

General Texts
Ministry of Territorial Management, Development and Environment
**Decree number 99-374 of May 12, 1999 Concerning Marketing and
Disposal of Primary and Rechargeable Batteries**
NOR: ATEX9900053D

The President of the Republic,

Upon the report of the Prime Minister and the Minister of Territorial Management, Development and Environment;

Considering Regulation number 259/93 of the Council dated February 1, 1993 concerning supervision and control of waste transfers in and out of the European Community;

Considering Order number 83/189/EEC of March 28, 1983 specifying an information procedure in the field of standards and technical regulations;

Considering Order number 91/157/EEC of March 18, 1991 concerning certain dangerous substances in primary and rechargeable batteries;

Considering Order number 93/86/EEC of October 4, 1993 technically updating Order number 91/157/EEC concerning primary and rechargeable batteries containing certain dangerous substances;

Considering the Criminal Code and specifically section R. 610.1;

Considering the Consumer Code;

Considering Act number 75-633 of July 15, 1975 amended concerning waste disposal and salvage, and specifically section 6;

Considering Act number 76-663 of July 19, 1976 concerning designated installations for environmental protection;

Considering Decree number 97-1194 of December 19, 1997 enacted to apply to the Minister of Economy, Finance and Industry paragraph 1 of section 2 of Decree number 97-34 dated January 15, 1997 concerning decentralization of individual administrative decisions;

Considering Decree number 97-1204 of December 19, 1997 enacted to apply to the Minister of Territorial Management, Development and Environment paragraph 1 of section 2 of Decree number 97-34 dated January 15, 1997 concerning decentralization of individual administrative decisions;

Having heard State Council (public works division);

Having heard Cabinet,

Decreases:

TITLE I - CONDITIONS FOR MARKETING PRIMARY AND RECHARGEABLE BATTERIES

Section 1 - Marketing of magnesium-alkaline primary batteries containing more than 0.025 % of weight in mercury is prohibited except for:

- magnesium-alkaline primary batteries containing at most 0.05 % of weight in mercury provided that they are designed for extended use in extreme conditions: temperature lower than 0°C or higher than 50°C, exposure to impacts and that they be specifically labelled as such,
- button type magnesium-alkaline primary batteries or primary batteries built with button type components.

Section 2 - Any primary or rechargeable batteries having the following characteristics may not be used in any apparatus unless the user is able to easily remove them after use:

Primary batteries containing:

- more than 25 milligrams of mercury per element;
- more than 0.025 % weight in mercury in the case of magnesium-alkaline primary batteries.

Primary and rechargeable batteries containing:

- more than 0.025 % weight in cadmium;
- more than 0.4 % weight in lead;

However the apparatus in the following categories are not subject to this provision:

- a) Apparatus to which primary or rechargeable batteries described in this section are welded or permanently attached by other means to contact points in order to provide a continuous electrical supply for intensive industrial use or to protect the memory and data of computer and office automation equipment, when the use of such primary and rechargeable batteries are technically necessary;
- b) Scientific and professional apparatus equipped with primary batteries, medical apparatus equipped with primary or rechargeable batteries designed to maintain vital functions as well as pacemakers when they must function on a continuous and vital basis and if such primary and rechargeable batteries can only be removed by qualified personnel;
- c) Portable apparatus where the replacement of primary or rechargeable batteries by non-qualified personnel could be dangerous to the user, or could affect the functioning of the apparatus, as well as professional apparatus intended for use in highly sensitive environments, containing for example volatile substances. Apparatus belonging to the three above-mentioned categories must have instructions explaining to the user that primary or rechargeable batteries are installed, and if necessary, specifying how to remove them in a safe manner.

Section 3 - All primary and rechargeable batteries of any type whether or not installed in any apparatus, must ostensibly bear either the name or trade mark of the person or company responsible for their disposal under the definition of this Decree, as well as that of the manufacturer, importer, installer or distributor if he markets them under his own trade mark.

Primary and rechargeable batteries enumerated in Section 2 must also be labelled according to the standards in the annex to the present Decree.

TITLE II - DISPOSAL OF USED PRIMARY AND RECHARGEABLE BATTERIES

Chapter I

General Provisions

Section 4 - It is forbidden to simply abandon used primary and rechargeable batteries, as well as, if applicable, the apparatus containing them, or to dump the liquid or solid components of said primary and rechargeable batteries into the natural environment.

Section 5 - Disposal of primary and rechargeable batteries or of their components, including those removed from any apparatus in which they were installed must be accomplished in installations authorized in virtue of the provisions of the above-mentioned July 19, 1976 Act, or in any other installation having a similar authorization within another state of the European Community, on condition that the border crossing of used primary and rechargeable batteries respects the provisions of the above-mentioned February 1, 1993 Regulation. Recycling of used primary and rechargeable batteries is to be preferred to any other disposal method in any case where the prevailing technical and economic conditions permit.

Chapter II

Disposal of used domestic primary and rechargeable batteries

Section 6 - Every distributor, retailer or wholesaler of primary and rechargeable batteries must, whether or not said primary and rechargeable batteries are installed in any apparatus, take back free of charge the used primary and rechargeable batteries of the same type that he markets and which are brought back to him. He must sort them out into batches having identical characteristics in order to facilitate their recovery according to the terms specified in the following section 7 by the persons therein mentioned.

Section 7 - Any physical person who or company which manufactures, imports, introduces or distributes primary or rechargeable batteries under its trade mark is required to take back or cause to be taken back within the limits of its tonnage manufactured, imported, introduced or distributed under its trade mark, used primary or rechargeable batteries that have been collected by distributors on one hand, and by the communes or their associations on the other hand, when such communes or associations have separately collected used primary and rechargeable batteries and sorted them into batches having identical characteristics; these same persons or companies are required as well to recycle or cause to be recycled, to eliminate or cause to be eliminated the primary and rechargeable batteries that they took back.

The provisions of the preceding paragraph apply equally to any person who or company which installs primary or rechargeable batteries in any apparatus, or who/which imports or introduces apparatus containing primary or rechargeable batteries.

Chapter III

Disposal of used primary and rechargeable batteries by non-domestic users

Section 8 -All non-domestic users of primary and rechargeable batteries are required to collect or cause to be collected, to recycle or cause to be recycled, to dispose or cause to be disposed their used primary or rechargeable batteries whether or not they are installed in any apparatus.

Chapter IV

Disposal Networks

Section 9 - Persons or companies mentioned in sections 6, 7, and 8 hereinabove are deemed to have met the requirements concerning disposal of primary and rechargeable batteries provided for in said sections when they conclude with recuperators or refiners, either directly or through associations of which they are members, agreements which are approved according to the conditions stipulated in section 10 and which aim to create collection and disposal networks of categories of primary and rechargeable batteries and to define the conditions for the operation of said networks.

Persons and companies mentioned in section 7 may create appropriate organizations to render operational the disposal of primary and rechargeable batteries as specified in this section. These organizations may conclude agreements of the type mentioned in the above paragraph and have them approved under the same conditions. Such persons or companies are therefore deemed to have met the requirements for the disposal of used primary and rechargeable batteries.

In the case of a third party organization, the disposal system may be financed by member contributions. Said members have the option to indicate on a separate line on their bills the contributions they pay to third party organizations, on condition however that such contributions be the result of a personal decision made freely and individually.

For each category of primary and rechargeable batteries, the above-mentioned agreements stipulate:

- a) The objectives that the parties to the agreement have concerning collection, recycling and disposal of used primary and rechargeable batteries;
- b) Each parties' respective obligations concerning the conditions under which collection, recycling and disposal of these primary and rechargeable batteries are done, as well as the details of the financing of these operations;
- c) The methods used to inform families of the dangers inherent in mixing used primary and rechargeable batteries with other domestic waste and to obtain their cooperation.

Section 10 - Before being applied, the agreements mentioned in section 9 must be submitted to the ministers responsible for economy, commerce, industry and environment. These agreements are deemed to be approved if the appropriate authorities omit to indicate their refusal to approve them within a delay of two months from the time that they are submitted to said authorities.

Section 11 - Persons or companies responsible for the disposal of used primary and rechargeable batteries as defined in this Decree must transmit to the Minister for Environment information concerning collection, recycling and disposal of all used primary and rechargeable batteries.

A joint departmental order issued by the ministers for Environment, Economy, Industry, Commerce and Handicrafts specifies the details of the transmission of this information.

TITLE III - PENALTIES

Section 12

I. The fact of:

- 1) Marketing primary or rechargeable batteries defined in section 1 or in section 2 without respecting the labelling requirements specified in section 3;
 - 2) Abandoning or dumping used primary and rechargeable batteries or their components in the natural environment contrary to sections 4 and 5 by persons specified in sections 6, 7 and 8;
 - 3) Omitting to accomplish or causing to be omitted the return, collection, recycling or disposal procedures of primary and rechargeable batteries pursuant to the conditions as defined in sections 6, 7 and 8 by persons therein specified;
 - 4) Omitting to transmit the information specified in section 11
- is punishable by the fine provided for 3rd class offenses.

II. Companies may also incur statutory liability under the conditions specified in section 121-2 of the Criminal Code for offenses defined in the present section. They are fined according to the terms specified in section 131-41 of the Criminal Code.

III. Any object used by, or any object that was intended to be used by a person or company in the commission of an offense provided for in above subsection I(1) or any object that was the result of the commission of such offense is forfeited.

TITLE IV - OTHER PROVISIONS

Section 13 - The following are applicable as of the date of coming into force of the present Decree:

The provisions of Titles I and III

The provisions of Title II regarding:

- 1) All rechargeable batteries;
- 2) Primary batteries containing:
 - more than 25 milligrams of mercury per element;
 - more than 0.025 % of weight in mercury in the case of manganese-alkaline primary batteries;
 - more than 0.4 % of weight in lead.

Section II will apply to all primary batteries as of January 1, 2001.

Although they may not have the characteristics specified in the second paragraph of this section, all primary batteries collected before 2001 must be taken back by the persons and companies mentioned in sections 7 and 8, and must be stored according to the regulations in force, in order to be dealt with pursuant to the conditions specified in section 5.

*Unofficial Translation of
French Battery Decree 99-374
June 14, 1999*

Section 14 - Decree number 97-1328 of December 30, 1997 concerning the marketing of primary and rechargeable batteries containing certain dangerous substances and their disposal is repealed.

Section 15 - Except for Section 10, this Decree may be amended by a decree of the Prime Minister enacted in State Council.

Section 16 - The Prime Minister, the Guardian of the Seals, the Minister of Justice, the Minister of Economy, Finance and Industry, the Minister of Territorial Management, Development and Environment, the Secretary of State for Small and Medium Business, Commerce and Handicrafts and the Secretary of State for Industry each within his/her jurisdiction, are responsible for the application of this Decree which will be published in the Official Journal of the French Republic.

Given in Paris, May 12, 1999

ANNEX

(Decree Section 3)

Primary and rechargeable batteries subject to the present Decree must have labels containing the following symbols:

-the first one has a wheeled dumpster bearing an X according to one or the other of the following graphic symbols, indicating that these products must be collected separately;

-the second one is designed to identify the primary or rechargeable battery's chemical system:

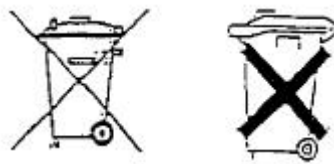
-for primary batteries,

chemical symbol for

-for cadmium batteries,

chemical symbol for cadmium: Cd;

-for lead batteries, lead content is indicated by the chemical symbol for lead: Pb.



to identify the primary or rechargeable

mercury content is indicated by the mercury: Hg;

cadmium content is indicated by the

The label with the wheeled dumpster bearing an X covers 3 % of the surface of the largest side of the primary or rechargeable battery with a maximum measurement of 5cm x 5cm. For cylindrical primary batteries, the label must cover 3% of half of the surface of the cylinder, with a maximum measurement of 5cm x 5cm.

If the size of the primary or rechargeable battery is such that the area of the symbol is less than 0.5cm x 0.5cm, labelling of the primary or rechargeable battery is not required, but a symbol 1 cm x 1cm is printed on the package.

The chemical system is printed under the symbol of the wheeled dumpster bearing an X. Its dimension is at least equal to one quarter of the area of the symbol of the wheeled dumpster bearing an X.

Symbols must be printed legibly, visibly and indelibly.