in Annex VIII and the EU declaration of conformity at the disposal of ~~the market surveillance authorities and~~ national authorities for 10 years after the battery has been placed on the market or put into service.

6. Manufacturers shall ensure that procedures are in place for a battery that is part of a series production to remain in conformity with this Regulation. In doing so, manufacturer shall adequately take in to account changes in the production process or in battery design or characteristics and changes in the harmonised standards referred to in article 15, common specifications referred to in Article 16 or other technical specifications by reference to which the conformity of the battery is declared or by application of which its conformity is verified.

[paragraph 7 deleted –duplication with paragraph 1(b)]

7a. Manufacturers shall ensure that batteries which they place on the market bear a model identification and batch or serial number, or product number or another element allowing their identification. Where the size or nature of the battery does not allow it, the required information shall be provided on the packaging or in a document accompanying the battery.

8. Manufacturers shall indicate on the battery their name, registered trade name or registered trade-mark, the postal address**, indicating a single contact point,** and web address ~~or~~ **and** e-mail address, **where one exist.** ~~indicating a single contact point, at which they can be contacted or, w~~**W**here that is not possible, **the required information shall be provided** on ~~its~~**the** packaging or in a document accompanying the battery. The contact details shall be in a language or languages, which can be easily understood by end-users and market surveillance authorities, as determined by the Member State in which the battery is to be placed on the market or put into service, and shall be clear, understandable and legible.

[paragraph 9 deleted – content moved to paragraph 1]

10. Manufacturers shall provide access to the data on the parameters in the battery management system referred to in paragraph 1 of Article 14 ~~and paragraphs 1 and 2 of Article 59~~, in accordance with the requirements laid down in ~~those~~ **that** Articles~~.~~

~~10a. Depending on the risks presented by a battery, manufacturers shall, to protect the human health and safety of consumers, carry out sample testing of marketed batteries, investigate, and, if necessary, keep a register of complaints, of non-conforming batteries and battery recalls, and shall keep distributors informed of such monitoring.~~

11. Manufacturers who consider or have reason to believe that a battery which they have placed on the market or put into service is not in conformity with ~~any~~ **one or more** of the applicable requirements set out in Articles 6 to 10 or 12 to 14 shall immediately take the corrective action necessary to bring that battery into conformity, to withdraw it or recall it, as appropriate. Furthermore, where the battery presents a risk, manufacturers shall immediately inform the market surveillance authority of the Member State in which they made the battery available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective action taken.

12. Manufacturers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the battery with the requirements set out in Articles 6 to 10 and 12 to 14, in a language **or languages**, which can be easily understood by that authority. That information and documentation shall be provided in ~~either paper or~~ electronic format **and, on request, in paper format**. Manufacturers shall cooperate with the national authority, at its request, on any action taken to eliminate the risks posed by a battery which they have placed on the market or put into service.

12a. Economic operators that carry out preparing for re-use, preparing for repurpose or repurposing, or re-use, which includes remanufacturing, and place on the market or put into service a battery that has undergone any of these operations, shall be considered as manufacturer for the purpose of this Regulation.

[Article 39 moved to new Chapter VI.A]

Article 40

Obligations of ~~manufacturer's~~ authorised representative

[Paragraph 1 deleted]

2. A manufacturer may, by a written mandate, designate an authorised representative. **The authorised representative's mandate shall be valid only when accepted in writing by the authorised representative.**

3. The obligations laid down in Article 38(1) and Articles 45a to 45e and the obligation to draw up technical documentation shall not form part of the authorised representative's mandate.

4. ~~A manufacturer's~~ **An** authorised representative shall perform the tasks specified in the mandate received from the manufacturer. **The authorised representative shall provide a copy of the mandate to the national authority, upon request.** The mandate shall allow the ~~manufacturer's~~ authorised representative to do at least the following:

[Point (a) deleted]

(b) keep the EU declaration of conformity, the technical documentation and the verification report and approval decision referred to in paragraph 4a of Article 45d and the audit reports referred to in paragraph 1a of Article 45a at the disposal of national authorities for 10 years after the battery has been placed on the market or put into service;

(c) further to a reasoned request from a national authority, provide that authority with all the information and ~~technical~~ documentation necessary to demonstrate the conformity of a battery with the requirements set out in Articles 6 to 10 and 12 to 14 in a language **or languages**, which can be easily understood by that authority. That information and the ~~technical~~ documentation shall be provided in ~~either paper or~~ electronic format **and, on request, in paper format**;

(d) cooperate with the national authorities, at their request, on any action taken to eliminate the risks posed by batteries covered by the authorised representative's mandate.

[Points (e) and (f) deleted]

Article 41

Obligations of importers

1. Importers shall only place on the market ~~or put into service~~ a battery which is compliant with the applicable requirements of Articles 6 to 10 and 12 to 14.

2. Before placing a battery on the market ~~or putting it into service~~, importers shall verify that:

   (a) the EU declaration of conformity and technical documentation referred to in Annex VIII have been drawn up and that ~~an appropriate~~**the relevant** conformity assessment procedure~~, as applicable and~~ referred to in ~~paragraphs 2 and 3 of~~ Article 17, has been carried out by the manufacturer;

   (b) the battery bears the CE marking referred to in Article 19, ~~that the battery~~**and** is ~~labelled~~ **marked** in accordance with Article 13 ~~and the QR code referred to in Article 13(5)~~,

   (c) the battery is accompanied by the required documents and by instructions and safety information in a language or languages, which can be easily understood by end-users, as determined by the Member State in which the battery is to be made availabe on the market; and

   (d) the manufacturer has complied with the requirements set out in Article 38**(7a) and** (8).

   Where an importer considers or has reason to believe that a battery is not in conformity with the applicable requirements set out in Articles 6 to 10 and 12 to 14, the importer shall not place the battery on the market ~~or put it into service~~ until it has been brought into conformity. Furthermore, where the battery presents a risk, the importer shall inform the manufacturer and the market surveillance **authority** ~~authorities~~ **of the Member States in which it made the battery available on the market** to that effect **giving details of the non-compliance and of any corrective action taken**.

3. Importers shall indicate on the battery their name, registered trade name or registered trade mark, the postal address**, indicating a single contact point,** and web address ~~or~~ **and** e-mail address**, where one exists.** ~~indicating a single contact point, at which they can be contacted or, w~~**W**here that is not possible, **the required information shall be provided** on ~~its~~ **the** packaging or in a document accompanying the battery. The contact details shall be in a language or languages, which can be easily understood by end-users ~~and the market surveillance authorities~~, as determined by the Member State in which the battery is to be made availabe on the market, and shall be clear, understandable and legible.

[paragraph 4 deleted –]

5. Importers shall ensure that, while a battery is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 6 to 10 and 12 to 14.

~~6. Depending on the risks presented by a battery, importers shall, to protect the human health and safety of consumers, carry out sample testing of marketed batteries, investigate, and, if necessary, keep a register of complaints, of non-conforming batteries and battery recalls, and shall keep distributors informed of such monitoring.~~

7. Importers who consider or have reason to believe that a battery, which they have placed on the market ~~or put into service~~, is not in conformity with the applicable requirements set out in Articles 6 to 10 and 12 to 14, shall immediately take the corrective action necessary to bring that battery into conformity, to withdraw it or recall it, as appropriate. Furthermore, where the battery presents a risk, importers shall immediately inform the market surveillance authority of the Member State in which they made the battery available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective action taken.

8. Importers shall**, for 10 years after the battery has been placed on the market ,** keep ~~the technical documentation referred to in Annex VIII and~~ 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.**~~market surveillance authorities for 10 years after the battery has been placed on the market or put into service~~.

9. Importers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a battery with the applicable requirements set out in Articles 6 to 10 and 12 to 14, in a language or languages, which can be easily understood by that authority. That information and **the** documentation shall be provided ~~either~~ in ~~paper or~~ electronic format **and, on request, in paper format**. Importers shall cooperate with the national authority, at its request, on any action taken to eliminate the risks posed by batteries, which they have placed on the market ~~or put into service~~.

Article 42

Obligations of distributors

1. When making a battery available on the market, distributors shall act with due care in relation to the requirements of this Regulation.

2. Before making a battery available on the market, distributors shall verify that:

   (a) for the battery there is a producer ~~or producer responsibility organisation~~ registered in the register of producers referred to in Article 46;

   (b) the battery bears the CE marking referred to in Article 19~~, that the battery~~**and** is ~~labelled~~ **marked** in accordance with Article 13 ~~and the QR code referred to in Article 13(5)~~;

(c) the battery is accompanied by the required documents and by instructions and safety information in language or languages, which can be easily understood by end-users ~~and the market surveillance authorities~~, as determined by the Member State in which the battery is to be made available on the market or put into service; and

(d) the manufacturer and the importer have complied with the requirements set out in Article 38**(7a) and** (8) and Article 41(3) respectively.

3. Where a distributor considers or has reason to believe that a battery is not in conformity with any of the applicable requirements set out in Articles 6 to 10 or 12 to 14 ~~or for the battery there is no producer or producer responsibility organisation registered in the register of producers referred to in Article 46~~, the distributor shall not make the battery available on the market until it has been brought into conformity. Furthermore, where the battery presents a risk, the distributor shall inform the manufacturer or the importer to that effect as well as the ~~relevant~~ market surveillance authorities.

4. Distributors shall ensure that, while a battery is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 6 to 10 and 12 to 14.

5. Distributors who consider or have reason to believe that a battery, which they have made available on the market, is not in conformity with any of the applicable requirements set out in Articles 6 to 10 or 12 to 14 shall make sure that the corrective action necessary to bring that battery into conformity, to withdraw it or recall it, as appropriate, are taken. Furthermore, where the battery presents a risk, distributors shall immediately inform the ~~national~~ **market surveillance** authorit**ies**~~y~~ of the Member States in which they made the battery available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective action taken.

6. Distributors shall, further to a reasoned request from a national authority provide that authority with all the information and the ~~technical~~ documentation necessary to demonstrate the conformity of a battery with the applicable requirements set out in Articles 6 to 10 and 12 to 14 in a language **or languages**, which can be easily understood by that authority. That information and the ~~technical~~ documentation shall be provided in ~~paper or~~ electronic format **and, on request, in paper format**. Distributors shall cooperate with the national authority, at its request, on any action taken to eliminate the risks posed by batteries that they have made available on the market.

Article 43

Obligations of fulfilment service providers

Fulfilment service providers shall ensure that, for batteries that they handle, the conditions during warehousing, packaging, addressing or dispatching, do not jeopardise the batteries' compliance with the requirements set out in Articles 6 to 10 and 12 to 14.

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 that importer or distributor shall be subject to the obligations of the manufacturer under Article 38, where**:**

(a) a batteryis placed on the market or put into service under that importer's or distributor's own name or trademark; or

(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 may 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.

Article 44a

Obligations of economic operators placing on the market batteries that have been subject to preparing for re-use, preparing for repurpose or repurposing

1. Economic operators placing on the market or putting into service batteries that have been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing shall ensure that the examination, performance testing, packing and shipment of those batteries, and their components that are subject to any of those operations, is carried out following adequate quality control and safety instructions.

2. Economic operators placing on the market or putting into service batteries that have been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing shall ensure that the battery that has been subject to any of those operations, complies with the requirements of this Regulation, and any relevant product, environmental and human health protection requirements in other legislation, and technical requirements for its specific purpose of use when placed on the market.

Article 45

Identification of economic operators

1. ~~Upon a request of a y or a national authority, for a period of 10 years after the placing on the market of a battery,economic operators and independent operators referred to in Article 44a shall provide information on the following~~**Economic operators shall, upon a request of a national authority, provide information on the following to the** market surveillance authorit**ies**:

(a) the identity of any economic operator that has supplied them with a battery;

(b) the identity of any economic operator to which they have supplied a battery.

2. Economic operators shall be able to provide the information referred to in paragraph 1 for 10 years after they have been supplied with the battery and for 10 years after they have supplied the battery.

Chapter VI.A
Obligations of economic operators on supply chain due diligence policies

Article 45a

Supply chain due diligence policies

~~(39)~~1. ~~As of~~**From either 1 January […]** [*36 months after the ~~start~~**date** of application of this Regulation*] **or 24 months after the publication of the guidance referred to in paragraph (39)7, whichever is later**, the economic operator that places industrial batteries and electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** on the market ~~or puts them into service~~**,** shall comply with the supply chain due diligence obligations set out in paragraphs 1a and 1b and Articles 45b**, 45c** ~~to~~**and** 45e**(1)** and shall, to that end, set up and implement supply chain due diligence policies.

1a. The economic operator referred to in paragraph 1 shall have its supply chain due diligence policies verified by a notified body ('third-party verification') in accordance with Article 45d and periodically audited by the notified body to make sure that the supply chain due diligence policies are maintained and applied in accordance with the requirements set out in Articles 45b, 45c and 45e**(1)**. The notified body shall provide the audited economic operator with an audit report.

1b. The economic operator referred to in paragraph 1 shall keep documentation demonstrating its respective compliance with the obligations set out in Articles 45b**, 45c** ~~to~~**and** 45e**(1)**, including the verification report and approval decision referred to in **Article** 45d and the audit reports referred to in paragraph 1a, for ten years after the last battery **manufactured** under the relevant supply chain due diligence policies has been placed on the market ~~or put into service~~.

~~(39)7~~**2**. By **1 January […]** [~~…~~***12*** *months after the* ~~*start*~~***date*** *of application of this Regulation*], the Commission shall publish guideline as regards the application of the due diligence requirements defined in Articles 45b and 45c ~~of this Article~~, with regard to the ~~social and environmental~~ risks referred to in Annex X, point 2, and particularly in line with the international instruments referred to in Annex X, point 3.

~~(39)8~~**3**. The Commission **shall regularly review the list of raw materials and risk categories set out in Annex X and** shall be empowered to adopt delegated acts in accordance with Article 73 to:

(a) amend the lists of raw materials in Annex X, point 1, and risk categories in Annex X, point 2, in view of scientific and technological progress in battery manufacturing and chemistries and amendments to Regulation (EU) 2017/821~~.~~**;**

(b) amend the obligations on the economic operator referred to in paragraph 1 set out in paragraphs 2 to 4 to ensure consistency with the amendments to Regulation (EU) 2017/821.

3b. Without prejudice to third subparagraph of Article 2 and to Article 6 for the purpose of this Chapter and Annex X of this Regulation 'risk' shall mean actual adverse impacts or potential adverse impacts related to the social and environmental categories laid down in point 2 of Annex X.

Article 45b

Economic operator's management system

~~(39)~~2. The economic operator referred to in Article 45a shall:

(a) adopt, and clearly communicate to suppliers and the public, a company supply chain due diligence policy for the supply chain of raw materials indicated in Annex X, point 1;

(b) incorporate in its supply chain due diligence policy standards consistent with the standards set out in the model supply chain policy in Annex II to the OECD Due Diligence Guidance **for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas**[47] **(' OECD Due Diligence Guidance')**, and take into account ~~other~~ **the** international due diligence ~~standards~~**gudelines**, such as United Nations Guiding Principles on Business and Human Rights and OECD Guidelines for Multinational Enterprises;

(c) structure its respective internal management systems to support supply chain due diligence by assigning responsibility to the most senior level of the economic operator to oversee the supply chain due diligence policy as well as maintain records of those systems for a minimum of ten years;

(d) establish and operate a system of controls and transparency over the supply chain, including a chain of custody or traceability system or the identification of upstream actors in the supply chain.

Such a system shall be supported~~, with due regard for multilateral confidentiality agreements along the supply chain,~~ by documentation that provides the following information:

[47] OECD (2016), OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition, OECD Publishing, Paris, https://doi.org/10.1787/9789264252479-en.

(i) description of the raw material, including its trade name and type;

(ii) name and address of the supplier that supplied the raw material present in the batteries to the economic operator that places on the market the batteries containing the raw material in question;

(iii) country of origin of the raw material and the market transactions from the raw material's extraction to the immediate supplier to the economic operator that places the battery on the market;

(iv) quantities of the raw material present in the battery placed on the market ~~or put into service~~, expressed in percentage or weight;

(v) ~~available~~ third-party verification reports done by a notified body and concerning the up-stream suppliers.

Third party verification reports referred to in point (v) shall be made available to the down-stream operators of the supply chain.

(e) incorporate its supply chain due diligence policy into contracts and agreements with suppliers, including risk management measures;

(f) establish a grievance mechanism as an early-warning risk-awareness system or provide such mechanism through collaborative arrangements with other economic operators or organisations, or by facilitating recourse to an external expert or body, such as an ombudsman or an OECD national contact point to the OECD Guidelines for Multinational Enterprises.

Article 45c

Risk management plan

~~(39)~~3. The economic operator referred to in Article 45a shall:

(a) identify risks in its supply chain, associated to the risk categories listed in Annex X, point 2, including as described in the OECD Due Diligence Guidance for Responsible Business Conduct, Chapter II, or in a equivalent way;

(b) identify and assess ~~the~~**any potential or actual** adverse impacts associated to the risk, referred to in point (a), in its supply chain on the basis of the information provided pursuant to Article 45b and any other relevant information that is either publicly available or provided by stakeholder~~s~~ **engagement**, against the standards of its supply chain policy;

(c) design and implement a strategy to respond to the identified risks designed so as to prevent or mitigate adverse impacts by:

(i) reporting findings of the supply chain risk assessment to the most senior level of the economic operator assigned in accordance with point (c) of Article 45b;

(ii) adopting risk management measures consistent with Annex II to the OECD Due Diligence Guidance, considering their ability to influence, and where necessary take steps to exert pressure on suppliers who can most effectively prevent or mitigate the identified risk;

(iii) designing and implementing the risk management plan, monitoring and tracking performance of risk mitigation efforts, reporting back to the most senior level of the economic operator assigned in accordance with point (c) of Article 45b, and considering suspending or discontinuing engagement with a supplier after failed attempts at mitigation, based on relevant contracts and arrangements referred to in point (e) of ~~of~~ Article 45b;

(iv) undertaking additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances.

3a. If the economic operator referred to in Article 45a pursues risk mitigation efforts while continuing trade or temporarily suspending trade, it shall consult with suppliers and with the stakeholders concerned, including local and ~~central~~ **national** government authorities, international or civil society organisations and affected third parties, ~~and agree~~**before deciding** on a strategy for measurable risk mitigation in the risk management plan referred to in point (c)(iii) **of paragraph 3**.

3b. The economic operator referred to in Article 45a shall identify and assess the probability of adverse impacts in the risk categories listed in Annex X, point 2, in its supply chain ~~based on~~**making use of** available third-party verification reports done by a notified body and concerning the suppliers in that chain, and, by assessing, as appropriate, their due diligence practices. Those verification reports shall be in accordance withArticle 45d. In the absence of such third-party verification reports concerning suppliers, or in case such third-party verification reports concerning suppliers are not in accordance with Article 45d, the economic operator referred to in Article 45a shall identify and assess the risks in its supply chain as part of its own risk management systems. In such cases, economic operators referred to in Article 45a shall carry out third party verifications of its own supply chain due diligence via a notified body in accordance with Article 45d.

3c. The economic operator referred to in Article 45a shall report the findings of the risk assessment referred to in paragraph 3b to its most senior level assigned in accordance with point (c) of Article 45b, and a strategy ~~to respond to the identified risks~~, referred to in point (c) **of paragraph 3**, shall be implemented.

Article 45d

Third-party verification of supply chain due diligence policies

[Paragraph 38(4) moved to Article 45a]

~~(39)~~4. The third-party verification by a notified body shall:

(a) include in its scope all activities, processes and systems used by economic operators to implement their supply chain due diligence requirements in accordance with Artices ~~45a,~~ 45b**, 45c** and 45e**(1)**;

(b) have as its objective the determination of conformity of the supply chain due diligence practices of economic operators placing batteries on the market with Artices ~~45a,~~ 45b**, 45c** and 45e**(1)**;

(b bis) where relevant, carry out checks on undertakings and gather information from stakeholders;

(c) make recommendations to the economic operators that place batteries on the market on how to improve their supply chain due diligence practices;

(d) respect the audit principles of independence, competence and accountability, as set out in the OECD Due Diligence Guidance.

4a. The notified body shall issue a verification report that records the activities undertaken in accordance with ~~the~~ paragraph 4 and their outcomes. Where the supply chain due diligence policies of the economic operator referred to in ~~paragraph~~ **Article** 4**5a** comply with the obligations set out in Articles ~~45a~~ **45b, 45c** and 45**e(1)**~~c~~, the notified body shall issue an approval decision.

Article 45e

Disclosure of information on supply chain due diligence policies

~~(39)5~~**1**. The economic operator referred to in Article 45a shall make available upon request to Member States' market surveillance authorities or national authorities the verification report or approval decision issued in accordance with Article 45d, the audit reports referred to in paragraph 1a of Article 45a and available evidence of compliance with a supply chain due diligence scheme recognised by the Commission in accordance with Article 45f.

~~(39)6~~**2**. The economic operator referred to in Article 45a shall make available to its immediate downstream purchasers all relevant information gained and maintained pursuant to its supply chain due diligence policies with due regard for business confidentiality and other competitive concerns.

~~6a~~**3**. The economic operator referred to in Article 45a shall on an annual basis review and make publicly available, including on the internet, report on its supply chain due diligence policies. That report shall contain the data and information on steps taken by that economic operator to comply with the requirements set out in Article**s** ~~45a~~ **45b** and 45c, including findings of significant adverse impacts in the risk categories listed in Annex X, point 2, and how they have been addressed, as well as a summary report of the third-party verifications carried out in accordance with Article 45d, including the name of the notified body, with due regard for business confidentiality and other competitive concerns.

~~6b~~**4**. Where the economic operator referred to in Article 45a can reasonably conclude that the raw materials listed in Annex X, point 1, that are present in the battery are derived only from recycled sources, it shall publicly disclose its conclusions in reasonable detail, with due regard for business confidentiality and other competitive concerns.

Article 45f

Recognition of supply chain due diligence schemes

1. Governments, industry associations and groupings of interested organisations that have developed and oversee due diligence schemes ("scheme owners") may apply to the Commission to have their supply chain due diligence schemes recognised by the Commission. The Commission shall be empowered to adopt implementing acts establishing the information requirements that the application to the Commission shall contain. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

2. Where, on the basis of the evidence and information provided pursuant to the paragraph 1, the Commission determines that the supply chain due diligence scheme referred to in paragraph 1, enables that economic operators to fulfil the requirements set out in Articles 45a to ~~45c and~~ 45e of this Regulation, it shall adopt an implementing act granting that scheme a recognition of equivalence with the requirements set out in this Regulation. The OECD ~~Secretariat~~ **Centre for Responsible Business Conduct** shall be consulted prior to the adoption of such implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

   When making a determination on the recognition of a due diligence scheme, the Commission shall take into account the diverse industry practices covered by that scheme and shall have regard to the risk-based approach and method used by that scheme to identify risks.

3. The Commission shall be empowered to adopt implementing acts setting out the criteria and the methodology according to which the Commission shall determine, in accordance with paragraph 2, whether supply chain due diligence schemes ensure that economic operators fulfil the requirements set out in Articles 45a to 45c and 45e of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3). The Commission shall also, as appropriate, periodically verify that recognised supply chain due diligence schemes continue to fulfil the criteria that led to a recognition of equivalence decision adopted pursuant to paragraph 2.

4. The owner of a supply chain due diligence scheme for which the recognition of equivalence was granted in accordance with paragraph 2 shall inform the Commission without delay of any changes or updates made to that scheme. The Commission shall assess whether such changes or updates affect the basis for the recognition of equivalence of that scheme and take appropriate action.

5. If there is evidence of repeated or significant cases where economic operators implementing a scheme recognised in accordance with paragraph 2 have failed to fulfil the requirements set out in Article 45a to ~~45c and~~ 45e of this Regulation, the Commission shall examine, in consultation with the owner of the recognised scheme, whether those cases indicate deficiencies in the scheme.

6. Where the Commission identifies a failure to comply with the requirements set out in Articles 45a to ~~45c and~~ 45e of this Regulation or deficiencies in a recognised supply chain due diligence scheme, it may grant the scheme owner an appropriate period of time to take remedial action.

7. Where the scheme owner fails or refuses to take the necessary remedial action, and where the Commission has determined that the failure or deficiencies referred to in paragraph 6 compromise the ability of the economic operator referred to in Article 45a(1) implementing a scheme to comply with the requirements set out in Articles 45a to ~~45c and~~ 45e of this Regulation or where repeated or significant cases of non-compliance by economic operators implementing a scheme are due to deficiencies in the scheme, the Commission shall adopt an implementing act withdrawing the recognition of equivalence of the scheme. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

8. The Commission shall establish and keep up-to-date a register of recognised supply chain due diligence schemes. That register shall be made publicly available on the internet.

Chapter VII

~~End-of-life m~~Management of waste batteries

Article 45g

Competent authority

1. Member States shall designate one or more competent authorities responsible for carrying out obligations arising from this Chapter and monitoring and verifying compliance of the producers and producer responsibility organisations with those requirements.

2. Member States shall lay down the details of the competent authority's or authorities' organisation and operation, including the administrative and procedural rules to ensure:

(a) the registration of producers in accordance with Article 46;

(b) the authorisation of producers and producer responsibility organisations in accordance with Article 47b;

(c) the oversight of implementation of extended producer responsibility obligations in accordance with Article 47a;

(d) the collection of data on batteries and waste batteries in accordance with Article 61;

(e) making information available in accordance with Article 62.

3. By [*3 months after the date of application of Chapter VII*], Member States shall notify the Commission of the names and addresses of the competent authorities designated pursuant to paragraph 1. Member States shall inform the Commission without undue delay of any changes to the names or addresses of those competent authorities.

Article 46

Register of producers

1. Member States shall ~~establish a~~ **ensure a** register of producers which shall serve to monitor compliance of producers with the requirements of this Chapter. ~~The register shall be managed by the competent authority~~.

2. Producers shall be obliged to register **in the register referred to in paragraph 1**. They shall to that end submit an application ~~to the competent authority of the~~ **for registration in each** Member State where they make a battery available on the market for the first time.

   Where a producer has appointed a producer responsibility organisation in accordance with Article 47**a**(2), the obligations under this article shall be met by that organisation mutatis mutandis unless otherwise specified **by the Member State**.

   The obligations under this Article may, on producer's behalf, be met by an authorised representative for the EPR.

2b. ~~In its a~~**The a**pplication for registration~~, the producer~~ shall ~~provide~~ **include** the following information ~~to the competent authority~~:

   (a) name **and brand names (if available) under which the producer operate in the Member State** and address of the producer including postal code and place, street and number, country, telephone and fax numbers, if any, ~~internet~~ **web** address and e-mail address**, indicating a single contact point**;

   (b) national identification code of the producer, including its trade register number or equivalent official registration number ~~including~~ **and the** European or national tax **identification** number;

~~(c) in the case of an authorisation in accordance with Article 47(2), the producer responsibility organisation shall, in addition to the information required under points (a) and (b), provide~~

~~(i) the name and contact details, including postal code and place, street and number, country, telephone and fax numbers, internet address and e-mail address of the producers represented;~~

~~(ii) the represented producer's mandate;~~

~~(iii) where the authorised representative represents more than one producer, separate indications of the name and the contact details of each one of the represented producers.~~

(d) the ~~type~~**category, or categories,** of batteries that the producer intends to make available on the market for the first time within the territory of a Member State, namely portable batteries, industrial batteries, **LMT batteries,** electric vehicle batteries, or ~~automotive~~**SLI** batteries;

~~(e) the brand under which the producer intends to supply the batteries in the Member State;~~

(f) information on how the producer meets its responsibilities set out in Article 47 and the requirements under Article**s** 48**, 48a** and ~~Article~~ 49**,** respectively:

(i) for portable batteries **or LMT batteries**, the requirements of this point (f) shall be met by providing:

- a ~~declaration demonstrating~~ **statement providing information on** the measures put in place by the producer to attain the producer responsibility obligations set out in Article 47, the measures put in place to meet the separate collection obligations set out in Article**s** 48(1) **or 48a(1)** with regard to the amount of batteries the producer ~~supplies~~**makes available on the market in the Member State** and the system to ensure that the data reported to the competent authorities is reliable;

- where applicable, the name and contact details, including postal code and place, street and number, country, telephone and fax numbers, ~~internet~~ **web** address and e-mail address and the national identification code of the producer responsibility organisation entrusted by the producer to fulfil its extended producer responsibility obligations in accordance with **paragraphs 2 and 4 of** Article 47**a**(2), including the trade register number or an equivalent official registration number ~~of the producer responsibility organisation including~~ **and** the European or national tax **identification** number of the producer responsibility organisation, and the represented producer's mandate;

(ii) for ~~automotive~~**SLI batteries**, industrial **batteries** and electric vehicle batteries, the requirements of this point (f) shall be met by providing:

- a ~~declaration~~ **statement** providing information on the measures put in place by the producer to attain the producer responsibility obligations set out in Article 47, the measures put in place to meet the collection obligations set out in Article 49(1) with regard to the amount of batteries the producer **makes available on the market in the Member State** ~~supplies~~ and the system to ensure that the data reported to the competent authorities is reliable;

- where applicable, **the name and contact details, including postal code and place, street and number, country, telephone and fax numbers, web address and e-mail address and** the national identification code of the producer responsibility organisation entrusted by the producer to fulfil its extended producer responsibility obligations in accordance with paragraphs 2 and 4 of Article 47, including the trade register number or an equivalent official registration number ~~of the producer responsibility organisation including~~ **and** the European or national tax **identification** number of the producer responsibility organisation, and the represented producer's mandate**.**~~;~~

~~where the producer responsibility organisation represents more than one producer, it shall indicate separately how each one of the represented producers meets the responsibilities set out in Article 47.~~

(g) a ~~declaration~~ **statement** by the producer or**, where applicable, producer's authorised representative or** the producer responsibility organisation appointed in accordance with Article 47**a**(2) stating that the information provided is true.

~~(c)~~

2c. ~~in~~ **In** the case of an authorisation in accordance with Article 47**a**(2), the producer responsibility organisation shall, in addition to the information required under ~~points (a) and (b)~~ **paragraph 2b**, provide**:**

(~~i~~**a**) the name**s** and contact details, including postal code**s** and place**s**, street**s** and number**s**, countr**ies**~~y~~, telephone**s** and fax numbers, ~~internet~~ **web** address**es** and e-mail address**es** of the producers represented;

(~~ii~~**b**) the ~~represented producer's~~ mandate **of each represented producer**;

(~~iii~~**c**) **information indicating separately how each one of the represented producers meets the responsibilities set out in Article 47 or information how the producer responsibility organisation meets the responsibilities in the case the producer responsibility organisation is appointed according to Article 47a(2)**.

2d. Without prejudice to paragraph 2b, the information laid down in point (f) of that paragraph shall be provided either in the application for the registration under paragraph 2b or in the application for authorisation under Article 47b. In the latter case, the application for registration shall include at least information on either individual or collective fulfilment of the extended producer responsibility.

2e. Member States may request additional information or documents, as necessary, to efficiently use the register referred to paragraph 1.

2f. In the case that obligations under this Article are, on producer's behalf, met by an authorised representative for the EPR that ~~where the authorised representative~~ represents more than one producer, **in addition to the information required under paragraph 2, it shall provide** separate indications of the name and the contact details of each one of the represented producers.

3. The competent authority:

(a) shall receive applications for the registration of producers referred to in paragraph 2**b** via an electronic data-processing system the details of which shall be made available on the competent authorities' website;

(b) shall grant registrations and provide a registration number within a maximum period of ~~six~~ **twelve** weeks from the moment that all the information laid down in paragraph**s** 2**, 2a and 2b** is provided;

(c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraph**s** 2**, 2a and 2b**;

(d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2.

3a. Competent authority may refuse or withdraw the producer's registration where the information outlined in paragraph 2b and related documentary evidence is not provided or is not sufficient or in case the producer no longer meets the requirements set in paragraph 2b.

4. The producer, or, where applicable, **producer's authorised representative or** the producer responsibility organisation appointed ~~in accordance with Article 47~~**a**(2) ~~-~~on behalf of the producers it represents shall without undue delay notify the competent authority of any changes to the information contained in the **application for** registration and of any permanent cessation as regards the making available on the market within the territory of the Member State of the batteries referred to in the registration in accordance with paragraph ~~1~~**2**(d).

Article 47

Extended Producer Responsibility

1. Producers of batteries shall have extended producer responsibility for batteries that they make available on the market for the first time within the territory of a Member State **that shall be in compliance with the requirements of Article 8 and Article 8a of Directive 2008/98/EC and of this Chapter.**~~to ensure the attainment of the waste management obligations set out in this Chapter. This responsibility shall include the obligation to:~~

[1a. **A producer referred to in Article 2, point (37)(iv) shall appoint an authorised representative for the EPR in each Member State it sells batteries. Such appointment shall be by written mandate.]**

~~(a) organise the separate collection of waste batteries in accordance with Article 48 and Article 49 and the subsequent transport, preparation for repurposing and remanufacturing, treatment and recycling of waste batteries, including the necessary safety measures, in accordance with Article 56;~~

~~(b) report on obligations relating to batteries made available on the market for the first time within the territory of a Member State in accordance with Article 61;~~

~~(c) promote the separate collection of batteries, including by covering the costs of carrying out surveys to identify batteries discarded inappropriately by end-users in accordance with Article 48(1);~~

~~(d) provide information including end-of-life information about batteries in accordance with Article 60;~~

~~(e) finance the activities referred to in points (a) to (d).~~

1b. The financial contributions paid by the producer shall cover the following costs for the products that the producer makes available on the market in the Member State concerned:

(a) costs of separate collection of waste batteries and their subsequent transport and treatment, taking into account any revenues from preparing for re-use or preparing for repurpose or from the value of secondary raw material from recycled waste batteries;

(b) costs of carrying out compositional survey of collected mixed municipal waste in accordance with Articles 48(12) and 48a(6);

(c) costs of providing information on prevention and management of waste batteries in accordance with Article 60;

(d) costs of data gathering and reporting to the competent authorities in accordance with Article 61.

[In case of placing on the market or putting into service of batteries that have been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing financial contributions paid by the producer referred to in points (a), (c) and (d) shall be shared in a fair and proportionate manner amongst the different producers directly involved.]

Article 47a

Producer Responsibility Organisation

2. Producers may entrust a producer responsibility organisation authorised in accordance with ~~paragraph 6~~**Article 47b** to carry out the extended producer responsibility obligations on their behalf. **Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory for selected category or categories of batteries. Such measures shall be justified on the basis of the specific charateristics of a certain category of batteries placed on the market and related waste management charateristics.**

~~3. Producers and, where appointed in accordance with paragraph 2, producer responsibility organisations acting on their behalf shall:~~

~~(a) have the necessary organisational and financial means to fulfil the extended producer responsibility obligations referred to in paragraph 1;~~

~~(b) put in place an adequate self-control mechanism, supported by regular independent audits, to regularly appraise:~~

~~(i) their financial management, including compliance with the requirements laid down in paragraph 1(e) and point (a) of this paragraph;~~

~~(ii) the quality of data collected and reported in accordance with paragraph 1(b) of this Article and with the requirements of Regulation (EC) No 1013/2006.~~

4. In the case of a collective ~~exercise~~ **fulfilment** of extended producer responsibility **obligations**, producer responsibility organisations shall ensure that the financial contributions paid to them by producers:

(a) are modulated **in accordance with the requirements laid down in point (b) of paragraph 4 of Article 8a Directive 2008/98/EC and,** as a minimum by battery ~~type~~**category** and battery chemistry and, as appropriate, taking into account the rechargeability and the level of recycled content in the manufacture of batteries;

(b) are adjusted to take account of any revenues by the producer responsibility organisations from **preparing for** reuse **or preparing for repurpose** ~~and~~ **or** from ~~sales of secondary raw materials from the batteries and waste batteries~~**the value of secondary raw materials from recycled waste batteries**;

(c) ensure equal treatment of producers regardless of their origin or size, ~~without placing a disproportionate regulatory burden on producers,~~ including small and medium sized enterprises, of small quantities of batteries.

~~5. Where, in accordance with Articles 48(2), 49(3), 53(1), 56(1), and paragraphs 1, 2 and 3 of Article 61, activities to carry out obligations referred to in points (a) to (d) of paragraph 1 are carried out by a third party other than a producer or a producer responsibility organisation, the costs to be covered by producers shall not exceed the costs that are necessary to provide those activities in a cost-efficient way. Such costs shall be established in a transparent way between the producers and the third parties concerned and adjusted to take account of any revenues from reuse and from sales of secondary raw materials from the batteries and waste batteries.~~

4a. Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, they shall ~~carry out their extended producer responsibility obligations in a coordinated manner so as to~~ ensure a coverage across the whole territory of the Member State of the activities ~~under paragraph 1(a)~~ **s in accordance with Articles 48(1), 48a(1) and 49(1)**. Member States shall entrust the competent authority or appoint an independent third party to oversee that producer responsibility organisations fulfil their obligation **in coordinated manner.** ~~to coordinate in accordance with the previous sentence.~~

[paragraph 7 deleted - …]

8. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers or their authorised representatives.

8a. In addition to the information referred to in point (e) of paragraph 3 of Article 8a of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites at least each year, subject to commercial and industrial confidentiality, the information on the rate of separate collection of waste batteries, recycling efficiencies and levels of recovered materials achieved based on the amount of batteries made available on the market for the first time in the Member State by the producers which entrusted the producer responsibility organisation.

8b. In addition to information referred to in paragraph 8a, producer responsibility organisations shall make publicly available information on the selection procedure for waste management operators referred to in Article 54a(3).

[paragraph 9 deleted – duplication with Directive 2008/98/EC which we refer to]

[paragraph 10 deleted]

[paragraph 11 deleted]

12. Where necessary to avoid distortion of the internal market, the Commission ~~is~~ **shall be** empowered to adopt an implementing act laying down criteria for the application of paragraph 4~~(a)~~. That implementing act cannot concern the a precise determination of the level of the contributions. That implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

Article 47b

Authorisation on fulfilment of extended producer responsibility

~~6~~**1**. **A producer, in the case of individual fulfilment of extended producer responsibility obligations, and** ~~P~~**p**roducer responsibility organisation~~s~~ **appointed in the case of collective fulfilment of extended producer responsibility obligations,** shall apply for an authorisation from the competent authority.

2. The authorisation shall be granted only where it is demonstrated that**:**

(a) **requirements laid down in points (a) to (d) of paragraph 3 of Article 8a of the Direcitve 2008/98/EC are complied with and** the measures put in place by the **producer or** producer responsibility organisation are sufficient to meet the obligations set out in this ~~Article~~ **Chapter** with regard to the amount of batteries made available on the market for the first time within the territory of a Member State by ~~the~~ **that producer or that** producers on whose behalf ~~it~~ **the producer responsibility organisation** acts**; and**~~.~~

(b) ~~The authorisation under paragraph 6 may be granted only~~ where it is demonstrated, by providing documentary evidence, that the requirements of paragraphs 1~~,~~ **and** 2 **of Article 48 or requirements of paragraphs 1, 2 and 4 of Article 48a** ~~and 3 of this Article~~ are met and that all the arrangements are in place to allow attaining and maintaining durably at least the collection target referred to in ~~paragraph~~ **Article 48(**4**) and Article 48a(3), respectively**.

~~The competent authority shall in regular intervals, verify whether the conditions for the authorisation laid down in paragraphs 1, 3, 4 and 5 continue to be met.~~

3. ~~The competent authorities~~**Member State** shall**, in its measures laying down administrative and procedural rules referred to in Article 45g(2)(b), include** ~~fix~~ the details of the authorisation procedure and the modalities for verifying compliance, including the information to be provided by producers **or producers responsibility organisations** to that end. **The authorisation procedure shall include requirement on the verification of the arrangements put in place to ensure compliance with the requirements laid down in paragraphs 1 and 2 of Article 48 and paragraphs 1, 2 and 4 of Article 48a, and timeframes for this verification, which shall not exceed twelve weeks from the submission of a complete application dossier. This verification may be done by an independent expert that shall issue a verification report on the result of verification.**

4. The producer or the ~~P~~**p**roducer responsibility organisation~~s~~ shall notify the competent authority without undue delay of any changes to the information contained in the application for an authorisation, of any changes that concern the terms of the authorisation ~~and~~ **or** of the permanent cessation of operations.

5. The competent authority shall review regularly, and at least every three years, whether the conditions for the authorisation continue to be met.

6. The competent autority may on its own discretion decide to revoke the relevant authorisation if collection targets set out in Article 48(4) or Article 48a(3) are not met or the producer or producer responsibility organisation no longer fulfils the requirements with regard to the organisation of the collection and treatment of waste batteries or fails in relation to reporting to the competent authority or notification of any changes that concern the terms of the authorisation, or has ceased operations.

~~Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, they shall carry out their extended producer responsibility obligations in a coordinated manner so as to ensure a coverage across the whole territory of the Member State of the activities under paragraph 1(a)~~**s** ~~. Member States shall entrust the competent authority or appoint an independent third party to oversee that producer responsibility organisations fulfil their obligation to coordinate in accordance with the previous sentence.~~

7. A producer, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility organisation~~s acting on their behalf~~**appointed in the case of collective fulfilment of extended producer responsibility**, shall provide a guarantee **intended to cover the costs incurred by the producer, or the producer responsibility organisation, in case of permanent cessation of its operations. The guarantee** ~~which~~ may take the form of a recycling insurance or a blocked bank account, or participation by the producer in a producer responsibility organisation.

8. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers or their authorised representatives.

9. Producer responsibility organisations shall publish the following information on their websites by the end of each year, subject to commercial and industrial confidentiality:

(a) ownership of the producer responsibility organisation;

(b) list of producers that have entrusted the producer responsibility organisation to carry out their extended producer responsibility obligations on their behalf;

(c) the rate of separate collection of waste batteries, the level of recycling and recycling efficiencies achieved based on the amount of batteries made available on the market for the first time in the Member State by their member producers;

(d) the financial contributions paid by their member producers per battery or per weight of batteries, indicating also fee modulation categories applied in accordance with paragraph 4(a).

10. The competent authorities shall verify compliance of producers, including those that supply batteries by means of distance contracts and, where appointed in accordance with paragraph 2, producer responsibility organisations acting on their behalf, with the obligations set out in this Article.

11. Member States shall establish a mechanism to ensure a regular dialogue between relevant stakeholders involved in the fulfilment of extended producer responsibility obligations for batteries, including producers and distributors, private or public waste operators, local authorities, civil society organisations and, where applicable, social economy actors, re-use and repair networks and preparing for re-use operators.

~~12. Where necessary to avoid distortion of the internal market, the Commission is empowered to adopt an implementing act laying down criteria for the application of paragraph 4(a). That implementing act cannot concern the a precise determination of the level of the contributions. That implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).~~

~~13. Articles 8 and 8a of Directive 2008/98/EC shall not apply to batteries.~~

Article 48

Collection of waste portable batteries

1. Producers or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations, shall ensure the collection of all waste portable batteries, regardless of their ~~nature~~**chemical composition**, brand or origin**,** in the territory of a Member State where they make batteries available on the market for the first time. For that purpose they shall:

   (a) establish waste portable battery collection points;

   (b) offer the collection of waste portable batteries, free of charge, to the entities referred to in paragraph 2(a) and provide for the collection of waste portable batteries from all entities that have made use of that offer ("connected collection points");

   (c) provide for the necessary practical arrangements for collection and transport, including the provision**,** free of charge**,** of suitable collection and transport containers meeting the requirements of Directive 2008/~~9~~**6**8/EC[48] to the connected collection points;

   (d) ensure the collection**,** free of charge**,** of the waste portable batteries collected by the connected collection points, with a frequency that is proportionate to the area covered and the volume and hazardous nature of the waste portable batteries usually collected through those collection points;

[48] **Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13)**

(da) ensure the collection, free of charge, of the waste portable batteries removed from waste electrical and electronic equipment in waste electrical and electronic equipment treatment facilities, with a frequency that is proportionate to the volume and hazardous nature of the waste portable batteries usually removed in those treatment facilities;

(e) ensure that the waste portable batteries collected from the connected collection points **and from waste electrical and electronic equipment treatment facilities** are subsequently subject to treatment and recycling in a permitted facility by a waste management operator in accordance with Article 56**.**

2. Producers or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations, shall ensure that the network of connected **waste portable battery** collection points~~.~~:

(a) consists of collection points provided by them in cooperation with:

(i) distributors in accordance with Article 50;

~~(ii) waste electrical and electronic equipment and end-of-life vehicle treatment and recycling facilities in accordance with Article 52;~~

(iii) public authorities**,** or third parties carrying out waste management on their behalf**,** in accordance with Article 53;

(iv) voluntary collection points in accordance with Article 54;~~.~~

Collection points for waste portable batteries may be also set up together with collection systems in accordance with Directive 2012/19/EC.

(b) covers the whole territory of the Member State taking into account population size, expected volume of waste portable batteries, accessibility and vicinity to end-users, not being limited to areas where the collection and subsequent management of waste portable batteries is profitable.

3. End–users, when discarding waste portable batteries at collection points referred to in paragraph 2, shall not be charged or be obliged to buy a new battery.

4. Producers or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations, shall attain, and maintain durably, at least the following collection targets of waste portable batteries, calculated as percentages of the portable batteries~~, excluding batteries from light means of transport,~~ made available on the market for the first time in a Member State by the respective producer or collectively by the producers covered by a producer responsibility organisation:

   (a) ~~45 %~~ by 31 December **[…]** ~~2023~~**[*24 months after the date of application of this Regulation*]**;

   (b) 65 % by 31 December ~~2025~~**[2028] [*84 months after the date of application of this Regulation*]**;

   (c) 70 % by 31 December **[**2030**]**.

   Producers or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations, shall calculate the collection rate referred to in this paragraph in accordance with **Part A of** Annex XI.

5. Collection points set up in accordance with paragraphs 1 and **points (i) and (iv) of** paragraph 2(a) shall not be subject to the registration or permit requirements of Directive 2008/98/EC. **Collection points mentioned in paragraph 2 may collect waste portable batteries only if they have concluded a contract with the producers or, where appointed in accordance with Article 47a(2), producer responsibility organisations.**

[paragraph 6 deleted]

~~7. The producer responsibility organisation shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers. The competent authority may in its authorisation, establish conditions to be met to that end.~~

~~8. The authorisation under paragraph 6 may be granted only where it is demonstrated, by providing documentary evidence, that the requirements of paragraphs 1, 2 and 3 of this Article are met and that all the arrangements are in place to allow attaining and maintaining durably at least the collection target referred to in paragraph 4. Where the authorisation is requested by a producer responsibility organization, it shall be obtained as part of the authorisation referred to in Article 47(6).~~

~~9. The competent authority shall establish the details of the procedure to grant the authorisation under paragraph 6 to ensure compliance with the requirements set out in paragraphs 1 to 4 and Article 56. This shall include the requirement of an independent experts' report for an ex-ante verification of the arrangements for collection under this article being made in a way to ensure compliance with the requirements under this Article. It shall also include timeframes for verification of the respective steps and the decision to be taken by the competent authority, which shall not exceed six weeks from the submission of a complete application dossier.~~

12. Every five years the Member States shall carry out a compositional survey ~~at least at NUTS 2 level~~ of collected mixed municipal waste ~~and waste electric and electronic equipment~~ streams ~~to~~ to determine the share of waste portable batteries therein. The first survey shall be carried out by 31 December **[…]** ~~2023~~**[*24 months after the date of application of this Regulation*]**. On the basis of the information obtained, the competent authorities may require~~, when granting or reviewing an authorisation under paragraphs 6 and 10~~ that the producers of portable batteries or producer responsibility organisations take corrective action to increase their network of connected collection points and carry out information campaigns in accordance with Article 60(1)~~ in proportion to the share of waste portable batteries in mixed municipal waste and waste electric and electronic equipment streams detected in the survey~~.

**[*Article 48a*

Collection of waste LMT batteries

1. Producers of LMT batteries or producer responsibility organisations, shall take back, free of charge and without an obligation on the end user to buy a new battery, nor to have bought the battery from them, all waste LMT batteries regardless of their chemical composition, brand, or origin in the territory of a Member State where they make batteries available on the market for the first time. For that purpose, they shall take back waste LMT batteries, from end-users or from collection points provided in cooperation with:

   (a) distributors of LMT batteries in accordance with Article 50(1);

   (b) waste electrical and electronic equipment treatment facilities referred to in Article 52 for the waste LMT batteries arising from their operations;

   (c) public waste management authorities, or third parties carrying out waste management on their behalf, in accordance with Article 53.

   The entities referred to in points (a), (b) and (c) of the first subparagraph may collect waste LMT batteries only if they have a contract with the producers or their producer responsibility organisations.

[2. The take back arrangements put in place in accordance with paragraph 1 shall cover the whole territory of a Member State taking into account population size and density, expected volume of waste LMT batteries, accessibility and vicinity to end-users, not being limited to areas where the collection and subsequent management of waste LMT batteries is most profitable.]**

3. [*Producers or producer responsibility organisations, shall attain, and maintain durably, at least the following collection targets of waste LMT batteries, calculated according to the methodology based […]:*

(a) […] % by […] [24 months after the date of application of this Regulation];

(b) […] % by […].

Producers or producer responsibility organisations shall calculate the collection rate referred to in this paragraph in accordance with Part B of Annex XI.]

4. Producers of LMT batteries or producer responsibility organisations, shall:

(a) provide the collection points referred to in paragraph 1 with suitable collection infrastructure for the separate collection of waste LMT batteries meeting the applicable safety requirements and cover the necessary costs incurred by those collection points in relation to the take back activities. The containers for collection and temporary storage of such waste batteries at the collection points shall be adequate to provide for the volume and hazardous nature of waste LMT batteries that are likely to be collected through those collection points;

(b) collect waste LMT batteries from the collection points referred to in paragraph 1 with a frequency that is proportionate to the storage capacity of the separate collection infrastructure and the volume and hazardous nature of waste batteries that are usually collected through those collection points;

(c) provide for the delivery of waste LMT batteries collected from end-users and from the collection points referred to in paragraph 1 to facilities for treatment and recycling in accordance with Article 56.

5. The entities referred to in points (a), (b) and (c) of paragraph 1 may hand over collected waste LMT batteries to waste management operators referred to in Article 54a(3) for treatment and recycling in accordance with Article 56. In such cases, the obligation of producers pursuant to paragraph 4(c) shall be deemed to be met.

6. In the compositional survey carried out in accordance with Article 48(12) Member States shall determine the share of waste LMT batteries in the collected mixed municipal waste. On the basis of the information obtained, the competent authorities may require that the producers of LMT batteries or producer responsibility organisations take corrective action to increase their network of connected collection points and carry out information campaigns in accordance with Article 60(1).]

Article 49

*Collection of waste ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries*

1. Producers of ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations, shall take back, free of charge and without an obligation on the end~~-~~-user to buy a new battery, nor to have bought the battery from them, all waste ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries of the respective ~~type~~ **category** that they have made available on the market for the first time in the territory of that Member State.

   For that purpose they shall ~~accept to~~ take back waste ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries from end-users, or from collection points provided in cooperation with:

   (a) distributors of ~~automotive~~**SLI batteries**, industrial **batteries** and electric vehicle batteries in accordance with Article 50(1);

   (b) waste electrical and electronic equipment and end-of-life vehicle treatment ~~and recycling~~ facilities referred to in Article 52 for the waste ~~automotive~~**SLI batteries**, industrial **batteries** and electric vehicle batteries arising from their operations;

(c) public authorities**,** or third parties carrying out waste management on their behalf**,** in accordance with Article 53.

The entities referred to in points (a) and (c) of the first subparagraph may collect waste SLI batteries, industrial batteries and electric vehicle batteries battery only if they have a contract with the producers of batteries or their producer responsibility organisations.

Where waste industrial batteries require prior dismantling at the premises of private, non-commercial users, the obligation of the producer to take back those **waste** batteries shall **not** include covering the costs of dismantling and collecting waste batteries at the premises of those users.

[2. The take back arrangements put in place in accordance with paragraph 1 shall cover the whole territory of a Member State taking into account population size and density, expected volume of waste ~~automotive~~**SLI batteries**, industrial **batteries** and electric vehicle batteries, accessibility and vicinity to end-users, not being limited to areas where the collection and subsequent management of waste ~~automotive~~**SLI batteries**, industrial **batteries** and electric vehicle batteries is most profitable.**]**

3. Producers of ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations, shall:

(a) provide the collection points referred to in paragraph 1 with suitable collection infrastructure for the separate collection of waste ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries meeting the applicable safety requirements and cover the necessary costs incurred by those collection points in relation to the take back activities. The containers ~~to collect and temporarily store~~**for collection and temporary storage of** such **waste** batteries at the collection point shall be adequate to provide for the volume and hazardous nature of waste ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries that are likely to be collected through those collection points;

(b) collect waste ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries from the collection points referred to in paragraph 1 with a frequency that is proportionate to the storage capacity of the separate collection infrastructure and the volume and hazardous nature of waste batteries that are usually collected through those collection points;

~~(c)~~© provide for the delivery of waste ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries collected from end-users and from the collection points referred to in paragraph 1 to facilities for treatment and recycling in accordance with Article 56.

4. The entities referred to in points (a), (b) and (c) of paragraph ~~3~~**1** may hand over collected waste ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries to authorised waste management operators **referred to in Article 54a(3)** for treatment and recycling in accordance with Article 56. In such cases, the obligation of producers pursuant to paragraph 3(c) shall be deemed to be met.

Article 50

Obligations of distributors

1. Distributors shall take back waste batteries from the end-user ~~at no~~**free of** charge and without an obligation **on the end-user** to buy a new battery, regardless of their chemical composition**, brand** or origin. Take back for **waste** portable batteries shall be provided at or in the immediate vicinity of their retail outlet. Take back for waste ~~automotive~~**LMT batteries, SLI** batteries, industrial batteries and electric vehicle batteries shall be provided at or in the vicinity of their retail outlet.

This obligation is limited to the ~~types~~ **categories** of waste batteries which the distributor has~~, or had,~~ as new batteries in its offer and, for **waste** portable batteries, to the quantity that non professional end-users normally discard.

2. The take back obligation laid down in paragraph 1 does not apply to waste products containing batteries. ~~It shall apply in addition to the separate collection obligation for waste appliances and end-of-life vehicles laid down in Directives 2000/53/EC and 2012/19/EU.~~

3. Distributors shall hand over waste batteries that they have taken back to the producers or producer responsibility organisations who are responsible **to ensure** ~~for~~ the collection of those batteries in accordance with Articles 48**, 48a** and 49 respectively-, or to a~~n~~ waste management operator **referred to in Article 54a(3)** with a view to their treatment and recycling in accordance with **the requirements of** Article 56.

4. The obligations under this article shall apply *mutatis mutandis* to ~~operators~~**distributors** supplying batteries by means of distance contracts to end-**-**users. Those ~~operators~~ **distributors** shall provide for a sufficient number of collection points covering the whole territory of a Member State and taking into account population size and density, expected volume of**, respectively,** waste ~~automotive~~**LMT batteries, SLI batteries**, industrial **batteries** and electric vehicle batteries,-accessibility and vicinity to end-**-**users allowing end-**-**users to return batteries.

4a. In the case of sales with delivery, distributors shall offer to take back waste LMT batteries, industrial batteries, SLI batteries and electric vehicle batteries free of charge at the point of delivery to the end-user or at a local collection point. The end-user shall be informed of the arrangements for taking back of a waste battery when ordering a battery.

4b. Online marketplaces shall only offer for sale in a Member State batteries, including those incorporated in appliances, light means of transport or vehicles, from producers registered in that Member State in accordance with Article 46.

Article 51

Obligations of end-users

1. End-users shall discard waste batteries separately from other waste streams, including from mixed municipal waste.

2. End-users shall discard waste batteries in designated separate collection points set up by or in accordance with the specific arrangements concluded with the producer or a producer responsibility organisation, in accordance with Articles 48**, 48a** and 49.

3. ~~Waste portable batteries incorporated in appliances that are readily removable by the end user without the use of professional tools shall be removed and discarded by end users in accordance with paragraph 1.~~

4. ~~Waste batteries incorporated in vehicles or appliances and that are not readily removable by the end-user, shall be discarded by the end user in accordance with the Directives 2000/53/EC and 2012/19/EU, where applicable.~~

4a. **Producers or producer responsibility organisations may set up awareness campaigns or offer incentives to encourage end-users to discard waste batteries in a manner compliant with the information to end-users on prevention and management of waste batteries in Article 60(1).**

Article 52

Obligations of treatment facilities

1. Operators of waste treatment facilities subject to Directives 2000/53/EC ~~and~~ **or** 2012/19/EU shall hand over waste batteries resulting from the treatment of end-of-life vehicles ~~and~~ **or** waste electrical and electronic equipment to the producers of the relevant **category of** batteries or, where appointed in accordance with Article 47**a**(2) ~~of this Regulation~~, producer responsibility organisations, or to waste management operators **referred to in Article 54a(3)** with a view to their treatment and recycling in accordance with the requirements of Article 56 ~~of this Regulation~~.

2. The operators of waste treatment facilities **referred to in paragraph 1** shall keep records of those transactions.

Article 53

Participation of public waste management authorities

1. Waste batteries originating from private, non-commercial **end-**users may be discarded in separate collection points set up by public waste management authorities.

2. Public waste management authorities shall hand over collected waste batteries to the producers or, where appointed in accordance with Article 47**a**(2), to producer responsibility organisations, or to waste management operators **referred to in Article 54a(3)** with a view to **their** treatment and recycling ~~of those waste batteries~~ in accordance with the requirements of Article 56**,** or carry out their treatment and recycling themselves in accordance with the requirements of Article 56.

Article 54

Participation of voluntary collection points

Voluntary ~~waste portable battery~~ collection points **for waste portable batteries** shall hand over **collected** waste portable batteries to the producers of portable batteries or third parties acting on their behalf, including producer responsibility organisations, or to waste management operators **referred to in Article 54a(3)** with a view to their treatment and recycling in accordance with the requirements of Article 56.

Article 54a

Restrictions regarding hand over of waste portable batteries

1. Member States may adopt measures restricting the possibility for distributors, operators of waste treatment facilities referred to in Article 52, public waste management authorities referred to in Article 53 and voluntary collection points referred to in Article 54 to hand over collected waste portable batteries either to producers or producer responsibility organisations, or to a waste management operator to carry out treatment and recycling in accordance with Article 56.

2. Member States may also adopt measures allowing the possibility for public waste management authorities referred to in Article 53(1) to carry out their treatment and recycling in accordance with Article 56 themselves.

3. Waste management operators referred to in Article 48a(5), Article 49(4), Article 50(3), Article 52(1), Article 53(2) and Article 54 shall be subject to a non-discriminatory selection procedure, based on transparent award criteria, by producers of the relevant batteries or, where appointed in accordance with Article 47a(2), by producer responsibility organisations.

Article 55

Collection rates for waste portable batteries

1. Member States shall achieve the following minimum collection targets for waste portable batteries~~, excluding waste batteries from light means of transport~~:

   (a) 45 % by 31 December **[…]** ~~2023~~**[*24 months after the date of application of this Regulation*]**;

   (b) 65 % by 31 December ~~2025~~**f2028] [*84 months after the date of application of this Regulation*]**;

   ~~(c)~~**©** 70 % by 31 December **[…]** ~~2030~~**[*108 months after the date of application of this Regulation*]**.

2. Member States shall calculate the collection rates set out in paragraph 1 in accordance with the methodology set out in **Part A of** Annex XI.

**[*2a. Member States shall achieve the following minimum collection targets for waste LMT batteries:*

(a) […] % by […];

(b) […] % by […].

2b. Member States shall calculate the collection rates set out in paragraph 2a in accordance with the methodology set out in Part B of Annex XI.]

3. The Commission shall, by 31 December **[…]** ~~2030~~***[108 months after the date of application of this Regulation]***, review the target laid down in paragraph 1~~(c)~~© and, as part of that review consider the setting of a collection target for batteries powering light means of transport, in the light of the evolution of the market share, as a separate target or as part of a review of the target laid down in paragra~~ph 1~~©(c) and in Article 48(4). This review may also consider introducing a calculation methodology for the calculation of the separate collection rate with a view to reflecting the quantity of waste batteries available for collection. To that end, the Commission shall submit a report to the European Parliament and the Council on the outcome of the review accompanied, if appropriate, by a legislative proposal.

4. The Commission ~~is~~ **shall be** empowered to adopt delegated acts in accordance with Article 73 to amend the methodology to calculate the collection rate for portable batteries laid down in Annex XI.

Article 56

Treatment and recycling

1. Collected waste batteries shall not be landfilled or incinerated.

2. Without prejudice to Directive 2010/75/EU, permitted facilities shall ensure that all treatment and recycling ~~processes~~ **operations** for waste batteries comply, as a minimum, with Part A of Annex XII and with best available techniques as defined in Article 3(10) of Directive 2010/75/EU.

3. ~~In addition to Article 51(3), w~~**W**here batteries are collected while still incorporated in**to an end-of-life vehicle, in a waste light mean of transport, in** a waste appliance**, a waste light mean of transport or an end-of-life vehicle**, they shall be removed from the collected waste appliance**, waste light means of transport or end-of-life vehicle** in accordance with**, where applicable,** the requirements laid down in Directive **2000/53/EC or** 2012/19/EU.

4. The Commission ~~is~~ **shall be** empowered to adopt delegated acts in accordance with Article 73 to amend the treatment and recycling requirements for waste batteries laid down in Part A of Annex XII in light of technical and scientific progress and emerging new technologies in waste management.

Article 57

*Recycling efficiencies and material**s** recovery targets*

1. All **collected** waste batteries ~~collected~~ shall enter ~~a~~ recycling ~~process~~. **Permitted facilities shall ensure that all waste batteries that are offered to that facility will be accepted for treatment.**

2. Recyclers shall ensure that ~~each~~ recycling ~~process~~ shall achieve the minimum recycling efficiencies and the levels of recovered materials laid down, respectively, in Parts B and C of Annex XII.

3. **From either 31 December […] [*24 months after the date of application of this Regulation*] or from [*date of entry into force of the implementing act referred to in 4*], whichever is later,** ~~T~~**t**he recycling efficiencies and the recovery of materials laid down in Parts B and C of Annex XII shall be calculated in accordance with the rules laid down in an implementing act adopted pursuant to paragraph 4.

4. The Commission shall, by 31 December **[…]** ~~2023~~**[*24 months after the date of application of this Regulation*]**, adopt an implementing act to establish detailed rules regarding the calculation and verification of recycling efficiencies and recovery of materials. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

5. The Commission shall be empowered to adopt delegated acts, in accordance with Article 73, to amend the ~~minimum~~ levels of recovered materials ~~for waste batteries~~ laid down in Annex XII, Parts ~~B and~~ C, in light of technical and scientific progress and emerging new technologies in waste management.

Article 58

Shipments of waste batteries

1. Treatment and recycling may be undertaken outside the Member State concerned or outside the Union, provided that the shipment of waste batteries is in compliance with Regulation (EC) No 1013/2006 and Regulation (EC) No 1418/2007.

2. Waste batteries exported out of the Union in accordance with paragraph 1 shall only count towards the fulfilment of obligations, efficiencies and targets set out in Article 56 and Article 57 if the recycler or other waste holder exporting the waste batteries for treatment and recycling can prove that the treatment **and recycling** took place in conditions that are equivalent to the requirements of this Regulation.

3. The Commission is empowered to adopt a delegated act, in accordance with Article 73, laying down detailed rules supplementing those in paragraph 2 of this Article, by laying down the criteria for the assessment of equivalent conditions.

Article 59

*~~Requirements related to the~~**Preparing for re-use**~~,~~ **and preparing for** repurpos**e**~~ing and remanufacturing~~ of industrial batteries and electric vehicle batteries*

~~1. Independent operators shall be given access to the battery management system of rechargeable industrial batteries and electric vehicle batteries with internal storage with a capacity above 2 kWh, on equal terms and conditions, for the purpose of assessing and determining the state of health and remaining lifetime of batteries, according to the parameters laid down in Annex VII.~~

~~2. Independent operators carrying out repurposing or remanufacturing operations shall be given adequate access on equal terms and conditions, to the information relevant for the handling and testing of rechargeable industrial batteries and electric vehicle batteries, or of appliances and vehicles in which such batteries are incorporated as well as of components of such batteries, appliances or vehicles, including safety aspects.~~

~~3. Operators carrying out repurposing or remanufacturing operations of batteries shall ensure that the examination, performance testing, packing and shipment of batteries and their components is carried out following adequate quality control and safety instructions~~.

~~4. Operators carrying out repurposing or remanufacturing operations of batteries shall ensure that the repurposed or remanufactured battery complies with this Regulation, relevant product, environmental and human health protection requirements in other legislation and technical requirements for its specific purpose of use when placed on the market.~~

~~A battery that has been repurposed or remanufactured shall not be subject to the obligations laid down in Article 7(1), (2) and (3), Article 8(1), (2) and (3), Article 10(1) and (2) and Article 39(1) where the economic operator placing a repurposed or remanufactured battery on the market can demonstrate that the battery, before its repurposing or remanufacturing, was placed on the market before the dates on which those obligations become applicable in accordance with those Articles.~~

5. In order to document that a waste **industrial** battery **and electric vehicle battery with a capacity above 2 kWh**, subject to **preparing for re-use or preparing for repurpose** ~~a repurposing or remanufacturing operation,~~ is no longer waste, the battery holder shall demonstrate the following upon request by a competent authority:

   (a) evidence of state of health evaluation or testing carried out in a Member State in the form of a copy of the record confirming the capability of the battery to deliver the performance relevant for its use following a **preparing for re-use or preparing for** repurpos~~e~~**e**~~ing or remanufacturing operation~~;

   (b) further use of the battery ~~that is~~**that has been** subject to **preparing for re-use or preparing for repurpose** ~~repurposing or remanufacturing~~, is documented by means of an invoice or a contract for the sale or transfer of ownership of the battery;

   (c) evidence of appropriate protection against damage during transportation, loading and unloading, including through sufficient packaging and appropriate stacking of the load.

6. Information referred to in ~~paragraph 4 and~~ point (a) of paragraph 5 shall be made available to ~~end~~ **end-**users and third parties acting on their behalf, on equal terms and conditions, as part of the ~~technical~~ documentation accompanying the ~~repurposed or remanufactured~~ battery **referred to in paragraph 5** when placed on the market or put into service.

7. The provision of information in accordance with paragraph~~s 1, 2, 5 and~~ 6 shall be without prejudice to preserving the confidentiality of commercially sensitive information in conformity with the relevant Union and national law.

8. The Commission ~~is~~ **shall, no later than 1 July […] [18 *months after the date of application of this Regulation*],** ~~empowered to~~ adopt implementing act~~s~~ establishing detailed technical **and verification** requirements that **waste industrial** batteries **or waste electric vehicle batteries with a capacity above 2 kWh** have to fulfil to cease to be waste**.** ~~and requirements for the data and the methodology for estimating the state of health of batteries. Those~~ **This** implementing act~~s~~ shall be adopted in accordance with the examination procedure referred to in Article 74(3).

Article 60

~~*End-of-life i*~~***I****nformation* ***on prevention and management of waste batteries***

1. **In addition to the information referred to in paragraph 2 of Article 8a of Directive 2008/98/EC,** ~~P~~**p**roducers or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations shall make available to end-~~-~~users and distributors the following information regarding the prevention and management of waste batteries with respect to the ~~types~~**categories** of batteries that the producers supply within the territory of a Member State:

   (a) the ~~contribution~~ **role** of end-~~-~~users **in contributing** to waste prevention, including by information on good practices concerning the use of batteries aiming at extending their use phase and the possibilities of prepar**ing**~~ation~~ for re-use **and preparing for repurpose**;

(b) the role of end- -users in contributing to the separate collection of waste batteries in accordance with their obligations under Article 51 so as to allow their treatment and recycling;

(c) the separate collection, prepar**ing**~~ation~~ for re-use**, preparing for repurposing** and recycling ~~systems~~ **operations** available for waste batteries;

(d) the necessary safety instructions to handle waste batteries, including in relation to the risks associated with, and the handling of, batteries containing lithium;

(e) the meaning of the labels and symbols ~~printed~~ **marked** on batteries **in accordance with Article 13** or **printed** on their packaging **or in the documents accompanying batteries**;

(f) the impact of substances contained in batteries on the environment and on human health **or safety of persons**, including impact due to inappropriate discarding of waste batteries such as littering or discarding as unsorted municipal waste.

This information shall be made available

(a) in regular time intervals for each model from the moment the battery model concerned is being made available on the market for the first time in a Member State as a minimum at the point of sale in a visible manner and through online marketplaces;

(b) in a language **or languages**, which can be easily understood by ~~consumers and other~~ end-users, as determined by the Member State **in which the battery is to be made available on the market**~~concerned~~.

2. Producers shall make available to distributors and operators referred to in Articles 50, 52 and 53 and other waste management operators carrying out ~~repair, remanufacturing,~~ preparing for re-use, **preparing for repurpose,** treatment and recycling ~~activities~~**,** information regarding the safety and protective measures, including on occupational safety, applicable to the storage and collection of waste batteries.

3. From the moment that a battery ~~model~~ is supplied within the territory of a Member State producers shall make available electronically, upon request, to waste management operators carrying out ~~repair, remanufacturing,~~ preparing for re-use, **preparing for repurposing,** treatment and recycling ~~activities~~, as far as it is needed by those operators to carry out those activities, the following battery ~~model~~ specific information regarding the proper and environmentally sound treatment of waste batteries:

   (a) the processes to ensure the dismantling of **light means of transport,** vehicles and appliances in a way that allows the removal of incorporated batteries;

   (b) the safety and protective measures, including on occupational safety, applicable to the storage, transport, treatment and recycling ~~processes~~ for waste batteries.

   That information shall identify the components and materials, and the location of all hazardous substances in a battery, as far as it is needed by operators carrying out ~~repair, remanufacturing,~~ preparing for re-use, **preparing for repurposing,** treatment and recycling ~~activities~~ in order to enable them to comply with the requirements of this Regulation.

   That information shall be made available in a language **or languages**, which can be easily understood by the operators mentioned in the first subparagraph, as determined by the Member State **in which the battery is to be made available on the market**~~concerned~~.

4. Distributors that supply batteries to end-users shall provide in their retail premises, in a visible manner, and through their online marketplaces**, if applicable,** the information listed in paragraph 1 and 2, and information on how the end-users may return waste batteries free of charge to the respective collection points established at retail outlets or on behalf of a marketplace. That obligation shall be limited to the ~~types~~**categories** of batteries which the distributor or retailer has~~, or had, as new batteries~~ in its offer.

~~5. The costs covered by the producer under Article 47(1)(e) shall be shown separately to the end-user at the point of sale of a new battery. The costs mentioned shall not exceed the best estimate of the actual costs incurred.~~

6. Where information is provided publicly to end-users under this Article, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.

Article 61

Reporting to the competent authorities

1. Producers of portable batteries **and producers of LMT batteries** or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations shall report to the competent authority for each calendar year the following information according to ~~the battery~~ chemistr**ies and categories of waste batteries**~~y, specifying the amounts of batteries powering light means of transport~~:

   (a) the amount of portable batteries **or LMT batteries** made available on the market for the first time in the territory of a Member State, excluding ~~any portable~~ batteries that have left the territory of that Member State in that year**,** before being sold to end-users;

   (b) the amount of waste portable batteries **or waste LMT batteries** collected in accordance with Article**s** 48 **and 48a, respectively**~~, calculated on the basis of the methodology set out in Annex XI~~;

   (c) the collection ~~target~~ **rate** reached by the producer or producer responsibility organisation acting on behalf of their members **for waste portable batteries or waste LMT batteries**;

   (d) the amount of collected waste portable batteries **or waste LMT batteries** delivered **to permitted facilities** for treatment and recycling ~~to permitted facilities~~.

   Where waste management operators other than producers or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations acting on their behalf, collect waste portable batteries **or waste LMT batteries** from distributors or other collection points for waste portable batteries, they shall report to the competent authority for each calendar year the amount of waste portable batteries **or waste LMT batteries** collected according to their chemistry ~~and specifying the amounts of batteries powering light means of transport~~.

The operators referred to in the first and second subparagraph shall report this data within ~~4~~ **6** months of the end of the reporting year for which the data are collected. The first reporting period shall concern the first full calendar year after the ~~adoption~~**entry into force** of the implementing act that establishes the format for reporting to the Commission, in accordance with Article 62(~~6~~**5**).

The competent authorities shall establish the format and procedures in accordance to which data shall be reported to them.

2. Producers of ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries or where appointed in accordance with Article 47**a**(2) producer responsibility organisations acting on their behalf, shall report to the competent authority for each calendar year the following information, according to chemistries and ~~types~~**categories** of **waste** batteries:

   (a) the amount of ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries made available on the market for the first time in a Member State, excluding batteries that have left the territory of that Member State in that year**,** before being sold to end users;

   (aa) the amount of waste industrial batteries or waste electric vehicle batteries collected and delivered to preparing for re-use or preparing for repurposing;

   (b) the amount of waste ~~automotive~~**SLI** batteries, **waste** industrial batteries ~~and~~ **or waste** electric vehicle batteries collected and delivered **to permitted facilities** for treatment and recycling ~~to permitted facilities~~.

3. Where waste management operators collect waste batteries from distributors or other waste ~~automotive~~**SLI batteries**, industrial **batteries** and electric vehicle batteries collection points or **from** end-users, they shall report to the competent authority for each calendar year the following information according to ~~their~~ chemistries and ~~types~~**categories** of **waste** batteries:

   (a) the amount of waste ~~automotive~~**SLI batteries**, **waste** industrial **batteries** and **waste** electric vehicle batteries collected;

(b) the amount of waste ~~automotive~~**SLI batteries**, **waste** industrial **batteries** and **waste** electric vehicle batteries delivered **to permitted facilities** for treatment **operation** and **for** recycling ~~to permitted facilities~~.

The operators mentioned in this paragraph shall report that data within four months ~~of~~ **after** the end of the reporting year for which the data are collected. The first reporting period shall concern the first full calendar year after the ~~adoption~~**entry into force** of the implementing act that establishes the format for reporting to the Commission in accordance with Article 62(5).

The competent authorities shall establish electronic systems through which data shall be reported to them and specify the formats to be used. Electronic systems for the reporting of information set up by the competent authorities shall be compatible and interoperable with the requirements of the information exchange system established pursuant to Article 64.

4. The data referred to in points (a) and (b) of paragraph 1 shall include batteries incorporated into vehicles and appliances, and waste batteries removed from those in accordance with Article 52.

5. Waste management operators carrying out treatment and recyclers shall report to the competent authorities for each calendar year the following information:

(a) the amount of waste batteries received for treatment and recycling;

(b) the amount of waste batteries entering recycling processes;

(c) information on recycling efficiencies and levels of recovered materials for waste batteries.

Reporting on the recycling efficiency and levels of recovered materials shall cover all individual steps of recycling and all corresponding output fractions. Where ~~a~~ recycling ~~process is~~ **operations are** carried out at more than one facility, the first recycler is responsible for collecting the information and reporting this information to the competent authorities.

Recyclers shall report the data on the recycling efficiency and levels of recovered materials to the competent authorities of the Member State where it is located and of the Member State where the batteries were collected.

Recyclers shall report this data within four months ~~of~~ **after** the end of the reporting year for which the data are collected. The first reporting period shall concern the first full calendar year after the ~~adoption~~**entry into force** of the implementing act that establishes the format for reporting to the Commission, in accordance with Article 62(~~6~~**5**).

6. Where waste holders other than those referred to in paragraph ~~4~~**5** export batteries for treatment and recycling they shall report the data on the amount of separately collected waste batteries exported for treatment and recycling and the data referred to in paragraph ~~4~~**5**(b) and (c) to the competent authorities **of the Member States where they are located and of the Member States where the waste batteries were collected** within four months ~~of~~ **after** the end of the reporting year for which the data are collected.

Article 62

Reporting to the Commission

1. Member States shall make publicly available in an aggregated format for each calendar year the following data on portable batteries, **LMT batteries,** ~~automotive~~**SLI** batteries, industrial batteries and electric vehicle batteries**,** according to battery ~~types~~**categories** and their chemistries ~~and, regarding portable batteries, identifying separately batteries powering light means of transport~~:

   (a) the amount of batteries made available on the market for the first time in a Member State, excluding batteries that have left the territory of that Member State in that year**,** before being sold to end-users;

   (b) the amount of waste batteries collected **and collection rates** in accordance with Article**s** 48**, 48a** and 49, calculated on the basis of the methodology set out in Annex XI;

   (ba) the amount of waste industrial batteries or waste electric vehicle batteries collected and delivered to preparing for re-use or preparing for repurposing collected;

(c) the values of the achieved recycling efficiencies as referred to in Annex XII, Part B, and the values of the achieved material recovery referred to in Part C of Annex XII**, regarding the batteries collected in that Member State**.

Member States shall make this data available within 18 months ~~of~~ **after** the end of the reporting year for which the data are collected. They shall make that information public electronically in the format established by the Commission in accordance with paragraph ~~6~~**5**, using easily accessible data services that are interoperable with the ~~S~~**s**ystem established pursuant to Article 64. The data shall be machine readable, sortable and searchable, respecting open standards for third party use. Member States shall notify the Commission when the data referred to in the first sub-paragraph is made available.

The first reporting period shall concern the first full calendar year after the ~~adoption~~**entry into force** of the implementing act that establishes the format for reporting **to the Commission**~~,~~ in accordance with paragraph ~~6~~**5**.

In addition to the obligations under Directives 2000/53/EC and 2012/19/EU, data referred to in points (a) and (b) of paragraph 1 shall include batteries incorporated into vehicles and appliances, and waste batteries removed from those in accordance with Article 52.

2. Reporting on the recycling efficiency and levels of recovered materials referred to in paragraph 1 shall cover all individual steps of recycling and all corresponding output fractions.

3. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That information shall be presented in the format established by the Commission in accordance with paragraph 6.

4. The Commission shall collect and review the information made available in accordance with this Article. The Commission shall publish a report assessing the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up **6 months** after the first reporting of the data by Member States and every four years thereafter.

5. The Commission shall, by 31 December **[…]** ~~2023~~**[*24 months after the date of application of this Regulation*]**, adopt implementing acts laying down the format for the data and information to be reported to the Commission, as well as ~~verification~~ **assessment** methods and operational conditions, for the purpose of paragraphs 1 and 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

~~*Article 63*~~

~~*Application of Chapter VII*~~

~~Chapter VII shall apply from 1July 2023.~~

Chapter VIII

Electronic exchange of information on LMT batteries, industrial batteries and electric vehicle batteries with a ~~nominal energy~~capacity above 2 kwh

Article 64

Electronic exchange system

1. By 1 January **[…]** [*48 months after the ~~start~~**date** of application of this Regulation*], the Commission shall set up the electronic exchange system for battery information "The European Electronic Exchange System" (hereafter: "the system").

2. The system shall contain the information and data ~~on~~ **for LMT batteries,** industrial batteries and electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except for those with exclusively external storage,** as laid down in Annex XIII. That information and data shall be sortable and searchable, respecting open standards for third party use.

3. The economic operators that place ~~an~~ **LMT batteries,** industrial batteries or ~~an~~ electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** on the market ~~or put it into service~~ shall make the information referred to in paragraph 2 available electronically in a machine readable format using interoperable and easily accessible data services in the format established in accordance with paragraph 5.

4. The Commission shall, after a review in accordance with Article 62(4), publish through the system the information referred to in Article 62(1) as well as the assessment referred to in Article 62(4).

5. The Commission shall, by 31 December **[…]** [*36 months after the ~~start~~**date** of application of this Regulation*], adopt implementing acts to establish:

   (a) the architecture of the system, based, where applicable, on the European Commission's Connecting Europe Facility principles for the eDelivery Network;

   (b) the format in which the data and information referred to in paragraph 2 shall be made available;

   (c) the rules for accessing, sharing, managing, exploring, publishing and reusing of the information and data in the system.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

Article 65

Battery passport

1. From either 1 January **[…]** [*48 months after the ~~start~~**date** of application of this Regulation*] or [~~12~~ **24** months] after ~~adoption~~**entry into force** of implemening acts referred to in paragraph 7, whichever is later, each **LMT battery,** industrial battery and electric vehicle battery with a ~~nominal energy~~**capacity** above 2 kWh placed on the market or put into service**, except those with exclusively external storage,** shall have an electronic record ("battery passport").

2. The battery passport shall be unique for each individual battery referred to in paragraph 1 and shall be ~~identified~~ **accessible** through a unique identifier that the economic operator placing the battery on the market ~~or putting it into service~~ shall attribute to it and which shall be printed or engraved on it.

3. **The economic operator that places a LMT battery, an industrial battery or an electric vehicle battery with a capacity above 2 kWh on the market, except those with exclusively external storage, shall ensure that** ~~E~~**e**ach individual battery passport ~~shall~~ consist**s** of a combination of data common to its battery model and data specific to its particular usage, providing, at least, the ~~following~~ information **set out in Part B of Annex XIII.**~~:~~

~~(a) common information on the battery model referred to in Article 64(2) and Annex XIII;~~

~~(b) information on the status of the battery, defined as 'original', [*'repurposed', 'remanufactured' or 'waste'*];~~

~~(c) information about the values for performance and durability parameters referred to in Article 10(1), when the battery is placed on the market or put into service and when it is subject to changes in its status;~~

~~(d) specific data to each individual battery, including the number of charging and discharging cycles and negative events, as well as periodically recorded information on the operating environmental conditions, including temperature, and on the state of charge.~~

The economic operator ~~that places an industrial battery or an electric vehicle battery with a nominal energy above 2 kWh on the market or put it into service~~**referred to in first subparagraph** shall ensure that the data included in the battery passport are accurate, complete and up-to-date.

4. The economic operators referred to in paragraph 3 shall make the battery passport accessible online, through electronic systems interoperable with the system established pursuant to Article 64. The information and data in the battery passport shall be sortable and searchable, respecting open standards for third party use.

[Paragraph 5 deleted]

6. ~~When the change in the status is due to repairing or repurposing activities~~**For batteries that have been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing**, the responsibility for the ~~battery~~**data** record in the battery passport shall be transferred to the economic operator that ~~is considered to~~ place**s** ~~the industrial battery or the electric vehicle~~**that** battery on the market or that puts it into service. **When there is a change in the status of a battery to a waste battery, the responsibility for the data record in the battery passport shall be transferred either to the producer or, where appointed in accordance with Article 47a(2), producer responsibility organisations acting on their behalf, or waste management operator referred to in Article 54a.**

6a. For a battery that has been subject to preparing for re-use, preparing for repurpose or repurposing, or re-use, which included remanufacturing, data record shall be considered as a new battery passport and shall include the data referred to in Part B of Annex XIII transferred from the previous battery passport or passports.

6b. A battery passport or passports shall cease to exist when a new battery passport or passports in accordance with paragraph 6a are established, or after the battery has been recycled.

6~~b~~c. The Commission shall be empowered to adopt a delegated act in accordance with Article 73 to amend or supplement the information that the battery passport shall provide in view of technical and scientific progress.

7. The Commission shall, by 31 December **[…]** [*36 months after the ~~start~~**date** of application of this Regulation*], adopt implementing acts to establish:

(a) the architecture of an open network for the data exchange needed for the battery passport, based, where applicable, on the European Commission's Connecting Europe Facility principles for the eDelivery Network;

(b) the format in which the data and information referred to in paragraph 3 shall be made available;

(b) the rules for accessing, sharing, managing, exploring, publishing and reusing of the information and data accessible through the battery passport.

~~Those implementing acts shall be adopted by [*36 months after the start of application of this Regulation*] in accordance with the examination procedure referred to in Article 74(3).~~

Chapter IX

Union market surveillance~~, control of batteries entering the Union market~~ and Union safeguard procedures

Article 66

Procedure at national level for dealing with batteries presenting a risk

1. Without prejudice to Article 19 of the Regulation (EU) 2019/1020, where the market surveillance authorities of one Member State have sufficient reason to believe that a battery covered by this Regulation presents a risk to human health or safety of persons, to property or to the environment, they shall carry out an evaluation in relation to the battery concerned covering all relevant requirements laid down in this Regulation. The relevant economic operators shall cooperate as necessary with the market surveillance authorities for that purpose.

Where, in the course of the evaluation referred to in the first subparagraph, the market surveillance authorities find that the battery does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take all appropriate corrective action, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature of the risk, to bring the battery into compliance with those requirements, to withdraw it from the market, or to recall it.

The market surveillance authorities shall inform the relevant notified body accordingly.

2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.

3. The economic operator shall ensure that all appropriate corrective action is taken in respect of all the concerned batteries that the economic operator has made available on the market throughout the Union.

4. Where the relevant economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the batteries being made available on their national market, to withdraw the battery from that market or to recall it.

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

5. The information referred to in the second subparagraph of paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant battery, the origin of that battery, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either of the following:

   (a) failure of the battery to meet any of the applicable requirements set out in Articles 6 to 10 or 12 to 14 of this Regulation;

   (b) shortcomings in the harmonised standards referred to in Article 15;

   (c) shortcomings in the common specifications referred to in Article 16.

6. Member States other than the Member State initiating the procedure under this Article shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the battery concerned, and, in the event of disagreement with the adopted national measure, of their objections.

7. Where, within three months of receipt of the information referred to in the second subparagraph of paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by market surveillance authorities, that measure shall be deemed justified.

8. Member States shall ensure that appropriate restrictive measures, such as withdrawal of the battery from the market, are taken in respect of the battery concerned without delay.

Article 67

Union safeguard procedure

1. Where, on completion of the procedure set out in Article 66(3) and (4), objections are raised against a measure taken by market surveillance authorities, or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall adopt an implementing act in the form of a decision determining whether the national measure is justified or not.

   That implementing act shall be adopted in accordance with the examination procedure referred to in Article 74(3).

2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators.

   If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant battery is withdrawn from their market, and shall inform the Commission accordingly.

   If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.

3. Where the national measure is considered justified and the non-compliance of the battery is attributed to shortcomings in the harmonised standards referred to in Article 15 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.

3a. Where the national measure is considered justified and the non-compliance of the battery is attributed to shortcomings in the common specifications referred to in Article 16, the Commission shall, without delay, adopt implementing acts amending or repealing the common specifications concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(3).

Article 68

Compliant batteries which present a risk

1. Where, having carried out an evaluation under Article 66(1), a Member State finds that although a battery is in compliance with the applicable requirements set out in Articles 6 to 10 and 12 to 14, it presents a risk to the human health or safety of persons, to the protection of property or to the environment, it shall without delay require the relevant economic operator to take all appropriate measures, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature of the risk, to ensure that the battery concerned, when made available on the market, no longer presents that risk, to withdraw the battery from the market or to recall it.

2. The economic operator shall ensure that corrective action is taken in respect of all the concerned batteries that the economic operator has made available on the market throughout the Union.

3. The Member State shall immediately inform the Commission and the other Member States. That information shall include all available details, in particular the data necessary for the identification of the batteries concerned, the origin and the supply chain of the battery, the nature of the risk involved and the nature and duration of the national measures taken.

4. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall adopt an implementing act in the form of a decision determining whether the national measure is justified or not and, where necessary, proposing appropriate measures.

5. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 74(3).

6. On duly justified imperative grounds of urgency relating to the protection of human health and safety of persons, and to the protection of property or to the environment, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 74(4).

7. The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.

Article 69

Formal non-compliance

1. Without prejudice to Article 66, where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:

   (a) the CE marking has been affixed in violation of Article 30 of Regulation (EC) No 765/2008 or of Article 20 of this Regulation;

   (b) the CE marking has not been affixed;

   (c) the identification number of the notified body, where required under Annex VIII, has been affixed in violation of Article 20 or has not been affixed;

   (d) the EU declaration of conformity has not been drawn up or has not been drawn up correctly;

   (e) the QR code referred to in Article 13(5) does not provide access to the reqired information ~~in accordance with Article 13(5)~~**set out in Part D of Annex VI**;

   ~~-~~(f) the technical documentation is not available, is not complete or contains errors;

   (g) the information referred to in Article 38(8) or Article 41(3) is absent, false or incomplete;

(ga) any of the requirements on electronical availability of information set out in Article 64(3) or Article 65 is not fulfilled;

(h) any other administrative requirement provided for in Article 38 or Article 41 is not fulfilled.

2. Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the battery being made available on the market or ensure that it is recalled or withdrawn from the market.

~~*Article 69a*~~

~~*Other non-compliance*~~

~~1. Without prejudice to Article 66, where a Member State finds that a battery is non-compliant with this Regulation or an economic operator has infringed an obligation set out in this Regulation, it shall require the relevant economic operator to put an end to the non-compliance concerned. Such non compliances shall include the following:~~

~~(i) the requirements for safe operation and use of stationary battery energy storage systems set out in Article 12 are not respected;~~

~~(j) any of the sustainability and safety requirements set out in Articles 6 to 12 in Chapter II or any of the labelling and information requirements set out in Articles 13 to 14 in Chapter III are not fulfilled;~~

~~[*(l) any of the obligations on extended producer responsibility referred to in Article […] is not fulfilled;*]~~

~~(m) any of the requirements on electronical availability of information set out in Article 64(3) is not fulfilled.~~

*Article 69~~b~~**a***

Non-compliance with supply chain due diligence obligations

1. ~~Without prejudice to Article 66, w~~**W**here a Member State finds that an economic operator has infringed an obligation on supply chain due diligence set out in Articles 45a to 45c of this Regulation, it shall require the relevant economic operator to put an end to the non-compliance concerned.

~~2. Where the operator does not put an end to the non-compliance referred to in paragraph 1, a notice of remedial action shall be issued.~~

3. Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the batter**ies**~~y~~ **made available on the market by the economic operator referred to in paragraph 1 from** being made available on the market or ensure that ~~it is~~**they are** recalled or withdrawn from the market.

Chapter X

Green public procurement

Article 70

Green public procurement

1. Contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3(1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU shall, when procuring batteries or products containing batteries in situations covered by those Directives, take account of the environmental impacts of batteries over their life cycle with a view to ensure that such impacts of the batteries procured are kept to a minimum.

2. From either 1 January **[…]** [~~*12*~~ ***60*** *months after the ~~start~~**date** of application of this Regulation*] or 12 months after ~~adoption~~**entry into force** of delegated acts referred to in paragraph 3, whichever is later, the obligation set out in paragraph 1 shall apply to any ~~contracts entered into~~ **procedure for procurement** by contracting authorities or contracting entities for the purchase of batteries or products containing batteries and shall mean that these contracting authorities and contracting entities are obliged to include **[technical specifications or award criteria]** based on Articles 7 to 10 to ensure that a product is chosen among products with significantly lower environmental impacts over their lifecycle.

3. The Commission shall, by 31 December **[…]** [*60 months after the ~~start~~**date** of application of this Regulation*], adopt delegated acts in accordance with Article 73 supplementing this Regulation by establishing minimum mandatory green public procurement criteria ~~or targets~~ based on the requirements set out in Articles 7 to 10.

[Article 71 deleted]

Chapter XI

Delegated powers and committee procedure

Article 73

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 6(2), 7(1), (2) and (3), 8(4), 9(2), 10(3), 12(2), 17(4), 45a(8), [*55(4), 56(4), 57(5), 58(3)*] and 70(3) shall be conferred on the Commission for a period of five years from [date of ~~the start of~~ application of this Regulation]. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than three months before the end of each period.

3. The delegation of power referred to in Articles 6(2), 7(1), (2) and (3), 8(4), 9(2), 10(3), 12(2), 17(4), 45a(8), [*55(4), 56(4), 57(5), 58(3)*] and 70(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 6(2), 7(1), (2) and (3), 8(4), 9(2), 10(3), 12(2), 17(4), 45a(8), [*55(4), 56(4), 57(5), 58(3)*] and 70(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 74

Committee procedure

1. The Commission shall be assisted by a committee established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

   Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Chapter XII

Amendments

Article 75

Amendments to Regulation (EU) 2019/1020

1. Regulation (EU) 2019/1020 is amended as follows:

(1) in Article 4(5), the text "(EU) 2016/425(35) and (EU) 2016/426(36)" is replaced by the following:

"(EU) 2016/425 (*), (EU) 2016/426 (**) and [(EU) […] [*year of adoption of this Regulation*]/…(***)]

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* Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC (OJ L 81, 31.3.2016, p. 51).

** Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC (OJ L 81, 31.3.2016, p. 99).

*** [*Regulation of the European Parliament and of the Council on batteries and waste batteries, amending Regulation (EU) No 2019/1020 and repealing Directive 2006/66/EC* (For the Publications Office to fill in the OJ publication details)]";

(2) in Annex I, the following point 71 is added to the list of Union harmonisation legislation:

'71. Regulation of the European Parliament and of the Council on batteries and waste batteries, amending Regulation (EU) No 2019/1020 and repealing Directive 2006/66/EC (the Publications Office to fill in the OJ publication details).

Chapter XIII
Final provisions

Article 76
Penalties

By 1 January **[…]** [*the date ~~of start~~ of application of this Regulation*] Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

Article 77

Review

1. By 31 December **[…]** [*108 months after the ~~start~~**date** of application of this Regulation*], the Commission shall draw up a report on the application of this Regulation and its impact on the environment and the functioning of the internal market.

2. Taking account of technical progress and practical experience gained in Member States, the Commission shall in its report include an evaluation on the following aspects of this Regulation:

   (a) sustainability and safety requirements set out in Chapter II;

   (b) labelling and information requirements set out in Chapter III;

   (c) supply chain due diligence requirements set out in Articles 45a to 45f;

   (d) measures regarding ~~end-of-life~~ management of **waste** batteries set out in Chapter VII and

   (e) measures regarding electronic exchange of information and battery passport set out in Chapter VIII.

Where appropriate, the report shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Regulation.

Article 78

Repeal and transitional rules

Directive 2006/66/EC is repealed with effect from 1 January **[…]** [*24 months after the ~~start~~**date** of the applicaton of this Regulation*]; however, its:

(a) Article 10(3) shall continue to apply until 31 December **[…]** [*24 months after the ~~start~~**date** of the applicaton of this Regulation*], except as regards the transmission of data to the Commission which shall continue to apply until 31 December **[…]** [*48 months after the ~~start~~**date** of application of this Regulation*];

(b) Article 12(4) and Article 12(5) shall continue to apply until 31 December **[…]** [*36 months after the ~~start~~**date** of application of this Regulation*], except as regards the transmission of data to the Commission which shall continue to apply until 31 December **[…]** [*60 months after the ~~start~~**date** of application of this Regulation*];

(c) Article 21(2) shall continue to apply until 31 December **[…]** [*60 months after the ~~start~~**date** of application of this Regulation*].

References to the repealed Directive shall be construed as references to this Regulation.

Article 79

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from 1 January **[…]** [*of the first calendar year **24 months** after the date of entry into force of this Regulation*].

2. Chapter VII shall apply form 1 January **[…]** [*24 months after the ~~start~~**date** of application of this Regulation*].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament *For the Council*

The President *The President*

ANNEX I

Restrictions on hazardous substances

Designation of the substance or group of substances	Conditions of restriction
1. Mercury CAS No. 7439-97-6 EC No. 231-106-7 and its compounds	1. Batteries, whether or not incorporated into appliances**, light means of transport or vehicles**, shall not contain more than 0,0005 % of mercury (expressed as mercury metal) by weight. 2. ~~Batteries used in vehicles to which Directive 2000/53/EC applies shall not contain more than 0,1% of mercury (expressed as mercury metal) by weight in homogeneous material.~~
2. Cadmium CAS No. 7440-43-9 EC No. 231-152-8 and its compounds	3. Portable batteries, whether or not incorporated into appliances**, light means of transport or vehicles**, shall not contain more than 0,002 % of cadmium (expressed as cadmium metal) by weight. 4. ~~The restriction set out in point 1 shall not apply to portable batteries intended for use in:~~ ~~(a) emergency and alarm systems, including emergency lighting;~~ ~~(b) medical equipment.~~ 5. Batteries used in vehicles to which Directive 2000/53/EC applies shall not

		contain more than 0,~~01~~**002** % of cadmium (expressed as cadmium metal) by weight in homogeneous material.
	6.	~~The restriction set out in point 3 does not apply to vehicles that benefit from an exemption on the basis of Annex II to Directive 2000/53/EC.~~

ANNEX II

Carbon footprint

1. Definitions

For the purposes of this Annex, the following definitions shall apply:

(a) 'Activity data' means the information associated with processes while modelling Life Cycle Inventories (LCI). The aggregated LCI results of the process chains that represent the activities of a process are each multiplied by the corresponding activity data and then combined to derive the footprint associated with that process;

(b) 'Bill of materials' means list of the raw materials, sub-assemblies, intermediate assemblies, sub-components, parts and the quantities of each needed to manufacture the product in scope of the study;

(c) 'Company-specific data' refers to directly measured or collected data from one or multiple facilities (site-specific data) that are representative for the activities of the company. It is synonymous to "primary data";

(d) 'Functional unit' means the qualitative and quantitative aspects of the function(s) and/or service(s) provided by the product being evaluated;

(e) 'Life cycle' means the consecutive and interlinked stages of a product system, from raw material acquisition or generation from natural resources to final disposal (ISO 14040:2006 or equivalent);

(f) 'Life cycle inventory (LCI)' means the combined set of exchanges of elementary, waste and product flows in a LCI dataset;

(g) 'Life cycle inventory (LCI) dataset' means a document or file with life cycle information of a specified product or other reference (e.g., site, process), covering descriptive metadata and quantitative life cycle inventory. A LCI dataset could be a unit process dataset, partially aggregated or an aggregated dataset;

(h) ‘Reference flow’ means the measure of the outputs from processes in a given product system required to fulfil the function expressed by the functional unit (based on ISO 14040:2006 or equivalent);

(i) ‘Secondary data’ means data not from a specific process within the supply-chain of the company performing a carbon footprint study. This refers to data that is not directly collected, measured, or estimated by the company, but sourced from a third party LCI database or other sources. Secondary data includes industry average data (e.g., from published production data, government statistics, and industry associations), literature studies, engineering studies and patents, and may also be based on financial data, and contain proxy data, and other generic data. Primary data that go through a horizontal aggregation step are considered as secondary data;

(j) ‘System boundary’ means the aspects included or excluded from the life cycle study.

Additionally, the harmonised rules for the calculation of the carbon footprint of batteries shall include any further definition necessary for their interpretation.

2. Scope

This Annex provides essential elements on how to calculate the carbon footprint.

The harmonised calculation rules referred to in Article 7(1) shall build on the essential elements included in this Annex, be in compliance with the latest version of the Commission Product Environmental Footprint[49] (PEF) method and relevant Product Environmental Footprint Category Rules (PEFCRs)[50] and reflect the international agreements and technical/scientific progress in the area of life cycle assessment[51].

[49] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013H0179&from=EN
[50] https://ec.europa.eu/environment/eussd/smgp/pdf/PEFCR_guidance_v6.3.pdf
[51] See https://ec.europa.eu/environment/eussd/smgp/dev_methods.htm

The calculation of the life cycle carbon footprint shall be based on the bill of material, the energy, and auxiliary materials used in a specific plant to produce a specific battery model. In particular, the electronic components (e.g. battery management units, safety units) and the cathode materials have to be accurately identified, as they may become the main contributor for the battery carbon footprint.

3. Functional unit and reference flow

The functional unit is further defined as one kWh (kilowatt-hour) of the total energy provided over the service life by the battery system, measured in kWh. The total energy is obtained from the number of cycles multiplied by the amount of delivered energy over each cycle.

The reference flow is the amount of product needed to fulfil the defined function and shall be measured in kg of battery per kWh of the total energy required by the application over its service life. All quantitative input and output data collected by the manufacturer to quantify the carbon footprint shall be calculated in relation to this reference flow.

4. System boundary

The following life cycle stages and processes shall be included in the system boundary:

Life cycle stage	Short description of the processes included
Raw material acquisition and pre-processing	Includes mining and pre-processing, up to the manufacturing of battery cells and batteries components (active materials, separator, electrolyte, casings, active and passive battery components), and electric/electronics components.
Main product production	Assembly of battery cells and assembly of batteries with the battery cells and the electric/electronic components
Distribution	Transport to the point of sale
End of life and recycling	Collection, dismantling and recycling

The following processes shall be excluded:

- Manufacturing of equipment for batteries assembly and recycling, as impacts have been calculated as negligible in the PEFCRs for high specific energy rechargeable batteries for mobile applications;

- Battery assembly process with the original equipment manufacturer (OEM) system components. It mainly corresponds to mechanical assembly, and it is included inside the OEM equipment or vehicle assembly line. The specific energy or material consumption for this process are negligible when compared to the manufacturing process of OEM components.

The use phase should be excluded from the lifecycle carbon footprint calculations, as not being under the direct influence of manufacturers unless it is demonstrated that choices made by battery manufacturers at the design stage can make a non-negligible contribution to this impact.

5. Use of company specific and secondary datasets

Due to the high number of battery components and the complexity of the processes, the economic operator shall limit, where justified, the use of company specific data to process and component analysis to the battery-specific parts.

In particular, all activity data related to the battery's anode, cathode, electrolyte, separator and cell-casing shall refer to a specific battery model produced in a specific production plant (i.e., no default activity data shall be used). The battery-specific activity data shall be used in combination with the relevant Product Environmental Footprint compliant secondary datasets.

As the carbon footprint declaration shall be specific to a model battery produced in a defined production site, sampling of data collected from different plants producing the same battery model should not be allowed.

A change in the bill of materials or energy mix used to produce a battery model requires a new calculation of the carbon footprint for that battery model.

The harmonised rules to be elaborated via a delegated act referred to in Article 7(1) shall include detailed modelling of the following lifecycle stages:

- Raw material acquisition and pre-processing stage;
- Production stage;
- Distribution;
- Own electricity production **and the use of guarantees of origin issued under Article 14(10) of Directive 2012/27/EU**;
- End of life stage.

6. Carbon footprint impact assessment

The carbon footprint of the battery shall be calculated using the "climate change" life cycle impact assessment method recommended in the 2019 Joint Research Centre (JRC) report available at https://eplca.jrc.ec.europa.eu/permalink/PEF_method.pdf.

The results shall be provided as characterised results (without normalisation and weighting). The list of characterization factors to be used is available at

https://eplca.jrc.ec.europa.eu/EnvironmentalFootprint.html.

7. Offsets

Offsets are calculated relative to a baseline that represents a hypothetical scenario for what emissions would have been in the absence of the mitigation project that generates the offsets.

Offsets shall not be included in the carbon footprint declaration, but may be reported separately as additional environmental information and used for communication purposes.

8. Carbon footprint performance classes

Depending on the distribution of the values of the batteries' carbon footprint declarations placed on the market, a meaningful number of classes of performance will be identified, with category A being the best class with the lowest carbon footprint life cycle impact, to allow for market differentiation of **LMT batteries,** industrial batteries and electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,**.

The identification of the threshold for each class of performance, as well as their width, will be based on the distribution of performances of the **LMT batteries,** industrial batteries and electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** placed on the market ~~or put into service, respectively,~~ in the previous 3 years, the expected technological improvements, and other technical factors to be identified.

9. Maximum carbon thresholds

Based on the information collected through the carbon footprint declarations of **LMT batteries,** industrial batteries and electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** and the relative distribution of the carbon footprint performance classes of their battery models placed on the market ~~or put into service~~, and taking into account the scientific and technical progress in the field, the Commission will identify maximum lifecycle carbon footprint thresholds for **LMT batteries,** electric vehicle **batteries** and industrial batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage**, further to a dedicated impact assessment to determine those values.

In proposing maximum carbon footprint thresholds referred to in first subparagraph, the Commission will take into account the relative distribution of the carbon footprint values of the **LMT batteries,** industrial batteries and electric vehicle batteries with a ~~nominal energy~~**capacity** above 2 kWh**, except those with exclusively external storage,** on the market, the extent of progress in the reduction of carbon footprint of batteries placed on the Union market and the effective and potential contribution of this measure to the Union's objectives on sustainable mobility and climate neutrality by 2050.

ANNEX III

Electrochemical performance and durability parameters for portable batteries of general use

1. Battery capacity, electric charge which a battery can deliver under a specific set of conditions.

2. Minimum average duration, minimum average time on discharge when used in specific applications, depending on the ~~type~~**category** of battery.

3. Delayed discharge performance, the relative decrease of the minimum average duration, with the initially measured capacity as the reference point, after a defined period of time and specific conditions.

4. Endurance in cycles (for rechargeable batteries), the capacity of the battery after a pre-established number of charge and discharge cycles.

5. Resistance to leakage, i.e. resistance to unplanned escape of electrolyte, gas or other material (poor, good or excellent).

ANNEX IV

Electrochemical performance and durability requirements for ~~light means of transport~~LMT batteries, industrial batteries and electric vehicle batteries with a ~~nominal energy~~capacity above 2 kWh

Part A

Parameters related to the electrochemical performance and durability

1. Rated capacity (in Ah) and capacity fade (in %).

2. Power (in W) and power fade (in %).

3. Internal resistance (in □) and internal resistance increase (in %).

4. Energy round trip efficiency and its fade (in %).

5. An indication of their expected life-time under the conditions for which they have been designed.

'*Rated capacity*' means the total number of ampere-hours (Ah) that can be withdrawn from a fully charged battery under specific conditions.

'*Capacity fade*' means the decrease over time and upon usage in the amount of charge that a battery can deliver at the rated voltage, with respect to the original measured capacity.

'Power' means the amount of energy that a battery is capable to provide over a given period of time.

'Power fade' means the decrease over time and upon usage in the amount of power that a battery can deliver at the rated voltage.

'*Internal resistance*' means the opposition to the flow of current within a cell or a battery, that is, the sum of electronic resistance and ionic resistance to the contribution to total effective resistance including inductive/capacitive properties.

'*Energy round trip efficiency*' means the ratio of the net energy delivered by a battery during a discharge test to the total energy required to restore the initial State of Charge by a standard charge.

Part B

Elements for explanation of the measurements made for parameters listed in Part A

1. Applied discharge rate and charge rate.

2. Ratio between maximum allowed battery power (W) and battery energy (Wh).

3. Depth of discharge in the cycle-life test.

4. Power capability at 80% and 20% state of charge.

5. Any calculations performed with the measured parameters, if applicable.

ANNEX V

Safety parameters

7. Thermal shock and cycling

This test shall be designed to evaluate changes in the integrity of the battery arising from expansion and contraction of cell components upon exposure to extreme and sudden changes in temperature and potential consequences of such changes. During a thermal shock the battery shall be exposed to two temperature limits and held at each temperature limit for a specified period of time.

8. External short circuit protection

This test shall evaluate the safety performance of a battery when applying an external short circuit. The test can evaluate the activation of the overcurrent protection device or the ability of cells to withstand the current without reaching a hazardous situation (e.g. thermal runaway, explosion, fire). The main risk factors are heat generation at cell level and electrical arcing which may damage circuitry or may lead to reduced isolation resistance.

9. Overcharge protection

This test shall evaluate the safety performance of a battery in overcharge situations. The main safety risks during overcharge are the decomposition of the electrolyte, cathode and anode breakdown, exothermic decomposition of the solid electrolyte interphase (SEI) layer, separator degradation, and the Lithium plating, which can lead to self-heating of the battery and thermal runaway. The factors affecting the outcome of the test shall include, at least, the charging rate and the finally reached state-of-charge (SOC). The protection can be ensured by either voltage control (interruption after reaching the limit charging voltage) or current control (interruption after exceeding maximum charging current).

10. Over-discharge protection

This test shall evaluate the safety performance of a battery in over-discharge situations. Safety risks during over-discharge include polarity reversal leading to oxidation of the anode current collector (Copper) and to plating on the cathode side. Even minor over-discharge may cause dendrite formation and finally short circuit.

11. Over-temperature protection

This test shall evaluate the effect of temperature control failure or failure of other protection features against internal overheating during operation.

12. Thermal propagation

This test shall evaluate the safety performance of a battery in thermal propagation situations. A thermal runaway in one cell can cause a cascading reaction through the entire battery which can be composed of numerous cells. It can lead to severe consequences including a significant gas release. The test shall take into account the tests under development for transport applications by ISO and UN GTR.

13. Mechanical damage by external forces (~~drop and~~ impact)

These tests shall simulate one or more situations in which a battery ~~accidentally drops or~~ is **accidentally** impacted by a heavy load and remains operational for the purpose for which it was designed. The criteria to simulate these situations should reflect real life uses.

14. Internal short circuit

This test shall evaluate the safety performance of a battery in internal short-circuit situations The occurrence of internal short circuits, one of the main concerns for battery manufacturers, potentially leads to venting, thermal runaway, along with sparking which can ignite the electrolyte vapours escaping from the cell. The generation of these internal shorts can be triggered by manufacturing imperfections, presence of impurities in the cells or dendritic growth of lithium, and leads to most of in-field safety incidents. Multiple internal short circuits scenarios are possible (e.g. electrical contact of cathode/anode, aluminium current collector/copper current collector, aluminium current collector /anode) each with a different contact resistance.

15. Thermal abuse

During this test, the battery shall exposed to elevated temperatures (in IEC 62619 this is 85 °C) which can trigger exothermal decomposition reactions and lead to a thermal runaway of the cell.

16. Fire test

The risk of explosion shall be assessed by exposing the battery to fire.

Proper considerations to the risk of toxic gases emitted from non-aqueous electrolytes should be made for all safety parameters listed in points 1 to 10.

ANNEX VI

Labelling, marking and information requirements

Part A

General information about batteries

Information on the label of batteries:

1. the manufacturer's **identification in accordance with Article 38(8)** ~~name, registered trade name or trade mark~~;

2. the battery **type and its identification in accordance with Article 38(7a)** ~~type and batch or serial number of the battery or other element allowing its unequivocal identification~~;

~~3. battery model identifier;~~

4. manufacturing place (geographical location of a battery manufacturing facility)**;**

4a. ~~and~~ **manufacturing** date (month and year);

5. weight;

5a. capacity;

6. chemistry;

~~7. hazardous substances contained in the battery other than mercury, cadmium or lead;~~

~~8. critical raw materials contained in the battery;~~

9. usable extinguishing agent.

Part B

Symbol for separate collection of batteries

The symbol shall cover at least 3 % of the area of the largest side of the battery, except in the case of cylindrical battery cells, where the symbol shall cover at least 1,5 % of the surface area of the battery.

The size of the symbol marking the battery shall not be smaller than 0,5 × 0,5 cm and shall not be bigger than 5 × 5 cm.

The size of the symbol printed on the packaging and on the documentation accompanying the battery shall not be smaller than 1 × 1 cm.

Part C

QR code and unique identifier

The QR code **an unique idenfier** shall be of a high colour contrast and of a size that is easily readable by a commonly available ~~QR~~ reader, such as those integrated in hand-held communication devices.

Part D (new)

Information about batteries, accessible electronically through QR code

From the dates, specified in the table, QR code shall provide access to the following information about batteries of the respective category:

	PORTABLE BATTERIES	**SLI BATTERIES**	**LMT BATTERIES**	**EV BATTERIES**	**INDUSTRIAL BATTERIES**
General information about batteries laid down in Annex VI, Part A	**From […]** **[*From 60 months after the date of application of the Regulation*]**	**From […]** **[*From 60 months after the date of application of the Regulation*]**	**From […]** **[*From 60 months after the date of application of the Regulation*]**	**From […]** **[*From 60 months after the date of application of the Regulation*]**	**From […]** **[*From 60 months after the date of application of the Regulation*]**

	PORTABLE BATTERIES	**SLI BATTERIES**	**LMT BATTERIES**	**EV BATTERIES**	**INDUSTRIAL BATTERIES**
Capacity referred to in Article 13(2)	**From […] for rechargeable portable batteries** **[*From 60 months after the date of application of the Regulation*]**	**From […]** **[*From 60 months after the date of application of the Regulation*]**	/	/	/
Minimum average duration referred to in Article 13(2a)	**From […] for non-rechargeable portable batteries** **[*From 60 months after the date of application of the Regulation*]**	/	/	/	/
Symbol 'separate collection' referred to in Article 13(3) and in accordance with Annex VI, Part B	**From […]** **[*From 12 months after the date of application of the Regulation*]**	**From […]** **[*From 12 months after the date of application of the Regulation*]**	**From […]** **[*From 12 months after the date of application of the Regulation*]**	**From […]** **[*From 12 months after the date of application of the Regulation*]**	**From […]** **[*From 12 months after the date of application of the Regulation*]**

	PORTABLE BATTERIES	SLI BATTERIES	LMT BATTERIES	EV BATTERIES	INDUSTRIAL BATTERIES
Hg, Cd, Pb symbol referred to in Article 13(4)	From […] [*From 12 months after the date of application of the Regulation*]	From […] [*From 12 months after the date of application of the Regulation*]	From […] [*From 12 months after the date of application of the Regulation*]	From […] [*From 12 months after the date of application of the Regulation*]	From […] [*From 12 months after the date of application of the Regulation*]
Carbon footprint declaration in accordance with Article 7(1)	/	/	From […] for LMT batteries above 2 kWh [*From 30 months after the date of application of the Regulation*]	From […] for EV batteries above 2 kWh [*From 30 months after the date of application of the Regulation*]	From […] for IND batteries above 2 kWh [*From 30 months after the date of application of the Regulation*]
Carbon footprint performance class in accordance with Article 7(2)	/	/	From […] for LMT batteries above 2 kWh [*From 48 months after the date of application of the Regulation*]	From […] for EV batteries above 2 kWh [*From 48 months after the date of application of the Regulation*]	From […] for IND batteries above 2 kWh [*From 48 months after the date of application of the Regulation*]
Share of, respectively, Co, Pb, Li, Ni recovered from waste in accordance with Article 8	/	From […] for SLI batteries above 2 kWh [*From 60 months after the date of application of the Regulation*]	From […] for LMT batteries above 2 kWh [*From 60 months after the date of application of the Regulation*]	From […] for EV batteries above 2 kWh [*From 60 months after the date of application of the Regulation*]	From […] for IND batteries above 2 kWh [*From 60 months after the date of application of the Regulation*]

	PORTABLE BATTERIES	**SLI BATTERIES**	**LMT BATTERIES**	**EV BATTERIES**	**INDUSTRIAL BATTERIES**
EU declaration of conformity referred to in Article 18	**From […]** **[*From 12 months after the date of application of the Regulation*]**	**From […]** **[*From 12 months after the date of application of the Regulation*]**	**From […]** **[*From 12 months after the date of application of the Regulation*]**	**From […]** **[*From 12 months after the date of application of the Regulation*]**	**From […]** **[*From 12 months after the date of application of the Regulation*]**
Report on supply chain due diligence policies in accordance with Article 45e(6a)	**/**	**/**	**From […]for LMT batteries above 2 kWh** **[*From 36 months after the date of application of the Regulation*]**	**From […] for EV batteries above 2 kWh** **[*From 36 months after the date of application of the Regulation*]**	**From […] for IND batteries above 2 kWh** **[*From 36 months after the date of application of the Regulation*]**
Information regarding the prevention and management of waste batteries laid down in Article 60(1) points (a) to (f)	**From […]** **[*From 24 months after the date of application of the Regulation*]**	**From […]** **[*From 24 months after the date of application of the Regulation*]**	**From […]** **[*From 24 months after the date of application of the Regulation*]**	**From […]** **[*From 24 months after the date of application of the Regulation*]**	**From […]** **[*From 24 months after the date of application of the Regulation*]**
Change of status of the battery in accordance with Article 65(3)(b), if relevant	**/**	**/**	**/**	***when relevant***	***when relevant***

ANNEX VII

Parameters for determining the state of health and expected lifetime of industrial batteries, LMT batteries and electric vehicle batteries with a capacity above 2 kWh

Parameters for determining the state of health of **LMT batteries, industrial** batteries **and electric vehicle batteries with a capacity above 2 kWh**:

1. Remaining capacity;

2. Overall capacity fade;

3. Remaining power capability and power fade;

4. Remaining round trip efficiency;

5. Actual cooling demand;

6. Evolution of self-discharging rates;

7. Ohmic resistance and/or electrochemical impedance.

Parameters for determining the expected lifetime of batteries:

1. The dates of manufacturing of the battery or, if applicable, the date of putting into service;

2. Energy throughput;

3. Capacity throughput~~;~~.

4. **Tracking of harmful events, such as number of deep discharge events, time spent in extreme temperatures, time spent charging during extreme temperatures;**

5. Number of full charge-discharge cycles.

ANNEX VIII

Conformity assessment procedures

Part A

MODULE A - INTERNAL PRODUCTION CONTROL

1. Description of the module

Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 4 **of this Module**, and ensures and declares on his sole responsibility**, without prejudice to the responsibilities of other economic operators in accordance with this Regulation,** that the batteries concerned satisfy the requirements set out in Articles 6, **7, 8,** 9, 10, 12, 13 and 14 that apply to them.

2. Technical documentation

The manufacturer shall draw up the technical documentation. The documentation shall make it possible to assess the battery's conformity with the relevant requirements referred to in point 1, and shall include an adequate analysis and assessment of the risk(s).

The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the battery. The technical documentation shall contain, where applicable, at least the following elements:

(a) a general description of the battery and its intended use;

(a) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc;

(b) descriptions and explanations necessary for the understanding of the drawings and schemes referred to in point (b) and the operation of the battery;

(c-a) a specimen of the labelling required in accordance with Article 13;

(d) a list harmonised standards, common specifications or other relevant technical specifisations which includes:

(i) a list of the harmonised standards referred to in Article 15, applied in full or in part, incuding an indication of which parts have been applied;

(ii) a list of the common specifications referred to in Article 16, applied in full or in part, incuding an indication of which parts have been applied;

(iii) a list of other relevant technical specifications used for measurement or calculation purposes;

[Point (iv) moved to points (i) and (ii)]

(v) where the harmonised standards referred to in point (i) and the common specifications referred to in point (ii) have not been applied or are not available, a description of the solutions adopted to meet the applicable requirements referred to in point 1 or to verify the compliance of batteries with those requirements;

(d-a) results of design calculations made, examinations carried out, technical or documentary evidence used, etc.; and

(e) test reports.

3. Manufacturing

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure compliance of the manufactured batteries with the technical documentation referred to in point 2 and with the applicable requirements referred to in point 1.

4. CE marking and EU declaration of conformity

The manufacturer shall affix the CE marking to each individual battery that satisfies the applicable requirements referred to in point 1, or, where that is not possible or not warranted due to the nature of the battery, to the packaging and the documents accompanying the battery.

The manufacturer shall draw up an EU declaration of conformity for each battery model in accordance with Article 18 and keep it together with the technical documentation at the disposal of the national authorities for ten years after the last battery belonging to the respective battery model has been placed on the market ~~or put into service~~. **The EU declaration of conformity shall identify the battery model for which it has been drawn up.**

A copy of the EU declaration of conformity shall be made available to the national authorities ~~of the Member States~~ upon request.

5. Manufacturer's Authorised representative

The manufacturer's obligations set out in point 4 may be fulfilled by the manufacturer's authorised representative, on its behalf and under the manufacturer's responsibility, provided that they are specified in the mandate.

Part B

[MODULE 1A replaced with MODULE D1]

MODULE D1 - QUALITY ASSURANCE OF THE PRODUCTION PROCESS

1. Description of the module

Quality assurance of the production process is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 4 and 7 **of this module**, and ensures and declares on his sole responsibility**, without prejudice to the responsibilities of other economic operators in accordance with this Regulation,** that the batteries concerned satisfy the **applicable** requirements set out in Articles 7 and 8**, or, at the choice of the manufacturer, all applicable requirement set out in Articles 6 to 10 and 12 to 14** ~~that apply to them~~.

2. Technical documentation

The manufacturer shall establish the technical documentation. The **technical** documentation shall make it possible to assess the battery's conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s).

The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the battery. The technical documentation shall, where applicable, contain at least the following elements:

(a) a general description of the battery and its intended use,

(b) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,

(c) descriptions and explanations necessary for the understanding of the drawings and schemes referred to in point (b) and the operation of the battery,

(d) a specimen of the labelling required in accordance with Article 13,

(e) a list of the harmonised standards referred to in Article 15 and/or the common specifications referred to in Article 16, applied, and, in the event of partly applied harmonised standards and/or common specifications, an indication of which parts have been applied,

(f) a list of other relevant technical specifications used for measurement or calculation purposes and descriptions of the solutions adopted to meet the applicable requirements referred to in point 1 or to verify the compliance of batteries with those requirements, where harmonised standards and/or common specifications have not been applied or are not available,

(g) results of design calculations made, examinations carried out, technical or documentary evidence used, etc.,

(h) a study supporting the carbon footprint values referred to in Article 7(1) and the carbon footprint class referred to in Article 7(2), containing the calculations made in accordance with the methodology set out in the delegated act adopted by the Commission pursuant to point (a) of Article 7(1) and the evidence and information determining the input data for those calculations,

(i) a study supporting the recycled content share referred to in Article 8, containing the calculations made in accordance with the methodology set out in the delegated act adopted by the Commission pursuant to second subparagraph of Article 8(1) and the evidence and information determining the input data for those calculations;

(j) test reports.

3. Availability of technical documentation

The manufacturer shall keep the technical documentation at the disposal of the national authorities for 10 years after the battery has been placed on the market.

4. Manufacturing

The manufacturer shall operate an approved quality system for production, final product inspection and testing of the batteries concerned as specified in point 5, and shall be subject to surveillance as specified in point 6.

5. Quality system

5.1. The manufacturer shall lodge an application for assessment of his quality system with the notified body of his choice, for the batteries concerned.

The application shall include:

(a) the name and address of the manufacturer and, if the application is lodged by the manufacturer's authorised representative, his name and address as well,

(b) a written declaration that the same application has not been lodged with any other notified body,

(c) all relevant information for the battery ~~type~~**category** envisaged,

(d) the documentation concerning the quality system referred to in point 5.2,

(e) the technical documentation referred to in point 2.

5.2. The quality system shall ensure compliance of the batteries with the requirements referred to in point 1 that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation shall permit a consistent interpretation of the quality programmes, plans, manuals and records.

It shall, in particular, contain an adequate description of:

(a) the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product quality,

(b) the procedures for documenting and monitoring the parameters and data necessary for calculating and updating the recycled content share referred to in Article 8 and, where applicable, the carbon footprint values and class referred to in Article 7,

(c) the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,

(d) the examinations, calculations, measurements and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,

(e) the quality records, such as inspection reports and calculation, measurement and test data, calibration data, qualification reports on the personnel concerned, etc.,

(f) the means of monitoring the achievement of the required product quality and the effective operation of the quality system.

5.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 5.2.

It shall presume conformity with those requirements in respect of the elements of the quality system that comply with the corresponding specifications of the relevant harmonised standard.

In addition to experience in quality management systems, the auditing team shall have at least one member with experience of evaluation in the relevant product field and product technology concerned, and knowledge of the applicable requirements referred to in point 1. The audit shall include an assessment visit to the manufacturer's premises. The auditing team shall review the technical documentation referred to in point 2 in order to verify the manufacturer's ability to identify the applicable requirements referred to in point 1 and to carry out the necessary examinations, calculations, measurements and tests with a view to ensuring compliance of the battery with those requirements. The auditing team shall check the reliability of data used for the calculation of the recycled content share referred to in Article 8 and, where applicable, the carbon footprint values and class referred to in Article 7 as well as the proper implementation of the relevant calculation methodology.

The decision of the notified body shall be notified to the manufacturer. The notification shall contain the conclusions of the audit and the reasoned assessment decision.

5.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to maintain it so that it remains adequate and efficient.

5.5. The manufacturer shall keep the notified body that has approved the quality system informed of any intended change to the quality system.

The notified body shall evaluate any proposed changes and decide whether the modified quality system will continue to satisfy the requirements referred to in point 5.2 or whether reassessment is necessary.

The notified body shall notify the manufacturer of its decision. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

6. Surveillance under the responsibility of the notified body

6.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

6.2. The manufacturer shall, for assessment purposes, allow the notified body access to the manufacture, inspection, testing and storage sites and shall provide it with all necessary information, in particular:

(a) the quality system documentation referred to in point 5.2,

(b) the technical documentation referred to in point 2,

(c) the quality records, such as inspection reports and calculation, measurement and test data, calibration data, qualification reports on the personnel concerned, etc.

6.3. The notified body shall carry out periodic audits ~~at least once a year~~ to make sure that the manufacturer maintains and applies the quality system and shall provide the manufacturer with an audit report. During such audits the notified body shall check at least the reliability of data used for the calculation of the recycled content share referred to in Article 8 and, where applicable, the carbon footprint values and class referred to in Article 7 as well as the proper implementation of the relevant calculation methodology.

6.4. In addition, the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may, if necessary, carry out examinations, calculations, measurements and tests, or have them carried out, in order to verify that the quality system is functioning correctly. The notified body shall provide the manufacturer with a visit report and, if tests have been carried out, with a test report.

7. CE marking and EU declaration of conformity

7.1. The manufacturer shall affix the CE marking, and, under the responsibility of the notified body referred to in point 5.1, the latter's identification number to each individual battery that satisfies the applicable requirements referred to in point 1, or, where that is not possible or not warranted due to the nature of the battery, to the packaging and the documents accompanying the battery.

7.2. The manufacturer shall draw up an EU declaration of conformity for each battery model in accordance with Article 18 and keep it at the disposal of the national authorities for 10 years after the last battery belonging to the respective battery model has been placed on the market. The EU declaration of conformity shall identify the battery model for which it has been drawn up.

A copy of the EU declaration of conformity shall be made available to the national authorities upon request.

8. Availability of quality system documentation

The manufacturer shall, for a period of 10 years after the battery has been placed on the market, keep at the disposal of the national authorities:

(a) the quality system documentation referred to in point 5.2,

(b) the change referred to in point 5.5, as approved,

(c) the decisions and reports of the notified body referred to in points 5.5, 6.3 and 6.4.

9. Information obligations of the notified body

Each notified body shall inform its notifying authority of quality system approvals issued or withdrawn, and shall, periodically or upon request, make available to its notifying authority the list of quality system approvals refused, suspended or otherwise restricted.

Each notified body shall inform the other notified bodies of quality system approvals which it has refused, withdrawn, suspended or otherwise restricted, and, upon request, of quality system approvals which it has issued.

10. Manufacturer's Authorised representative

The manufacturer's obligations set out in points 3, 5.1, 5.5, 7 and 8 may be fulfilled by the manufacturer's authorised representative, on the manufacturer's behalf and under the manufacturer's responsibility, provided that they are specified in the mandate.

Part C

MODULE G - CONFORMITY BASED ON UNIT VERIFICATION

1. Description of the module

Conformity based on unit verification is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 5 **of this module**, and ensures and declares on his sole responsibility**, without prejudice to the responsibilities of other economic operators in accordance with this Regulation,** that the battery concerned, which has been subject to the provisions of point 4, is in conformity with the **applicable** requirements **set out in Articles 7 and 8, or, at the choice of the manufacturer, all applicable requirements** set out in Articles 6 to 10 and 12 to 14 ~~that apply to it~~.

2. Technical documentation

2.1. The manufacturer shall establish the technical documentation and make it available to the notified body referred to in point 4. The **technical** documentation shall make it possible to assess the battery's conformity with the relevant requirements and shall include an adequate analysis and assessment of the risk(s).

The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the battery. The technical documentation shall, where applicable, contain at least the following elements:

(a) a general description of the battery and its intended use,

(b) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,

(c) descriptions and explanations necessary for the understanding of the drawings and schemes referred to in point (b) and the operation of the battery,

(d) a specimen of the labelling required in accordance with Article 13,

(e) a list of the harmonised standards referred to in Article 15 and/or the common specifications referred to in Article 16 applied, and, in the event of partly applied harmonised standards and/or common specifications, an indication of which parts have been applied,

(f) a list of other relevant technical specifications used for measurement or calculation purposes and descriptions of the solutions adopted to meet the applicable requirements referred to in point 1 or to verify the compliance of batteries with those requirements, where harmonised standards and/or common specifications have not been applied or are not available,

(g) results of design calculations made, examinations carried out, technical or documentary evidence used, etc.,

(h) a study supporting the carbon footprint values and class referred to in Article 7, containing the calculations made in accordance with the methodology set out in the delegated act adopted by the Commission pursuant to point (a) of the third subparagraph of Article 7(1) and the evidence and information determining the input data for those calculations,

(i) a study supporting the recycled content share referred to in Article 8, containing the calculations made in accordance with the methodology set out in the delegated act adopted by the Commission pursuant to second subparagraph of Article 8(1) and the evidence and information determining the input data for those calculations;

(j) test reports.

2.2. The manufacturer shall keep the technical documentation at the disposal of the national authorities for 10 years after the battery has been placed on the market.

3. Manufacturing

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure conformity of the manufactured battery with the applicable requirements referred to in point 1.

4. Verification

4.1. A notified body chosen by the manufacturer shall carry out appropriate examinations, calculations, measurements and tests, set out in the relevant harmonised standards referred to in Article 15 and/or common specifications referred to in Article 16, or equivalent tests, to check the conformity of the battery with the applicable requirements referred to in point 1, or have them carried out. In the absence of such a harmonised standard and/or common specification the notified body concerned shall decide on the appropriate examinations, calculations, measurements and tests to be carried out.

The notified body shall issue a certificate of conformity in respect of the examinations, calculations, measurements and tests carried out and shall affix its identification number to the approved battery, or have it affixed under its responsibility.

4.2. The manufacturer shall keep the certificates of conformity at the disposal of the national authorities for 10 years after the battery has been placed on the market.

5. CE marking and EU declaration of conformity

5.1. The manufacturer shall affix the CE marking and, under the responsibility of the notified body referred to in point 4, the latter's identification number to each battery that satisfies the applicable requirements referred to in point 1, or, where that is not possible or not warranted due to the nature of the battery, to the packaging and the documents accompanying the battery.

5.2. The manufacturer shall draw up an EU declaration of conformity in accordance with Article 18 for each battery and keep it at the disposal of the national authorities for 10 years after the battery has been placed on the market. The EU declaration of conformity shall identify the battery for which it has been drawn up.

A copy of the EU declaration of conformity shall be made available to the national authorities upon request.

6. Manufacturer's authorised representative

The manufacturer's obligations set out in points 2.2, 4.2 and 5 may be fulfilled by the manufacturer's authorised representative, on the manufacturer's behalf and under the manufacturer's responsibility, provided that they are specified in the mandate.

ANNEX IX

EU Declaration of conformity No* …

1. Battery model (product, ~~type~~**category**~~,~~ **and** batch or serial number):

2. Name and address of the manufacturer and, where applicable, ~~his~~ **its** authorised representative~~.~~**:**

3. This declaration of conformity is issued under the sole responsibility of the manufacturer.

4. Object of the declaration (identification of the battery allowing traceability): description of the battery.

5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation: … (reference to the other Union acts applied).

6. References to the relevant harmonised standards or the common specifications used or references to the other technical specifications in relation to which conformity is declared:

7. The notified body … (name, address, number) … performed … (description of intervention) … and issued the certificate(s): … (details, including its date, and, where appropriate, information on the duration and conditions of its validity).

8. Additional information

Signed for and on behalf of:

(place and date of issue):

(name, function) (signature)

* (~~unique~~ identification **number** of the declaration)

ANNEX X

List of raw materials and risk categories

1. Raw materials:

   (a) cobalt;

   (b) natural graphite;

   (c) lithium;

   (d) nickel;

   (e) chemical compounds based on the raw materials listed in points (a) to (fd) which are necessary for the manufacturing of the active materials of batteries.

2. Social and environmental risk categories:

   (a) environment, **considering induced, indirect and cumulative environmental pollution,** incuding but not limited to:

      (i) air, including but not limited to air pollution**, including greenhouse gas emissions**;

      (ii) water, including seabed and marine environment and including but not limited to water pollution, **water use,** water quantities (flooding or draughts) and access to water;

      (iii) soil, including but not limited to soil ~~contamination~~**pollution**, soil erosion**, land use** and land degradation;

      (iv) biodiversity, including but not limited to damage to habitats, wildlife, flora and ecosystem**s, including ecosystem** services;

      (v) hazardous substances;

(vi) noise and vibration;

(vii) plant safety;

(viii) energy use;

(ix) waste and residues;

(b) labour rights and industrial relations, including but not limited to:

(i) occupational health and safety,

(ii) child labour,

(iii) forced labour,

(iv) discrimination,

(v) trade union freedoms;

(c) human rights recognised in international law;

(d) community life**;**

(e) access to information, public participation in decision-making and access to justice in environmental matters.

3. The international instruments covering the risks referred to in point 2 include:

(a-a) UN Guiding Principles on Business and Human Rights;

(a-b) OECD Guidelines for Multinational Enterprises;

(a) Ten Principles of the United Nations Global Compact;

(b) UNEP Guidelines for Social Life Cycle Assessment of Products;

(c) Convention on Biological Diversity Decision COP VIII/28- Voluntary guidelines on Biodiversity-Inclusive impact assessment;

(d) ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;

(e-a) Eight fundamental ILO Conventions,

(e-b) ILO Declaration on Fundamental Principles and Rights at Work;

(e-c) The International Bill of Human Rights, including the international covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights;

(e) OECD Due Diligence Guidance for Responsible Business Conduct; and

(f) OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas;

(g) The International Bill of Human Rights, including the international covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

ANNEX XI

Calculation of collection rates of waste batteries

Part A

Calculation of collection rates of waste portable batteries

1. Producers or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations acting on their behalf, and Member States shall calculate the collection rate as the percentage obtained by dividing the weight of waste portable batteries ~~excluding waste batteries from light means of transport~~, collected in accordance with Article 48 and Article 55, respectively, in a given calendar year in a Member State by the average weight of such batteries that producers either sell directly to end-users or deliver to third parties in order to sell them to end-users in that Member State during that year and the preceding two calendar years.

2. Producers or, where appointed in accordance with Article 47**a**(2), producer responsibility organisations acting on their behalf, and Member States shall calculate the annual sales of portable batteries~~, excluding batteries from light means of transport,~~ to end-users in a given year, as the weight of such batteries made available on the market for the first time within the territory of the Member State in the year concerned, excluding any portable batteries that have left the territory of that Member State in that year**,** before being sold to the end-users.

3. For each battery, only the first time it is made available on the market in a Member State shall be counted.

4. The calculation provided for in points ~~2~~**1** and ~~3~~**2** shall be based on collected data or statistically significant estimates based on collected data.

Part B

Calculation of collection rates of waste LMT batteries

[…]

ANNEX XII

Treatment and recycling requirements

Part A

Treatment requirements

1. Treatment shall, as a minimum, include removal of all fluids and acids.

2. Treatment and any storage, including temporary storage, at treatment **and recycling** facilities shall take place in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers.

3. Waste batteries in treatment **and recycling** facilities shall be stored in such a way that waste batteries are not mixed with waste from conductive or combustible materials.

4. Special precautions and safety measures shall be in place for the treatment of waste lithium based batteries ~~that shall be protected from exposure to excessive heat, water, or any crushing or physical damage~~ during handling, sorting and storage. ~~that~~ **Such measures** shall ~~be~~ **include** protect**ion**~~ed~~ from exposure to**:**

   (a) excessive heat **(such as high temperatures, fire or direct sunlight)**,

   (b) water **(stored in dry place, protected from precipitation and flooding)**,

   (c) ~~or~~ any crushing or physical damage.

   They shall be stored in their normally installed orientation (never inverted) in well-ventilated areas and covered with a high voltage rubber isolation. Storage facilities of waste lithium based batteries shall be marked with a warning sign.

4a. Mercury shall be separated during treatment and recycling into an identifiable stream, which is given a safe destination and cannot cause adverse effects on hu-mans or the environment.

Part B

Minimum ~~R~~recycling efficiencies

1. No later than 1 January **[…]** [36 months after the ~~start~~**date** of application of this Regulation], recycling ~~processes~~ shall achieve the following minimum recycling efficiencies:

   (a) recycling of 75 % by average weight of lead-acid batteries;

   (b) recycling of 65 % by average weight of lithium-based batteries;

   (b) recycling of 50 % by average weight of other waste batteries.

2. No later than 1 January **[…]** [96 months after the ~~start~~**date** of application of this Regulation], recycling ~~processes~~ shall achieve the following minimum recycling efficiencies:

   (a) recycling of 80 % by average weight of lead-acid batteries;

   (b) recycling of 70 % by average weight of lithium-based batteries.

Part C

Levels of recovered materials

1. No later than 1 January **[…]** [48 months after the ~~start~~**date** of application of this Regulation], all recycling ~~processes~~ shall achieve the following levels of materials recovery:

   (a) 90 % for cobalt;

   (b) 90 % for copper;

   (c) 90 % for lead;

   (d) 35 % for lithium;

   (e) 90 % for nickel.

2. No later than 1 January **[…]** [96 months after the ~~start~~**date** of application of this Regulation], all recycling ~~processes~~ shall achieve the following levels of materials recovery:

(a) 95 % for cobalt;

(b) 95 % for copper;

(c) 95 % for lead;

(d) 70 % for lithium;

(e) 95 % for nickel.

ANNEX XIII

European Electronic Exchange System and Battery Passport

Part A

Information to be stored in the System

Information and data shall be treated in accordance with Commission Decision (EU, Euratom) 2015/443[52]. The specific cyber-security arrangements of Commission Decision (EU, Euratom) 2017/46[53] and its implementing rules shall apply. The confidentiality level shall reflect the consequential harm that may result from disclosure of the data to unauthorised persons.

1. PUBLICLY ACCESSIBLE PART OF THE SYSTEM

Information to be stored and made available in the publicly accessible part of the system by the economic operator that places a battery on the market **are at least the following**:

(a) **Information about LMT batteries, electric vehicle batteries and industrial batteries with a capacity above 2 kWh, specified in Part D of Annex VI;**

(b) Material composition of the battery, including its chemistry, hazardous substances contained in the battery other than mercury, cadmium or lead, and critical raw materials contained in the battery;

~~Battery manufacturer, including manufacturer's name, registered trade name or trade mark;~~

~~(b) Battery type;~~

~~(c) General description of the model, sufficient for it to be unequivocally and easily identified;~~

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52 Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission
(OJ L 72, 17.3.2015, p. 41)

53 Commission Decision (EU, Euratom) 2017/46 of 10 January 2017 on the security of communication and information systems in the European Commission (OJ L 6, 11.1.2017, p. 40)

~~(d) Manufacturing place (geographical location of a battery manufacturing facility) and date (month and year);~~

~~(e) Material composition of the battery, including critical raw materials~~;

~~(f) Carbon footprint information referred to in Articles 7(1) and 7(2);~~

~~(g) Information on responsible sourcing as indicated in the report on its supply chain due diligence policies referred to in Article 45f(6a);~~

~~(h) Recycled content information as indicated in the implementing acts referred to Article 8(1);~~

(i) Rated capacity (in Ah);

(j) Minimal, nominal and maximum voltage, with temperature ranges when relevant;

[(k) Original power capability (in Watts) and limits, with temperature range when relevant ;

(l) Expected battery lifetime expressed in cycles, and reference test used ;

(m) Capacity threshold for exhaustion (only for electric vehicle batteries);

(n) Temperature range the battery can withstand when not in use (reference test);

(o) Period for which the commercial warranty for the calendar life applies;

(p) Initial round trip energy efficiency and at 50% of cycle-life;

(q) Internal battery cell and pack resistance;

(r) C-rate of relevant cycle-life test;**]**

~~(s) Weight of the battery pack.~~

2. REQUIREMENTS FOR THE PART OF THE SYSTEM ACCESSIBLE ONLY TO ~~ACCREDITED~~ ECONOMIC OPERATORS AND THE COMMISSION

The part of the system that shall be accessible**, as relevant,** only to **economic operators** ~~accredited~~ ~~*[repairers, independent operators carrying out repurposing or remanufacturing operations]*~~ ~~second-life operators~~ and recyclers shall contain **at least the following**:

(a) ~~Detailed c~~**C**omposition, including materials used in the cathode, anode and electrolyte;

(b) Part numbers for components and contact details of sources for replacement spares;

(c) Dismantling information, including at least:

– Exploded diagrams of the battery system/pack showing the location of battery cells,

– Disassembly sequences,

– Type and number of fastening techniques to be unlocked,

– Tools required for disassembly,

– Warnings if risk of damaging parts exist,

– Amount of cells used and layout;

(c) Safety measures.

3. REQUIREMENTS FOR THE PART OF THE SYSTEM ACCESSIBLE ONLY TO NOTIFIED BODIES, MARKET SURVEILLANCE AUTHORITIES AND THE COMMISSION

(a) Results of tests reports proving compliance with the requirements laid out in this Regulation, and its implementing or delegated measures.

Part B

Information to be accessible in Battery Passport

1. INFORMATION ABOUT THE BATTERY, COMMON TO ITS BATTERY MODEL

(a) Information about batteries specified in Point 1 of Part A;

2. SPECIFIC INFORMATION AND DATA ABOUT THE INDIVIDUAL BATTERY

(a) information about the values for performance and durability parameters referred to in Article 10(1), when the battery is placed on the market and when it is subject to changes in its status;

(b) information on the status of the battery, defined as [‘original’, ‘repurposed’, ‘reused’], or ‘waste’;

(c) information and data as a result of its use, including the number of charging and discharging cycles and negative events, such as accidents, as well as periodically recorded information on the operating environmental conditions, including temperature, and on the state of charge;