

Operational Plans for Battery Compliance Scheme

Guidance notes



The Waste Batteries and Accumulators Regulations 2009

Please read these guidance notes carefully before you complete your application. You must read this guidance note in conjunction with the guidance note on Applying for Approval as an Operator of a Battery Compliance Scheme (WMP9).

You must also read the relevant sections of the Regulations.

Note, the term 'battery' or 'batteries' should be considered to mean 'batteries and accumulators' in this guidance.

Contents

- 1 What is an operational plan?
- 2 Why must I submit an operational plan?
- 3 How to submit your operational plan during the application process
- 4 What should I include in my operational plan?
- 5 What should I include in my scheme rules?
- 6 How should I demonstrate my viable plans?
- 7 Where to find out further information
- 8 What happens once you have submitted an application
- 9 Commercial confidentiality
- 10 What happens once you are an approved compliance scheme

1 What is an operational plan?

An operational plan sets out how your proposed battery compliance scheme (BCS) is going to fulfil the obligations mentioned in Part 2 of Schedule 3 to the Regulations. The operational plan must cover your scheme's plans for at least the first three compliance periods. For example, for applications in 2011, your operational plan must cover the years 2012, 2013 and 2014.

Part 2 of Schedule 3 to the Regulations sets out the information you must include in your operational plan. Please also refer to section 4 and Annex 1 in this document.

We will look at your operational plan to help us to decide whether you have met the criteria set out in Part 3 of Schedule 3 to the Regulations. If you are granted approval as a BCS it will be a condition of that approval that you carry out your operational plan.

This guidance tells you why you must submit an operational plan and what information you need to include in your operational plan when you apply for approval to operate as a BCS. It also covers what you will need to do with your operational plan once you are approved.

2 Why must I submit an operational plan?

The Regulations require you to submit an operational plan in your application for approval to operate as a BCS (Regulation 47(5)). You must read the guidance note WMP9 Applying for Approval as an Operator of a Battery Compliance Scheme for full details on how to apply.

You must include a copy of your operational plan and any documents which support your plan in your application. If you do not, we will refuse your application.

Your operational plan is a key part of our assessment of your application. If we consider that we need further information from you in order to determine your application, we will request this on or before 15 June in the year the application has been made.

We expect to see:

- that your scheme has sufficient financial resources and technical expertise to deliver your plans over three years
- details of your scheme's proposed membership and obligation

- details of your scheme's proposed arrangements for collecting, treating and recycling batteries to discharge your obligations
- details of your scheme's proposed arrangements for meeting your publicity obligations
- the proposed systems you have in place for complying with your conditions of approval and the requirement to make a declaration of compliance
- details of what reasonable arrangements you will make for accepting batteries from economic operators and waste collection authorities
- an explanation of how the obligations of your members relate to the arrangements put in place.

To obtain approval, your operational plan must satisfactorily demonstrate to us that your proposed scheme:

- fully meets the criteria for approval as a BCS set out in Part 3 of Schedule 3 to the Regulations
- is likely to meet its obligations under Part 3 of the Regulations
- is likely to last for at least three compliance periods.

3 How to submit your operational plan during the application process

All applications for approval must be made on the National Packaging Waste Database (NPWD). Please refer to <http://npwd.environment-agency.gov.uk> for guidance on how to access and use NPWD. If you have any problems with using NPWD, please call 03708 506506.

When you apply for a login for NPWD, we will send you three templates, as follows:

- Operational plan template (see section 4A–K)
- Scheme rules template (see section 5)
- Viable plans template (see section 6)

Using these templates should enable us to process your application more efficiently.

You must upload your completed templates and any supporting documents on to NPWD as part of your application. Failure to do so may mean we will refuse your application.

4 What should I include in my operational plan?

Your operational plan must include the information listed in Part 2 of Schedule 3 to the Regulations (summarised in Annex 1). You must check that your operational plan and supporting documents demonstrate that you can meet the criteria for approval as a BCS in Part 3 to Schedule 3 to the Regulations (summarised in Annex 2).

You must read the Regulations for the full legal text.

Your scheme must be able to, at a minimum, achieve the targets in Regulation 8(4), and therefore have the resources to do so. Please refer to Annex 4 to WMP9 for more details on these targets. Throughout your operational plan you must demonstrate your scheme's ability to do this.

Our interpretation of these requirements and suggestions for meeting these requirements are explained below. For all the requirements you must provide us with copies of documentary evidence which support your plans, such as contracts, templates etc. even where these are provisional. You must give us the most complete information you are able to provide at the time of application and supply us with updates as appropriate.

The letters against each section refer to the relevant sections in the operational plan template.

A: Your financial resources and technical expertise (paragraphs 9(a) and (b) of Part 2 of Schedule 3, and Part 3 of the Regulations)

These must be available to your scheme to enable you to perform your obligations under Part 3 of the Regulations, particularly financing your obligations under Regulation 19 in an appropriate and timely manner (paragraph 9(c) of Part 2 of Schedule 3).

Technical expertise:

- Please identify who in your organisation has the appropriate knowledge and experience to manage your compliance with the Regulations and the person with whom compliance with the Regulations, or part of the Regulations, ultimately rests. For each identified person, provide brief details of name, location, relevant experience and any experience they have in operating compliance schemes in the UK and/or the EU
- What roles and responsibilities have you identified and how have you assigned these roles? For example, membership support, contracts, logistics, data reporting, IT support
- You must advise us of any changes in personnel and how you are going to manage the situation. What contingency plans do you have to ensure continual compliance?
- Are you intending to partially rely on expertise provided by people external to your organisation? If so, you must provide details and explain how you will ensure this is delivered.

Financial resources:

You must have the financial resources for all your obligations under Part 3 of the Regulations. Under Regulation 19 you are specifically required to finance the net costs arising from the collection, treatment and recycling of each of your scheme members' share of all waste portable batteries collected in the UK, and of any batteries collected by your scheme in excess of your members' share.

- Based on your estimated obligations for each compliance year, provide the costs you estimate you will need to meet these and how you intend to finance these costs. Please indicate upon what assumptions you have based this

estimation. You must explain how you will provide for the variability in collection, treatment, recovery and recycling costs since these will be subject to market conditions

- You must provide a statement demonstrating that sufficient funds are or will be available to cover the costs associated with your obligations as a scheme. Where appropriate this statement should demonstrate that there is access to sufficient borrowing resources, particularly under unforeseen circumstances
- You must include details which back up your statement – these could include information on your company's financial history, financial liabilities, company accounts and projections, your company business plan, company guarantors or backers, etc.
- You must indicate what contingency plans are in place in the event that the costs of meeting your obligations are greater than you have anticipated
- You must demonstrate that you have appropriate and effective systems to invoice your members and obtain sufficient resources in a planned and timely manner. For example, what internal timescales will you work to in order to ensure effective financing of your obligations so you do not fall behind?

B: Your duty to arrange for and collect waste portable batteries from distributors (paragraph 9(d)(i) of Part 2 of Schedule 3, and Regulation 32(2))

This requirement is a key part of your collection strategy and duties along with providing a network of facilities for economic operators (section 4C) in order to meet your scheme obligations.

Distributors may request any BCS to collect waste portable batteries it has taken back from end users. This is called the 'distributor's right of uplift'.

As a BCS you must arrange within 21 days of receiving such a request from a distributor a reasonable time for the collection of these waste batteries, without charge to the distributor. A distributor can make their request to any BCS, irrespective of any contractual arrangements you may have made with other BCS. You will need to work with distributors to obtain batteries from end users to meet your collection targets.

You are required and expected to cooperate with other schemes on these collections. A different BCS from the one originally contacted by a distributor may pick up the batteries, but in the event of a dispute, the responsibility for the pick up rests with the first BCS contacted by the distributor.

- How do you intend to work with distributors? Do you intend to draw up formal arrangements or relationships with certain distributors? How you will deal with requests from distributors you do not have such arrangements with? You must be able to show how your collection arrangements will meet your obligations, and how you will respond to distributor requests from anywhere in the UK
- You must show how you intend to meet your obligations (and these targets) through your own collection systems and, if intended, by trading with other BCS. If you intend to trade with other schemes, how will you ensure that you do not jeopardise your compliance and not significantly under- or over-obligate?
- What systems will you put in place to receive requests and act on them within 21 days, as well as the arrangements for treatment and recycling of these batteries? If you have collection arrangements with distributors, can you ensure that waste batteries will be collected at least once every twelve months?

- How you will cooperate with other BCS, e.g. if your scheme is unable to comply with the request or it is more logical for another BCS to meet the request. You may like to work with other BCS to set up a database to log distributor requests, enable collections from distributors to be coordinated and reduce the environmental impact of transportation. Please give details of any such schemes
- How will your financial resources cope with these requests and cooperation with other BCS?

C: Facilities your scheme will provide so that economic operators (producer, distributor, collector, recycler or other operator) and waste collection authorities are able to participate in collection, treatment and recycling schemes (paragraph 9(d)(ii) of Part 2 of Schedule 3, and Regulation 33)

This requirement is a key part of your collection strategy and duties, alongside collecting waste portable batteries from distributors (section 4B), in meeting your scheme obligations.

- Your scheme must accept waste portable batteries without charge, at the network of facilities you provide. What facilities do you need and in what locations to cover your obligations? You do **not** have to collect batteries from economic operators or waste collection authorities – for example, you can ask for batteries to be delivered to a consolidation point. However, you must provide a service with reasonably situated and accessible facilities. For example, you might show the coverage of your facilities with a certain population within a certain radius
- You must not request a charge for your service, so you must indicate how you intend to finance this
- Waste collection authorities are likely to be key partners for BCS because of their collection infrastructure and potential access to portable batteries in household waste. However, they are not obliged to work with you, nor you with them. If applicable, please demonstrate how you will work with them. You may work with them on kerbside collection or help to provide facilities at civic amenity sites or other public buildings, for example
- You may wish to look at the information from the government-funded WRAP trials on collection and reprocessing of waste batteries to assist you (http://www.wrap.org.uk/local_authorities/research_guidance/collections_recycling/batteries/index.html). You may wish to look into providing facilities at community centres or other public buildings. Please explain what information you have used to decide on how to comply with this obligation.
- You must show how your provision of facilities will meet your obligations, and how you will respond to demand and cooperate with other BCS
- You must demonstrate how you intend to develop these arrangements to meet the increasing collection targets required over the next three compliance periods. If you fail to meet these targets, then we may consider withdrawing your approval.

D: Your scheme information campaign (paragraphs 9(a)(c) and (d)(iii) and 10 of Part 2 of Schedule 3, and paragraphs 12 and 15(c) of Part 3 of Schedule 3)

Regulation 19(c) requires you to finance the costs of your scheme information campaign.

A BCS has obligations to publicise certain information to end users of portable batteries. This is called the scheme information campaign and involves disseminating information

about the reasons for recycling batteries; the collection and recycling facilities available to end users and their role in contributing to the recycling of waste batteries; and the meanings of the crossed-out wheelee bin symbol and chemical symbols for mercury, cadmium and lead.

By requiring BCS to conduct campaigns, this will ensure that end users are fully informed of the desirability of recovery and recycling of batteries. You should also be able to increase the number of separately collected batteries.

You must provide details of the following:

- You must estimate the costs, based on documentary evidence (for example, quotes), that your intended campaign may have. You must also explain how your financing of this campaign may alter with time
- How best to inform end users of this information – we would expect you to use a variety of methods in a number of locations, such as through producers of batteries, through websites, newsletters, posters and events
- Who is your target audience? You need to think about how you are going to connect the wider public (and particularly those hostile to the message) with the campaign
- How you are going to give a message that is consistent with other BCS? Whilst details of collection and recycling facilities will be specific to your scheme, the other messages are not. Your message should be complementary with your collection strategy
- How are you going to measure the success of your campaign? For example, will you conduct surveys of end users at different locations?
- What do you plan to do now, and in the future, for your campaign? How will your campaign respond in a timely manner to ensure you continue to meet your obligations and do not struggle?

E: Treatment and recycling (Regulation 21, paragraph 9(c) of Part 2 of Schedule 3 and paragraphs 13 and 14(a) of Part 3 of Schedule 3)

You are required by paragraph 9(c) of Part 2 of Schedule 3 to ensure your scheme obligations under Part 3 of the Regulations will be complied with in a timely manner.

You must ensure that all identifiable waste batteries collected by your scheme are delivered to and accepted by either a specified site of an approved batteries treatment operator (ABTO) or exported by an approved battery exporter (ABE) for treatment and recycling. You must do this in order to acquire battery evidence notes for your scheme.

- How do you intend to ensure you carry out your obligations to ensure treatment and recycling by approved operators in a timely manner? Do you have internal deadlines to ensure you are doing this in line with your obligations every quarter?
- You need to set out how you are going to identify and separate the waste batteries collected by your scheme. How do you ensure that the waste batteries you collect are acceptable to the ABTO and ABE you intend to use?
- You will need to factor any significant changes that you think may affect your collections – for example, changes in membership numbers
- How are you going to ensure that you only deliver waste batteries to ABTOs or ABEs? Are you going to audit these sites to satisfy yourself that treatment and recycling has taken place? Please provide the names and addresses of the proposed ABTOs or ABEs you intend to use. We encourage you to develop relationships with ABTOs and

ABEs to reduce the risk of you jeopardising your compliance. Please detail your current relationships with these proposed ABTOs and ABEs and how you intend to monitor their approval status.

F: Record keeping (Regulation 22, paragraph 9(c) of Part 2 of Schedule 3 and paragraph 12(d) of Part 3 of Schedule 3)

You are required by paragraph 9(c) of Part 2 of Schedule 3 to ensure your scheme obligations under Part 3 of the Regulations will be complied with in a timely manner.

You must keep written records of the total number of all waste portable batteries you have been responsible for collecting and delivering to ABTOs or ABEs for treatment and recycling. Your records must show the total amount in tonnes and the amount in tonnes according to the different chemical types of batteries.¹ All records must be kept for four years.

- What information are you intending to store and how are you intending to do this? Will you carry out any quality checks? Please provide copies of any templates. How will you ensure that this information is kept securely for four years?

G: Reporting: batteries placed on the market and waste batteries (Regulations 23 and 24, paragraph 9(c) of Part 2 of Schedule 3 and paragraph 12(e) of Part 3 of Schedule 3)

You are required by paragraph 9(c) of Part 2 of Schedule 3 to ensure your scheme obligations under Part 3 of the Regulations will be complied with in a timely manner.

You must provide us with information on the total tonnages of portable batteries each of your scheme members has put on the UK market, for 2009 and each relevant compliance period. You must report the figures for 2009 from the date the Regulations came in to force.

You must also provide us with information on the total tonnages of waste portable batteries your scheme has personally been responsible for collecting and delivering to ABTO and ABE during a relevant compliance period.

These reports must be made in writing, be signed by the appropriate person² and must specify total tonnes and tonnes by chemical types¹ to three decimal places. These reports must be submitted on a quarterly basis³ in a format published by us.

- How are you going to collate the data from your members and what quality checks do you intend to perform on this data?
- How will you ensure that the information is submitted in a timely manner? For example, do you have internal deadlines to which you will work?

H: Declaration of compliance (Regulation 25, paragraph 9(c) of Part 2 of Schedule 3 and paragraph 12(f) of Part 3 of Schedule 3)

You are required by paragraph 9(c) of Part 2 of Schedule 3 to ensure your scheme obligations under Part 3 of the Regulations will be complied with in a timely manner.

¹ Nickel-cadmium, lead-acid or other

² Appropriate persons are defined in Regulation 5 and are as follows: a person – that individual; a partnership – a partner; a registered company – director or the secretary of that company; body other than a registered company or partnership – person who has control or management of that body.

³ Quarterly reports must be submitted on or before the last day of the month following the end of that quarter period. For example: Q1 Jan–March, by 30 April; Q2 April–June, by 31 July; Q3 July–Sept, by 31 Oct; Q4 Oct–Dec, by 31 Jan).

You must provide a declaration of compliance and retain copies of all of your batteries evidence notes for each relevant compliance period on or before 31 May of the year following that compliance period. This declaration must be in writing, be signed by the appropriate person² and include all the information listed in Part 2 of Schedule 1 to the Regulations.

- What data are you going to collate? How are you going to collate and quality check the data? How will you ensure that the information is submitted in a timely manner? Do you have internal deadlines?
- How are you going to obtain evidence notes and what quality checks will you perform?
- How will you demonstrate that you have financed the net costs of your scheme information campaign?

I: Checking information provided to you by scheme members is as accurate as reasonably possible, and that you meet the same standard when submitting information to us (paragraph 12(h) of Part 3 of Schedule 3 to the Regulations)

You are required by paragraph 9(c) of Part 2 of Schedule 3 to ensure your scheme obligations under Part 3 of the Regulations will be complied with in a timely manner.

Under Regulation 11, scheme members must provide operators of BCS with certain information, in writing, on request of the scheme operator. BCS will rely on this information for compliance with Regulations 22(1), 23, 24 and 26. You must therefore have the systems and resources in place to request, store and perform quality checks on this information.

- How do you intend to ensure you receive the information required from your members in a planned and timely manner? Do you have internal deadlines?
- How do you intend to ensure that the information provided by your members is as accurate as reasonably possible? For example, do you intend to carry out audits or checks of members' data, hold seminars, training events or data surgeries? If so, on what frequency, and how do you intend to manage members whose data does not meet the standards? Please give details of your plans.
- How do you intend to ensure the data you submit to us maintains the same level of accuracy? Do you intend to carry out audits on your own data and recording systems, or will you get an external auditor to check your accuracy? Please give details of your plans.

J: Registration of scheme members (Regulation 26), form of application to register (Regulation 27) and notifying any changes to registration details (Regulation 29). See also Regulation 11

You are required by paragraph 9(c) of Part 2 of Schedule 3 to ensure your scheme obligations under Part 3 of the Regulations will be complied with in a timely manner.

You must ensure that each of your members is registered with us. If a producer becomes a scheme member and does not appear on the register of producers, you must apply to register the producer within 28 days of the producer becoming a member of your scheme.

You must make the application to register members in writing; it must be signed by the appropriate person² and be submitted in a format provided by us. For each member the application must contain the information set out in Schedule 2 to the Regulations.

If there is a change in your members' details, or if a member ceases to be a producer, you must notify us within one month of the change. Again, this notification must be made in writing, be signed by the appropriate person and be submitted in the format provided by us. You must include details of the changes, the producer's name and producer registration number.

- How do you intend to formalise scheme membership with producers? How will you check that your members' data is up to date and is as accurate as reasonably possible? How will you check that your members fall under the definition of a producer who should be registered by a BCS? If you find any anomalies, how will you reconcile these?
- How are you going to collate the data and ensure it is submitted by the due date? How will you inform your members of their registration details and producer registration number?

K: Maintaining good environmental practices (paragraphs 12(i) and 14(b) of Part 3 of Schedule 3 to the Regulations)

BCS are required to have the necessary resources and systems in place to maintain good environmental practices throughout their operations. Particularly, BCS must have regard to the environmental impact of transport when collecting waste portable batteries.

- How do you intend to reduce the impact of your proposed BCS on the environment? What environmental best practice do you intend to implement? How do you intend to manage your obligations in line with this best practice? Do you have specific ways of measuring your environmental impact, and continual targets against which to check your progress? How do you intend to work with ABTOs, ABEs, producers and other BCS to achieve these goals?
- How will you take into account the environmental impact of collection and your collection strategies?
- You must show how you will take into account the environmental impact of transportation to your network of facilities for use by economic operators/waste collection authorities. For example, do you intend to measure your carbon footprint/emissions and implement ways of reducing these? How will you work with other BCS on collections to ensure unnecessary duplication of journeys?
- Please detail any specific management systems, environmental targets, office procedures, arrangements with other BCS, ABTOs, ABEs etc. and how you will ensure continual improvement.

5 What should I include in my scheme rules?

Paragraphs 6 and 8 of Part 3 of Schedule 3, and paragraph 11 of Part 3 of Schedule 3 to the Regulations

Whilst the Regulations do not require you, as part of your operational plan, to submit your scheme rules, you are required to confirm in your application that the rules of your proposed scheme provide for five particular circumstances as set out in the Regulations.

We request that in your application for approval as a BCS that you include a copy of at least the five scheme rules that are relevant to the requirements in the Regulations. A template is provided for this purpose when you receive a login for NPWD.

We also request that you provide us with a copy of your complete set of proposed scheme rules.

6 How should I demonstrate my viable plans?

Proposed schemes must have viable plans to collect a quantity of waste portable batteries which is neither significantly higher nor significantly lower than the quantity required to satisfy the scheme operator's obligation under Regulation 19(1)(a) to finance the net costs for which each scheme member is responsible (paragraph 15(d) of Part 3 of Schedule 3 to the Regulations).

You must demonstrate that your proposed scheme has viable plans for collection of waste portable batteries to meet the obligations of your scheme members for each compliance year. A template is provided for this purpose when you receive a login for NPWD.

Your plans must be supported by documentation and evidence which demonstrate that the plans are 'viable' and not simply aspirations or good intentions. Please explain the outcomes from the tables – for example, under or over-collections.

There are three tables provided, each of which must be completed separately for each compliance period. You may need to add additional rows to the tables.

Table 1: You must use this table to provide a summary of your plans for waste portable battery collection and their delivery for treatment, recovery and recycling, and acquisition of evidence notes. This will be done by gathering information from Tables 2 and 3.

Table 2: You must use this table to provide details of the number of waste portable batteries you intend to collect yourself from distributors, economic operators/waste collection authorities, or from other sources.

Table 3: You must use this table to provide details of the number of waste portable batteries you intend to deliver to prospective approved battery treatment facilities or approved battery exporters.

7 Where to find out further information

General information and guidance about the Batteries Regulations can be found at:

Department for Business, Innovation and Skills

<http://www.bis.gov.uk/policies/business-sectors/environmental-and-product-regulations/environmental-regulations/batteries-and-accumulators>

Environment Agency website: www.environment-agency.gov.uk/batteries

Environment Agency: 03708 506506 or email batteries@environment-agency.gov.uk

SEPA website: www.sepa.org.uk

SEPA: 01786 457700 or email producer.responsibility@sepa.org.uk

NIEA website:

http://www.doeni.gov.uk/index/protect_the_environment/waste/batteries.htm

NIEA: 02890 569382 or email batteries@doeni.gov.uk

8 What happens once you have submitted an application

Your application for approval will be assessed as soon as it is received. We will assess it to make sure you have included all the necessary information and we may come back to you to ask for further information in order to determine your application.

Please refer to WMP9 for guidance on making an application, how we assess applications and your right of appeal against a decision.

9 Commercial confidentiality

If you wish, you may highlight to us which, if any, parts of your operational plan you would like us to treat as commercially confidential.⁴ You must also provide justification for this, for example, in an appendix to the operational plan or in a supporting document accompanying the operational plan. We will consider whether or not to grant your request for commercial confidentiality in responding to any information requests.

On request, we can provide further information on how your information is treated and on issues such as the Freedom of Information Act.

10 What happens once you are an approved compliance scheme

It is a condition of approval that you comply with your operational plan.

You must supply an updated operational plan which covers the next three compliance periods on or before 31 August of each

year that your approval remains in force (Regulation 52(g)). For example, on or before 31 August 2011 you will be required to supply an operational plan that covers 2012, 2013 and 2014.

It is important that you review and update your operational plan regularly. You may need to do this more frequently in the first few years you are operating as a BCS. You must inform us in writing, of any material changes⁵ to your operational plan within 28 days of any such change (Regulation 52(e)(ii)(bb)). You must send us a copy of your updated operational plan, with the changes highlighted, so that we can assess that you still meet the approval criteria and can still comply with your obligations as a BCS.

⁴ The definition of commercially confidential is 'disclosure would adversely affect commercial or industrial confidentiality where provided by law and to protect a legitimate economic interest'. It must be something which would significantly affect you economically.

⁵ 'Material change' could be considered to be a change in the operational plan that alters its meaning and/or intentions