

Miljødirektoratet

Forslag til ny batteriforordning i EU

Ref: 2021/2969

06 April 2021

**European Commission (EC) proposal for a battery regulation (December 10, 2020) -
Miljødirektoratet consultation with stakeholders in Norway**

Nikkelverk welcomes the opportunity to provide feedback on the EC's proposal for a battery regulation.

Glencore Nikkelverk is the biggest nickel refinery in the western world and produces the world's purest nickel and cobalt, as well as copper and a variety of other products. Our global supply chain through Nikkelverk is also one of the largest processors of recycled nickel and cobalt containing materials.

Since 1910, we have refined and produced nickel and other metals from the production plants in Kristiansand. Our environmental, energy and process technology has made the Nikkelverk plant one of the most effective and technologically advanced refineries in the world.

Most of Nikkelverk's feed material comes from Glencore's nickel operations in Canada. Glencore's nickel assets in Canada consist of Raglan Mine in Quebec and Sudbury Integrated Nickel Operations in Ontario. Nickel concentrate from both mining operations are fed to the Sudbury Smelter, which produces nickel-in-matte that is further processed into finished metal at the Nikkelverk refinery in Norway. In addition to the primary raw materials, Glencore's nickel assets have a more than 30-year history in processing secondary feeds and are today one of the largest processors of nickel and cobalt bearing scrap materials (including battery materials) in the Western world.

The metals we recycle help to fulfil Glencore's purpose to responsibly source the metals and minerals needed to advance everyday life. Our ISO 14001 certified Sudbury Smelter and the ISO 9001, ISO 14001, OHSAS 18001 and ISO 50001 certified Nikkelverk Refinery have the ability to safely treat complex feeds – including secondary materials from the E.U. – such as Li-ion or NiMH batteries, catalysts and plating sludges. These facilities utilize best available technology and operate to the strictest environmental emission standards.

Our Canadian assets operate in accordance with the Mining Association of Canada's Towards Sustainable Mining standards, a globally recognized sustainability program also implemented by Norwegian mining companies that supports mining companies in managing key environmental and social risks.

Challenges of the proposed regulation

Targets for recycling efficiency and recovery rate

Proposal:

The proposal sets targets for recycling efficiency of batteries, and targets for recovery rates for certain metals (Ni, Co, Cu, Li, Pb).

Concerns related to the proposed targets:

- While -with today's best available recycling and production technologies- it may be technically possible to reach those targets, they are economically not feasible. To be able to meet those targets the costs will increase as well as energy consumption and consequently the carbon footprint of the raw materials going into batteries, resulting in - for Europe- more expensive batteries with a higher carbon footprint.
- As targets are only set for 4 metals, and no targets are set for metals/minerals used in competing battery chemistries, there is a significant risk that these targets will trigger substitution by batteries with other chemistries with lower recyclability, leading to less efficient use of natural resources and higher environmental impacts.
- The proposed targets are expected to influence international trade flows of waste batteries and consequently access to secondary raw materials, or custom materials for smelters outside the EU (e.g Canada) which provide essential feed material to Nikkelverk. There is a risk these targets will form a technical trade barrier.
- Recycling of waste batteries involves various steps executed by different companies. Recovery and recycling efficiencies are confidential business information and are therefore not passed on to other companies in the supply chain.
- Noting the global nature and complexity of secondary raw material supply chains, clarity is needed on calculation methods, to which steps in the recycling chain these targets apply. As the requirements will also impact material recycling operations outside of Europe, targets should be based on internationally agreed and sound methodology, clear

definitions and robust data to ensure the requirements can be implemented by actors inside and outside Europe.

Recommendations:

Targets should only be set after the methodology has been defined.

Targets should further be based on the results of a comprehensive impact assessment, which takes into account impacts on battery economics, international trade of waste batteries, risk of substitution, and confidentiality of data.

Export of waste batteries

Proposal:

Treatment and recycling of waste batteries may be undertaken outside the EU, provided that

- The shipment of waste batteries is in compliance with waste shipment legislation.
- Waste batteries exported out of the EU shall only count towards the fulfilment of obligations, recycling efficiencies and recovery targets if the EU based exporter of the waste batteries can prove that the treatment took place in conditions that are equivalent to the requirements in the EU. Criteria to assess "equivalent conditions" will be developed in secondary legislation.

Concern:

A significant amount of the feed material processed by Nikkelverk comes from outside the EU (e.g. Canada). We are concerned that the requirement related to "equivalent conditions" will create technical trade barriers for waste batteries, and consequently access to secondary raw materials, or custom materials even for Canadian smelters that operate to the strictest environmental emission standards.

Recommendations:

A formal study is needed to assess to what extent the conditions imposed on export of waste batteries will create technical trade barriers.

It will be important for countries like Norway to be involved in the development of these criteria.

Targets for recycled content

Proposal:

The proposal sets targets for recycled content for certain metals (Ni, Co, Li, Pb).

Concerns related to the proposed targets:

It is unclear how these targets are derived:

- Durability criteria –which will influence the volume of waste battery that will become available over time- will only be defined by the end of 2025 and
- The methodology of calculating recycled content of these 4 metals in batteries will only be decided upon by end of 2025.

Risks of setting targets that are too high include:

- Influence on international trade flows of secondary raw materials, and access to scrap or custom materials.
- More expensive batteries: If access to secondary raw material for the 4 specific metals is insufficient, it will make secondary raw materials more expensive and consequently lead to the batteries containing these metals more expensive.
- Higher costs and challenges related to meeting the targets (for both recycled content and recovery rates) will drive substitution of batteries with chemistries based on these 4 metal by batteries with different chemistries for which no recycled content targets are set.
- Stimulation of practices driving closed loop recycling, making the recycled forms of these 4 metals unavailable for use in other essential applications, e.g. nickel in stainless steel.

Recommendations:

Targets should only be set after the methodology to calculate recycled content has been specified and after durability criteria have been defined.

Targets should be based on the results of a comprehensive impact assessment, which takes into account impacts on international trade of secondary raw materials, impacts on availability of secondary raw materials for other applications, cost of batteries, risk of substitution, and environmental impacts.

Open loop recycling should be encouraged to safeguard access of recycled metals to all essential uses of these metals.

Responsible sourcing and due diligence

Proposal:

The proposal introduces responsible sourcing and due diligence principles for EU based battery operators for 4 metals: Ni, Co, Li, graphite.

Operators will have to comply with standards that are aligned with the OECD Due Diligence Guidance and will have to identify, assess and manage environmental, human health, occupational health and safety, labor rights and child labor risks.

Concerns:

While we support the overarching principle of supply chain due diligence, we are concerned that specific requirements are introduced for a specific application (batteries) of these 4 metals. There is a risk, that going forward, different requirements will be set for different applications, leading to increased burden for upstream suppliers, who will have to comply with all different requirements.

The EU Commission is currently also developing legislation on mandatory environmental and human rights due diligence (as proposed in the Sustainable Corporate Governance initiative), which aims to provide a horizontal approach for all companies to carry out mandatory due diligence across their value chains.

We support efforts that are metal/mineral agnostic as well as application agnostic, as these bring consistency in requirements for upstream companies that supply metals and minerals in different end-use markets.

Recommendation:

To avoid duplication and multiplication of audit and reporting requirements, due diligence related requirements should be covered by horizontal legislation, i.e. EU's proposed Sustainable Corporate Governance initiative and should recognize international standards such as ISO 14001, ISO 45001, ISO 50001, and globally recognized responsible mining frameworks such as Towards Sustainable Mining (TSM) and ICMM Performance Expectations.

Carbon footprint

Proposal:

The proposal

- Introduces a requirement for EU based battery operators to report the carbon footprint of each batch of batteries put on the EU market and
- Specifies that maximum carbon footprint thresholds will be introduced 2,5 years after the first reporting deadline.

Concerns:

- Upstream suppliers of raw materials going into batteries will be asked to provide the carbon footprint of the metals they supply. Confidentiality of data should be taken into account when data are passed through the supply chain.
- Carbon footprint declarations at batch level for batteries could create a significant admin burden for upstream companies.
- The methodology to assess the carbon footprint of batteries will be specified in separate legislation. As most raw materials going into batteries for the EU market will come from areas outside of Europe, it is important that the methodology is agreed at the international level.

Recommendation:

The methodology and requirements to assess the carbon footprint of batteries and of raw materials going into batteries needs to be closely aligned with the relevant requirements set in global standards, more specifically ISO 14040 series standards and should eventually be agreed at the international level.

Confidentiality of data should be taken into account when data are passed through the supply chain.

Data requests

Proposal:

The proposal introduces a range of data reporting obligations for battery operators.

Concern:

The proposal is likely to place significant data-sharing burdens on upstream producers of raw materials (e.g. carbon footprint, responsible sourcing, recycled content, recovery rates).

Recommendation:

Common systems should be put in place to reduce the administrative burden on upstream actors and to facilitate efficient and harmonized sharing of data.

Any mechanism should also be aligned with business confidentiality laws and competition law.

We are available to continue the dialogue and discuss the above points further.

Sincerely,



Nils Gjelsten

Chief Executive Officer - Glencore Nikkelverk