

Japan Machinery Center for Trade and Investment

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Our Comment on the 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

We welcome the opportunity to contribute the public consultation. JMC believes new battery regulation proposal will drive sustainable battery supply chain including the transition to electro-mobility, carbon-neutral energy storage, and a sustainable battery value chain, however, we would like European Commission to consider to improve the following points. Herewith, we would like to refer to the comment from the appliance manufacturers who are fully or partly powered by a battery or is capable of being so.

1. Extension the Date of entry into force of this Regulation

Considering the lead time of supply chain: battery supplier → appliance manufacturer → importer in EU, the battery used in or incorporated into appliance is required at least one year grace period from the date of entry into force of battery itself. The comment below with related to grace period is based on this matter.

2. Article 6: Restrictions of hazardous substances

We appreciate that the applied hazardous substances are decided by applying the similar methodology to REACH according to Article 71(Procedure for amending restrictions on hazardous substances).

Thereby, we would like to request that the REACH restriction methodology is applied when hazardous substances of this battery regulation are to be assessed.

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3. Article 9: Performance and durability requirements for portable batteries of general use

(1) Article 9 says as “By 31 December 2025, the Commission shall adopt a delegated Act - - - “.

We have so much concerns whether it is possible to meet performance and durability requirements within a year for portable batteries because those concrete specifications are not specified. Therefore, after the specification on electrochemical performance and durability parameters is available, we would like to examine if the date of entry into force is appropriate or not.

(2) The minimum value for durability parameters are to be prescribed in the delegated act. In that regard, we would like you to remind that durability for batteries varies greatly depending on conditions of use.

To avoid any unnecessary confusion caused by the display of information, we would like to ask you to designate IEC standard as the durability parameters for batteries since it is internationally recognized standard for the durability of batteries. Clarification of IEC standards will enable standardized design.

Battery types for which no standard on durability has been established, on the other hand, should not be subject to any minimum value for durability parameter until such standard is established.

4. Article 13: Labelling of batteries

(1) Annex VI Part A point 5(date of placing on the market)

A description of “date of placing on the market” is not feasible, taking into consideration of the above-mentioned “supply chain” of the above point 1.

(2)Annex VI Part A Point 7(hazardous substances)

The details of labelling will be set out in a delegated act to be adopted during 2025.

However, one year is too short a timeframe between the determination of the hazardous substances to be covered, their thresholds and how they are to be labelled..

We would like you to secure at least two years from the adoption as a delegated act.

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(3) Annex VI Part A point 8(critical raw materials)

Article 13 Point 7 says, “The Commission shall, by 31 December 2025, adopt delegated acts to establish harmonised specifications” . On the other hand, the definition of critical raw materials has not been included in the text.

In fact, critical raw materials are not explicitly defined in this regulation, but are written in the European Commission's guidelines, "METHODOLOGY FOR ESTABLISHING THE EU LIST OF CRITICAL RAW MATERIALS", as follows:

“Critical raw materials (CRM) are raw materials of high importance to the economy of the EU and whose supply is associated with high risk. The two main parameters, economic importance (EI) and supply risk (SR), are used to determine the criticality of the material for the EU.” (P.2)”

Therefore, in order to make the survey on the containing chemical substances and labelling more efficient, the coverage of the survey had better not include all CRMs indiscriminately: it would be recommended only those substances that can be contained in batteries and have been listed on the CRM list.

(4) Article 13 Point 5(Batteries marked with a QR code)

We would like to request to specify the harmonised standard in Point 5(i) so that we can describe it in declaration of conformity required by article 18.

5. Chapter IV: Conformity of batteries

Though the Entry into force and application date of this Chapter IV is not clarified, we assume it as 1 January 2022 according to Article 79.

We would like to request at least 2 years grace period after the harmonised standard is specified, taking into consideration of possible duration from design, production to sales.

6. Article 17: Conformity assessment procedure

Because point 5 of article 17, paragraph 2 applies to ANNEX VIII Part A, that is Module A, notified body should not be involved. However an official language of the Member States where the notified body carries out the conformity assessment procedures, is referred to in Article 17 point 5, which makes no sense. This part should mention paragraph 3 instead of paragraph 2.

At Article 17 point 5, the correct sentence therefore would be as follows:

Records and correspondence relating to the conformity assessment of batteries shall be drawn up in an official language of the Member State where the notified body carrying out the conformity assessment procedures referred to in paragraphs 1 and 3 is established, or in a language accepted by that body.

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7. Article 20 Point 3: Rules and conditions for affixing the CE marking

Because Only ANNEX VIII(Conformity assessment procedures) Part B prescribes conformity assessment procedures of verification by Notified body, the following description is suitable for Article 20 Point 3.

The CE marking shall be followed by the identification number of the notified body that has carried out the conformity assessment in case that ANNEX VIII Part B(Module A1) is applicable.

8. Article 39: Obligation for economic operators that place rechargeable industrial batteries and electric-vehicle batteries with internal storage and a capacity above 2 kWh

(1) As for the management control of CRM(Critical Raw Material),

it is not realistic to require it to upstream as early as 12 months after the entry into force.

As the first priority, the management control of raw materials should focus on efforts including recycling and reuse in order to establish a circular economy in Europe. The establishment of raw materials control including upstream entities is a nationwide issues that not only manufacturers but also stakeholders work together. EU member states should develop a strategy as a national project to incorporate CRM raw materials management throughout the supply chain into concrete efforts with various sector participations.

CRM management is a new initiative in EU member states and suddenly imposing the mandate requirements on manufacturers does not work.

Therefore, first of all, it is required that the supply chain due diligence scheme be constructed and recognized under the initiative of the European Commission in accordance with Article 72.

The scheme to be constructed targets due diligence in smelters of upstream in the supply chain, and since manufacturers/importers on downstream have limited influence on supply chains, we propose to enable manufacturers /importers disclose information on the WEB site and apply the self-evaluation instead of third-party certification.

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(2) If the above is not recognized and the manufacturer is subject to legal obligations, we would like to request to allow a grace period of 36 months after the regulation entry into force. Under the current situation where there is no due diligence scheme of target minerals other than 3TG (Tantalum), Tin, Tungsten, Gold), it is not realistic to meet the requirements "12 months after the entry into force of the Regulation".

9. Article 7: Carbon footprint of electric vehicle batteries and rechargeable industrial batteries

The introduction of carbon footprint has the following problems. We believe it cannot be introduced unless these issues are sorted out and resolved.

- EV and industrial batteries are composed of hundreds to thousands of parts, and those parts are purchased through a complicated supply chain, so it is not so easy to calculate while taking all processes into consideration.
- In particular, raw materials are also imported from developing countries where carbon footprint has yet to be institutionalized, so we believe institutional design in such countries is desired.

Therefore, sufficient lead time would be necessary to solve these problems.

10. Others

We would like to ask to issue an FAQ or guidance. For manufacturers of products that use batteries as well as batteries themselves, it is an effective means to thoroughly disseminate the regulations by formulating FAQs or guidance so that we should understand the contents of this regulation and take appropriate measures.

END