

Executive Summary

Introduction

Audience

Responding to the consultation

Consultation period

After the consultation

Compliance with the consultation principles

Confidentiality

1 Would you like your response to be confidential?

No

If you answered yes to this question, please give your reasons.:

About You

2 What is your name?

Your name:
Emily Nichols

3 What is your email address?

Email Address:
emily@r-e-a.net

4 Which best describes you? Please provide the name of the organisation/ business you represent and an approximate size/number of staff (where applicable).

Business representative organisation/trade body

If you answered 'other' please provide details:

Please provide the name of the organisation/ business you represent and an approximate size/number of staff (where applicable).:

The Association for Renewable Energy and Clean Technology (the REA) is a not-for-profit trade association, representing British renewable energy producers and clean technology and promoting the use of renewable energy in the UK. It has around 550 corporate members, making it the largest renewable energy trade association in the UK.

The REA's Organics and its Green Gas forum together comprise 422 members, numerous of which operate commercial composting facilities, commercial anaerobic digestion (AD) facilities and recycle organics to land. We have three members who, between them, manufacture and place compostable packaging and non-packaging products on markets that include the UK. The REA has 22 employees. More info available at www.r-e-a.net

5 Government will need to understand the needs of users to build digital services for EPR for packaging. Would you like your contact details to be added to a user panel for EPR for packaging so that we can invite you to participate in user research (e.g., surveys, workshops and interviews) or to test digital services as they are designed and built?

Yes

The draft Regulations explained

6 Do you agree that we should work towards excluding packaging that is designed only for use by a business from the payment of household disposal cost fees?

No

Obligations on producers

7 Do the draft Regulations ensure all types of packaging, which is not exempt packaging, are subject to recycling obligations?

No

If no, please detail which types of packaging are missed. :

Small Producers are not required to ensure their packaging is recycled, even where it's non-exempt packaging. Many UK business are SMEs. Businesses subject to EPR 'reporting only' requirements are those with a turnover of more than £1M (in the last financial year before the relevant date) who also handle in aggregate more than 25 tonnes of packaging or packaging materials 'in the threshold calculation year'. Considering these factors together, there is risk that a significant amount of non-exempt packaging placed on the UK market by businesses smaller than de minimis SP thresholds will not be in the EPR reporting system.

Question 6 does not include a comments box so we feedback here that packaging designed only for use by a business should be not be excluded from paying household disposal costs fees where that business's packaging waste is collected with household waste (as part of a collection a local authority pays for) and that waste stream's treatment is paid for by a local authority.

8 Are producers recycling obligations clear?

Do not know

If 'no', please provide details of anything that is unclear:

9 Are the obligations on each type of producer clear?

No

If 'no', please state the type of producer and how the obligation is unclear:

Small Producer obligations are clear. The Large Producers who are liable to pay an annual disposal fee under regulation 61(1) are also required, amongst other things, to 'assess the recyclability of the packaging supplies in accordance with regulation 11' (Part 2, Chapter 1, Regulation 16(6)(a)). Part 1's Regulation 11 requires that the producer's or third party's assessment of recyclability is carried out in accordance with guidance published by the Scheme Administrator. Until the SA's guidance has been published or a draft of it is made available to stakeholders, it is not clear whether the assessment can solely be on suitability of the material or materials in a packaging product to be recycled or whether other factors must also be included in the assessment, e.g. how widely is the product type collected for recycling if it is likely to be discarded from a household?

10 Are the obligations on all types of packaging clear?

No

If 'no', please give examples of any packaging types where the obligations are unclear:

Producers of certified compostable packaging are not clear under which type of reporting they fall. As the British and European Standard for packaging recoverable through composting and biodegradation (BS EN 13432)* does not specify the packaging's material type(s), these products can be polymer based (plastic-like), cellulose based, paper/card, a polymer-fibre composite or made from wool, algae, wood or mycelium. Their unique feature is their end of life suitability for composting with organic waste streams in industrial/commercial scale composting. So how should compostable packaging be reported, e.g. as a sub-category of plastics where the product is plastic-like, as a sub-category of fibre-based composites where the product is a fibre-based composite, or as a sub-category of 'other materials' (given the material types set out in the draft SI)?

Compostable packaging should be named as a specific material category separate from any other; this is also relevant to fees organic recyclers would pay to be registered reprocessors accredited to issue PRNs (PRN fee structure is per material type the reprocessor evidences that they reprocess).

*To the best of our knowledge, products on UK and European markets are certified compliant with this standard's criteria that specify suitability for industrial composting. This standard also specifies criteria relevant to packaging suitability for anaerobic digestion followed by a short phase of aerobic composting, but products tend not to be assessed for compliance with these optional criteria. It is important to understand that BS EN 13432 is NOT a standard that specifies criteria for products designed / intended in their end of life phase to disintegrate and biodegrade in aquatic environments, in the open air or in soils.

11 Are there any areas in which two producers may be obligated for the same item of packaging?

Do not know

If 'yes', please set out clear examples to demonstrate this. :

Compliance schemes

12 Is the relationship between a Packaging Compliance Scheme and its members clear?

Do not know

If 'no', please provide details of anything that is unclear:

13 Are the obligations that a Packaging Compliance Scheme assumes on behalf of its members clear?

Do not know

If 'no', please provide details of obligations that are unclear.:

Provision of recycling information & labelling

14 Are the requirements for the provision of recycling information and packaging labelling clear?

No

If 'no' or 'unsure', please explain the reason for your response and provide examples.:

The requirements are not clear for compostable packaging, which can be organically recycled with food and/or garden waste. As much of food contact compostable packaging is subject to Animal By-Products Regulations (because all or part of the food was animal-derived), so examples of how it can be organically recycled are its in-vessel composting with food and garden wastes or its 'dry' anaerobic digestion with food and garden wastes followed by a short composting phase.

Part 1, Regulation 8 on household packaging waste needs clarifying.

'8.—(1) In these Regulations, "household packaging waste" means packaging waste which is household waste, but does not include—

- (a) including any waste for which a collection charge may be made by a relevant authority under section 45 of the 1990 Act or Article 20 of the Waste and Contaminated Land (Northern Ireland) Order 1997, any waste from a place of worship, any ground litter or any binned packaging waste, or
- (b) any packaging waste which is discarded together with food waste in a receptacle for food waste where the food waste in that receptacle is collected separately from other household waste by the relevant authority collecting that waste.

Does this mean that compostable packaging collected with food waste is exempt from EPR?

(As the SI is currently drafted, a case could also be made that any 'biodegradable' packaging arising from the preparation of food – unpackaging it in a domestic setting – is within the definition of food waste.

This appears to be a loophole.)

'8. —(2) In this regulation –

(a) "food waste" means waste that –

- (i) has at any time been food intended for human consumption, or
 - (ii) is biodegradable waste arising from the processing or preparation of food,
- but does not include drink;")

Also, regulation 8(b) does not cover the current and on-going future scenario where food waste is co-collected with garden waste in some local authority areas and already does or would in future include some compostable packaging (e.g. tea bags with a string and label and compostable lightweight carrier bags last re-used as kitchen caddy/food bin liners). Article 8(b) needs to be amended to cover this scenario or a sub-para (c) added that covers this scenario.

(The Environment Act 1990, as amended, will allow local authorities to co-collect food wastes with garden wastes where they justify it is not TEEP to collect them separately or there is overall environmental benefit by co-collecting these wastes.)

Regarding co-collection of compostable packaging with food and garden waste, is your intention to exempt such packaging from EPR?

The REA's view is that compostable packaging should pay EPR fees, on condition that the fee revenue then returns to the organic recycling sector to improve recycling of compostable packaging - and the food waste / beverage residues adhered to it - and reduce the amount of non-compostable packaging that organic recycling facilities must remove as best they can. This is the kind of system already introduced in Italy – see Biorepack scheme info (https://bbia.org.uk/wp-content/uploads/2020/06/BBIA_webinar.pdf)

RECYCLING LABELLING

Chapter 2, Regulation 23(1) and (2): given the widely established use of the WRAP-developed "Recycle" swoosh for waste types typically collected in containers and collection services for DRY recyclable waste types, and the draft SI's intention that packaging must either be labelled 1) "Do Not Recycle" and use the line-through-the-swoosh symbol OR 2) "Recycle" and use the swoosh symbol, these options appear not to also provide for organically recyclable packaging.

Much of compostable packaging is collected with food and garden waste or with food waste; when collected with these wastes it is not relevant to the dry recyclable waste streams. UK End of Waste rules for composts and digestates made from organically recycled biodegradable wastes require that any packaging fed in is only that which is certified compostable by a third party certifier. The certified compostable packaging is licenced to bear the certifier's certification mark, or it can be put on the outer packaging with clear ID of what is compostable if the product itself cannot bear the mark (as in the case of compostable tea bags). The compostables labelling scene in the UK is evolving and is the subject of recent and current UKRI-funded research. REA would like to discuss with government a labelling approach that could work for third party certified compostable packaging under the EPR system.

Recyclability assessments

15 Are you likely to use a third-party organisation to conduct packaging recyclability assessments?

No

Please provide a reason for your response.:

Answer to this question depends on the kinds of recyclability for which a packaging product is assessed, e.g. conventional plastic recycling, paper/card recycling, metal recycling, organic recycling, chemical recycling...

Paraphrasing, the draft SI says packaging recyclability means packaging that has the quality of being recyclable and in this context recyclable means it must be 'capable of being recycled'. The draft SI says "'recycling" has the meaning given in Article 3(17) of the Waste Directive, and "recycle" is to be construed accordingly'. This directive defines recycling as 'any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.'

Considering compostable packaging's suitability for organic recycling, there are already third party (independent) certification bodies who assess and certify industrially compostable packaging (and home compostable packaging). They can also assess and certify packaging suitable for anaerobic digestion followed by a short composting phase.

To comply with BS EN 13432 packaging must pass disintegration and biodegradation tests relevant to industrial scale composting, must not have negative impacts on plant health (pass the ecotoxicity test) and must not exceed Potentially Toxic Elements limits. Producer self-assessment of their packaging product's compliance with BS EN 13432 is insufficient for most organic recycling facilities in the UK.

The only packaging in a not-as-naturally-synthesised state that composters - who meet the British Standards Institution's PAS 100 and the industry and regulator-supported Compost Quality Protocol - are allowed to feed into their composting processes is packaging independently certified compliant with BS EN 13432**. This packaging and any that is in its naturally synthesised state can be accepted for treatment by composters, because it is compatible with the production of high quality composts. Extending requirements for independent certification to other composters in England, Environment Agency permits to operate and the guidance that underpins them requires packaging that's fed in to be independently certified compliant with at least one relevant, specified standard, one of which is BS EN 13432.

Compostable packaging producers therefore already use third party certification bodies to evidence compliance with BS EN 13432. Consequently they have no need for further organisations for assessment of packaging suitability for industrial composting (or anaerobic digestion followed by a short phase of composting).

(**Independent certification of compliance with at least one of two alternative standards relevant to industrial composting /organic recycling is allowed for plastic products that are not packaging product formats).

The draft statutory instrument's wording might allow self-assessment or third party assessment of recyclability; assessment must be 'carried out in accordance with guidance published by the scheme administrator'. Such guidance is not yet published by the scheme administrator so the REA is keen to engage with Defra and the SA regarding assessment of packaging suitability for organic recycling.

There is an increasing amount of fibre-based product marketed in the UK for food service; trays, bowls and plates made from cellulose/bamboo/bagasse fibres, that are both compostable and, where these used items have negligible food residue on them (some do) they are alternatively pulpable/recyclable within suitable paper mills. In this case a producer may want third party certification and/or verification of the product's suitability for paper/cardboard recycling, in addition to its certification of compostability.

At least where there are business-to-business routes into paper mills and into organic recycling facilities (e.g. in-vessel composting), dual certification of the following seems something the EPR system should accommodate:

- fibre packaging that is compostable and paper mill pulpable/recyclable;
- fibre-based composite packaging that is compostable and paper mill pulpable/recyclable.

16 If you answered yes to Q14, should there be a mandatory accreditation scheme for third-party organisation(s) who undertake recyclability assessments?

Yes, other (please specify)

Please explain the reason for your response:

The answer options do not include all that are appropriate for accreditation of third party schemes that assess and certify packaging compliance with BS EN 13432.

The UK's EPR scheme must recognise the accreditations these third party schemes already have, plus any equivalent ones that UKAS already assesses or would assess in future, that are relevant to packaging certification of conformance with BS EN 13432.

Here is information from two well-established third party schemes:

'DIN CERTCO is accredited according to DIN EN ISO/IEC 17065 for its [BS] EN 13432 referring certification schemes by German national Accreditation Body DAkkS. The complete scope and the docs can be found at'

<https://www.dincertco.de/din-certco/en/main-navigation/about-us/accreditation-and-acknowledgement/> 'Scope:

<https://www.dakks.de/files/data/as/pdf/D-ZE-11125-01-01e.pdf>

TUV Austria is 'accredited [to] ISO 17020 by Austrian Accreditation for the following standards:

- European standards [BS] EN 13432 & EN 14995

- International standards ISO 18606 & ISO 17088
- American standards ASTM D6400 & ASTM D6868
- Australian standards AS 4736 & AS 5810
- French standard NF T 51800
<https://akkreditierung-austria.gv.at/overview/14428962>

Info at <https://www.bmaw.gv.at/en/Services/Accreditation.html> includes that: 'The Federal Minister of Economy established the Austrian National Accreditation Body "Akkreditierung Austria" as a separate department in the Ministry. The single Austrian National Accreditation Body (NAB) is tied into the network of accreditation activities at the international level.'

(We asked about accreditations relevant to BS EN 13432 and TUV Austria answered about their accreditations relevant to industrially compostable products as well as their accreditations relevant to home compostable products.)

Mandatory takeback and recycling of fibre-based composite cups

Scheme Administrator establishment

17 Are the functions of the Scheme Administrator as outlined in the draft Regulations clear?

Do not know

If 'no', please provide examples of where the draft Regulations are not clear. :

Scheme Administrator calculation of producer disposal and administration fees

18 Do the draft Regulations allow for the Scheme Administrator to accurately apportion fees to producers?

No

If no, please detail why.:

It is not clear whether compostable packaging products should ALL be reported as 'other materials' or, where some of them fit a named material type category those products should be reported as that material. E.g. where a compostable product is a fibre-based composite report it as that, where a compostable product is a plastic-like polymer report it as that, where a compostable product is wood report it as that, and so on (see draft SI Part 1, clause 6(4)).

Whichever approach is intended to be taken, the SA's data handling system needs to provide for compostables data to be identifiable and selectable for analysis of how much has been placed on the market and whether it has been recycled (organically unless it is 'clean' card/paper or wooden packaging discarded into the dry recyclables waste stream) after it becomes waste.

It is not clear how tonnages of compostables collected and fed into organic recycling processes should be reported; without clarity the full net costs of recovering (or recycling) them cannot be factored in when the SA sets and adjusts EPR fees.

19 If your organisation collects and recycles packaging waste, do you understand if you would qualify for off-setting under the draft Regulations?

No

If no, how can this be made clear?:

We need clarity for compostable packaging, e.g. materials collected from food service businesses sent to composting, under business to business arrangements. Examples of such schemes are: <https://www.vegware.com/uk-en/page/composting/#composting-region>, <https://www.greenmanpackaging.com/pages/compostable-packaging-collection-service> and <https://www.compostconnect.org/uk/compost-service/>

Our interpretation of the draft SI's Chapter 2, clause 63 (1), (2) and (4) in terms of compostable tea bags with a string and label (thus primary packaging) is that Large Producers could not off-set tonnages collected from food service businesses and sent for organic recycling - paid for using business to business arrangements - if tea bags of this type are also collected from households by more than 75 % of relevant authorities. This seems an unnecessary restriction so we would welcome discussion to resolve this.

The off-set rules understandably do not allow off-set of drink containers and exempt packaging, e.g. reused primary packaging, reused secondary or tertiary packaging that has not been imported to the UK and packaging which is a DRS deposit item. Drink containers are defined as bottles and cans and as they are not product formats made in compostable versions, considering at least the UK market, not allowing them to be off-set has no relevance to compostables. Compostable drink cups appear irrelevant to the off-set exclusions as they are not bottles or cans. However, if compostable drink cups collected from food services businesses and sent for organic recycling would not be eligible to off-set, we would want to discuss that with government.

20 Do you think the offsetting provisions should be extended as part of future reforms to EPR?

Yes

If yes, please detail how you think these offsetting provisions should be extended and why. :

This gives the incentive to develop collection and recycling schemes serving business sources of packaging waste independently from local authorities' arrangements.

21 Do the draft Regulations provide appropriate safeguards for compliant producers, including with regards to the impact producer non-compliance may have on producer disposal fees?

Do not know

If 'no', please provide details of your concerns. :

Scheme Administrator's calculation of disposal costs and scheme administrator costs to be recovered from producers

22 Do the draft Regulations make it clear what the Scheme Administrator is required to do and consider in assessing local authority efficient net disposal costs and service effectiveness?

Yes

If no, how could these be made clear and what do you consider is missing? :

23 Do the draft Regulations make appropriate provision for how the Scheme Administrator will incentivise the delivery of efficient and effective packaging waste management services by local authorities?

Do not know

If no, please detail why and explain what is missing. :

24 Do the draft Regulations make it clear what the Scheme Administrator is required to do and consider in assessing Scheme Administrator public information costs and administration costs?

Yes

If no, how could these be made clear and what do you consider is missing?:

25 Do the draft Regulations make appropriate provision for how the Scheme Administrator will distribute disposal cost payments to local authorities?

Do not know

If no, how could the provisions be made clear or and what do you consider is missing? :

26 Do the draft Regulations make it clear how the Scheme Administrator will adjust (modulate) fees to account for the environmental sustainability of household packaging?

No

If no, how could these be made clear and what do you consider is missing? :

Producers of compostable packaging believe their products to be more sustainable than (for example) certain plastic products. In terms of some policy discussion with Defra and their intention to disincentivise compostable products, it seems a risk that the EPR scheme will apply high modulated fees to compostable packaging.

Our understanding is that SA adjustment (modulation) of disposal fees will be based on the extent to which household packaging supplied by the Large Producer is environmentally sustainable. Its environmental sustainability must take into account one or more of six named/described factors (see Chapter 2, regulation 66 (2)) and if a Large Producer does not provide 'sufficient information to enable the scheme administrator to determine...the degree of environmental sustainability of all the packaging supplied by [the] LP in a packaging category' the SA will treat that packaging 'as having the same degree of environmental sustainability as the least environmentally sustainable packaging in that packaging category supplied by any producer, and increase the fee for that packaging category for that producer accordingly'.

We summarise the packaging's environmental sustainability factors the SA will take into account as follows: whether it's reusable, the extent to which it's reused, its recyclability, the environmental impact of creating it, its environmental impact when it becomes waste and the 'environmental implications of any adjustment proposed to the disposal fee for a packaging category..'

Although these factors are clearly stated, robust assessment of each relevant factor to a specific packaging product / product category seems a significant challenge in practice. It seems likely that standards for improved scoping of LCAs would assist the SA and LPs and that environmental sustainability evidence might be more efficiently presented to the SA if a recommended (but not compulsory to use) document were provided that sets out a template structure for provision of evidence.

Will the SA have a suitably trained and knowledgeable team who will be competent in assessing LPs' environmental sustainability assessments of their household packaging?

What must be considered within an assessment of a household packaging product / category type's recyclability; how much of it is recyclable, via what means of recycling, will it be collected for recycling, will it be received at a recycling facility appropriate for the used item's material type(s), and will it be fed into their recycling process?

Reading the draft SI's Part 1, Regulation 2 on Interpretation, "recyclability" in relation to packaging 'is the quality of being recyclable' and "recyclable" in relation to packaging or materials, means any packaging which is, or materials which are, capable of being recycled'. So, the SA's (coming) guidance on exactly what 'capable of being recycled' means will be key, given that LP / third party assessment of recyclability must be carried out in accordance with guidance published by the SA.

The draft SI's Explanatory Note includes that 'Chapter 1 (regulations 57 to 69) requires the appropriate authorities to appoint a scheme administrator, identifies those producers liable to pay disposal fees, and makes provision for the calculation of the amount of their liability in relation to household packaging waste and binned packaging waste. It also requires the scheme administrator to publish a statement of its policy on the adjustment of the amount of the disposal costs charged to producers.' We have not found part of the draft SI that sets out how the environmental sustainability of household packaging is/will be factored into fee calculations so, unfortunately, it is not clear HOW this will be done by the SA.

27 Do you have views on any materials that should be exempted from the scope of modulating fees?

No

If yes, please specify which materials:

Quoting some of gov's text above: 'The draft Regulations also introduce a requirement for the Scheme Administrator to adjust (modulate) disposal fees based on the environmental sustainability of the packaging producers supply and require the Scheme Administrator to publish a statement of policy setting out how the adjustments will be applied.' Disposal fee adjustment (modulation) is set out in Part 6, Chapter 1, Regulation 66 of the draft SI.

Chapter 2, regulation 66 (4) seems to exempt from disposal fee adjustment packaging (placed onto the market?) by a Large Producer who is an online marketplace operator* and 'any fee charge to LP in relation to the [2025] assessment year'. *Is this particular exemption still applicable to that LP's packaging items that are primary packaging or shipment packaging and that are finally used by a householder and so are disposed into one or more (as appropriate) of the household waste stream types?

We have not identified any other exemption from the scope of modulating fees when reading the draft SI.

Disposal fee adjustments for 'each packaging category payable by LP' may be reductions or increases; this seems appropriate.

We have not identified any materials (we interpret 'materials' as in-EPR-scope packaging that becomes household waste) that should be exempt from fee modulation.

Recalculation of costs and fees

28 Do the draft Regulations provide the necessary grounds to allow the Scheme Administrator to recalculate the costs and fees?

Do not know

If no, which grounds are missing? :

29 Do the draft Regulations set out clearly the process the Scheme Administrator must follow in making fee and cost recalculations?

Do not know

If no, how can the process be made clearer?:

Reprocessors and Exporters

30 Are the new registration requirements for reprocessors and exporters handling packaging waste clear?

No

If 'no', please provide details of any requirements that are unclear. :

Part 7, chapter 1, para 86(4): 'Where RE [the reprocessor or exporter] is a partnership formed under the law of England and Wales or Northern Ireland, the application must be made by any partner acting on behalf of the partnership.' Does this mean the application must be made by the partnership's nominated lead partner for EPR purposes and the application must also name each the other partner within that partnership? There are other sub-clauses in Part 7 chapters 1 and 2 where the appropriate agency must be informed in writing of 'any change of partners'.

31 Are the new conditions and reporting requirements for accredited reprocessors and exporters clear?

No

If 'no', please provide details of any conditions and/or reporting requirements that are unclear.:

A reprocessor's (RE) application for accreditation, which is necessary if the RE wants to issue PRNs, must include types of information specified in the draft SI. Part 7, chapter 2, para 92(2)(c) requires an accompanying business plan 'containing information on how the funds acquired from the issue of PRNs...are to be applied' and then specifies 6 specific information types the business plan must cover. If the would-be RE does not receive price support for buying packaging waste [sub-para (c)ii)], is it sufficient for its business plan to state this? Similarly, if it does not receive price support for selling recycled packaging waste, is it sufficient for its business plan to state this?

Thinking of organic recyclers of compostable packaging waste, they are not reprocessing it into compostable packaging. What they produce and sell is compost, some of its microbial content derived from the packaging waste and from food/beverage waste adhered to such packaging when received. Some of the compost's nutrient content is derived from the food/beverage waste adhered to compostable packaging when received and the compost's organic matter content derived from food waste adhered to compostable packaging. The connection between compost and compostable packaging is that some crops or crop residues are used for producing the bio-based content in new compostable packaging.

Composters with authorisations for treating wastes that include food wastes are relevant as reprocessors of compostable packaging as too are operators of 'dry-AD plus composting phase' processes. There is potential for AD-composting partnerships as reprocessors accredited to issue PRNs for organically recycling compostable packaging. Para 92(2)(c) needs further consideration given how the Waste Framework defines 'recycling' and that qualifying recovery operations reprocess waste materials into 'products, materials or substances whether for the original or other purposes' and include the reprocessing of 'organic material'. The WFD's definition of recycling is also met when AD that produces digestate compliant with End of Waste rules.

Para 92(2)(c)(iii), (iv), (v), (vi): if the would-be RE does not do one or more of the following, will it be ineligible to be accredited as an issuer of PRNs for the packaging materials it recycles; support business collections, carry out a national information campaign, develop NEW markets for materials or goods made from recycled packaging waste in the UK and overseas and use the revenue to develop new uses for recycled packaging waste material?

Where compostable packaging is organically recycled along with other organically biodegradable waste types, to produce compost, short-phase-composted dewatered digestate or other digestate (subject to operating a suitable AD process). The default in law is that waste-derived composts and digestates remain subject to waste regulator controls when being landspread, however they can achieve product status when independently certified compliant with End of Waste rules, e.g. the Compost Quality Protocol and PAS 100 or the AD Quality Protocol and PAS 110. Given that composts and digestates are already used in a number of markets, it seems overly restrictive that para 92(2)(c)(v) considers only NEW markets and that (vi) also only considers development of NEW uses. Increased supply of composts and digestates to existing markets for existing use types would be a beneficial outcome so ought to be recognised within the SI.

Para 92(2)(c) is unclear on whether the sale of recycled packaging waste must be included in the business plan regardless whether price support is received for such sale.

Regarding Chapter 2, para 94(1)(a) 'RE has failed to comply, or there are reasonable grounds for considering that P is likely to fail to comply, with any of the conditions specified in regulation 93'; should P be changed to RE because this section is about accredited reprocessors or exporters who are coded RE in the draft SI?

Appeals

32 Do the draft Regulations adequately capture the decisions that can be appealed?

Do not know

If no, what decisions are not adequately captured or missing?:

33 Do the draft Regulations set out an adequate appeals process?

Do not know

If no, how could this process be made clear?:

Regulators

Future development of EPR for packaging

34 Please raise up to three areas of EPR packaging policy that you would like us to consider in the first review and rank in order of priority.

Please raise up to three areas of EPR packaging policy that you would like us to consider in the first review and rank in order of priority. :

Priority 1: Compostable packaging independently certified to BS EN 13432; commissioning an impartial and best-available-data based LCA on their organic recycling versus landfill, incineration, combustion in EfW without BECCs and combustion in EfW with BECCS. Improved LCA for compostable packaging is needed, taking better account of its end of life phase. We believe that within a current UKRI funded project the University of Sheffield is reviewing whether standards for LCA scoping and procedures are adequate. If improvement is needed in standards for carrying out LCAs, government should commission such standards development. Government should also help to identify LCA data gaps and collaborate with industry on commissioning research that fills those gaps.

Priority 2: Distribution of the fees paid by producers of compostable packaging to the organic recyclers (for such packaging that is organically recycled) and not to other recyclers of other packaging types.

Priority 3: Penalisation of oxo-degradable, oxo(bio)degradable and so-called biotransformed plastics because they are not home compostable, industrially

compostable, industrially digestible-compostable or recyclable via other methods.

Next steps

Consultee Feedback on the Online Survey

35 Overall, how satisfied are you with our online consultation tool?

Satisfied

Please give us any comments you have on the tool, including suggestions on how we could improve it. :