



Department
for Environment
Food & Rural Affairs

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Consultation on amendments to the government guidance on Waste Batteries and Accumulators Regulations 2009

Summary of responses and government response

September 2015



Llywodraeth Cymru
Welsh Government





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Introduction

In December 2014, the government published a consultation which invited views on proposals to amend the existing UK Government Guidance¹ in order to address concerns about lack of clarity regarding the definition of “portable” batteries.

The proposed amendment is intended to provide a clearer framework to help interpretation of whether a battery “*can be hand-carried by an average person without difficulty*”. The amendment will remove the 4kg -10kg “grey area”, where a battery could be classified as either portable or industrial, and state a clear weight limit to determine whether a battery can be “hand carried” and can therefore be categorised as a portable battery. This is not intended to affect the other components of the existing definition and it will remain important for both producers, treatment operators and exporters to give consideration to the full range of factors when taking a view on whether a battery is portable or industrial.

Background

The published UK data summary indicated that portable battery producer’s recycling obligations were increasingly being met using lead-acid evidence, predominantly from collections of mixed category lead-acid batteries. In 2012, the proportion of members obligation met by lead-acid evidence was 83%, whereas the proportion of lead-acid batteries being placed on the UK market was 8%. As a result, the tonnage of portable lead-acid batteries collected for recycling greatly exceeded the declared tonnage being placed on the UK market. In 2013, the UK collected around 470% of the tonnage of portable lead-acid batteries declared as placed on the market in the same period.

The consultation noted that most of these lead-acid batteries were being collected before the regulations were implemented and that the increase in evidence is due to more companies becoming approved to treat or export portable batteries. The proportion of non-lead-acid batteries being treated and recycled has actually decreased since the first collection year of 2010.

The consultation suggested that this apparent ‘over collection’ of lead acid portable batteries was because of a difference in the way that the definition of a portable battery was being applied at the two ends of the chain i.e. when placing on the market and at collection/reprocessing. The proposal was to provide a clearer distinction between portable and industrial batteries in the guidance to the Batteries Regulations. This would ensure that both producers and treatment operators are better able to apply the same criteria in respect of the batteries that they handle.

The Batteries Directive states that one of the metrics that should be used to come to a view on whether a battery is portable or industrial is whether it can be hand carried; the

¹ <https://www.gov.uk/waste-batteries-and-accumulators-technical-guidance>

UK's current guidance allows a significant margin of discretion in this area. Only batteries in excess of 10kg in weight are defined as **not able** to be carried by hand and as such should be classed as industrial. Those below 4kg in weight are defined as able to be carried by hand and as such should be classed as portable (provided the other relevant criteria are met).

For batteries between the weights of 4kg and 10kg, the guidance says that there is no presumption, and judgement will have to be made based on all available information. This means that when batteries are being placed on the market, it is effectively the producer that decides whether a battery between 4kg and 10kg in weight is portable or industrial. A similar decision is made when batteries are being treated, which effectively means that the same battery can be classified as portable by the producer and industrial by the treatment operator..

The consultation proposed an amendment to the guidance to introduce a single weight threshold of 4 kg so that any battery weighing below this will be considered to be able to be "hand-carried" and so be classified as portable by all parts of the chain.

About this document

This document provides a summary of the responses received and the government response. This document does not attempt to repeat the background information given in the consultation paper and only provides a limited amount of context for the options and related questions. Please refer to the consultation document for detailed information which is available at <https://consult.defra.gov.uk/waste/defining-portable-batteries>

This document lists all of the questions asked in the consultation and summarises the responses to the question received.

Consultation questions

Question 1: Do you agree the proposed amendment to the guidance is necessary to address the apparent over-collection of portable lead-acid batteries?

Question 1a: Do you support a weight threshold of 4kg? If not, at what level would you set the threshold?

Question 1b: Please provide reasons for your response to question 1.

Question 2: For schemes/ABTOs/ABEs: What tonnage of other chemistry portable batteries did you collect/receive in 2011, 2012 and 2013 that has not been recorded in your quarterly returns?

Question 3: For producers/schemes: Would your placed on the market data be reduced following a change of definition?

Question 3a: What would the change be if the weight threshold was set at (a) 4kg or (b) 3kg?

Question 4: For schemes: Would any of your members fall below the 1 tonne de minimis following a change of definition?

Question 4a: How many producers would this affect with a threshold of (a) 4kg or (b) 3kg?

Question 5: For ABTOs/ABEs: Would the amount of evidence you issue for portable batteries (both lead-acid and other chemistries) reduce following a change of definition?

Question 5a: What would the change be if the weight threshold was set at (a) 4kg and (b) 3kg?

Question 6: Do you agree with our estimated increase in costs of collecting and recycling a tonne of batteries to producers arising from the weight thresholds of (a) 4kg and (b) 3kg?

Question 6a: Please give reasons for the answer and if you do not agree please elaborate on your reasons.

Question 7: We welcome any other comments on the proposals and assessment of impacts you may wish to make.

Summary of responses: group breakdown

A total of 19 responses received (including nil returns), split across stakeholder groups as follows: Table 1 shows the number of responses by the broad category of the respondent.

Table 1 – Type of organisation	Number of Responses
Producer Compliance Schemes	5
Producers	7
ABTO/ABE	3
Trade associations	3
Regional/Local Government	1

Responses on baseline assumptions

Question 1: Do you agree the proposed amendment to the guidance is necessary to address the apparent over-collection of portable lead-acid batteries?

16 of 19 respondents agreed that there needs to be a change to the guidance in order to address the current issue.

Question 1a: Do you support a weight threshold of 4kg? If not, what level would you set the threshold?

Option	Number of responses*
One (do nothing)	0
2 (4kg)	9
3 (3kg)	3
1kg	2
5kg	1
No response	2

One respondent suggested that the guidance should not focus on the weight threshold but instead should apply criteria solely to lead acid batteries.

Options by Stakeholder type

Option/Stakeholder	Number of responses*
1 (4kg)	9
Producer Compliance Schemes	5
Producers	2
ABTO/ABE	0
Trade associations	1
Regional/Local Government	1

Option/Stakeholder	Number of responses*
2 (3kg)	4
Producer Compliance Schemes	0
Producers	1
ABTO/ABE	2
Trade associations	1
Regional/Local Government	0

Question 1b: Please provide reasons for your response to question 1.

Of the 19 responses, 9 (47%) supported the preferred option of 4kg. Those respondents believed that the change would achieve the intended policy aims of increasing the collection of non-lead acid batteries, as well as aligns the UK with other Member States. It was also noted that 4kg is already referenced in the current Guidance and so, as an already recognised level, would be easier for businesses to adopt.

4 respondents (21%) felt that the 4kg threshold was too high and would not be sufficient to affect the market and that 3kg would be more effective in driving change.

Question 2: For schemes/ABTOs/ABEs: What tonnage of other chemistry portable batteries did you collect/receive in 2011, 2012 and 2013 that has not been recorded in your quarterly returns?

7 responses were received. Only one respondent provided an actual number (120t), in relation to batteries received and not reported. 3 respondents claimed to have reported all batteries received and questioned the rationale for other operators not declaring batteries received and what was being done with the 'un-declared batteries'.

However, several respondents commented that they are required to collect all batteries on behalf of various Batteries Compliance Schemes and so do generate more material than is needed to meet the demand for evidence. This implied over-collection was not quantified, due to issues of confidentiality, though there is belief that there are "significant" tonnages held for use against any future, increased evidence needs.

Question 3: For producers/schemes: Would your placed on the market data be reduced following a change of definition?

8 responses were received. The responses indicated that there would be a limited effect on the placed on the market data. Respondents claimed that there would either be no change to submitted data, or a very small reduction though nothing that would materially affect the overall position.

Question 3a: What would the change be if the weight threshold was set at (a) 4kg or (b) 3kg?

Generally, respondents expected that there would be no significant changes from either weight threshold. However, some suggested for a 4kg threshold there would be between 0-3% reduction in placed on the market data, with a 2-15% change for a 3kg threshold.

Question 4: For schemes: Would any of your members fall below the 1 tonne de minimis following a change of definition?

5 responses were received. The responses from Batteries Compliance Schemes indicated that none, or very few, of their members would be affected by the proposed change. One Scheme had done some analysis and concluded that the threshold would need to be reduced to 2kg or below to have a material impact on their membership.

Question 4a: How many producers would this affect with a threshold of (a) 4kg or (b) 3kg?

Of the 4 respondents who specifically answered this question, none believed that any producers would be affected by a change to either 4kg or 3kg.

Question 5: For ABTOs/ABEs: Would the amount of evidence you issue for portable batteries (both lead-acid and other chemistries) reduce following a change of definition?

There were 4 responses to this specific question. Two respondents felt that there would probably be a reduction, with one suggesting a reduction of up to 45%, the other not providing an estimate. The other two respondents did not believe that the change would lead to any reduction.

Question 5a: What would the change be if the weight threshold was set at (a) 4kg and (b) 3kg?

Responses suggested a reduction in the evidence generated by lead acid batteries of between 20-60% if the threshold was set at 4kg. For a threshold of 3kg, the reduction could be as large as 70%.

Respondents noted that this level of reduction in the availability of evidence could lead to difficulties in achieving targets for 2015/6 and a significant increase in costs for producers.

Question 6: Do you agree with our estimated increase in costs of collecting and recycling a tonne of batteries to producers arising from the weight thresholds of (a) 4kg and (b) 3kg?

12 responses were received, but only 3 gave substantive answers. These responses all suggested that the estimated costs used in the consultation are too low, with alternative estimates of £1400, £1500 and £2000 per tonne.

The remaining responses either did not feel able to challenge the figures used, or were comfortable with the assumptions made.

Question 6a: Please give reasons for the answer and if you do not agree please elaborate on your reasons.

The reasons given included:

- Changes in the total obligation
- Difficulty in accurately assessing the amount of lead acid batteries still eligible for evidence
- Fluctuations in wider material pricing, and especially in metals markets
- The expected increase in price per tonne of evidence related to collecting more portable batteries
- The varying collection costs depending on collection mechanisms employed

Question 7: We welcome any other comments on the proposals and assessment of impacts you may wish to make.

In response to the open question, respondents raised the following issues:

- There is a need to build UK based reprocessing capability, as almost all batteries are currently exported for processing. A change in the guidance will help to

stimulate growth in the collection of portable batteries and give some certainty for future investment decisions.

- The de minimis should be increased from 1t to 2t, in order to reduce costs and admin burden on small businesses
- Several respondents commented that whilst this is a good move, the proposed change to the threshold will not be sufficient on its own to fully address the issue of over reporting of portable lead acid batteries. If this proves to be the case, the government should consider further measures to achieve the correct balance. For example, by setting specific targets to be achieved by chemistry.
- The timing of implementation should ensure that there is suitable time allowed for the agreement of new protocols based on the new thresholds.
- Some respondents highlighted the need to avoid 'gold plating', by not setting targets higher than those set in the Directive (45%) or by setting targets by chemistry type.
- Respondents asked that any changes are effectively enforced, so that declarations are accurate and the market is working on robust data.

Government response

The majority of respondents agreed that there was a need to clarify the guidance in order to address the issue identified. Of these, 13 out of 19 supported a lower threshold, with 9 specifically supporting a 4kg threshold.

There was some concern that a simple 4kg threshold, without additional criteria, might not be sufficient to resolve the problem and some respondents suggested that a lower threshold would be required.

However, due to the likely additional costs associated with each option and in light of the responses received, the government intends to revise the Guidance to introduce a weight threshold of 4kg for the definition of what constitutes a portable battery.

Annex 1: list of respondents

1. Arc21
2. BatteryBack
3. BIPBA
4. Budget Pack/Ecosurety
5. Eco Batt
6. EMEA, Newell Rubbermaid
7. Enersys
8. Envirowales
9. ERP
10. G&P Batteries
11. Linetop
12. Recharge
13. Renault UK
14. REPIC
15. RS components Ltd
16. Saft
17. SMMT
18. techUK
19. Valpak