

Netherlands Withdraws “Decree KCA Logo” Following Commission Infringement Proceedings

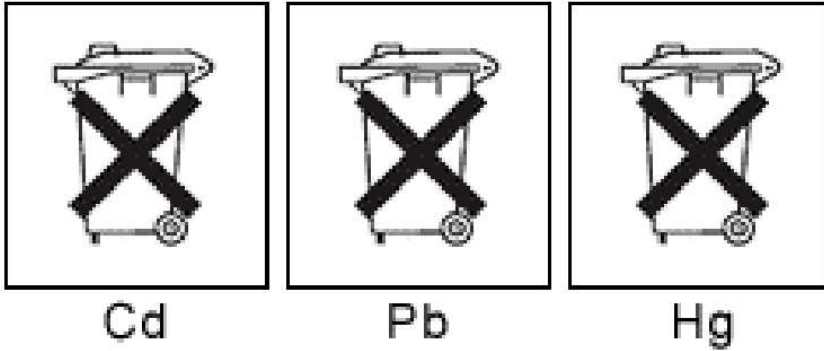
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Netherlands - Batteries

In response to infringement proceedings brought by the European Commission, the Netherlands government decided to withdraw the “Decree KCA Logo.” KCA means “small chemical waste” (“klein chemisch afval”). Pursuant to the Decree KCA Logo, which entered into force on 1 January 2004, certain products had to be labelled with the KCA logo (a crossed-out wheeled waste bin). The KCA logo signals to consumers that they should not dispose of the products involved as part of the regular household waste, but keep them separate and feed them into the appropriate treatment channels.

The Commission had initiated infringement proceedings against The Netherlands because the Decree KCA Logo went beyond EC legislation. The pertinent EC legislation (i.e. chemical legislation) is based on Article 95 of the EC Treaty and national law going beyond this legislation was deemed to cause unlawful trade barriers. The Dutch government therefore withdrew the Decree.

The Explanatory Memorandum to the Decree Withdrawing the KCA Logo Decree (“Besluit van 27 november 2006 tot intrekking van het Besluit KCA-logo”) states that the withdrawal of the KCA logo decree will not result in the disappearance of the KCA logo from all products. Batteries that contain dangerous substances and electrical and electronic equipment will still have to carry the KCA logo. The obligation to affix the KCA logo on batteries that contain dangerous substances and to state on these batteries the abbreviations of certain heavy metals is provided in Article 3 of the Battery Management Decree (“Besluit beheer batterijen”) and is further worked out in the Regulation Further Rules Designating Batteries and Accumulators Containing Mercury, Cadmium or Lead (“Regeling nadere regels aanduiding van batterijen en accu's die kwik, cadmium of lood bevatten”), which implement the EU Battery Directive (Directive 91/157). The pertinent symbols look as follows:



For electrical and electronic equipment, the obligation to affix the KCA logo is set forth in Article 13, first paragraph, under a, of the Regulations regarding management of electrical and electronic equipment ("Regeling beheer elektrische and elektronische apparatuur"), which implements the WEEE Directive.

It should be noted that the Decree Withdrawing the KCA Logo Decree does not forbid to display the KCA logo on equipment other than the equipment covered by the Netherlands legislation implementing the Battery Directive and WEEE Directive. In other words, the KCA logo may be used on other equipment on a voluntary basis.