

Department for Environment, Food and Rural Affairs

Process guidance note for imposing penalties on waste disposal authorities that fail to comply with their statutory data requirements under LATS

Purpose

1. This guidance note sets out the detailed procedure for imposing financial penalties on waste disposal authorities for failure to comply with their statutory waste data reporting requirements under the Landfill Allowances Trading Scheme (LATS). This guidance supplements the previous guidance issued by Defra in December 2005 that outlines the procedure for the application of penalties under section 12(3) of the Waste Emissions Trading Act 2003 and sets out the Secretary of State's policy in relation to the exercise of his powers under section 26(1)(c), which can be found at <http://www.defra.gov.uk/environment/waste/localauth/lats/guidance.htm>

Process for imposing penalties and considering representations

2. A reminder will be sent by the Monitoring Authority (the Environment Agency) or its Agent to waste disposal authorities (WDAs), reminding them of their statutory duty to report data before the reporting deadline.
3. After the reporting deadline of each quarter, the Environment Agency will inform Defra of those waste disposal authorities that have failed to comply with statutory reporting requirements. They will recommend to Defra which authorities are liable to penalties and detailing the requirements breached.
4. Defra will send a letter to the Chief Executive Officers of non-compliant WDAs identified by the Environment Agency. This letter will inform the Chief Executive Officers of the proposal to impose a penalty on their individual authority and request them to either:
 - i) provide the required data within 10 working days, or
 - ii) make a representation as to why they have not provided the data within 10 working days.
5. After 10 working days, depending on any representations by WDAs, Defra will issue a final formal penalty letter to the WDAs that have not reported data or provided a satisfactory explanation for not reporting.

Size of penalties

6. Regulation 11 of the Landfill Allowances and Trading Scheme (England) Regulations 2004 (the LATS Regulations) requires WDAs to maintain certain records and make quarterly returns to the Environment Agency. Under regulation 21 of the LATS Regulations, a WDA will be liable to a financial penalty of £1000 for each requirement imposed on it by regulation 11 with which it fails to comply.

7. The quantity of the penalty imposed on a non-compliant WDA will depend on the Defra's assessment of the number of requirements that have been breached. The penalty is likely to be in the range of £1,000 to £5000 for each quarter for each non-compliant WDA.
8. The attached annex is a flow chart that provides an outline of the process for imposing penalties and considering representations.

Further Information

9. For further information, please contact the Local Authority Waste Performance Team at:

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123 Victoria Street
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The Process Flow Chart for imposing penalties on waste disposal authorities that fail to comply with their statutory data reporting requirements under the Landfill Allowances Trading Scheme

