

Guidance note WMP2: Guidance on operational plans for schemes and producers

The Producer Responsibility Obligations (Packaging Waste) Regulations 2007

Compliance schemes and certain producers are required to submit a revised operational plan to the appropriate Agency¹ and Department for Environment Food and Rural Affairs (Defra), by the **31st January** in each year that the producer or compliance scheme intends to register.

Failure to provide a revised and satisfactory operational plan by the **31st January** may result in the appropriate Agency refusing to register a producer or cancellation of a scheme registration.

The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 SI No. 871 revised the operational plan requirements for producers. Previously producers who handle more than 500 tonnes of packaging were required to submit a plan to the appropriate Agency¹. Under the revised regulations, operational plans are required from producers who have a recovery and recycling obligation of more than 500 tonnes of packaging waste in the preceding year. On a first registration, producers should submit the operational plan with their application. Under the revised regulations, Compliance schemes are required to provide a monitoring plan².

The appropriate Agency will review submitted operational plans. Where a plan is considered to be unsatisfactory it will be returned to the scheme or producer highlighting which sections are unsatisfactory. Plans considered to be unsatisfactory will need to be improved. The required content of an operational plan is set out in Schedule 3 Part III to the regulations. Under the regulations, it is a condition of registration that compliance schemes and producers will comply with their operational plan.

The Agencies view operational plans as a means of assisting them in determining the scheme's or producer's ability to meet its recovery and recycling obligations. Therefore the detail contained in an operational plan should take account of the size of the recovery and recycling obligations. To be clear we would expect the plan from a scheme with a large obligation to be considerably more detailed when compared to a plan from a producer who had a smaller obligation. However in all cases the plans must address each provision as set out in Schedule 3 Part III. We have set out below guidance on what the Agencies expect with regards to each regulatory provision.

Financial resources

- A statement that indicates that sufficient funds are or will be made available to purchase the necessary evidence will be acceptable. ePRNs/ePERNs are subject to market conditions and as such the procurement costs can be variable, provision for this variability should be addressed in the statement made.

Technical expertise

- You must identify who within the organisation has the knowledge and experience to manage your compliance with the regulations. For each identified employee provide brief

¹ The Environment Agency, the Scottish Environmental Protection Agency or the Northern Ireland Environment and Heritage Service.

² Schedule 3 Part III 12 (h)

details i.e. name, location, any applicable environmental qualification and experience with the packaging regulations.

- Where a personnel change occurs that could impact on the ability to deliver the operational plan the producer or scheme should advise the Agency of this change.

Awareness of waste strategies

- Producers and schemes should be aware of the relevant national waste strategies. A statement to show that any arrangements made for recovery and recycling made by the producer are carried out within the context of the relevant waste strategy should be included.

Recovery and recycling obligations for 2008

At the time of submitting your operational plan you may not have established your 2008 obligation, if this is the case use the 2007 obligation as a basis on which to estimate the 2008 obligation.

You should factor in any significant changes that could affect the obligation. For example, schemes should account for any significant changes in membership numbers, producers for any step change in business operations.

Based on the estimated 2008 obligation, provide a basic breakdown of the recovery obligation, material specific recycling obligations and the estimated costs of acquiring the associated evidence. Indicate the ePRN/ePERN costs you have based this estimation on.

Schemes and Producers may obtain ePRNs/ePERNs through a number of routes, which may include the following:

- Procurement of UK packaging waste and delivery to a reprocessor in exchange for ePRNs/ePERNs.
- Delivery of scheme member or producers own packaging waste to a reprocessor or exporter in exchange for ePRNs/ePERNs.
- Procurement of ePRN/ePERNs from a reprocessor or exporter (non contracted or contracted).
- ePRNs/ePERNs provided by a scheme member.

Each planned source of evidence should be detailed together with the tonnage amount and material type. Including:

- The names and addresses of the reprocessors and exporters or both it is intended to use.
- The names of any waste collection or disposal authorities from whom packaging waste is intended to be obtained.
- The proportions in which the packaging waste which is to be recovered and recycled is to be obtained from the waste of a producer, or other industrial or commercial waste, household waste or other waste.
- The amount in tonnes to the nearest tonne of packaging waste it is proposed to recover and recycle in the three years immediately following registration.

Recovery and recycling

Provide a statement that in fulfilling your obligation you will not adversely affect the interest of any other scheme or producer.

EPRNs and ePERN procurement

- Compliance schemes must fill out the template provided.
- The Operational plan should provide information on the number of ePRNs or ePERNs by material type which are expected to be acquired³ for 2008 compliance year and the following two years, on a quarterly basis. The information provided must describe how the evidence is actually purchased, bearing in mind the difference between dates when a purchase order is raised and when evidence will be accepted on to NPWD.
- The total of the evidence you plan to acquire should equal your estimated 2008 obligation.
- Indicate what proportion of ePRNs or ePERNs you intend to obtain from spot market purchases.
- Explain what contingencies you have in place to account for fluctuations or shortages of ePRNs or ePERNs.
- If you plan to acquire more evidence than your estimated obligation indicate why you intend to do this (e.g. for carry over into 2009).

Recovery and recycling obligation for the next three years

- You must include in your 2008 operational plan either a statement that you do not (at this stage) expect your obligations or your ePRN/ePERN procurement profile to change significantly in 2009 and 2010 or where you expect a change to provide revised 2009 and 2010 data.

Contracts

- Provide details of any contracts you have or anticipate to have in place for the provision of ePRNs/ePERNs. Schemes should provide details on the types of contracts they have in place (formal contracts (drawn up by solicitors), written contracts or verbal agreements).
- Provide details of other non contractual arrangements you have in place or anticipate to have in place for the provision of ePRNs/ePERNs.
- The regulations make reference to schemes and producers having contracts either in place or planned. The regulations do not specifically require contracts to be in place. However, the Agencies take the view that there is a correlation between a schemes/producers ability to meet its obligation, the size of that obligation and any contracts/arrangement in place.
- A scheme with a significant recovery obligation would be expected to have contracts, planned contracts and other planned arrangements in place for the acquisition of ePRNs/ePERNs and these need to be detailed in the plan.
- Where a producer or scheme intends to use third parties to assist in acquiring evidence, this route should be balanced against the overall size of the obligation. That is a producer or scheme with a significant obligation should not set out in their operational plan reliance on this route for obtaining a significant proportion of the evidence.

³ Acquired: this is when evidence has been accepted onto NPWD

- Where a third party is used to assist in acquiring evidence the producer or scheme must ensure that the ePRNs/ePERNs contain their name and not that of the third party.

Direction of resources

Producers and schemes will need to include a statement describing how they intend to assist reprocessors to direct resources at:

- Increasing the capacity for the collection and reprocessing of packaging waste.
- Encouraging the development of markets for materials and goods made from recycled packaging waste.

Monitoring Plan

This is required from Compliance schemes. The monitoring plan provides details on how the scheme will monitor the members' information⁴ so that the scheme can comply with its operational plan.

Commercially Confidential

Compliance schemes must highlight to the appropriate Agency which parts of the plan they believe are commercially confidential⁵. They must also provide justifications for this, e.g. in an appendix, in the operational plan or in a supporting document uploaded on to NPWD when the operational plan is submitted.

Updated Operational Plans

The appropriate Agency requires a resubmission of an operational plan during the year if there has been a significant change to the previously submitted one. As a guide, you should submit an updated operational plan to the appropriate agency when there are changes in your:

- overall obligation tonnage; or
- procurement strategy for obtaining evidence

that are either 10% or more of your total obligation or 50,000 tonnes (whichever is the less amount).

Implementation of the Operational Plan

Each year, producers and compliance schemes are required to provide a statement as part of their Certificate of Compliance (Producers) or Statement of compliance/End of Year Return (Schemes) as to how they have complied with their operational plan.

Version#7 / 09th January 2008

⁴ The information as required in Regulation 19.

⁵ 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.' Much information is related to commercial matters, but we are looking for real and significant confidentiality. It must affect you economically and not just be embarrassing to the company. Examples might be detailed information about how a business works, or details of customer lists.