

Bulletin of Acts and Decrees of the Kingdom of the Netherlands 1995, 45
Decree of 31 January 1995 laying down rules for the collection and processing of spent batteries (Batteries Disposal Decree)

We Beatrix, by the Grace of God, Queen of the Netherlands, Princess of Orange Nassau, etc., etc., etc.,

At the recommendation of our Minister of Housing, Spatial Planning and Environment of 4 July 1994, no. MJZ04794019, Central Legal Affairs Department¹ Legislation Division; Having regard to Articles 3, 4 and 5 of Directive no. 91/157/EEC of the Council of the European Communities of 18 March 1991 on batteries and accumulators containing certain dangerous substances (OJ L 78) and section 10.4, subsection 1, subsection 2, sub a and e, and subsection 6, section 10.6 and section 10.8, sub a of the Environmental Management Act;
Having heard the Council of State (recommendation of 21 November 1994, no. W08.94.0426);
Having seen the further report of our Minister of Housing, Spatial Planning and Environment of 25 January 1995, no. MJZ 25195050, Central Legal Affairs Department, Legislation Division;
Have approved and decreed:

Part 1 *Definitions*

Article 1

For the purpose of this Decree and the provisions based thereon the following definitions shall apply:

- a. battery: source of electrical energy obtained by the direct conversion of chemical energy, comprising a primary battery or sea led rechargeable battery;
- b. accumulator: source of electrical energy obtained by the direct conversion of chemical energy, comprising an open rechargeable battery;
- c. consumer appliance: appliance intended for use in private households containing one or more batteries;
- d. manufacturing: manufacturing with the aim of placing products on the market in the Netherlands or the European Community;
- e. keeping in trade stocks: keeping in trade stocks with the aim of placing products on the market in the Netherlands or the European Community;
- f. Directive: Directive no.9111571 EEC of the Council of the European Communities of 18 March 1991 (OJ L 78) on batteries and accumulators containing certain dangerous substances.

Part 2.

Implementation of the Directive

Article 2

1. It shall be prohibited to manufacture, import, make available to others or keep in trade stocks alkaline batteries containing more than 0.025% by weight of mercury.
2. If the alkaline batteries are intended for prolonged use in extreme conditions the prohibition in paragraph 1 shall, notwithstanding that paragraph, apply only batteries containing more than 0.05% by weight of mercury.
3. The prohibition referred to in paragraphs 1 and 2 shall not apply to alkaline button cells and batteries composed of such button cells.

Article 3

1. Any person who, as a manufacturer or importer, places on the market in the Netherlands batteries or accumulators containing mercury, cadmium or lead in quantities exceeding the values specified in Annex I to this Decree, shall mark these batteries or accumulators with a mark specified by our Minister to implement the regulations laid down by the Commission of the European Communities pursuant to Article 4, paragraph 3 of the Directive.
2. The obligation referred to in paragraph 1 shall also apply to manufacturers or importers of batteries or accumulators, as referred to in that paragraph, incorporated in consumer appliances or in equipment designated in Annex 11 to this Decree.
3. Our Minister shall implement the further rules laid down by the Commission of the European Communities pursuant to Article 4, paragraph 3 of the Directive by ministerial regulation.

Article 4

1. The manufacturing, importing, making available to others or keeping in trade stocks of consumer appliances shall be prohibited:
 - a. if the batteries contained in these appliances are not incorporated in such a way that they can easily be removed by the user; and
 - b. if the instruction manual for the appliance does not indicate how the user should remove the batteries from the appliance.
2. The manufacturing, importing, making available to others or keeping in trade stocks of equipment designated in Annex II this Decree containing one or more batteries as referred to in Article 3, paragraph 1 shall be prohibited unless the equipment is accompanied by an instruction manual informing the user about environmentally hazardous substances contained in the batteries and about methods for the safe removal of these batteries from the equipment.

Article 5

1. Any person who, as a manufacturer or importer, places batteries with a weight of 1000 grammes or less on the market in the Netherlands shall ensure that the batteries of the

brand marketed by him are collected and processed with a view to reuse.

2. The obligation referred to in paragraph 1 shall not apply to the manufacturer or importer of equipment designated in Annex II to this Decree in which batteries are permanently installed which will not need replacement during the period in which the equipment is used.

Article 6

1. Within two months of the date on which he becomes subject to the obligation referred to in Article 5 the manufacturer or importer shall inform our Minister of the way in which he will implement this obligation. This statement shall include at least the following information:
 - a. measures concerning the marketing of batteries not containing mercury, cadmium or lead;
 - b. measures aimed at achieving a collection rate of at least 80% by 1 January 1996 and a collection rate of at least 90% by 1 January 1998;
 - c. the methods for arranging the collection, storage, processing and recovery of the collected batteries with a view to reuse, including the methods for sorting batteries for processing;
 - d. the method of funding the disposal system;
 - e. measures which have been or will be taken in the event of a temporary interruption or reduction of collection or further disposal;
 - f. measures which have been or will be taken to ensure collection and further processing in the event that the manufacturer or importer ceases to market batteries in the Netherlands;
 - g. the measuring and monitoring system.
2. The measures referred to in paragraph 1, sub b, shall always include:
 - a. the measures to be taken by the manufacturer or importer to provide collection facilities in municipalities;
 - b. the measures to be taken by the manufacturer or importer to provide information to encourage consumers to separate batteries and hand them in to collection facilities in municipalities.

Article 7

1. The statement referred to in Article 6 shall require the approval of our Minister.
2. Our Minister shall decide whether or not to approve this statement within eight weeks of its receipt. During this period he may communicate that this decision will be deferred by a specified period not exceeding eight weeks.
3. Our Minister may approve a statement subject to conditions or restrictions. He may also determine that the approval shall be valid only for a specified period.
4. The manufacturer or importer shall implement the obligation referred to in Article 5 in accordance with the statement approved by our Minister.
5. Until this approval has been obtained, the manufacturer or ensure that the batteries are collected and stored.
6. He shall send a report to our Minister annually, before 1 July, on the implementation of the obligation referred to in Article 5 during the preceding year.

Article 8

1. Manufacturers and importers may submit a joint statement as referred to in Article 6.
2. Notwithstanding the provisions of Article 6, a manufacturer or importer may, if a statement as referred to in paragraph 1 has been approved, simply communicate that he will implement the obligation referred to in Article 5 in accordance with the approved statement.

Article 9

1. Our Minister may lay down rules concerning the methods for measuring and calculating the collection rate referred to in Article 6, paragraph 1, sub b by ministerial regulation.
2. If the technical progress with respect to disposal so requires, our Minister may determine by ministerial regulation that manufacturers and importers should submit a new statement by a date specified by him.
3. If paragraph 2 is applied, the approval of an earlier statement shall lapse on the date referred to in that paragraph or, if a new statement is submitted, on the date on which our Minister gives a decision on the statement referred to in that paragraph.

Part 4. Final provisions

Article 10

1. The Royal Decree of 15 September 1995 laying down rules on batteries and accumulators containing mercury, cadmium or lead (Bulletin of Acts and Decrees 486) shall be repealed.
2. Once this Decree has come into force, the regulation of the Minister of Housing, Spatial Planning and Environment of 15 November 1993, no. DGMIA 12N93043 laying down further regulations on the marking of batteries and accumulators containing mercury, cadmium or lead (Government Gazette 223) shall be based on Article 3, paragraphs 1 and 3 of this Decree.

Article 11

The Small-scale Chemical Waste (Logo) Decree¹ shall be amended as follows:

1. In Article 2, paragraph 1, the following shall be added after "this product": or, in the event of products specified in that Annex under category I' 2 or 3, on the packaging of those products,.
2. In Article 2, paragraph 2, "its packaging" shall be replaced by: the packaging immediately surrounding the product,.
3. Annex 1 shall be replaced by new Annex 1, included as Annex III to this Decree.

Article 12

This Decree shall come into force on 1 March 1995. If the Bulletin of Acts and Decrees in which it appears is published after 31 January 1995, it shall come into force four weeks after publication.

Article 13

This Decree may be cited as: Battery Disposal Decree.

We order and command that this Decree and the accompanying Explanatory Memorandum be published in the Bulletin of Acts and Decrees.

The Hague, 31 January 1995

Beatrix

The Minister of Housing, Spatial Planning and Environment,
Margaretha de Boer

Published on the ninth of February
1995 The Minister of Justice, W.
Sorgdrager

¹Bulletin of Acts and Decrees 1994, 22.

The recommendation of the Council of State was published by its being made available for inspection at the Ministry of Housing, Spatial Planning and Environment. The recommendation and related documents for inspection will also be published in the supplement to the Netherlands Government Gazette of 14 March 1995, no.52.

Annex 1
to Article 3, paragraph 1 of the Battery Disposal Decree

Hazardous substance	Quantity
Mercury	0.025% by weight per alkaline battery 25 mg <i>per battery of another type</i>
Cadmium	<i>0.025% by weight per battery</i>
Lead	<i>0.4% by weight per battery</i>

Annex II
to Article 3, paragraph 2, Article 4, paragraph 2 and Article 5, paragraph 2 of the Battery Disposal Decree

The equipment referred to in Article 3, paragraph 2, Article 4, paragraph 2 and Article 5, paragraph 2 of the Decree includes:

1. equipment for demanding industrial applications and for information technology and office automation equipment in which the batteries are soldered or otherwise secured to terminals to ensure the uninterrupted supply of electricity if the application of batteries in such equipment is necessary for technical reasons;
2. equipment for scientific and professional application containing reference cells if such equipment has to operate continuously and the reference cells can only be removed by trained personnel;
3. pacemakers and other medical equipment containing batteries which is used to maintain vital functions if such equipment has to operate continuously and the batteries can only be removed by trained personnel;
4. portable equipment if the replacement of the batteries by unskilled personnel could pose a hazard to the user or could adversely affect the operation of the equipment;
5. equipment for professional applications intended for use in highly sensitive surroundings.

Annex III
to Article 11 of the Battery Disposal Decree

Annex 1 to Article 2, paragraph 2 of the Small-scale Chemical Waste (Logo) Decree

The KCA logo shall be affixed to products in the following categories, or to their packaging:

1. batteries not containing mercury, cadmium or lead and batteries containing mercury, cadmium or lead in a quantity not exceeding that specified in Annex 1 to the Battery Disposal Decree;¹
2. discharge lamps;
 1. oil filters;
 2. thermometers containing mercury.²

¹ If these batteries are incorporated in consumer appliances as referred to in the Battery Disposal Decree, the KCA logo shall be affixed to the packaging of the appliance or shall be included in the instruction manual of the appliance.

² Alternatively, the KCA logo may be affixed to the container in which the thermometer is stored during the period of its use.

EXPLANATORYMEMORANDUM

1. Introduction

Since the publication of the Memorandum on the Prevention and Recycling of Wastes (Parliamentary Papers 111988/89, 20877, nos 1-2) the concept of sustainable development has been further developed with respect to waste substances. Incinerating and landfilling wastes can no longer be considered to be the primary disposal methods. New options will have to be found to reduce waste volumes or to reuse materials. These twin objectives, prevention and reuse, are also stressed in the 1989 National Environmental Policy Plan (Parliamentary Papers 111988/89, 21137, nos. 1-2), the National Environmental Policy Plan Plus (Parliamentary Papers II 1989/90, 21137, no. 20) and the Second National Environmental Policy Plan (Parliamentary Papers 111993/194, 23560, nos. 1-2).

At present the actual implementation of prevention and reuse of various types of waste is being studied. One of the main premises is that manufacturers or importers of products are responsible for their products at the waste stage (letter of 19 October 1990, Parliamentary Papers II 1990/191, 21137, no.49). This responsibility has practical as well as financial aspects. The practical aspects concern the obligation to collect and process the products. The financial aspects concern the funding of such collection and processing. The Decree is based on this concept of producer responsibility. It places responsibility for the collection and disposal of batteries with the manufacturers and importers. It shares this approach with the regulation on car tyres currently in preparation.

Further to the Memorandum on Prevention and Recycling the objective for the year 2000 is to collect 100% of batteries separately, followed by the greatest possible reuse. The Batteries Implementation Plan submitted to the Minister of Housing, Spatial Planning and Environment on 25 March 1992 indicates how this objective may be realised. It is assumed in the plan that 100% collection can be achieved through the further extension of the current municipal collection infrastructure. The Minister of Housing, Spatial Planning and Environment conditionally agreed to the implementation of this plan (Parliamentary Papers 111991/192, 20877, no.11). The aims of these conditions were to promote the practical implementation of the plan and to underline the principle of producer responsibility. However, after a number of meetings with battery manufacturers and importers it was not possible to reach agreement on these conditions. The differences centered on the practical development of the principle of producer responsibility. Thus, the prepublication of the draft Battery Disposal Decree, which included a deposit system for batteries, followed in November 1993 (Netherlands Government Gazette 225). Following this prepublication various parties to the discussions objected to the deposit system. Not only the manufacturers, importers and retailers, but also the Association of Netherlands Municipalities expressed a dear preference for the collection of batteries through the existing municipal collection system for small-scale chemical waste. Following these responses renewed discussions were held with the manufacturers and importers of batteries about the conditions under which the collection of batteries through the municipal collection system could be approved. The following conditions were set:

1. Manufacturers and importers of batteries will be responsible for the collection and processing of the batteries marketed by them from 1 January 1995.
2. The collection rates should correspond with those expected to result from a deposit system: 80% from 1 January 1996 and 90% from 1 January 1998.
3. These collection rates also relate to batteries on the market on 1 January 1995.
4. The collection rates will be independent l y monitored, using clearly agreed methods.
5. With respect to the set collection rates:
 - agreements on additional collection facilities will have to be concluded with the municipalities;
 - the sector will have to provide additional public information;
 - the small-scale chemical waste logo will have to be affixed to the packaging of batteries not covered by Directive 91/157/EEC.

Battery manufacturers and importers should also ensure that the batteries collected by them are processed. Batteries covered by Directive 91/157/EEC should be processed from 1 January 1995. The processing of primary (non rechargeable) batteries should commence on 1 January 1996.

This approach was approved in the discussions with the Parliamentary Standing Committee on Environmental Management on 2 February 1994 (Parliamentary Papers 111993/94, 23400 XI, no.60). These discussions were held in connection with the prepublication of the draft Decree. It was agreed that the deposit system would be included in the draft Decree under certain conditions.

To develop these conditions in greater detail Nefibat, the Netherlands Association of Battery Manufacturers and importers, would have to draw up an implementation plan so that the collection system to be set up by the manufacturers and importers could start on 1 January 1995. This implementation plan is currently being drawn up by the Batteries Organisation (Stichting Batterijen). The Decree will support the further realisation of the plan and the related disposal infrastructure by making the collection and processing of batteries compulsory.

2. Content of the Decree

2.1 *General*

The obligation of manufacturers or importers marketing batteries in the Netherlands to ensure that these batteries are collected and processed when they reach the waste stage is the central element of this Decree. To implement this obligation they will have to take adequate measures to ensure that 80% of these batteries are collected by 1 January 1996 and 90% by 1 January 1998. After collection of the batteries the manufacturer or importer will have to ensure that they are processed for reuse. After processing the resulting materials should be marketable as raw materials or other products.

To achieve these collection rates consumers should be aware that batteries, and other products designated in the Further Rules on the Small-scale Chemical Waste Logo (Government Gazette 1994, 12) should be disposed of through the municipal collection system for small-scale chemical waste (household hazardous waste). Thus, the obligations concerning this logo should also be observed. For batteries covered by

Directive 9111571 EEC on batteries and accumulators containing certain dangerous substances

(OJ L 78), hereafter referred to as the Directive, this obligation is based on Directive 931861 EEC of the Commission of the European Communities on the adaptation to technical progress of Directive 9111571 EEC. Pursuant to this Commission directive, which was implemented by ministerial regulation of 15 November 1993 (Government Gazette 223), batteries covered by the Directive should be marked with the small-scale chemical waste logo from 1 January 1994. For batteries not covered by this Directive the obligation to affix the small-scale chemical waste logo on their packaging will be introduced by amending the Small-scale Chemical Waste (Logo) Decree. This amendment forms part of the current Decree.

Up to now the Small-scale Chemical Waste (Logo) Decree only provided an instrument to require marking of the batteries themselves with the logo. If batteries are marketed with, or incorporated in, an appliance, the small-scale chemical waste logo will have to be affixed to the packaging of the appliance or be included in the instruction manual. This opportunity was also used to introduce the option of affixing the small-scale chemical waste logo on the packaging of discharge lamps and oil filters, two product categories listed in Annex 1 to the Small-scale Chemical Waste (Logo) Decree. For discharge lamps the primary reason was that the obligation to mark the actual products with the logo would considerably increase the price of energy-saving lamps in particular. This would conflict with the aim of reducing the price of these lamps and encouraging their use on a large scale. This aspect is particularly important as reducing the energy used for lighting has a high priority for environmental reasons. One of the considerations for oil filters was that the obligation to mark these filters with the small-scale chemical waste logo would generally mean that labels would have to be affixed to each oil filter. Frequently, the logo would be hard to distinguish by the time the oil filters are removed. For further information on these amendments you are referred to the explanatory notes on the amendment of the Further Rules on the Small-scale Chemical Waste Logo of 22 June 1994 (Government Gazette).

The Decree also incorporates the Decree of 15 September 1992 laying down rules on batteries and accumulators containing mercury, cadmium or lead (Government Gazette 486). This Decree implements Articles 3, 4 and 5 of the Directive. The Decree of 15 September 1992 is repealed by this Decree.

2.2 *Scope*

The collection and processing duties apply to batteries with a weight not exceeding one kilogram. These batteries are sold separately or with appliances. They are used in private households but similar batteries are also used in offices, shops, institutions and businesses. Thus, not only the manufacturers or importers of separate batteries but also the manufacturers and importers of appliances containing such batteries are responsible for the collection and processing of these batteries. When these batteries reach the waste stage they are handed in at small-scale chemical waste depots or to collection services for this type of waste. The Decree does not address manufacturers and importers of equipment for industrial or professional applications containing permanently installed batteries. The principle is that these batteries should be collected and disposed of together with the collection and processing of the equipment. Thus, the collection and processing of these batteries will be covered by the regulations being prepared for the collection and processing of white goods and brown goods. However, this will only be

permitted if the batteries do not need replacement during the period in which the equipment is used. In other cases these batteries will be covered by this Decree.

The obligation to arrange the collection and processing of batteries with a weight not exceeding one kilogram covers both primary and secondary (rechargeable) batteries. Currently, most primary batteries are either zinc-manganese oxide batteries (Leclanché cells) or alkaline batteries (alkaline manganese batteries). Mercury oxide batteries are still being supplied in small quantities. However, they are now replaced by zinc air batteries in most applications. Silver oxide batteries and lithium batteries are used for some specialised applications.

Although the mercury content of primary batteries in general and alkaline batteries in particular has been greatly reduced in recent years, it is still desirable to collect this waste separately from other household wastes. Most primary batteries still contain such a percentage of zinc compounds that they are covered by the Designation of Hazardous Substances Decree once they are spent, and their proper disposal requires special attention. Although zinc poses a lesser threat to the environment than mercury, the uncontrolled introduction of this substance into the environment should be prevented. Furthermore, ways of recovering zinc and other components from batteries should be investigated so that resources and products can be used efficiently. Apart from these reasons for collecting primary batteries, the use of rechargeable batteries is preferred to the use of primary batteries to prevent the dissipation of resources. Consumers are gradually becoming more aware of this. For this reason, too, the separate disposal of batteries is desirable.

Most rechargeable batteries are of the lead-acid or nickel-cadmium type. Although they are also sold separately many are incorporated in appliances. Generally these are the larger batteries (battery packs). Nickel-cadmium batteries, which contain a considerable amount of cadmium (15% to 20%), require special attention. The collection of this type of rechargeable batteries has been an important topic since the introduction of the code of conduct on nickel-cadmium batteries (Parliamentary Papers 111988189,20800, chapter XI, no.137).

At present other types of rechargeable batteries are being marketed in limited numbers. Examples include nickel hydride and rechargeable lithium ion batteries. When these batteries are discarded their valuable components should be recovered where possible. Thus, it will be desirable to collect these batteries. For this reason these batteries are also covered by the collection duty.

Pursuant to Article 1 of the Decree open rechargeable batteries are included in the category accumulators. The obligation to ensure collection and processing does not cover accumulators.

The collection and processing of open nickel-cadmium

accumulators are based on the Cadmium Decree pursuant to the Chemical Substances Act.

Open lead accumulators, e.g. those used in cars, are generally collected by operators holding a storage or collection license for hazardous substances pursuant to the Environmental Management Act. After collection they are processed in Belgium and other countries.

The regulations implementing the Directive cover batteries in general as well as accumulators containing mercury, cadmium or lead. These regulations are discussed in greater detail in Section 2.7.

2.3. Prepublication

A draft of the Decree was published on 23 November 1993 in the Netherlands Government Gazette (no.225). A number of responses to the prepublication were received. Both manufacturers and importers of batteries and retailers generally preferred the batteries to be collected through the existing municipal collection system. The Association of Netherlands Municipalities also shared this preference. In this context those responding were particularly concerned about the high costs and additional efforts associated with a deposit system. These costs and efforts would largely be borne by retailers. It was also noted that brand-based collection would reduce the consumers' opportunities to return batteries. Only the Foundation for Nature Conservation and Environmental Protection favoured a deposit system and advocated a money-back system for unmarked batteries currently in circulation. Following these responses there were renewed discussions with the manufacturers and importers of batteries. As noted earlier these discussions led to agreement about the conditions under which the Ministry of Housing, Spatial Planning and Environment would agree to the collection of batteries through the municipal collection system for small-scale chemical waste. These conditions are set out in greater detail in the Decree. As a result of the recommendation of the Council of State and the notification procedure (see Section 5) it was decided not to include the deposit system in the Decree. The Council for Environmental Management decided not to issue a recommendation on the Decree.

1.4 *Implementation of the collection and processing obligation*

The obligation to ensure the collection and processing of batteries is imposed by the Decree on the various manufacturers or importers who market batteries, either separately or as part of an appliance. Here, importer refers to the person or trading company who first imports the batteries into the Netherlands and places them on the market. Each manufacturer or importer should inform the Minister of Housing, Spatial Planning and Environment how he intends to implement this obligation. The obligation to provide this information will provide the first step towards the actual implementation of the disposal structure required for the collection and processing of batteries. This obligation may support a joint approach. However, for a number of reasons it would be preferable for the manufacturers and importers to adopt a joint approach to collection and processing. Thus, the Decree provides manufacturers and importers with the option to submit a joint statement to the Minister of Housing, Spatial Planning and Environment. A joint approach to disposal is particularly important to make the first disposal stage easily accessible and customer- friendly and to achieve the required collection rates. A joint approach would also have clear advantages at the stage when batteries have been collected in a municipality. In that situation it would also be easier to use the current system whereby collection operators collect all brands of batteries from the small-scale chemical waste depots and transport them, or arrange for their transport, to a processing company or battery storage facility. In the context of the processing arrangements joint initiatives could facilitate the processing of primary batteries. To support a joint disposal system manufacturers and importers could conclude an agreement on a disposal fee whereby it is agreed that a contribution is paid for each battery placed on the market. They may ask the Minister of Housing, Spatial Planning and Environment to make this agreement generally binding on all manufacturers and importers of batteries. This option is provided by title 15.10 of the

Environmental Management Act as a result of the Act of 4 February 1994 amending the Environmental Management Act (waste disposal fees) (Bulletin of Acts and Decrees 90).

If a manufacturer or importer has to arrange the collection and processing of spent batteries he will have to consider the chapter on Waste Substances in the Environmental Management Act. The disposal provisions in title 10.5 of that chapter are applicable as these cover activities such as the handing-in and collection of hazardous wastes. If retailers collect spent batteries they will be storing hazardous wastes. The provincial environmental ordinances provide an exemption from the provisions of division 10.5.2 on the reporting of the handing-in and reception of hazardous wastes, in article 10.35 of that division. These provisions are replaced by a registration obligation.

The statement referred to in Article 6 of the Decree should address the following subjects:

A. Measures to market batteries not containing mercury, cadmium or lead

The statement should address the options available for marketing batteries not containing mercury, cadmium or lead. Measures in this area will have to focus on the further development of rechargeable batteries not containing lead or cadmium. The objective of reducing the use of batteries containing mercury, cadmium and lead is also based on the Directive. The Directive obliges member states to specify the measures to be taken in this area in a four-year program.

B. Measures to ensure that the collection rate will be at least 80% by 1 January 1996 and at least 90% by 1 January 1998

One of the conditions under which the collection of batteries through the municipal small-scale chemical waste system was approved is that the collection rate should be 80% by 1 January 1996 and 90% by 1 January 1998. These rates are similar to those, which would be expected with the introduction of a deposit system. In their statements the manufacturers and importers have to specify measures to achieve these rates. The measures should be such that it is likely that the collection rates specified in the Decree will be achieved. The further development of the municipal collection systems and the provision of information to promote the collection of batteries will always have to be included in the statements.

C. The arrangements for the collection, storage, treatment and processing of the collected batteries with a view to recovery, including the sorting of the batteries for processing

Manufacturers and importers will have to describe the collection system, starting with collection from the battery user. They need not undertake the collection themselves as they may use the existing system for the collection of batteries. In municipalities batteries can be collected from households through the established collection system for small-scale chemical waste. However, not only batteries from households, but those from offices, shops, institutions and businesses have to be considered. At present some of these batteries are disposed of through the municipal small-scale chemical waste

collection system while others are disposed of directly through hazardous waste collection contractors.

Collected batteries will have to be processed with a view to their being reused. In one of the collection stages this will require sorting of the batteries, as the various types require different processing methods. Battery manufacturers and importers will have to investigate the best stage in the collection system and appropriate sorting methods. This topic should be addressed in the statement.

Batteries covered by the Directive will have to be processed from 1 January 1995. Other batteries will have to be processed from 1 January 1996. These dates relate to the conditions under which collection through the small-scale chemical waste system was accepted. The statement will have to describe the processing methods and, where applicable, temporary storage. In principle, the selected processing method should make it possible to reuse the materials. Thus the batteries should be processed, possibly after preliminary treatment, so that the resulting materials can be marketed as raw materials or other products. The statement should also address the disposal of any residues. Processing methods are available for most rechargeable batteries. However, at present there is no process for the nickel hydride batteries currently being placed on the market.

It is assumed that a suitable process will be available by the time these batteries become waste, i.e. in a few years.

At present primary batteries are processed in a plant in the United States where mercury and other materials are recovered. The mercury and other components obtained from processing the batteries are marketed as raw materials. However, the intention is not to continue exporting these batteries to the United States in the long term. Battery manufacturers and importers will have to examine ways of processing these batteries in the Netherlands or elsewhere in Europe. The statement will have to describe the processing of these batteries from 1 January 1996.

If batteries are exported to other countries for processing the exports have to be assessed, from 6 May 1994, under regulation (EEC) no.259/193 of 1 February 1993 on the supervision and control of shipments of waste into and out of the European Community (OJ L 30). This regulation is directly applicable in the member states. Pursuant to this regulation the export of spent batteries for processing will *inter alia* be tested against the self-sufficiency principle and the proximity principle. Given these principles, export will, as described in the Multi-Year Plan for the Disposal of Hazardous Wastes, be permitted only if:

- a. the disposal facilities abroad are more sophisticated than in the Netherlands, or if no processing capacity is available in the Netherlands;
- b. the provision of equally sophisticated disposal facilities in the Netherlands is not impeded by these exports; or
- c. the processing facility has to serve more than one country and processing abroad is undertaken on the basis of international agreements.

The export of batteries will be permitted if one of these conditions is fulfilled. Generally exports of primary or rechargeable batteries will be permitted on the basis of criterion a: the disposal facilities abroad are more sophisticated.

D. Funding of the disposal infrastructure

Costs are incurred during the collection and further disposal of batteries. The statement should specify how these will be funded. In principle, the costs of collection from the small-scale chemical waste depot, sorting, storage and processing of the batteries should be borne by the manufacturers and importers of batteries. If additional collection provisions are made in the municipalities to achieve the collection targets, e.g. at retailers, the manufacturers and importers will have to conclude agreements about the associated costs. It is assumed that businesses, offices, shops and other institutions can take their batteries to municipal small-scale chemical waste depots. If they choose to transfer their batteries to a collection service they will have to bear the associated costs. The statements should refer to the agreements on this subject. All processing costs will be borne by battery manufacturers and importers. The disposal infrastructure can be funded through waste disposal fees as provided for by title 15.10 of the Environmental Management Act.

E. Measures to be taken in the event of temporary interruption or reduction of collection or further disposal

Manufacturers and importers should create a disposal infrastructure, which ensures the continuity of collection and processing. Thus they will have to consider the eventuality that collection, processing or sales are interrupted or reduced. Manufacturers and importers will have to specify the measures they will take to ensure the continued disposal of batteries.

F. Measures to be taken to ensure collection and further disposal in the event that the manufacturer or importer ceases to market batteries in the Netherlands

In principle each manufacturer or importer is responsible for the collection and processing of his batteries. This responsibility continues if the batteries enter the waste stage at a time that their manufacturer or importer has ceased to market these batteries. For example, an importer may decide to market another brand or may cease trading altogether. This includes bankruptcy. As part of the winding up of his corporate activities he may be required to take specific measures to ensure that "his" batteries are collected and processed by others after he has left the market. Thus, battery manufacturers and importers are asked to state what measures they have taken in this area.

However, if a generally binding disposal fee is levied there will be no need for special provisions in the event that distribution is terminated. In that case a fee towards the cost of disposal would have been paid at the time the batteries were placed on the market.

G. Measuring and monitoring system

The statement should also specify how the implementation of the various obligations is to be monitored. Here, monitoring refers to the consistent collection, processing and registration of data needed to track the development and implementation of the collection and processing activities. A suitable registration and verification system will have to be developed for this. The measurement and monitoring of the collection rate is particularly important. As part of the implementation plan the Batteries Organisation is developing a measuring and monitoring system together with the National Institute of Public Health and Environment.

2.5 Approval of the statement

Battery manufacturers and importers will have to send the statement referred to in section 2.4 above to the Minister of Housing, Spatial Planning and Environment within two months of the date on which they become subject to the collection and processing obligation. In principle, the Minister will decide whether or not to accept the statement within eight weeks. During this period the approval period may be extended by up to eight weeks.

Until approval has been obtained, a manufacturer or importer has to ensure that the products marketed by him are collected and processed when they reach the waste state, to meet his collection and processing obligation.

The implementation plan currently being developed by the Batteries Organisation on behalf of the battery manufacturers and importers could, if it addresses all the subjects to be included in a statement in accordance with Article 6 of the Decree, provide the basis for a statement to be sent to the Minister by a number of manufacturers and importers jointly. The various manufacturers and importers who later decide to participate in the disposal infrastructure described in the plan, can then simply state that they will discharge their duties in accordance with the (approved) statement of the Batteries Organisation.

Should a manufacturer or importer decide not to support the joint statement he will have to address all matters included in Article 6 of the Decree in his individual statement. If the assessment on the subjects referred to in Article 6 leads to the conclusion that significant aspects of a statement are unsatisfactory, approval of the statement may be refused.

Alternatively, approval may be granted subject to specified conditions or restrictions.

Furthermore, approval may be limited to a specified period. Any major international, economic or technical developments will be taken into account in the implementation of the Decree.

Another issue has to be considered in connection with the approval. If manufacturers and importers set up a joint collection and processing system, certain agreements will have to be concluded. Such agreements may be considered competition agreements within the meaning of the Economic Competition Act. A statement referring to a current or future joint disposal system will not be approved if it is evident that agreements have been made, or will be made, which conflict with national or European competition policy. In other cases, statements referring to a joint system may be approved on condition that no anti-competitive agreements are concluded. Manufacturers and importers will have to consider this issue when developing and setting up a joint system. This means that any battery manufacturer or importer who wants to join the joint system will have to be admitted under the same conditions.

In the course of time there may be developments, which necessitate a new statement.

Thus, the Decree allows the submission of a new statement to be required by means of a ministerial regulation.

The decision on whether or not to approve a statement is a decision within the meaning of the General Administrative Law Act. Pursuant to Section 20.1 of the Environmental Management Act an appeal against the Minister's decision on such a statement can be lodged with the Judicial Division of the Council of State. However, before such an appeal may be lodged, a notice of objection should be filed with the body which took the decision, in this case the Minister of Housing, Spatial Planning and Environment. The procedure for filing and considering the notice of objection is set out in parts 7.1 and 7.2 of the General Administrative Law Act.

Pursuant to Article 7, paragraph 6 manufacturers and importers will annually have to describe the implementation of their duties in an annual report, to be submitted by 1 July. The various subjects covered in section 2.4 will have to be addressed, as well as the outcome of the monitoring efforts.

2.6 *Deposit system*

The Decree obliges manufacturers and importers to take measures to achieve a collection rate of 80% by 1 January 1996 and 90% by 1 January 1998. If battery manufacturers and importers cannot achieve the collection rate set for 1 January 1996 and it is also evident that the collection rate will not rise in 1997 and 1998, amendment of the present Decree with a view to introducing a deposit system will be considered. This will also be considered if the collection rate falls after 1 January 1996 and a further increase is unlikely.

2.7 *Implementation of the Directive of 18 March 1991 on batteries and accumulators containing certain dangerous substances*

The Decree laying down rules on batteries and accumulators containing mercury, cadmium or lead implemented Articles 3, 4 and 5 of the Directive. The implementation of the other articles of the Directive did not require special legislation. The contents of the above Decree are included in this Decree. This opportunity was also used to base the Decree on Sections 10.4 and 10.6 of the chapter on waste substances in the Environmental Management Act. The Decree was originally based on Sections 24 and 39, subsection 3, of the Chemical Substances Act. A few changes were made in view of the terminology of Section 10.6 of the Environmental Management Act and the fact that an EC-wide mark (logo) for batteries and accumulators has now been established.

Articles 3, 4 and 5 of the Directive have been implemented in Articles 2, 3 and 4 of the Decree. Contrary to the Directive, the obligation to affix a mark was not introduced on 18 March 1993. The Commission of the European Communities adopted the mark on 4 October 1993 (Directive 93/186/EEC of the Commission of the European Communities adapting to technical progress Council Directive 91/1571 EEC on batteries and accumulators containing certain dangerous substances). The mark depicts a crossed out waste bin, the symbol for small-scale chemical waste, and the relevant chemical symbols to indicate the presence of the metals mercury, cadmium or lead. The obligation to affix the mark was introduced on 1 January 1994. There is a two-year period in which unmarked batteries already on the market may be sold. This obligation was introduced by the ministerial regulation of 15 November 1993 (Government Gazette 223), as amended by the ministerial regulation of 20 December 1993 (Government Gazette 247).

Article 4 of the Decree introduces an obligation to incorporate batteries in appliances in such a way that they can be removed. At present, batteries can already be removed from a range of appliances such as tools and movie cameras. Appliances such as electric toothbrushes, small hand-held vacuum cleaners, portable telephones and video cameras may have to be modified so that consumers can easily remove the batteries. At present this obligation applies only to batteries covered by the Directive; these include nickel-cadmium and lead-acid batteries as well as mercury oxide batteries. However, other battery types are also incorporated in equipment. Some of these are primary cells but nickel hydride batteries are also occasionally used.

The collection and processing of these batteries is just as desirable as the collection and processing of separate batteries. Thus, the Decree introduces an obligation to incorporate these batteries in consumer appliances in such a way that they can easily be removed. An exemption may be granted in special cases, pursuant to Section 10.47 of the Environmental Management Act.

Single-use cameras are an example of this. The operation of these cameras depends on the

permanent incorporation of the battery so that a requirement to make the battery removable would mean that the cameras would no longer be marketable. However, such an exemption will be accompanied by conditions on the collection and processing of such batteries. The extension of the incorporation obligations to batteries not covered by the Directive does not apply to batteries in equipment referred to in Annex II the Decree. It is assumed that the batteries in this type of equipment will often be permanently incorporated. The obligation to ensure collection and processing of these batteries will be included in the arrangements for the collection and processing of white goods and brown goods which are currently in preparation. If these batteries have to be replaced before the equipment is discarded the manufacturer or importer will be responsible for their collection and processing.

3. Landfill ban

To support the processing regulations the Decree prohibiting the landfilling of wastes (currently in preparation), based on Section 8.44 of the Environmental Management Act¹ will ban the landfilling at establishments of batteries which were separately collected or handed in. This specifically refers to landfilling at controlled landfills. The Decree was republished in the Netherlands Government Gazette of 23 March 1994, no.58, and has been submitted to the Council of State for its advice.

4. Financial aspects

The costs associated with the obligation to collect and process batteries should be borne by battery manufacturers and importers as they are responsible for the disposal of the products they supply. As discussed in section 2.4 they can take the initiative to draw up an agreement on a disposal fee. If such a disposal fee is made generally binding the costs of collection and disposal of batteries will be equally divided among all those placing batteries on the Dutch market. Producers would then be free to decide whether or not to pass such a fee on in the price of their products. This agrees with the comments on passing on the costs of products at the waste stage in the letter of 19 October 1990 to the Lower House (Parliamentary Papers 111990/91,21137, no.49). It may be roughly estimated that the costs of collection and processing resulting from this Decree may increase the price of batteries by an average of NLG 0.10 to 0.15.

Further information about the costs of the collection and processing of batteries follows below. According to the cost calculations made for the 1992-1995 environment program further to action A67 of the National Environmental Policy Plan (Parliamentary Papers 111988189, 21137, no.1), the overall costs of the separate collection and reuse of batteries were estimated at approximately NLG 12 million. These calculations assumed that batteries would be collected through the municipal collection system for small-scale

chemical waste and that the batteries would be disposed of at a C2 landfill. The cost of disposing of one ton of batteries was assumed to be NLG 3250.

It is expected that the costs of collection and processing by the manufacturers and importers will not be significantly higher. To achieve the required collection rates manufacturers and importers will incur further costs to provide the additional collection facilities and for the provision of public information. Similarly, sorting the batteries¹ a step necessary for processing, will introduce additional costs. However, it is quite likely that the manufacturers and importers will aim to process the batteries for less than NLG 3250 per ton.

There is some information about the costs of processing batteries. Given the revenue from the sale of the recovered nickel and cadmium, nickel-cadmium rechargeable batteries can generally be processed in France at NLG 500 per ton. The options for processing primary batteries were discussed in section 2.4. In the United States processing these batteries costs over NLG 3500 per ton. It is likely that the costs of processing mercury-free primary batteries in zinc smelters or other plants will be significantly lower, probably in the region of NLG 500 per ton.

The costs associated with current obligations pursuant to the Directive are discussed in section 5 of the explanatory memorandum of the Decree laying down rules on batteries and accumulators containing mercury, cadmium or lead. The obligation to incorporate even batteries not covered by the Directive in consumer appliances so that consumers can easily remove them will increase costs if these batteries are not easily removable at present. It is likely that this will only affect a limited range of appliances. This topic was not addressed by the reactions to the prepublication.

5. International aspects

The Directive of 18 March 1991 on batteries and accumulators containing certain dangerous substances applies to batteries containing more than a specified percentage of mercury, cadmium or lead. Article 1 of the Directive stresses that the Directive applies to batteries and accumulators containing the dangerous substances listed in Annex T to the Directive. This annex corresponds to Annex I of the present Decree. Thus, the Directive applies to rechargeable nickel-cadmium and lead-acid batteries (accumulators) and mercury oxide batteries. The Directive introduces full harmonisation for these batteries.

The harmonisation does not extend to batteries not covered by the Directive. Thus, the measures of this Decree have to be tested against Articles 30 and 36 of the EEC Treaty and related case law. Hence, the following conditions will have to be satisfied:

- a. the Decree should apply in full to both domestic and imported products;
 - b. the Decree should serve an urgent requirement in the public interest;
 - c. the measures introduced by the Decree should be necessary and proportionate.
-
- A. The Decree applies to batteries sold separately or incorporated in appliances. No distinction is made between batteries manufactured in the Netherlands and those manufactured elsewhere.
 - B. In the Danish bottles case (302/86) protection of the environment was recognised as an urgent requirement in the public interest. Similarly, the collection and processing of primary batteries are desirable to protect the environment. The landfilling or incineration of these batteries should be avoided.

Although the mercury content of batteries, particularly alkaline batteries, has greatly decreased in recent years primary batteries are still classified as hazardous waste on the basis of their content of zinc and other substances. The collection and processing of these batteries are promoted not only because these batteries are hazardous waste but also to encourage reuse. As discussed in part 1 of this explanatory memorandum, Dutch policy on wastes, since the publication of the Memorandum on the Prevention and Recycling of Wastes, has been to reduce the amounts of waste and to ensure that wastes are processed for reuse wherever possible. At present this policy is being developed for various types of waste. These are not limited to hazardous wastes, but paper and used packaging are also considered. The landfilling or incineration of batteries should be avoided if there are ways of reusing the zinc and possibly other components of batteries. Thus, it is assumed that the measures introduced by this Decree satisfy the condition concerning an urgent requirement in the public interest.

- C. At present approximately 60% of batteries are collected. This means that a large proportion of spent batteries are still disposed of with household waste and landfilled or incinerated. Hence, there are reasons to employ further instruments to improve the collection rate. The Decree gives battery manufacturers and importers the option to achieve the collection rates specified in the Decree through the existing municipal systems for the collection of small-scale chemical waste. The measures introduced by the Decree to achieve a high collection rate may be considered to be necessary and proportionate, especially since, unlike the draft submitted to the Council of State, it no longer provides the option of introducing a deposit system. The obligation to ensure processing following collection can ensure the necessary processing with a view to reuse.

As the measures in this Decree also apply to batteries covered by the Directive, the Decree was sent to the European Commission pursuant to Article 11 of the Directive. The draft submitted to the Council of State to obtain its advice included a conditional obligation to mark batteries as part of a deposit system. This obligation is a technical regulation in terms of EC Directive 83/189 laying down a procedure for the provision of information in the field of technical standards and regulations. Thus the Decree was submitted to the European Commission for notification. The European Commission did not raise any objections under this notification procedure. However, some member states responded. These members objected the deposit system. In the view of the United Kingdom and France, Directive 91/157/EEC prevents the introduction of measures affecting batteries not covered by that Directive. The notification procedure was completed on 20 January 1995. The response of the Netherlands government to the member states indicated that the conditional deposit system is no longer included in the Decree. Furthermore, given that the Commission did not respond, the Netherlands government has no reasons to assume that measures on batteries not covered by the Directive would conflict with Directive 91/157/EEC. This issue was also discussed at the time of notification of the Small-scale Chemical Waste (Logo) Decree. At the time the Commission of the European Communities indicated that Directive 91/157/EEC does not prevent the introduction of measures concerning batteries not covered by the Directive. Obviously, these measures will still have to be tested against Articles 30 and 36 of the EEC Treaty.

6. Enforcement

This Decree is based on Chapters 10 and 15 of the Environmental Management Act. Sections 18.7 *et seq.* of that Act relate to enforcement. Pursuant to these provisions enforcement can be based on criminal law (Economic Offences Act) or administrative measures. For administrative enforcement the instrument of a pecuniary penalty provided by Section 18.9 of the Environmental Management Act may be used. Enforcement will be carried out by or on behalf of the Health Inspectorate, entrusted with the monitoring of the environment.

An important provision of the Decree is the obligation of manufacturers and importers to arrange the collection and processing of the batteries marketed by them. This obligation can be enforced on the basis of their statements. Infringements of the Decree, for example failing to submit a statement, is punishable under the Economic Offences Act. If an agreement on disposal fees is made generally binding, enforcement can take the form of verifying whether the manufacturers or importers pay the relevant fees. This is primarily the task of the sector itself.

Whether collection and processing are actually carried out in accordance with the statements can be verified with the data obtained by monitoring. The monitoring system has to be specified in the statement and will be assessed during the approval procedure. The results of the monitoring efforts have to be included in the reports submitted annually to the Minister of Housing, Spatial Planning and Environment. Thus, the manufacturers and importers themselves play an important role in enforcement. However, the Inspectorate can also check whether batteries are indeed being separated and processed. If this is not done, criminal or administrative sanctions may be imposed.

As part of the enforcement activities pursuant to the Small-scale Chemical Waste (Logo) Decree it will be verified whether or not battery packaging and the packaging or instruction manual of appliances containing batteries are indeed marked with the logo. Enforcement activities will also relate to the duties, based on the Directive, related to the incorporation of batteries in appliances and the obligation to affix the appropriate marks to batteries covered by the Directive. These activities will be concentrated on manufacturers and importers of batteries and appliances containing batteries.

7. Explanatory notes to the articles

Article 1

The Decree of 15 September 1992 laying down rules on batteries and accumulators containing mercury, cadmium or lead implemented Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances. Thus, the Decree was restricted to batteries containing more than the specified percentages of mercury¹ cadmium or lead. The collection and processing arrangements apply to all batteries, regardless of their mercury, cadmium or lead content. The duties with respect to the incorporation of batteries in consumer appliances are also extended to all battery types. For this reason this article defines "battery" and "accumulator" to include all batteries and accumulators.

Article 2

The obligation imposed rules on batteries and entered into force on Decree. The obligation by this article was also included in the Decree laying down accumulators containing mercury, cadmium or lead which 1 January 1993. That Decree is repealed by the present is continued by this article.

The Directive refers to "alkaline manganese batteries". In the Netherlands these batteries are marketed as "alkaline batteries". Thus, the Decree also refers to "alkaline batteries". Alkaline batteries are a specific type of battery for applications requiring high capacities.

They are identifiable by the word "alkaline" on the batteries or their packaging. Thus, they are easily distinguished from zinc-manganese oxide batteries.

Paragraph 2 of this article refers to alkaline batteries for "prolonged use in extreme conditions". This expression is taken from the Directive. It refers to temperatures below 0°C or above 50°C, exposure to shocks, etc.

Pursuant to paragraph 3 the mercury limits in paragraphs 1 and 2 do not apply to button cells and batteries composed of button cells. Button cells are button-shaped batteries.

Article 3

The obligation pursuant to Directive 91/1 57/EEC to affix a mark has been brought into line with the purpose and terminology of Section 10.6 of the Environmental Management Act. Pursuant to the Directive this obligation applies to batteries containing mercury, cadmium or lead in concentrations exceeding those listed in Annex 1. Generally speaking this will apply to nickel-cadmium batteries, lead-acid batteries and mercury oxide batteries. The obligation covers both batteries marketed separately and batteries incorporated in appliances. As all batteries incorporated in appliances should be removable from those appliances according to the Directive, there is no requirement to affix the mark to the appliance.

As stated in section 4 of this explanatory memorandum the Commission of the European Communities established the mark for batteries on 4 October 1993. The mark depicts a crossed out waste bin and the chemical symbol for the metals mercury, cadmium or lead. Thus, there is no need to refer to any mark established by the competent authorities of other EC member states.

The article introducing the obligation to affix such a mark came into force on 18 March 1993. The obligation actually came into force on 1 January 1994 (see section 2.7 of the general part of the explanatory memorandum).

Article 4

Pursuant to the Directive, from 1 January 1994 batteries have to be incorporated in appliances in such a way that when they are spent they can easily be removed by consumers. Here, "easily" means that it should be possible to remove the batteries by hand or using a basic utensil. Naturally, the use of the utensil should not endanger the consumer. In paragraph 1 of this article this obligation is extended to batteries not covered by the Directive. This was discussed in section 2.7 of this explanatory memorandum.

In accordance with the Directive the arrangements for equipment listed in Annex II are slightly different. The instruction manuals of such equipment should describe the methods for the removal of the batteries from the equipment. Thus, it is not necessary for these batteries to be easily removable from this professional equipment by the user.

Pursuant to paragraphs 1 and 2 the instruction manuals of appliances should describe the removal of the batteries. It is assumed that in most cases these instructions will also be included in the Dutch language. Thus it was decided not to include a specific requirement in this respect.

This requirement was also included in the Decree laying down rules on batteries and accumulators containing mercury, cadmium or lead. This obligation come into force on 1 January 1994 and is now based on this article.

Article 6

This statement should be submitted within two months of the date on which the obligation to collect and process batteries becomes applicable. Hence, manufacturers and importers marketing batteries at the time the Decree comes into force have to submit their statements within two months of that date. Manufacturers and importers placing batteries on the market at a later date have to submit their statements within two months of the commencement of such activities.

Article 8

Manufacturers and importers submitting a "simple" statement as referred to in paragraph 2 of this article will have to demonstrate in their statements that they are participating in the disposal system described by the joint statement. This could be demonstrated by the fact that they pay a disposal fee to fund the disposal system.

Article 11

The amendment contained in this article applies to batteries, discharge lamps and oil filters. The small-scale chemical waste logo may be affixed to the packaging of products included in these categories, which have to be marked with the small-scale chemical waste logo pursuant to the Further Regulations on the Small-scale Chemical Waste Logo. This provides manufacturers and importers with the option of affixing the logo on the packaging, rather than on the actual products. It was agreed that they will comply with this requirement from 1 January 1995 and that, like all other products listed in the Further Regulations on the Small-scale Chemical Waste Logo, all products on the market on 1 July 1995 should be marked with the logo. Until the date on which this amendment comes into force the requirement to affix the logo to these products will

temporarily be suspended. This was arranged through the amendment of the Further Rules on the Small-scale Chemical Waste Logo of 22 June 1994 (Government Gazette 119) which temporarily excluded discharge lamps and oil filters from the regulation. There was no need to extend this to batteries as these had not been included in the ministerial regulation at that time. The Decree already provided the option of affixing the logo to the packaging of thermometers containing mercury, another category listed in Annex 1 to the Small-scale Chemical Waste (Logo) Decree. "The packaging immediately surrounding the product" refers to the packaging required around liquid and paste products in categories listed in Annex II to the Small-scale Chemical Waste (Logo) Decree. This expression does not refer to any overwraps. Explanatory notes to the annexes.

Annexes I and II correspond to the annexes to the Decree of 15 September 1992 laying down rules on batteries and accumulators containing mercury, cadmium or lead. With respect to Annex I the following interpretations were agreed at the European level.

"Pacemakers" in part 3 refers to all active medical equipment which may be implanted and which is covered by Directive no. 90/3851 EEC of the Commission of the European Communities of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices (OJ L 189). "To maintain vital functions" in that part also includes monitoring vital functions. "Portable equipment" in part 4 may be defined as equipment to be moved, by one or more persons, between locations either during use or in the periods between use. "Equipment for professional applications" in part 5 includes medical equipment operated by medically trained personnel or the patient. This equipment also includes instruments for use in damp surroundings or for outdoor use in emergencies.

The Minister of Housing, Spatial Planning and Environment,
Margaretha de Boer