

SL(6)368 – The Environmental Permitting (England and Wales) (Amendment) Regulations 2023

Background and Purpose

The Environmental Permitting (England and Wales) (Amendment) Regulations 2023 (“these Regulations”) amend Part 2 of Schedule 9 to the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154). That Part requires operators of materials facilities to notify the regulator if they receive waste material of 1,000 tonnes or more. Operators must sample the waste entering and leaving the facility, and record and report the information to the regulator.

By virtue of these amendments (and in particular the definition of “waste material” in regulation 2(4)), the type of waste material to which the threshold for notification to the regulator applies will include waste material of a single type, rather than only material of two or more kinds mixed together.

Sampling requirements are amended, both in respect of waste material received at a materials facility (regulation 2(7)) and waste material leaving that facility (regulation 2(8)), to extend the types of material that is required to be identified, including types of packaging.

Regulation 2(9) amends the arrangements for record-keeping to reflect the new sampling requirements and to require the identification of the supplier of each batch of waste material received at the materials facility. Regulation 2(11) makes corresponding amendments to the arrangements for reporting to the regulator.

The period during which records are required to be kept for information recorded after the coming into force of these Regulations is extended from four to seven years (regulation 2(10)).

Information obtained by the regulator may be shared with the administrator for a scheme for producer responsibility for disposal costs (regulation 2(12)).

All materials facilities within scope will be required to comply with these Regulations by 1 October 2024 and report the first quarter’s data to the regulator by 1 January 2025.

Procedure

Composite Draft Affirmative

A draft of the Regulations has been laid before the Senedd and the United Kingdom Parliament.

The Welsh Ministers and the UK Ministers cannot make the Regulations unless the Senedd and the UK Parliament approve the draft Regulations.



Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(ix) – that it is not made or to be made in both English and Welsh

The Committee notes that these Regulations are composite in nature. The Explanatory Memorandum states at paragraph 5 of Part 1 thereto:

“As the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.”

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy to be of interest to the Senedd

These Regulations relate to common frameworks. A commitment to notify the Senedd when legislation relates to a common framework was previously given to the Committee.

A [letter](#) from Julie James, the Minister for Climate Change, dated 26 June 2023 states as follows:

“I am writing to inform you that The Environmental Permitting (England and Wales) (Amendment) Regulations 2023 which will shortly be laid before the Senedd fall under the scope of the Resources and Waste Common Framework.”

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

17 August 2023

