

**Phil Conran**

---

**From:** Packaging <packaging@environment-agency.gov.uk>  
**Sent:** 22 September 2021 16:39  
**To:** Packaging  
**Subject:** EA Comms: The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended)



## Producer Responsibility Regulatory Service - Packaging

packaging@environment-agency.gov.uk

22 September 2021

### The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended)

Dear Operator

In response to recent feedback we would like to clarify a few key points surrounding compliance with [The Producer Responsibility Obligations \(Packaging Waste\) Regulations 2007 \(amended\)](#) and the Conditions of Accreditation for reprocessors and exporters. This is a non-exhaustive summary. Where we identify non-compliance we consider all relevant information before determining an appropriate response. The Environment Agency's enforcement and sanctions policy can be found [HERE](#).

#### Operator responsibility in ensuring compliance

It is your responsibility to identify, understand and ensure compliance with all regulatory requirements applicable to your organisation and activities. Where Packaging Waste Recycling Notes (PRNs) / Packaging Waste Export Recycling Notes (PERNs) have been issued by a non-compliant operator they may be deemed illegitimate. Illegitimate PRNs / PERNs may be discounted from the packaging regime via, for example (not exhaustive): cancellation, voluntary cancellation, waste adjustments via [NPWD](#). We encourage all operators who identify that they may have issued illegitimate PRNs / PERNs to notify us. Where we identify non-compliance we may seek to discount illegitimate PRNs / PERNs from the Packaging regime and / or escalate our enforcement response. The Environment Agency's enforcement and sanctions policy can be found [HERE](#).

#### Overseas recycling sites

As part of our compliance monitoring activities we are communicating with overseas competent authorities and seeking to validate overseas recycling facilities where we identify risk of non-compliance.

PERNs may only be issued on packaging waste that has been exported in compliance with all applicable regulatory requirements to a final overseas recycling facility approved by the Environment Agency under a Part C of an application for accreditation under the Packaging Waste regulations. The final overseas recycling facility should have appropriate [Broadly Equivalent](#) standards in place and be suitably authorised by the relevant competent authority to receive and recycle the waste. A final overseas recycling facility is the site at which the waste is recycled. We do not consider interim sites to be final overseas recycling facilities.

Any PERNs issued contrary to these requirements may result in non-compliance with The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) and Conditions of Accreditation. PERNs may also be deemed illegitimate. Guidance on International Waste Shipments can be found [HERE](#).

## Suspension and Cancellation of Accreditation

Suspension and cancellation of accreditation of reprocessors and exporters is provided for under Regulation 26 of The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended).

Regulation 26 states:-

26(1) The appropriate Agency may suspend **or\*** cancel the accreditation of a reprocessor or exporter where it appears to it that –

- (a) The person who is accredited has failed to comply with any of the conditions specified in or under Schedule 5 [**\*\*Conditions of Accreditation**]; or
- (b) The person who is accredited has knowingly or recklessly supplied false information in his application for accreditation made under regulation 24 [**\*\*of the Packaging Waste regulations**] or in connection with compliance with any of the conditions specified in or under Schedule 5 [**\*\*Conditions of Accreditation**]

\*highlighted for emphasis

\*\*added for context

Conditions of Accreditation are also detailed in full in an operator's Notice of grant of accreditation letter that all accredited operators receive. Under Schedule 5(1) q iii we may place additional Conditions of Accreditation upon operators, these are detailed in the Notice of grant of accreditation letter.

A cancellation may or may not be preceded by a suspension. Both are examples of sanctions available to us under the regulations. Suspensions and cancellations are further explained in our Notification of grant of accreditation letter under the section 'Suspension or cancellation of accreditation', that all accredited reprocessors and exporters receive upon having their application for accreditation granted.

An operator may be deemed cancelled if they cease to hold a relevant authorisation, cease to be a reprocessor/exporter or they request it. We do not send communications about operators who have been deemed cancelled. The public register will show them as cancelled.

Further details of the powers and duties of the appropriate Agency(s) can be found within [The Producer Responsibility Obligations \(Packaging Waste\) Regulations 2007](#) (amended).

### Mis-description of waste

It is a legal requirement to correctly describe and classify waste. If an accredited reprocessor or exporter does not correctly describe and classify waste packaging and / or issues PRNs or PERNs on mis-described waste, this may result in non-compliance with the requirements of The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) including Conditions of Accreditation. PRNs / PERNs may also be deemed illegitimate. Guidance on correctly classifying and describing waste can be found [HERE](#).

### Cancellation of accreditation and re-application for accreditation

Following a cancellation of accreditation an operator will not be able to re-apply for accreditation in the same year as the cancellation. The decision to cancel an accreditation may be contested via our [complaints process](#) or by appeal to Secretary of State via Defra, details of how to do this are given in a Notice of Suspension/Cancellation of Accreditation. Cancelled operators will be able to apply for accreditation in subsequent years. Previous non-compliance is taken into account in determining applications for accreditation.

### Source checks

Accredited Reprocessors and Exporters should detail how they will ensure they only issue PRNs / PERNs on eligible packaging waste, including that it originated in the UK, in their application for accreditation and sampling and inspection plan. Where an operator is unable to clearly demonstrate the original source of their waste via an audit trail (e.g. Duty of Care Waste Transfer Notes etc) we expect to see additional measures taken by operators to demonstrate how they ensure that they only issue PRNs / PERNs on eligible packaging waste, including that it originated in the UK. Operators should retain auditable evidence and records to demonstrate how they are doing this in line with their application for accreditation, S&I plan, and conditions of accreditation. For example, such measures may include (not limited):

- Supplier Declarations (not sufficient alone)
- Checks/sampling/inspection of waste for obvious signs of non UK waste

- Supplier checks/audits

PRNs / PERNs that cannot be shown to have been issued on eligible packaging waste may result in non-compliance with The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) and Conditions of Accreditation. PRNs / PERNs may also be deemed illegitimate.

### **Use of Photographs**

Accredited reprocessors and exporters using images to support their issue of PRNs and PERNs should include a date and time stamp on the images. We consider this best practice that helps support an operator in demonstrating compliance with The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) and Conditions of Accreditation.

### **Point of export**

PERNs may only be issued once the packaging waste has been exported for recycling. Under The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) we consider the point of export for issue of PERNs to be once the waste has cleared UK customs.

Any PERNs issued contrary to these requirements may result in non-compliance with The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) and Conditions of Accreditation. PRNs / PERNs may also be deemed illegitimate.

### **Queries?**

If you have any queries, please email us at [packaging@environment-agency.gov.uk](mailto:packaging@environment-agency.gov.uk)

Information in this message may be confidential and may be legally privileged. If you have received this message by mistake, please notify the sender immediately, delete it and do not copy it to anyone else. We have checked this email and its attachments for viruses. But you should still check any attachment before opening it. We may have to make this message and any reply to it public if asked to under the Freedom of Information Act, Data Protection Act or for litigation. Email messages and attachments sent to or from any Environment Agency address may also be accessed by someone other than the sender or recipient, for business purposes.