

Position paper on Hazardous Substance Management in the new Batteries Regulation¹

Our suggestions to policy-makers

Multiplying competing processes to regulate hazardous substances² does not enhance the effectiveness of worker and environmental protections, but creates instability that is detrimental to the sustainable growth of a new industry needed for the energy transition.

EUROBAT therefore urges the co-legislators to **make use of the well-established REACH and OSH Regulations** when regulating hazardous substances in batteries and **refrain from creating a new parallel process** in the Batteries Regulation.

All battery technologies use substances that have hazardous properties. For instance, lead, cobalt, nickel and cadmium are commonly included in batteries. EUROBAT agrees that the risks to human health and/or the environment resulting from the use of hazardous substances need to be properly managed.

However, batteries are sealed articles without any intended release of any of the substances used in their manufacture. Hence, there is no risk of exposure for users. Moreover, automotive and industrial batteries are collected and recycled at the end of their useful life, they are neither landfilled nor incinerated or improperly disposed of. The risk of exposure for workers along the value chain is already addressed through the proper enforcement of the existing EU legislative framework (e.g. REACH and Occupational Health and Safety legislation). REACH incorporates mechanisms which allow for the creation of risk management measures targeted at the use of substances at the desired stage of the battery life.

Any restriction on the use of a substance in batteries should follow a risk-based approach, also taking into consideration the results of a socio-economic impact assessment and the availability of alternatives. EUROBAT thus welcomes that fact that the Batteries Regulation proposal adopts these fundamental principles. However, EUROBAT remains concerned about the introduction of a fully new parallel process described in Articles 6, 71 and 73 of the proposal with its own procedural rules, which duplicates the existing and well-established REACH restriction process set out in Annex XVII of Regulation (EC) No 1907/2006.

Indeed, this new process would create major business uncertainty because the procedure introduced in Article 6 will not preclude a substance used in batteries from being subject to a Member State initiated REACH restriction or authorisation process. We believe that Articles 6, 71 and 73 would be better amended to make reference to already existing REACH restriction processes rather than to create additional battery specific requirements.

EUROBAT urges that the new Batteries Regulation should not be a ‘test case’ for a new approach breaking the existing horizontal hazardous substance management embedded in REACH and OSH.

¹ With this position paper, EUROBAT would like to provide its position on the proposal to regulate hazardous substance used in batteries, as described in article 6, article 71 and Annex I of the Proposal for a Regulation 2020/353 concerning batteries and waste batteries.

² The use of substances in batteries is already regulated under REACH, OSH, ELV and the Batteries Directive. Simplification on the basis of horizontal legislation is of the essence.