

SUBCHAPTER C : MANAGEMENT OF LEAD-ACID BATTERIES
§§328.11 - 328.19
Effective September 5, 1999

§328.11. Purpose.

The purpose of the sections in this subchapter is to establish procedures and requirements for the sale and disposal of secondary or storage batteries that are made of a lead-acid combination.

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§328.12. Applicability.

(a) The sections in this subchapter are applicable to persons who are involved in the sale, transportation, collection for recycling, and disposal of lead-acid type storage or secondary batteries regulated by the commission pursuant to the Texas Health and Safety Code, §§361.451 - 361.454.

(b) While these sections are only applicable specifically to lead-acid type storage or secondary batteries, any other type of multi-cell storage or secondary battery, primary battery, nuclear cell, solar cell, or fuel cell should be managed in a similar manner.

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§328.13. Disposal of Batteries.

(a) No person may place a used lead-acid battery in mixed municipal solid waste or discard or otherwise dispose of a lead-acid battery except by delivery to:

- (1) a battery retailer;
- (2) a battery wholesaler;
- (3) a secondary lead smelter; or

(4) a collection or recycling facility authorized under the laws of this state or by the Environmental Protection Agency (EPA).

(b) A battery retailer shall dispose of used lead-acid batteries only by delivery to:

- (1) a battery wholesaler or an agent thereof;
- (2) a secondary lead smelter or an agent thereof;

- (3) a battery manufacturer for delivery to a secondary lead smelter; or
- (4) a collection or recycling facility authorized under the laws of this state or by the EPA.

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§328.14. Retail Sale of Lead-acid Batteries.

A battery retailer in Texas shall:

- (1) accept from the customer, if offered by the customer, at the point of transfer, a used lead-acid battery of the type and in a quantity equal to the number of new lead-acid batteries sold; and
- (2) post written notice, containing the universal recycling symbol, concerning the sale and disposal of lead-acid batteries. The written notice shall conform to the requirements of §328.16 of this title (relating to Notice Requirements) and shall be provided by the executive director.

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§328.15. Wholesale Sale of Lead-acid Batteries.

A battery wholesaler in Texas shall:

- (1) accept from the customer, if offered by the customer, at the point of transfer, used lead-acid batteries of the type and in a quantity equal to the number of new lead-acid batteries sold; or
- (2) if accepting batteries in transfer from a battery retailer or retail facility, remove all used lead-acid batteries from the retail point of collection within 90 days after acceptance; and
- (3) shall post written notice, containing the universal recycling symbol, concerning the sale and disposal of lead-acid batteries. The notice shall conform to the requirements of §328.16 of this title (relating to Notice Requirements) and shall be provided by the executive director.

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§328.16. Notice Requirements.

- (a) A battery retailer or wholesaler shall post in a place visible to all customers a conspicuous notice in both English and Spanish containing the universal recycling symbol concerning the sale and disposal of lead-acid batteries.
- (b) The notice shall be a sign at least 8 1/2 inches by 11 inches in size and shall be provided by the executive director, and shall contain the following language:

(1) "It is illegal (Class C Misdemeanor) to discard or improperly dispose of a motor-vehicle battery or other lead-acid battery";

(2) "Recycle your used batteries"; and

(3) "State law requires us to accept used motor-vehicle batteries for recycling in exchange for new batteries purchased."

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§328.17. Recordkeeping.

(a) Battery retailers and battery wholesalers shall, as a minimum, maintain a record of the number of lead-acid batteries that are purchased, the number of lead-acid batteries that are accepted in return for new batteries sold (trade-ins), and the number of lead-acid batteries that are delivered to a disposal facility.

(b) The records required under this section shall be maintained on a monthly basis and shall be kept for a period of three years. These records shall be made available to any representative of the executive director upon request.

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§328.18. Inspection of Battery Retailers.

A representative of the executive director may enter any place, building, or premise of a battery retailer for the purpose of inspecting the facility for compliance with this subchapter. The inspection or investigation will be made only during regular business hours or by appointment for any other time.

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§328.19. Penalties.

(a) It is a violation of this subchapter for a battery retailer or wholesaler to:

(1) fail to maintain correct and complete records;

(2) fail to comply with the provisions of this subchapter; or

(3) fail to comply with written warnings, citations, or directions given by the commission.

(b) A battery retailer or wholesaler who violates this subchapter is subject to the assessment of administrative penalties and/or civil penalties as prescribed by state law.

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