



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 21 December 2004**

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**INFORMATION NOTE**

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from: General Secretariat  
to: Delegations

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Subject: Proposal for a Directive of the European Parliament and of the Council on  
**batteries and accumulators** and waste batteries and accumulators  
– Political agreement

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The Annex to this note contains a revised draft of the above-mentioned Directive reflecting the global compromise package on which the Council reached political agreement on 20 December 2004. The General Secretariat will circulate a draft text for the recitals shortly.

Proposal for a  
**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**on batteries and accumulators and waste batteries and accumulators**  
**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof, and Article 95(1) thereof in relation to Articles 4, 5 and 18,

Having regard to the proposal from the Commission, \*

Having regard to the opinion of the European Economic and Social Committee, \*\*

Having regard to the opinion of the Committee of Regions, \*\*\*

Acting in accordance with the procedure laid down in Article 251 of the Treaty, \*\*\*\*

Whereas:

[*Recitals omitted.*]

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\* OJ C 96, 21.4.2004, p. 29.

\*\* Adopted on 3 May 2004 (not yet published in the Official Journal).

\*\*\* Adopted on 22 April 2004 (not yet published in the Official Journal).

\*\*\*\* Opinion of the European Parliament of 20 April 2004 (not yet published in the Official Journal), common position of the Council of ... (OJ C ..... ) and Decision of the European Parliament of ... (OJ C .....).

HAVE ADOPTED THIS DIRECTIVE:

**CHAPTER I**  
**SUBJECT-MATTER, SCOPE AND DEFINITIONS**

Article 1

Subject-matter

This Directive establishes:

- 1) rules regarding the placing on the market of batteries and accumulators; and
- 2) specific rules for the collection, treatment, recycling and disposal of waste batteries and accumulators to supplement relevant Community legislation on waste.

Article 2

Scope

1. This Directive shall apply to all types of batteries and accumulators, regardless of their shape, volume, weight, material composition or use. It shall apply without prejudice to Directive 2000/53/EC on end-of life vehicles and Directive 2002/96/EC on waste electrical and electronic equipment.
2. This Directive shall not apply to batteries and accumulators used in:
  - (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;
  - (b) equipment designed to be sent into space.

Article 3  
Definitions

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

- 1) “battery or accumulator” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or consisting of one or more secondary battery cells (rechargeable);
- 2) “battery pack” means any set of batteries or accumulators that are connected together and/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;
- 3) “portable battery or accumulator” means any battery or accumulator that:
  - (a) is sealed, and
  - (b) can be hand-carried, and
  - (c) is neither an industrial battery or accumulator nor an automotive battery or accumulator;
- 4) “button cell” means any small round portable battery or accumulator whose diameter is greater than its height and which is used for special purposes such as hearing aids, watches, small portable equipment and back-up power;
- 5) “automotive battery or accumulator” means any battery or accumulator used for automotive starter, lighting or ignition power;
- 6) “industrial battery or accumulator” means any battery or accumulator designed for exclusively industrial or professional uses or used in any type of electric vehicle;

- 7) “waste battery or accumulator” means any battery or accumulator which is waste within the meaning of Article 1(a) of Directive 75/442/EEC;
- 8) “recycling” means the reprocessing in a production process of waste materials for their original purpose or for other purposes, but excluding energy recovery;
- 9) “disposal” means any of the applicable operations provided for in Annex IIA to Directive 75/442/EEC;
- 10) “treatment” means any activity carried out on waste batteries and accumulators after they have been handed over to a facility for sorting, preparation for recycling or preparation for disposal;
- 11) “appliance” means any electrical or electronic equipment, as defined by Directive 2002/96/EC, which is fully or partly powered by batteries or accumulators or is capable of being so;
- 12) “producer” means any person in a Member State that, irrespective of the selling technique used, including by means of distance communication according to Directive 97/7/EC on the protection of consumers in respect of distance contracts \* places batteries or accumulators, including those incorporated into appliances or vehicles, on the market within the territory of that Member State for the first time on a professional basis;
- 13) “distributor” means any person that provides batteries and accumulators on a professional basis to an end-user;
- 14) “placing on the market” means supplying or making available, whether in return for payment or free of charge, to a third party within the Community and includes import into the customs territory of the Community;

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\* OJ L 144, 4.6.1997, p. 19.

- 15) “economic operators” means producers, distributors, collectors, recyclers and other treatment operators;
- 16) “cordless power tool” means any hand held appliance powered by a battery or accumulator and intended for maintenance, construction or gardening activities.

**CHAPTER II**  
**PRODUCT REQUIREMENTS**

Article 4  
Prohibitions

1. Without prejudice to Directive 2000/53/EC, Member States shall prohibit the placing on the market of:
  - (a) all batteries or accumulators, whether or not incorporated into appliances, that contain more than 0.0005% of mercury by weight; and
  - (b) portable batteries or accumulators, including those incorporated into appliances, that contain more than 0.002% of cadmium by weight.
2. The prohibition set out in paragraph 1(a) shall not apply to button cells with a mercury content of no more than 2% by weight.
3. The prohibition set out in paragraph 1(b) shall not apply to portable batteries and accumulators intended for use in:
  - (a) emergency and alarm systems, including emergency lighting;
  - (b) medical equipment; or
  - (c) cordless power tools.
4. The Commission shall review the exemption referred to in paragraph 3(c) and submit a report to the Council and to the European Parliament within four years of entry into force of this Directive, together, if appropriate, with relevant proposals, with a view to the prohibition of cadmium in batteries and accumulators.

**CHAPTER III**  
**PLACING ON THE MARKET**

Article 5

Placing on the market

1. Member States shall not, on the grounds dealt with in this Directive, impede, prohibit, or restrict the placing on the market in their territory of batteries and accumulators that meet the requirements of this Directive.
  
2. Member States shall take necessary measures to ensure that batteries or accumulators that do not meet the requirements of this Directive are not placed on the market or are withdrawn from it.

## CHAPTER IV COLLECTION

### Article 6

#### Overarching objective

Member States shall endeavour to maximise the separate collection of waste batteries and accumulators, having regard to the environmental impact of transport, and to minimise the disposal of batteries and accumulators as unsorted municipal waste.

### Article 7

#### Collection schemes

1. Member States shall ensure that appropriate collection schemes are in place for waste portable batteries and accumulators. Such schemes:
  - (a) shall enable end-users to discard waste portable batteries or accumulators at an accessible place in their vicinity, having regard to population density;
  - (b) shall not involve any charge to end-users when discarding waste portable batteries or accumulators, nor any obligation to buy a new battery or accumulator;
  - (c) may be run in conjunction with the schemes referred to in Article 5(2) of Directive 2002/96/EC.

Article 10 of Directive 75/442/EEC shall not apply to collection points set up to comply with point (a).

2. Provided that the schemes meet the criteria listed in paragraph 1, Member States may:
  - (a) require producers to set up such schemes;
  - (b) require other economic operators to participate in such schemes;
  - (c) maintain existing schemes.
3. Member States shall ensure that producers of industrial batteries and accumulators, or third parties acting on their behalf, shall not refuse to take back waste industrial batteries and accumulators from end-users, regardless of chemical composition and origin. Independent third parties may also collect industrial batteries and accumulators.
4. Member States shall ensure that producers of automotive batteries and accumulators, or third parties, set up schemes for the collection of waste automotive batteries and accumulators from end-users or from an accessible place in their vicinity, whenever collection does not take place under the schemes referred to in Article 5(1) of Directive 2000/53/EC. In the case of automotive batteries and accumulators from private, non-commercial vehicles, such schemes shall not involve any charge to end users when discarding waste batteries or accumulators, nor any obligation to buy a new battery or accumulator.

#### Article 8

#### Economic instruments

Member States may use economic instruments to promote the collection of waste batteries and accumulators or to promote the use of batteries containing less polluting substances, for instance by adopting differential tax rates or deposit systems. If they do so, they shall notify the measures related to the implementation of those instruments to the Commission.

## Article 9

### Collection targets

1. For the purposes of this Article, the "collection rate" for a given Member State in a given calendar year shall mean the percentage obtained by dividing the weight of waste portable batteries and accumulators collected in accordance with Article 7(1) in that calendar year by the average annual sales of portable batteries and accumulators to the end-user by weight in that Member State during that calendar year and the preceding two calendar years. Member States shall calculate the collection rate for the first time in the fourth full calendar year following the date referred to in Article 23(1).

Without prejudice to Directive 2002/96/EC, annual collection and sales figures shall include batteries and accumulators incorporated into appliances.

2. Member States shall achieve the following minimum collection rates:
  - (a) 25%, 4 years after the date referred to in Article 23(1);
  - (b) 45%, 8 years after the date referred to in Article 23(1) and thereafter.
3. Member States shall monitor collection rates on a yearly basis according to the scheme set out in Annex I. Without prejudice to Regulation (EC) No 2150/2002 on waste statistics, Member States shall transmit reports to the Commission within six months of the end of the calendar year concerned. Reports shall indicate how they obtained the data necessary to calculate the collection rate.

4. In accordance with the procedure referred to in Article 21(2):
- (a) transitional arrangements may be laid down to address difficulties achieving the requirements of paragraph 2 in any Member State resulting from specific national circumstances;
  - (b) a common methodology shall be established for the calculation of annual sales of portable batteries and accumulators to end-users within one year of entry into force of this Directive.

**CHAPTER V**  
**TREATMENT, RECYCLING AND DISPOSAL**

Article 10

Treatment and recycling

1. Member States shall ensure that, no later than one year after the date referred to in Article 23(1):
  - (a) producers or third parties set up schemes using best available techniques to provide for the treatment and recycling of waste batteries and accumulators; and
  - (b) all identifiable batteries and accumulators collected in accordance with Article 7 undergo treatment and recycling through such schemes.

However, Member States may, in accordance with the Treaty, dispose collected portable batteries or accumulators containing cadmium, mercury or lead in landfill or underground storage as part of a strategy to phase out heavy metals or when no viable end market is available. Member States shall notify draft measures to the Commission in accordance with Directive 98/34/EC.

2. Treatment shall meet the minimum requirements set out in Annex III, Part A.
3. Recycling processes shall, no later than three years after the date referred to in Article 23(1), meet the recycling targets and associated provisions set out in Annex III, Part B.
4. Member States shall report on the recycling targets referred to in Annex III, Part B, actually achieved in each calendar year and submit the information to the Commission within six months of the end of the calendar year concerned.

5. Annex III may be adapted or supplemented to take account of technical or scientific progress in accordance with the procedure referred to in Article 21(2).  
In particular:
- (a) detailed rules regarding the calculation of recycling targets shall be added no later than eighteen months after the date referred to in Article 23(1); and
  - (b) the minimum recycling targets shall be evaluated regularly and adapted to best available techniques and in the light of the developments referred to in paragraph 1, second subparagraph.
6. Before proposing any amendment to Annex III the Commission shall consult relevant stakeholders, in particular producers, collectors, recyclers, treatment operators, environmental organisations, consumer organisations and employee associations. It shall inform the committee referred to in Article 30(1) of the outcome of this consultation.

#### Article 11

##### Disposal

Member States shall prohibit the disposal in landfills or by incineration of waste industrial and automotive batteries and accumulators. However, residues of any batteries and accumulators that have undergone both treatment and recycling in accordance with Article 10(1) may be disposed of to landfill or by incineration.

## Article 12

### Exports

1. Treatment and recycling may be undertaken outside the Member State concerned or outside the Community, provided that the shipment of waste batteries and accumulators is in compliance with Council Regulation (EEC) No 259/93. \*
2. Waste batteries and accumulators exported out of the Community in accordance with Council Regulation (EEC) No 259/93, Council Regulation (EC) No 1420/1999 \*\* and Commission Regulation (EC) No 1547/1999/EC \*\*\* shall count towards the fulfilment of the obligations and targets laid down in Annex III to this Directive only if there is sound evidence that the recycling operation took place under conditions broadly equivalent to the requirements of this Directive.
3. Detailed rules for the implementation of this Article shall be laid down in accordance with the procedure referred to in Article 21(2).

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\* OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation 2557/2001/EC, OJ L 349, 31.12.2001, p. 1.

\*\* OJ L 166, 1.7.1999, p. 6. Regulation as last amended by Commission Regulation 2243/2001/EC, OJ L 303, 20.11.2001, p. 11.

\*\*\* OJ L 185, 17.7.1999, p. 1. Regulation as last amended by Commission Regulation 2243/2001/EC.

**CHAPTER VI**  
**COMMON PROVISIONS ON COLLECTION, TREATMENT AND RECYCLING**

Article 13

Financing

1. Member States shall ensure that producers, or third parties acting on their behalf, finance any net costs arising from:
  - (a) the collection, treatment and recycling of all waste portable batteries and accumulators collected in accordance with Article 7(1) and (2); and
  - (b) the collection, treatment and recycling of all waste industrial and automotive batteries and accumulators collected in accordance with Articles 7(3) and (4).
2. Member States shall ensure that the implementation of paragraph 1 avoids any double charging of producers in the case of batteries or accumulators collected under schemes set up in accordance with Directive 2000/53/EC or 2002/96/EC.
3. The costs of collection, treatment and recycling shall not be shown separately to end-users at the time of sale of new portable batteries and accumulators.
4. Producers and users of industrial and automotive batteries and accumulators may conclude agreements stipulating financing methods other than the ones referred to in paragraph 1.

Article 14

Registration

Member States shall ensure that each producer is registered.

## Article 15

### Small producers

*De minimus* rules for the application of Articles 13(1) and 14 shall, if appropriate, be established in accordance with the procedure referred to in Article 21(2) no later than eighteen months after the date referred to in Article 23(1).

## Article 16

### Participation

1. Member States shall ensure that all economic operators and all competent public authorities may participate in the collection, treatment and recycling schemes referred to in Articles 9 and 15.
2. These schemes shall also apply to products imported from third countries under non-discriminatory conditions and shall be designed to avoid barriers to trade or distortions of competition.

**CHAPTER VII**  
**INFORMATION FOR END-USERS**

Article 17

Information for end-users

1. Member States shall ensure, in particular through information campaigns, that end-users are fully informed of:
  - (a) the potential effects on the environment and human health of the substances used in batteries and accumulators;
  - (b) the desirability of not disposing of waste batteries and accumulators as unsorted municipal waste and of participating in their separate collection so as to facilitate treatment and recycling;
  - (c) the collection and recycling schemes available to them;
  - (d) their role in contributing to the recycling of waste batteries and accumulators;
  - (e) the meaning of the symbol of the crossed-out wheeled bin and the chemical symbols Hg, Cd and Pb referred to in Annex II.
2. Member States may require economic operators to provide some or all of the information referred to in paragraph 1.

## CHAPTER VIII

### LABELLING

#### Article 18

#### Labelling

1. Member States shall ensure that all batteries, accumulators and battery packs are appropriately marked with the symbol shown in Annex II.
2. Batteries, accumulators and button cells containing more than 0.0005% mercury, more than 0.002% cadmium or more than 0.004% lead, shall be marked with the chemical symbol for the metal concerned: Hg, Cd or Pb. The symbol indicating the heavy metal content shall be printed beneath the symbol shown in Annex II and shall cover an area of at least one-quarter the size of that symbol.
3. The symbol shown in Annex II shall cover at least 3% of the area of the largest side of the battery, accumulator or battery pack, up to a maximum size of 5 x 5 cm. In the case of cylindrical cells, the symbol shall cover at least 1.5% of the surface area of the battery or accumulator and shall have a maximum size of 5 x 5 cm.
4. Where the size of the battery, accumulator or battery pack is such that the symbol would be smaller than 0.5 x 0.5 cm, the battery, accumulator or battery pack need not be marked but a symbol measuring at least 1 x 1 cm shall be printed on the packaging.
5. Symbols shall be printed visibly, legibly and indelibly.
6. Exemptions from the labelling requirements of this Article may be granted in accordance with the procedure referred to in Article 21(2).

## CHAPTER IX

### FINAL PROVISIONS

#### Article 19

##### National implementation reports

1. Member States shall send the Commission a report on the implementation of this Directive every three years. However, the first report shall cover the four-year period referred to in Article 9(2)(a).
  
2. Reports shall be drawn up on the basis of a questionnaire or outline established in accordance with the procedure referred to in Article 21(2). The questionnaire or outline shall be sent to Member States six months before the beginning of the first period that the report is to cover.
  
3. Member States shall also report on any measures that they take to encourage developments affecting batteries' and accumulators' impact on the environment, in particular:
  - (a) developments, including voluntary steps taken by producers, reducing quantities of heavy metals and other hazardous substances contained in batteries and accumulators;
  - (b) new recycling and treatment techniques;
  - (c) economic operators' participation in environmental management schemes;
  - (d) research in these fields; and
  - (e) measures taken to promote waste prevention.

4. The report shall be made available to the Commission no later than nine months after the end of the three-year period concerned or, in the case of the first report, no later than nine months after the four-year period referred to in Article 9(2)(a).
5. The Commission shall publish a report on the implementation of this Directive and on the impact of this Directive on the environment as well as on the functioning of the internal market no later than nine months after receiving reports from Member States in accordance with paragraph 4.

## Article 20

### Review

1. The Commission shall review the implementation of this Directive and the impact of this Directive on the environment as well as the functioning of the internal market after receiving reports from Member States in accordance with Article 19(4) for the second time.
2. The second report that the Commission publishes in accordance with Article 19(5) shall include an evaluation on the following aspects of the Directive:
  - (a) the appropriateness of further risk management measures for batteries and accumulators containing heavy metals;
  - (b) the appropriateness of the minimum collection targets for all waste portable batteries and accumulators set out in Article 9(2), and the possibility of introducing further targets for later years, taking account of technical progress and practical experience gained in Member States;
  - (c) the appropriateness of the minimum recycling requirements set out in Annex III, Part B, taking account of information that Member States provide, technical progress and practical experience gained in Member States.

3. If necessary, proposals for revision of the related provisions of this Directive shall accompany the report.

### Article 21

#### Committee procedure

1. The Commission shall be assisted by the Committee set up under Article 18 of Directive 75/442/EEC. \*
2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall set at be three months.

3. The Committee shall adopt its rules of procedure.

### Article 22

#### Penalties \*\*

Member States shall lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all necessary measures to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by the date specified in Article 32 at the latest and shall inform it without delay of any subsequent amendment affecting them.

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\* OJ L 377, 31.12.1991, p. 48.

\*\* The Council should adopt a standard minutes statement to clarify that "penalties" in English has the same meaning as "Sanktionen" in German.

## Article 23

### Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... \* at the latest.
2. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
3. Member States shall communicate to the Commission the text of all existing laws, regulations and administrative provisions adopted in the field covered by this Directive.

## Article 24

### Voluntary agreements

Provided that the objectives set out in this Directive are achieved, Member States may transpose the provisions set out in Articles 7, 12 and 17 by means of agreements between the competent authorities and economic operators concerned. Such agreements shall meet the following requirements:

- 1) they shall be enforceable;
- 2) they must specify objectives with the corresponding deadlines;
- 3) they must be published in the national official journal or an official document equally accessible to the public and transmitted to the Commission;

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\* 24 months after entry into force of this Directive.

- 4) the results achieved must be monitored regularly, and reported to the competent authorities and the Commission, and made available to the public under the conditions set out in the agreement;
- 5) the competent authorities shall ensure that the progress reached under the agreement is examined;
- 6) in cases of non-compliance with the agreements, Member States shall implement the relevant provisions of this Directive by legislative, regulatory or administrative measures.

#### Article 25

##### Repeal

Directive 91/157/EEC is repealed with effect from ... \*.

References to Directive 91/157/EEC shall be construed as references to this Directive.

#### Article 26

##### Entry into force

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

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\* 24 months after entry into force of this Directive.

Article 27

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*

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**MONITORING OF COMPLIANCE WITH THE ARTICLE 9 COLLECTION TARGETS**

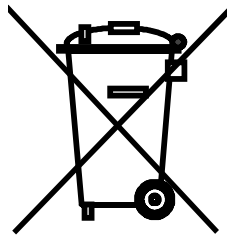
Year	Data collection		Calculation	Reporting requirement
X*+1	-			
X+2	Sales in year 2 (S2)	-	-	
X+3	Sales in year 3 (S3)	-	-	
X+4	Sales in year 4 (S4)	Collection in year 4 (C4)	Collection rate (CR4) = $3 * C4 / (S2 + S3 + S4)$ <b>(Target set at 25%.)</b>	
X+5	Sales in year 5 (S5)	Collection in year 5 (C5)	Collection rate (CR5) = $3 * C5 / (S3 + S4 + S5)$	CR4
X+6	Sales in year 6 (S6)	Collection in year 6 (C6)	Collection rate (CR6) = $3 * C6 / (S4 + S5 + S6)$	CR5
X+7	Sales in year 7 (S7)	Collection in year 7 (C7)	Collection rate (CR7) = $3 * C7 / (S5 + S6 + S7)$	CR6
X+8	Sales in year 8 (S8)	Collection in year 8 (C8)	Collection rate (CR8) = $3 * C8 / (S6 + S7 + S8)$ <b>(Target set at 45%.)</b>	CR7
X+9	Sales in year 9 (S9)	Collection in year 9 (C9)	Collection rate (CR9) = $3 * C9 / (S7 + S8 + S9)$	CR8
X+10	Sales in year 10 (S10)	Collection in year 10 (C10)	Collection rate (CR10) = $3 * C10 / (S8 + S9 + S10)$	CR9
X+11	Etc.	Etc.	Etc.	CR10
Etc.				

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\* Year X is the year including the date mentioned in Article 23.

SYMBOLS FOR BATTERIES, ACCUMULATORS AND BATTERY PACKS FOR  
SEPARATE COLLECTION

The symbol indicating “separate collection” for all batteries and accumulators shall be the crossed-out wheeled bin shown below:



**DETAILED TREATMENT AND RECYCLING REQUIREMENTS**

**PART A: TREATMENT**

1. Treatment shall, as a minimum, include removal of all fluids and acids.
2. Treatment and any storage, including temporary storage, at treatment facilities shall take place in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers.

**PART B: RECYCLING**

3. Recycling processes shall achieve the following minimum recycling targets:
  - (a) recycling of 65% by average weight of lead-acid batteries and accumulators, including recycling of the lead content to the highest degree that is technically feasible while avoiding excessive costs;
  - (b) recycling of 75% by average weight of nickel-cadmium batteries and accumulators, including recycling of the cadmium content to the highest degree that is technically feasible while avoiding excessive costs; and
  - (c) recycling of 50% by average weight of other waste batteries and accumulators.

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