

# European Union a Step Closer to Adopting Expansive New Rules Covering Lifecycle of Electric Vehicle Batteries

*August 24, 2022*

The EU is currently in the process of updating its main legal framework on batteries, through its proposal for a sweeping Batteries Regulation. The proposed regulation is “cradle-to-grave,” applying obligations to each stage of a battery’s life cycle to promote a circular supply chain. Key obligations to promote circularity include: supply chain due diligence; a maximum carbon footprint; minimum recycled content; recycling efficiency levels; performance, reporting, and labelling requirements; extended producer responsibility for collection and recycling used batteries; and a digital battery “passport” to capture key lifetime events. As a first-mover, the EU may hope to provide a blueprint for the regulatory moves by other countries.

The regulation will include rules for all types of batteries used in electric vehicles (EV), which are expected to see a surge in demand as the EU transitions away from fossil fuel -powered transport (see the [EU proposal](#) for stricter CO2 Emission Standards for Vehicles).

These developments present both opportunities and risks, especially for global auto manufacturers, and battery producers and recyclers. Companies should begin preparing for the new regime by carefully reviewing their supply chains and their own operations for potential compliance issues.

## 1. Background to the proposal

The European Commission published its proposed Regulation in December 2020; the EU Council and Parliament approved their respective amended texts in March 2022 and are engaged in joint formal discussions to finalise the text. The Parliament seeks a more far-reaching text, while the Council aims at less demanding regulation (specific differences in the different institutions’ positions are explored further

below). The proposal is expected to move quickly through the remainder of the EU legislative process, with the adoption of the regulation expected in late 2022 or early 2023.

The obligations imposed under the proposed regulation vary depending on the type of battery: portable, industrial, automotive (for starter, lighting, or ignition), and EV. This note focuses on EV batteries, which are defined in the proposal as “*any battery specifically designed to provide traction to hybrid and electric vehicles for road transport.*” While the Commission’s proposal applies only to EV batteries with +2kWh internal storage and capacity, the Council proposes to expand coverage by eliminating this threshold.

The obligations cover the full lifecycle of each battery type, from extraction of raw materials through to disposal. The obligations can be broadly divided into two categories: “upstream” (sustainable production) and “downstream” (end-of-life management). The obligations apply to producers/manufacturers that make a battery available on the EU market (separately or integrated into a vehicle), with additional compliance, due diligence, and reporting obligations layered onto other actors in the supply chain (e.g., distributors, wholesalers, and retailers). Producers may choose to exercise their responsibilities individually or collectively through organisations.

## 2. Key obligations

### a. Upstream requirements on sustainable production

Under the proposal, batteries can be placed on the EU market only if they satisfy certain sustainability and safety criteria. The key requirements are set out below (not exhaustive). Unless a date is specifically provided, the implementation date is not yet settled; the Parliament sets the date six months from entry into force, while the Council suggests 12 months from that point. The specific deadlines set out below may change, depending on when the proposal is adopted.

- Prohibition on hazardous substances: EV batteries must not contain any of certain listed hazardous substances (the list can be expanded over time).
- Carbon footprint: From July 1, 2024, EV batteries must be accompanied by a carbon footprint declaration; from January 1, 2026, bear a label indicating the carbon footprint class; and from July 1, 2027, meet a maximum carbon footprint threshold.

The Commission has also set itself deadlines over the next three years to determine a methodology for calculating carbon footprint, establish carbon footprint classes, and set the maximum carbon footprint threshold.

- Recycled content:
  - o From January 1, 2027, EV batteries must be accompanied by documentation indicating any cobalt, lead, lithium, or nickel content that is recovered from waste.
  - o As of January 1, 2030, EV batteries must contain a minimum of recycled materials, specifically 12% cobalt, 85% lead, 4% lithium, and 4% nickel.
  - o As of January 1, 2035, minimum recycled content increases to 20% cobalt, 10% lithium, and 12% nickel (lead remains at 85%).

- Performance and durability: EV batteries must be accompanied by documentation indicating specific electrochemical performance and durability parameters.
- Labelling: Batteries must bear a “separate collection” label (from July 1, 2023) and various other labels providing information on the main characteristics of the battery, such as lifetime and safety risks (from January 1, 2027).
- QR code: EV batteries must bear a QR code to provide access to (i) all labelling information, (ii) information on the carbon footprint and recycled content, and (iii) a declaration of conformity with the sustainability and safety requirements.
- Battery passport: EV batteries must be accompanied by an electronic record that will be available through a unique identifier — possibly also included in the QR code at the Parliament’s suggestion. The passport will be linked to information about the basic characteristics, and the performance and durability, of the battery.
- Due diligence: EV battery supply chains must operate under a third-party-verified system of control and transparency, based on international due diligence standards (with no agreement yet among the institutions on which standards to apply). Due diligence requirements serve to identify, assess, and mitigate adverse impacts of the supply chain, related to extraction of specific raw materials and concerning a list of social and environmental risk categories. The Parliament and the Council advocate for a more comprehensive list of risk categories; the Parliament further wishes to expand the list of raw materials and to introduce a liability regime.

#### b. Downstream requirements on end-of-life management of batteries

The proposal introduces a series of end-of-life requirements, in particular concerning the collection, treatment, and recycling of waste batteries. These include, among others:

- Extended producer responsibility (EPR): producers of EV batteries are responsible for full waste management of batteries. The obligation is applicable in the EU Member State where a battery was first made available. Producers must take back, free of charge, waste EV batteries, and establish (and pay for) accessible collection points.
- End-of-life information: Producers must make available information, to end users and distributors, on the prevention and management of waste batteries, such as the separate collection and available reuse/recycling systems, safety instructions, and impact of various substances, and the meaning of labels and symbols that the batteries will bear.
- Recycling targets: All waste batteries must be collected and recycled, with the recycling process meeting (i) minimum efficiency standards and (ii) minimum recovery levels of cobalt, copper, lead, lithium, and nickel. The precise levels of efficiency and recovery targets, and their respective timelines, are yet to be agreed, with the Parliament pushing for more demanding targets than the Commission, and the Council supporting slower phase-in.

The regulation will also impose demanding environmental standards to ensure responsible recycling. To this end, recycling targets can be met through exporting waste batteries, but only if the exporter can

affirmatively prove the treatment takes place in conditions that are equivalent to the requirements of the Regulation.

The Parliament has proposed a still-higher standard — requiring that the exporter provide “documentary evidence approved by the competent authority of destination” that the relevant requirements are met.

## CONTACTS

If you have any questions regarding this Sidley Update, please contact the Sidley lawyer with whom you usually work, or

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