



ADVANCED RECHARGEABLE & LITHIUM BATTERIES ASSOCIATION

European Net Zero Industry Act:

RECHARGE position paper & feedback to the proposed Regulation

June 2023

In the context of the REPowerEU plan and the need for Europe to increase resilience in its energy transition value chains, RECHARGE – the leading voice of the European advanced rechargeable and lithium batteries value chain in Europe – welcomes the Net Zero Industry Act (NZIA). While weaknesses remain, the NZIA together with the Critical Raw Materials Act (CRMA) have the potential to become a real game changer for competitiveness of the European battery value chain.

Batteries play a key role in enabling the clean energy transition and in contributing to decarbonise the European economy. Batteries are also crucial for Europe's energy security. The NZIA as well as the CRMA are expected to improve competitive operating conditions for the batteries value chain in Europe. We welcome that the proposal focuses on new sustainable technologies to which batteries are rightfully included. We also very much welcome the accelerated procedures and timelines for permits to realise battery manufacturing projects and the attention to the skills agenda.

The European Parliament and Member States have an important role in strengthening the Commission's proposal and ensuring that Europe's industrial policy delivers on helping European net zero technologies domestic manufacturing capacities to catch up with other regions in the world. The Act is expected to help decreasing unhealthy dependencies (e.g. for anode and cathode materials for batteries) and to support the development of the European manufacturing capacities.

The Commission's ambition to identify priority projects, accelerate permitting procedures and facilitate new finance is a very welcome step to improve the speed and viability of new projects. Making critical capacity available more rapidly and the provisions to prioritise projects for such streamlined accelerated permitting without undermining established EU environmental and social standards, are key to ensure legal certainty. RECHARGE supports the requirements for authorities to prioritise strategic projects, including prescribed timelines for reaching a decision.

In this paper, we provide our recommendations and suggest amendments to the proposed Net Zero Industry Act based on the following priorities for RECHARGE – in summary:

1. **Ensure EU funding** especially for Strategic Projects in addition/complementing State Aid (Temporary Crisis and Transition Framework). EU public funding and investment support as well as de-risking financing tools for strategic projects need to be coupled with the other measures. More clarity and efficiency on EU funding is needed and the Net-Zero Europe Platform can be a



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good tool in this sense, but it needs clear governance and could overlap with institutions established in the CRMA.

2. **Ensure coherence with other legislations** and clarification on how can Strategic projects be successfully compliant with other legislations. Especially coherence with chemicals legislation: currently the PFAS restriction proposal or the Li-salts classification proposal are examples where the EU chemicals legislation would undermine the NZIA ambition and reaching the set manufacturing benchmark. It is crucial that the Commission uses the REACH Revision to lessen the risk of uncoordinated chemicals policies impeding its climate neutrality objective.
3. **Uncertainty related to Battery Active Materials:** there are potential gaps with the CRMA and the issue of components need clarification. Battery Active Materials (such as cathodes and anodes) need to be covered by the NZIA.
4. **Sustainability and resilience contribution in public procurement procedures: weighing of 10% price difference could be increased, depending on best-in class sustainability frontrunner projects.** To ensure that public procurement can contribute substantially in steering domestic sustainable production, RECHARGE suggests increasing the tender's sustainability and resilience contribution as well as the cost difference weighing.
5. **The 90% domestic battery manufacturing capacity aim in the Recital 17 needs to send the right message to investors and translate into ambitious figures.** It should therefore be based on recognised and most recent established demand forecast by 2030, which is about 1,000 GWh ([McKinsey, Transport & Environment, EBA presented at 'Batteries Europe Plenary Session' on 7.06.2023:](#)). The Union's capacity goal of 550 GWh mentioned in the Recital falls therefore short. We call for more ambitious objectives for battery production and a monitoring system.
6. **Permitting acceleration is welcome**, but delivery should not be seen as "rushed through" and needs certainty attached. **Ensure that permits will not be challenged once project started.** The NZIA and CRMA are complementary but could establish common governance organs (shared governance).

Finally, what we need now is a **speedy inter-institutional agreement on the Net Zero Industry Act** (as well as the Critical Raw Materials Act) **to avoid a standstill of projects.** Europe cannot afford to further de-industrialise and need to become less dependent on batteries and other net zero technologies imports. We sincerely hope that this Act will be adopted within a few months by the Member States and EU Parliament. If Europe wants to step up energy transition, reduce carbon emissions, invest in new technologies and increase economic resilience, it should act fast and decisive.

More detailed description of the above key asks and recommendations for amendments for Articles 1, 19, 21 as well as Recitals 17, 18 and the Annex on the following pages:



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1. Ensure EU funding

European competitiveness and a level European playing field require joint EU funding to ensure a pan-European investment capacity. The still nascent European battery value chain needs further financial support and prioritisation so that the already done investments can be carried forward and extended to the whole value chain, and Europe can live up to its ambition to become the second largest battery manufacturer within a few years. To support the NZIA ambition, the Commission should present a concrete funding plan, proposing a coordinated financial mobilisation beyond the Innovation Fund, Invest EU, Recovery and Resilience Facility, Horizon Europe and cohesion policy programmes. RECHARGE is looking forward to the EU Sovereignty Fund proposal which needs to be established urgently, and which should ensure a level playing field between the EU Member States and decrease the complexity and the delay of accessing funds for strategic clean-tech projects while providing a long-term certainty. The future European Sovereignty Fund must be established in close coordination with European clean tech industries, to ensure its cost effectiveness, added value and complementarity with existing EU funds. The European Sovereignty Fund should furthermore aim to match funds available in third countries (e.g. US) – not only in their value but also in the simplicity, speed and predictability (e.g. for battery manufacturing, the US IRA provides an Advanced Manufacturing Production Credit, Op-ex support of USD 35/kWh for battery cells production, USD 10/kWh for battery modules production, so USD 45/kWh overall if both cells and modules are produced in the US), and to therefore aim at establishing a global level-playing-field for battery manufacturing. Such a financial support shall also be provided to the scaling-up of industrial projects that have been supported by Europe through initial stages of development of R&D and innovation.

2. Ensure coherence with other legislation, and with climate neutrality and industrialisation as clear priorities

RECHARGE urges to ensure coherence with other legislations and create regulatory certainty for a climate agenda based on the EU Green Deal climate neutrality objective. It is necessary to provide the regulatory certainty for businesses to invest in the transition of the EU economy to a sustainable economic model that is consistent with the 2050 target of climate neutrality.

Incoherence between EU's chemicals legislation with Europe's climate neutrality objective as well as industrial ambition, translates for the batteries value chain into uncertainty and a non-investment friendly climate. Currently the PFAS restriction proposal or the Li-salts classification proposal are examples where the EU chemicals legislation jeopardises net-zero technologies investment in the EU. It is crucial that the decision-makers use the ongoing CLP Revision and upcoming REACH Revision to lessen the risk of uncoordinated chemicals policies impeding its Green Deal and climate neutrality objectives. For more details and examples on how the chemicals legislation is hampering the developing of the European batteries value chain, we refer to our [reaction paper on the Critical Raw Materials Act](#) (pages 4-6).

A few words on the PFAS restriction proposal also here: The PFAS (Per and polyfluoroalkyl substances) REACH restriction proposal will have a major impact on the battery industry. For specific applications



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where PFAS are used in batteries, RECHARGE is requesting derogations and additional transition times to provide sufficient time for the battery industry to identify and implement alternative non-PFAS solutions. Batteries are a main enabler for the transition towards low-emission mobility, decarbonised energy generation and digitalisation. Batteries power a wide range of general public applications such as smartphones, tablets, power tools, hearing aids, defibrillators, safety lighting in public buildings, and provide many services to industry such as back-up power for mission critical industrial assets (from nuclear power plants to data centres), energy storage systems for electrical grids, traction power to forklift trucks and AGV's, and deliver energy to a wide variety of machines such as drones, rockets, satellites and IoT objects. Batteries also provide power to an increasing number of mobility solutions such as e-bikes, e-scooters and electric vehicles. They generate significant economic growth and provide jobs for millions of people.

Should the PFAS restriction, which is a quasi-ban on PFAS, come into effect, these batteries can no longer be produced in or placed on the Union market. In line with our [derogation request and dossier we have submitted to the ECHA](#), RECHARGE recommends inserting an amendment to the NZIA for investment certainty.

The climate neutrality objective by 2050 as well as the overall annual manufacturing benchmark of at least 40% of the net zero technologies should be applied as Union priorities in all future EU policies. Without the alignment of the EU's chemicals policy, these goals and benchmarks will not be met.

Amendment proposals (in red):

Recital 18:

Considering these objectives together, while also taking into account that for certain elements of the supply chain (such as inverters, as well as solar cells, wafers, and ingots for solar PV or cathodes and anodes for batteries) the Union manufacturing capacity is low, the Union net-zero technologies annual capacity should aim at approaching or reaching an overall annual manufacturing benchmark of at least 40% of annual deployment needs by 2030 for the technologies listed in the Annex.

To set the right investment framework for the technologies listed in the Annex, the proposed restriction on the use of PFAS shall not apply for the value chains of the Strategic Net Zero Technologies.

Article 1:

1. This Regulation establishes the framework of measures for innovating and scaling up the manufacturing capacity of net-zero technologies in the Union to support the Union's 2030 target of reducing net greenhouse gas emissions by at least 55 % relative to 1990 levels and the Union's 2050 climate neutrality target, as defined by Regulation (EU) 2021/1119, and to ensure the Union's access to a secure and sustainable supply of net-zero technologies needed to safeguard the resilience of the Union's energy system and to contribute to the creation of quality jobs.

2. To achieve the general objective referred to in paragraph 1, this Regulation contains measures with a view to ensuring:



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a) that by 2030, manufacturing capacity in the Union of the strategic net-zero technologies listed in the Annex approaches or reaches a benchmark of at least 40% of the Union's annual deployment needs for the corresponding technologies necessary to achieve the Union's 2030 climate and energy targets;

b) the free movement of net zero technologies placed on the Single market.

3. Where, based on the report referred to in Article 35, the Commission concludes that the Union is likely not to achieve the objectives set out in paragraph 1, it shall assess the feasibility and proportionality of proposing measures or exercising its powers at Union level in order to ensure the achievement of those object.

4. The Commission shall take into account the objectives and benchmarks laid down in paragraph 1 and 2a as Union priorities in all relevant EU legislation, and including within the REACH Regulation Revision when defining measures for safe production and use of chemicals and substances in the value chains of the Strategic Net-Zero Technologies.

3. Scope: Uncertainty related to Battery Active Material

In Article 2 the scope is defined, however, establishing uncertainty, especially regarding Battery Active Materials, as it is not clear which components fall under the Critical Raw Materials Act.

RECHARGE calls on legislators to focus on the most value-added parts such as Battery Active Materials and to include these to the NZIA. Our main objective is to make sure that the full battery value chain is covered under the scope of NZIA or the CRMA and that no important step/process is left out or lost in-between the two Regulations.

Amendment proposals (in red):

Recital 17:

[...] Union manufacturers of batteries [...] need to consolidate their technology leadership and actively contribute to shaping these markets. For battery technologies this would mean contributing to the objectives of the European Battery Alliance and aim at almost 90% of the Union's battery annual demand being met by the Union's battery manufacturers **and by the Union's battery materials manufacturers, e.g. for cathode active materials**, translating into a Union manufacturing capacity of at least **550900** GWh in 2030. [...]

ANNEX:

Strategic net-zero technologies

[...] 3. Battery **and battery active materials**/storage technologies [...]

The above amendments to the NZIA proposal would help clarify that not only battery manufacturing (i.e. manufacturing of battery cells/assembly of battery packs) but also manufacturing of battery active materials (i.e. both cathode and anode active materials) can be considered a strategic net-zero



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technology. This would also help ensure that European battery active materials manufacturing – and not only manufacturing of battery cells/assembly of battery packs – gets a serious incentive by the 90% target.

4. Public procurement: Sustainably as market driver

The NZIA proposes specific sustainability and resilience criteria that public authorities need to take into account during public procurement procedures, in addition to price or cost. For RECHARGE it is key that best in class sustainable production of batteries (or of battery material) need to be rewarded financially and through a public procurement system. We welcome the sustainability and resilience contribution in public procurement procedures in Article 19 of the NZIA, however the weighing of 10% price difference could be increased, depending on best-in class sustainability frontrunner projects. To ensure that public procurement can contribute substantially in steering domestic sustainable production, RECHARGE suggest increasing the tender's sustainability and resilience contribution as well as the cost difference weighing. We further recommend to truly set investment signals, with an increased financial compensation rate, up to 10%, under other forms of public intervention (Article 21).

Amendment proposals (in red):

Article 19:

3. Contracting authorities and contracting entities shall give the tender's sustainability and resilience contribution a weight between ~~15~~20% and ~~30~~40% of the award criteria, without prejudice of the application of Article 41 (3) of Directive 2014/23/EU, Article 67 (5) of Directive 2014/24/EU or Article 82 (5) of Directive 2014/25/EU for giving a higher weighting to the criteria referred to in paragraph 2, points (a) and (b).
4. The contracting authority or the contracting entity shall not be obliged to apply the considerations relating to the sustainability and resilience contribution of net-zero technologies where their application would oblige that authority or entity to acquire equipment having disproportionate costs, or technical characteristics different from those of existing equipment, resulting in incompatibility, technical difficulties in operation and maintenance. Cost differences above ~~10~~15% may be presumed by contracting authorities and contracting entities to be disproportionate. This provision shall be without prejudice of the possibility to exclude abnormally low tenders under Article 69 of Directive 2014/24/EU and Article 84 of Directive 2014/25/EU, and without prejudice to other contract award criteria according to the EU legislation, including social aspects according to Articles 30 (3) and 36 (1), second intent o Directive 2014/23/EU, Articles 18 (2) and 67 (2) of Directive 2014/24/EU and Articles 36 (2) and 82 (2) of Directive 2014/24/EU.

Article 21:



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1. Without prejudice to Articles 107 and 108 of the Treaty and Article 4 of Directive 2018/200173 and in line with the Union's international commitments, when deciding to set up schemes benefitting households or consumers which incentivise the purchase of net-zero technology final products listed in the Annex, Member States, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, shall design them in such a way as to promote the purchase by beneficiaries of net-zero technology final products **or net-zero technologies for final products** with a high sustainability and resilience contribution as referred in Article 19(2), by providing additional proportionate financial compensation.
2. The additional financial compensation granted by authorities in accordance with paragraph 1, due to the application of the criteria referred to in Article 19(2) (b) (c) and (d) shall not exceed ~~5%~~ **10%** of the cost of the net-zero technology (final) product for the consumer.
3. When designing and implementing a scheme falling under paragraph 1, the authority shall base itself on an open, non-discriminatory and transparent process to assess the resilience and sustainability contribution of available products on the market. Any net-zero technology (final) product shall be entitled to apply to join the scheme at any time. The authority shall specify a pass mark for products to be eligible to the additional financial compensation under the support scheme.

To have sustainability as a key competition criteria and serve as market driver, the public procurement system can be supplemented with a reward mechanism for companies by targeted subsidies for an accelerated implementation of the carbon footprint, circularity and due diligence provisions of the new EU Batteries Regulation.

RECHARGE also recommends to better use the Batteries Regulation's carbon footprint declaration and performance classes (which starts with EV batteries), and to link the financial tax breaks for company fleets with the carbon footprint performance class of its battery. It is important to use such sustainability criteria positively to drive competition.

5. Domestic battery manufacturing capacity ambition to be raised

The 90% domestic battery manufacturing capacity aim in the Recital 17 needs to send the right message to investors and translate into ambitious figures. It should therefore be based on recognised and most recent established demand forecast by 2030, which is about 1,000 GWh for Europe ([McKinsey, Transport & Environment, EBA presented at 'Batteries Europe Plenary Session' on 7.06.2023](#)). The Union's capacity goal of 550 GWh mentioned in the Recital falls therefore short. We call for more ambitious objectives for battery production and monitoring system to establish if Europe is in track to reach this manufacturing capacity ambition.

Amendment proposals (in red):

Recital 17:



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(...) For battery technologies this would mean contributing to the objectives of the European Battery Alliance and aim at almost 90% of the Union's battery annual demand being met by the Union's battery manufacturers and by the Union's battery materials manufacturers, e.g. for cathode active materials, translating into a Union manufacturing capacity of at least 550900 GWh in 2030.

6. Permitting acceleration is welcome

In Chapter II, Section I, the NZIA makes important proposals to speed up the permitting process for strategic projects which are a core element of this Regulation. We welcome NZIA's measures for reducing unwieldy bureaucracy and speeding up overly cumbersome and slow procedures for the granting of permits, through national single points of contacts and maximum durations for permitting procedures. We emphasise that these proposals are important to reduce overall bureaucracy and long timelines, while assuring environmental checks and social standards are maintained. The Commission's ambition in its permitting acceleration proposals needs to be supported and maintained, especially to maintain the one-stop shop proposal and deadlines for processing strategic projects. The acceleration and streamlining of the permitting process without rolling back environmental or social safeguards are a key element to the success of the Regulation. The focus for permitting acceleration needs to be on ensuring proper staffing and the right expertise in responsible national and local authorities, as well as to digitalise the approvals process.

Conclusion: Europe needs to act fast and decisive

We call on the decision-makers to urgently move forward in adopting and implementing the NZIA and the CRMA. Finally, what we need now is a **speedy inter-institutional agreement on the Net Zero Industry Act** (as well as the Critical Raw Materials Act) **to avoid a standstill of projects**. Europe cannot afford to further de-industrialise and needs become less dependent on batteries and other net zero technologies imports. We sincerely hope that this Act will be adopted within a few months by the Member States and EU Parliament. **If Europe wants to step up energy transition, reduce carbon emissions, invest in new technologies and increase economic resilience, it should act fast and decisive.**

RECHARGE is the European industry association for advanced rechargeable and lithium batteries. Founded in 1998, it is our mission to promote advanced rechargeable batteries as a key technology that will contribute to a more empowered, sustainable and circular economy by enabling decarbonised electricity and mobility, and cutting-edge consumer products. RECHARGE's unique membership covers all aspects of the advanced rechargeable battery value chain: From suppliers of primary and secondary raw materials, to battery and original equipment manufacturers (OEMs), to logistic partners and battery recyclers. www.rechargebatteries.org

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