

Packaging Compliance Schemes' Voluntary Code of Practice

December 2010

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1) Introduction

- a) The purpose of the Packaging Compliance Schemes' Voluntary Code of Practice is to apply a benchmark to Compliance Schemes against which they can assess their operating procedures and to give the Agencies a basis against which to assess scheme standards. It is intended to provide one mechanism against which the agencies can assess compliance risk and determine appropriate levels of monitoring.
- b) It is a living document that will be refined by industry and the Agencies through the AIPOLG (Agency Industry Packaging Operations Liaison Group). The Code is not legally binding and is voluntary in nature. However, it is expected that its adoption by Schemes will provide the Agencies with a means to initially assess scheme standards of operation.
- c) Compliance schemes which adopt and work to the CoP would be expected to present a lower level of compliance risk and therefore justify benefiting from a reduced monitoring process, both for the scheme and their members.
- d) Ultimately it is hoped that the benefits to participating schemes also include a reduced fee structure.
- e) The potential benefits of this approach are as follows:
 - Raise level of data accuracy
 - Raise the level of scheme operational activity & compliance
 - Provide benchmark to assist agencies to regulate schemes
 - Reduction in direct inspection by Agencies of scheme members
 - Re-direction of Agency compliance monitoring resource to 'non code of practice schemes' and to free riders
 - More free riders identified – reduction in burden on registered producers

2) Member information & registration

a) Membership acceptance and termination

- i) Where a previously registered producer (either direct or via another scheme) wishes to join a scheme, it would be expected that any scheme considering that producer as a member should ensure they can adequately meet that producer's responsibilities under the regulations. In some instances this may require the matter to be raised with the relevant agency.
- ii) Schemes would be expected to abide by their membership agreements and only terminate membership in accordance with their Terms and Conditions.
- iii) Schemes will, by 1st May, write to those members who have failed to provide the relevant fee(s) and accurate data by the regulatory deadline informing them that they are not classed as a registered producer or a scheme member for the purposes of the packaging regulations. Such members may continue to have contractual obligations under their Terms & Conditions.
- iv) In the event of termination of a member, a Scheme should duly inform the Agency on termination.

b) Company details

- i) Schemes must ensure that the business/company details are valid and verified each year prior to registration.
- ii) Records must be maintained that demonstrate this information has been verified.
- iii) As a minimum, the information must reflect the registration requirements for each member and each subsidiary:
 - Legal company name
 - Trading name
 - Registered address
 - Trading address
 - Company registration number
 - SIC Code
 - Company turnover
 - Nature of business
 - Group subsidiaries
- iv) Schemes are required to have in place a defined process to implement this requirement. This should include details of any external information sources used to verify member information, for example using the Companies House website to confirm a company's registered name, office and company number.

c) Packaging weight data

- i) Member data is required to be as accurate as reasonably possible (AAARP). Schemes must therefore have systems in place to confirm that the data received from each member meets this requirement. The systems should be clearly defined and auditable.
- ii) There are a number of methods that would be considered reasonable in achieving this accuracy and schemes should be able to demonstrate the methods used by their members in achieving AAARP. Examples of methodologies for achieving this include:
 - Acknowledged third party data system
 - Acknowledged ready reckoner system
 - Weight sampling
 - Supplied packaging weights
 - Supplier data
 - Trade association methodology
 - Sales records
- iii) Data submitted by members should be verified on receipt and prior to submission to the relevant agency. Schemes should have in place a standard process(es) for verifying all data. Member data should be positively confirmed and verified each year. Schemes may have to adopt a range of verification approaches, which may be based on predefined risk factors. However there must be a minimum level of scrutiny of each member's data each year. There should be no instances where a member's data is submitted without going through a verification check on the accuracy of the data.

d) Technical competence

- i) Schemes should have in place a system for advising and training members on data collection and submission. The system should be able to demonstrate a formal process for advising members of changes to the regulations.
- ii) The scheme should verify that there is a documented methodology in place for data collation in the event that the member contact changes.

e) Compliance monitoring process

- i) Schemes are required to operate a compliance monitoring process for their members. This process should incorporate a method of highlighting the significant or and/or high risk members of the scheme. The criteria for this assessment should be clearly set out and be available for review by the relevant agency.
- ii) The primary objective for a compliance review is to determine that scheme member's data is 'as accurate as is reasonably possible' (AAARP). To do this, the following needs to be assessed::
 - understanding of business activities and obligations arising

- company's methodology in gathering data
 - translation of data onto form
- iii) This can be achieved through a planned process of sampling members for detailed review. The method of choosing which companies to monitor should be a combination of time based and risk based selection.
- iv) Scheme should conduct a compliance review of all new scheme members in their first year of membership.
- v) Each member should be subject to a compliance review at least once every three years.
- vi) A scheme should be able to demonstrate that it has a formal risk profiling process in place to assess the likely accuracy of member data and that their members have been assessed against this process.
- vii) It is expected that schemes would set out their planned compliance data monitoring process following registration each year and this information would be available on request by the agency. As a minimum this would contain the following information:
- Their data risk profile definitions
 - The number of members they have under each risk segment
 - The number of members they intend to monitor in the year ahead in each segment
 - The means by which they intend to monitor – visit, desk top etc.
- viii) Points to consider when creating a data risk profiling system are as follows:
- The relative size of the company's obligation
 - the expertise of the company point of contact e.g. have they recently changed
 - member's data does not reconcile with their business description
 - data interrogation has shown there to be swings in the data compared to the previous year
 - activities recorded on the data form have varied considerably to the previous year
 - member has high tonnages in a material identified as problematic by the agencies or scheme
 - when the member last received a site audit
- ix) A compliance review may take any of the following forms:
- site visit
 - desktop review with member conducted either electronically or via the phone
- x) Schemes are expected to maintain records of all compliance monitoring activity undertaken with their members. A summary report of monitoring activity should be available for inspection by the relevant agency.

f) Data Resubmissions

- i) Compliance Schemes must use the agencies' resubmission guidance as set out in Appendix 1.. Schemes should have in place a policy which is compliant with the timeframe for which a resubmission must be made to the relevant agency.
- ii) Schemes must analyse and record the reasons for data resubmissions.

3) Scheme management

a) Scheme Technical Expertise

- i) Schemes are required to both manage the operation of the scheme effectively and be able to advise members in relation to the regulatory requirements. To do this, scheme operators should be able to demonstrate that they have the resource and expertise to advise members on all aspects of the Regulatory requirements. This should include:
 - Interpretations on scope
 - Understanding producer data flows and obligated packaging
 - Completion of the data form
 - Calculation of obligations
 - Understanding of technical issues such as mid year changes, conditional approval etc
 - Targets and target changes
 - Devolved variations
 - NPWD and the PRN system
 - The markets and sources of evidence
 - The relevant enforcement agency and their key personnel
- ii) Schemes will have a named individual or individuals with responsibility for compliance.
- iii) Schemes should also have sufficient resource to cover in the event of illness, holiday or any other circumstance affecting their key technical staff for any lengthy period of time, so that the scheme is still able to operate effectively.
- iv) Occasionally, the Agencies will conduct stakeholder days for data dissemination, training or discussion. It is expected that Schemes will make every effort to attend these to ensure they are fully aware of the issues and can relay any relevant information to their staff and members.

b) PRN procurement

- i) Schemes must have in place a PRN Procurement plan that will ensure that the recovery and recycling obligations are met.
- ii) In January of the compliance year schemes will have submitted Operational Plans for approval by the Agencies. These will include provisional PRN procurement plans to cover anticipated obligations. By

13th May schemes will be expected to confirm these plans, based on actual obligations.

- iii) In these plans, schemes should describe qualitative judgements to explain their procurement strategy material by material. Where the tonnage of a particular material is significant within the scheme's overall requirement, then formal contracts will be expected to be put in place. Such contracts can be:
 - directly with reprocessors or exporters
 - with a broker
 - on a forward market platform
 - by way of member offset
 - as a result of direct material recycling
- iv) Schemes should ensure that they have a contingency process should market conditions preclude these plans being followed.
- v) It is expected that schemes will routinely maintain a careful study of PRN markets and be ready to adjust their procurement programmes in accordance with changing conditions. They should inform their AAM if and when they become aware that their purchasing plan carries a risk of non-compliance.
- vi) Schemes should develop good working relationships with their Agency Account Managers and update their Account Managers on any deviation from their purchasing plan.
- vii) Schemes will receive their evidence via NPWD on a regular basis in line with their Operational Plans. Where there is a marked deviation from the anticipated procurement plan the scheme will notify and discuss this with the relevant agency and this may trigger the need for a revised Operational Plan within 28 days.

c) Market intelligence process

- i) It is expected that Schemes must be able to demonstrate a good understanding of the PRN market and of the likely issues that will affect this market to ensure that they plan ahead for any potential market changes.

d) PRN Carry over

- i) Operational Plans require schemes to plan for future years. This can include the use of carry over evidence to support compliance in the following year. Schemes are also required to ensure they comply with the regulations to the extent to which this is possible and do not act in an unreasonable way to deliberately or unnecessarily deny other schemes the ability to comply.
- ii) In the circumstance where there is a potential shortfall of evidence, schemes with carry over evidence in that material should consider all reasonable requests from other schemes with a requirement in that material, for example by making surplus tonnage available to the market.

This should not put at risk the compliance position of the scheme with surplus evidence for the current or following year.

e) Consumer Information Obligation

- i) The Regulations require schemes that have seller members to demonstrate how they will comply with the Consumer Information Obligations.
- ii) Schemes should be able to demonstrate an active process to discharge these obligations in a meaningful and relevant manner.

f) Scheme information systems

- i) Schemes are expected to provide data and keep records that are robust, accessible and maintained in relation to their members company details and obligations and their evidence procurement. Records are required to be maintained for four years for all producer data received.
- ii) Schemes must therefore be able to demonstrate that they manage their data through a system that is suitable for this task and proportionate to the scale of data input and output. The system should be accessible by a number of staff members to ensure that in the event of sickness, holiday etc, the data can be accessed as required.

g) Relationship with Agency

- i) It is expected that Schemes will maintain regular contact with their allocated Agency account manager. Schemes must be able to demonstrate that records have been kept of all relevant communication with the relevant Agency and that they are aware of their communication and contact process.

APPENDIX 1: PACKAGING DATA RESUBMISSION CRITERIA

The following guidelines are taken from the Environment Agency's internal guidance for staff who undertake compliance monitoring inspections.

A re-submission would normally be required when:

- a packaging material type has been missed;
- a packaging flow has been missed (for example, imports);
- an activity has been missed (for example, selling);
- a significant error in the data results in a change in the overall obligation.

A resubmission should only be required if the change in data results in a significant change in the obligation. This is something you will need to determine on a case-by-case basis.

For example, a five-tonne error where the total obligation is 70 tonnes, would normally be considered significant. However, if the total obligation were 1000 tonnes, a five-tonne error would not normally be regarded as significant.