

2005 No. 880

ENVIRONMENTAL PROTECTION, ENGLAND

**The Landfill Allowances and Trading Scheme
(England)(Amendment) Regulations 2005**

<i>Made</i> - - - -	<i>22nd March 2005</i>
<i>Laid before Parliament</i>	<i>23rd March 2005</i>
<i>Coming into force</i> - -	<i>9th May 2005</i>

The Secretary of State, in exercise of the powers conferred upon her by section 26(3)(a) of the Waste and Emissions Trading Act 2003(a) (“the Act”) and having consulted in accordance with section 27(2) of the Act such bodies or persons appearing to her to be representative of—

- (a) the interests of waste disposal authorities in England as she considers appropriate;
- (b) the interests of persons concerned in the operation of landfills in England as she considers appropriate;
- (c) all other affected persons as she considers appropriate;

makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Landfill Allowances and Trading Scheme (England) (Amendment) Regulations 2005 and come into force on 9th May 2005.

Amendments to the Landfill Allowances and Trading Scheme (England) Regulations 2004

2.—(1) The Landfill Allowances and Trading Scheme (England) Regulations 2004(b) are amended as follows.

- (2) In regulation 20(1) for “£200” there is substituted “£150”.

22nd March 2005

Elliot Morley
Minister of State
Department for Environment, Food and Rural Affairs

(a) 2003 c. 33. The relevant powers in section 26(3)(a) are expressed to be exercisable by an allocating authority. Section 24(1) provides that the allocating authority for England is the Secretary of State.
(b) S.I. 2004/3212.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under the Waste and Emissions Trading Act 2003 (“the WET Act”), amend the Landfill Allowances and Trading Scheme (England) Regulations 2004 (“the 2004 Regulations”). Like the 2004 Regulations, these Regulations apply to England only.

The 2004 Regulations made provision for implementing Chapter 1 of Part 1 of the WET Act (waste sent to landfills) including the landfill allowances scheme under that Part. They were made for the purpose of implementing Articles 5(1) and (2) of Council Directive 99/31/EC on the landfill of waste (O.J. No. L 182, 16.7.1999, p. 1) in England.

Under the WET Act, if an allocating authority for an area has made an allocation of landfill allowances for a scheme year, each waste disposal authority in the area owes a duty to the allocating authority to secure that the amount of biodegradable municipal waste sent to landfills in that year does not exceed the landfill allowances available to the authority for the same year (section 9(1) of the WET Act). A waste disposal authority that fails to comply with this duty is liable to a penalty (section 9(2) of the WET Act). In relation to England the allocating authority is the Secretary of State (section 24(1) of the WET Act).

As originally drafted, regulation 20(1) of the 2004 Regulations provided that the penalty to which a waste disposal authority is liable under section 9(2) of the WET Act is the excess landfill for that waste disposal authority multiplied by £200. “Excess landfill” is defined for these purposes in regulation 20(2) of the 2004 Regulations.

These Regulations amend regulation 20(1) of the 2004 Regulations so that the figure “£200” is replaced by the figure “£150”.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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