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S T A T U T O R Y I N S T R U M E N T S

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**2014 No. 255**

**ENVIRONMENTAL PROTECTION, ENGLAND AND WALES**

**The Environmental Permitting (England and Wales) (Amendment) Regulations 2014**

*Made* - - - - *10th February 2014*

*Laid before Parliament* *11th February 2014*

*Laid before the National Assembly for Wales* *11th February 2014*

*Coming into force in accordance with regulation 1(2) and (3)*

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, have in accordance with section 2(4) of the Pollution Prevention and Control Act 1999(a) consulted—

- (a) the Environment Agency;
- (b) the Natural Resources Body for Wales;
- (c) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small business as they consider appropriate; and
- (d) such other bodies or persons as they consider appropriate.

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, make the following Regulations in exercise of the powers conferred by section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(b).

**Citation, commencement and interpretation**

**1.—(1)** These Regulations may be cited as the Environmental Permitting (England and Wales) (Amendment) Regulations 2014.

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- (a) 1999 c. 24. Section 2(4) was amended by article 4 of, and paragraphs 394 and 395 of Schedule 2 to, the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)).
  - (b) Functions of the Secretary of State under or in relation to section 2, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales, except in relation to offshore oil and gas exploration and exploitation, by article 3(1) of the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958). But this was subject to article 3(2), which provided that, so far as any of those functions are exercisable by the Secretary of State in relation to a cross-border body but which, by their nature, are not functions which can be specifically exercised in relation to Wales, such functions are exercisable by the Assembly in relation to that body concurrently with the Secretary of State. Functions of the National Assembly for Wales were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). The following relevant amendments have been made to Schedule 1. Paragraph 21A was inserted by section 38 of the Waste and Emissions Trading Act 2003 (c.33); paragraph 24 was amended by S.I. 2005/925, Schedule 6, paragraph 2, and paragraph 25 was amended by section 105(1) of the Clean Neighbourhoods and Environment Act 2005 (c. 16).

(2) Subject to paragraph (3), these Regulations come into force on 5th March 2014.

(3) Regulations 9, 16 and 20 and the Schedule come into force on 1st October 2014.

### **Amendment of the Environmental Permitting (England and Wales) Regulations 2010**

**2.** The Environmental Permitting (England and Wales) Regulations 2010<sup>(a)</sup> are amended in accordance with regulations 3 to 20.

#### **Regulation 10 (giving notices, notifications and directions, and the submission of forms)**

**3.** In regulation 10—

- (a) in paragraph (4), after “given to” insert “a director of that body or”;
- (b) in paragraph (6)—
  - (i) in sub-paragraph (a), for “or their” substitute “, a director of that body or the”;
  - (ii) in sub-paragraph (a)(ii), after “of the” insert “director.”.

#### **Regulation 20 (variation of an environmental permit)**

**4.** In regulation 20(5)<sup>(b)</sup>—

- (a) omit the “or” after sub-paragraph (a);
- (b) at the end of sub-paragraph (b) insert—
  - “; or
- (c) the regulator, on its own initiative, varies an environmental permit, or any condition of a permit, in consequence of a transfer or partial transfer of an environmental permit under regulation 21”.

#### **Regulation 21 (transfer of an environmental permit)**

**5.** In regulation 21<sup>(c)</sup>—

- (a) after paragraph (6) insert—
  - “(6A) In the case of a partial transfer following a notification, the regulator must grant a new environmental permit to the transferee subject to the same conditions as the original permit, varied in consequence of the partial transfer.”.
- (b) in paragraph (7)—
  - (i) after “an enforcement notice” insert “or a suspension notice”;
  - (ii) after “the enforcement notice” insert “or, as the case may be, the suspension notice”.

#### **Regulation 24 (notification of the surrender of an environmental permit)**

**6.** In regulation 24(1), after sub-paragraph (b) insert—

“(ba) a solvent emission activity;”.

#### **Regulation 28 (notification of revisions of standard rules)**

**7.—(1)** Regulation 28 is amended as follows.

**(2)** In paragraph (2)—

- (a) in sub-paragraph (b)—

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**(a)** S.I. 2010/675; relevant amendments were made by S.I. 2011/2933; 2012/630; 2013/390, 755 (W.90).

**(b)** There is an amendment to regulation 20(5) but it is not relevant to this instrument.

**(c)** Regulation 21 was amended by regulation 7 of S.I. 2012/630.

- (i) after “published” insert “and when they take effect (in accordance with paragraph (4))”; and
- (ii) omit the words from “, which” to “is served”;
- (b) in sub-paragraph (c)—
  - (i) for “this date”, substitute “the date”; and
  - (ii) after “rules” insert “take effect they”.
- (3) Omit paragraph (3).
- (4) For paragraph (4), substitute—
  - “(4) The revised rules take effect—
    - (a) in relation to a relevant environmental permit, 3 months after the date when the revised rules are published under regulation 26(5), except where the revisions comprise only minor administrative changes (in which case they take effect in accordance with sub-paragraph (b));
    - (b) in any other case, when published under regulation 26(5).”.

### **Regulation 32 (discharge of functions)**

- 8. In regulation 32(a), for paragraphs (1), (1A) and (1B), substitute—
  - “(1) Subject to paragraphs (1A) to (4) and paragraph 11A of Part 2 of Schedule 23—
    - (a) functions in relation to a regulated facility that is or will be operated in England are exercisable by the Agency;
    - (b) functions in relation to a regulated facility that is or will be operated in Wales are exercisable by the NRBW.
  - (1A) Subject to paragraph (1C), in relation to waste mobile plant—
    - (a) if the principal place of business of the operator is in England, functions are exercisable by the Agency;
    - (b) if the principal place of business of the operator is in Wales, functions are exercisable by the NRBW;
    - (c) if the principal place of business of the operator is not in England or in Wales, functions are exercisable by—
      - (i) the appropriate agency that granted the environmental permit authorising the operation of that waste mobile plant; or
      - (ii) if no permit has been granted, the appropriate agency in whose area waste mobile plant is first intended to be operated.
  - (1B) Paragraph (1C) applies—
    - (a) where by virtue of paragraph (1A) functions in relation to waste mobile plant are exercisable by the Agency, and that waste mobile plant is operated at a site in Wales, or
    - (b) where by virtue of paragraph (1A) functions in relation to waste mobile plant are exercisable by the NRBW, and that waste mobile plant is operated at a site in England.
  - (1C) Where this paragraph applies, functions under regulations 36, 37 and 57 and paragraph 9 of Schedule 22 are exercisable in relation to the waste mobile plant referred to in paragraph (1B) by both the Agency and the NRBW.”.

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(a) Relevant amendments were made by S.I. 2013/755 (W.90), Schedule 4, paragraph 377.

**Regulation 35 (specific provisions applying to environmental permits)**

- 9.** In regulation 35(2), after sub-paragraph (c) insert—  
    “(ca) Schedule 9A (materials facilities);”.

**Regulation 46 (duty of the regulator to maintain a public register)**

- 10.** In regulation 46, omit paragraphs (4), (5) and (6).

**Schedule 1 (activities, installations and mobile plant)**

- 11.**—(1) Schedule 1(a) is amended as follows.  
(2) In Part 1 (interpretation and application: general)—  
    (a) in paragraph 3(c) (application of activities falling within Part 2), for “and” substitute “or”;  
    (b) in the heading to paragraph 4 (application of thresholds in Part 2), for “in Part 2” substitute “for Part A activities”;  
    (c) in paragraph 4, for “given in Part 2 of this Schedule” substitute “for any Part A activity”.  
(3) In Part 2 (activities)—  
    (a) in Section 1.1 (combustion activities)—  
        (i) in Part B, omit paragraphs (b)(ii) and (iii), (c) and (d);  
        (ii) in *“Interpretation and application of Part B”*—  
            (aa) in paragraph 1, omit the words “or Part A(2)”;  
            (bb) omit paragraph 2;  
    (b) in Section 1.2 (gasification, liquefaction and refining activities), in Part A(1)—  
        (i) for paragraph (d) substitute—  
            “(d) Gasification or liquefaction of—  
                (i) coal, or  
                (ii) other fuels in installations with a total rated thermal input of 20 megawatts or more.”;  
        (ii) in paragraph (j), omit the words “liquefaction, gasification,”;  
        (iii) after paragraph (j), insert—  
            “(ja) Activities involving the liquefaction or gasification of other carbonaceous material.”;  
    (c) in Section 4.1 (organic chemicals), in paragraph (d)(i) of Part B, for “1 tonne” substitute “5 tonnes”;  
    (d) in Section 6.8 (the treatment of animal and vegetable matter and food industries)—  
        (i) in paragraph (c) of Part A(1), for “falling within Section 5.1” substitute “in a small waste incineration plant”;  
        (ii) in paragraph (a) of Part A(2), for “plant with” substitute “plant or in a small waste incineration plant, where the plant or small waste incineration plant has”.

**Schedule 2 (exempt facilities: general)**

- 12.** In Schedule 2, in paragraph 5—  
    (a) omit the “or” after sub-paragraph (b)(i);  
    (b) for the “and” after sub-paragraph (b)(ii) substitute “or”;

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(a) Relevant amendments were made by S.I. 2013/390, regulations 19 and 22.

- (c) after sub-paragraph (b)(ii) insert—  
“(iii) paragraph 4 of Part 3 of that Schedule, the operator is registered in relation to the activity; and”.

**Schedule 3 (exempt facilities: descriptions and conditions)**

13. In Schedule 3, in Part 3, after paragraph 3 insert—

**“Open-loop ground source heating and cooling systems**

4.—(1) For the purpose of paragraph 5(a)(i) of Schedule 2, the description is the discharge of water to groundwater from a heating or cooling system to which sub-paragraph (3) applies with altered temperature.

(2) For the purpose of paragraph 5(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

- (a) that nothing should be added to water discharged from the system;
- (b) that the temperature of water discharged from the system—
  - (i) subject to sub-paragraph (ii), must not exceed 25°C, and
  - (ii) must not vary by more than 10°C compared to that in the aquifer from which it was abstracted;
- (c) that the system must not be on a known contaminated site or have had a previous contaminative use;
- (d) that water from the system must not be discharged less than 50 metres from a watercourse or groundwater-fed wetland;
- (e) that water from the system must not be discharged within—
  - (i) 50 metres of a point at which water is abstracted from underground strata, or
  - (ii) a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes;
- (f) that the discharge of water from the system must be to the same aquifer as that from which it was abstracted;
- (g) that water within the system must not be used for any other purpose.

(3) This sub-paragraph applies to a system—

- (a) that involves—
  - (i) the abstraction of groundwater to obtain heating or (as the case may be) cooling, and
  - (ii) the subsequent discharge of that water; and
- (b) that is—
  - (i) a cooled aquifer system with a volume of less than 1500 cubic metres per day;
  - (ii) a balanced system with a volume of less than 430 cubic metres per day; or
  - (iii) a heated aquifer system with a volume of less than 215 cubic metres per day.

(4) In this paragraph—

“balanced system” means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature is within the range 0.8 to 1.2;

“cooled aquifer system” means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature is less than 0.8;

“groundwater-fed wetland” means a terrestrial ecosystem directly depending on a body of groundwater (within the meaning of the Water Framework Directive) and includes—

- (a) a European site (which has the meaning given in regulation 8 of the Conservation of Habitats and Species Regulations 2010(a));
- (b) a site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981(b));

“heated aquifer system” means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature exceeds 1.2.”.

### Schedule 5 (environmental permits)

**14.** In Schedule 5(c), in Part 1—

- (a) in paragraph 5(4)(d), for “paragraphs (d) to (g)” substitute “paragraph (d), (e) or (f)”;
- (b) in paragraph 9—
  - (i) in sub-paragraph (1), after “permit” insert “, other than a condition to which sub-paragraph (1A) applies”;
  - (ii) after sub-paragraph (1) insert—
 

“(1A) This sub-paragraph applies to a condition that does not specifically identify the land in relation to which the operator is required to carry out works or, as the case may be, do other things.”;
- (c) in paragraph 16(3)(d), for “Annex V” substitute “Annex IV”.

### Schedule 9 (waste operations)

**15.** In Schedule 9(d), omit paragraph 3 (grant of an environmental permit for a relevant waste operation: requirement for prior planning permission).

### New Schedule 9A (materials facilities)

**16.** After Schedule 9, insert the new Schedule 9A contained in the Schedule to these Regulations.

### Schedule 14 (solvent emission activities)

**17.** In Schedule 14(e), in paragraph 1, after “activity” insert “, but it does not apply to installations used solely for research activities, development activities or the testing of new products or processes”.

### Schedule 19 (waste batteries and accumulators)

**18.** In Schedule 19, after paragraph 2 insert—

“3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 3 of Regulation (EU) No 493/2012; and for the purposes of Article 3(4) of that Regulation the regulator is the competent authority.

(2) In sub-paragraph (1), “Regulation (EU) No 493/2012” means Commission Regulation (EU) No 493/2012 laying down, pursuant to Directive 2006/66/EC of the European

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(a) S.I. 2010/460, to which there are amendments not relevant to this instrument.

(b) 1981 c. 69; the definition was inserted by the Countryside and Rights of Way Act 2000 (c. 37), section 75(1) and Schedule 9, paragraph 5(1) and (2).

(c) A relevant amendment was made by S.I. 2013/390, regulation 46.

(d) Paragraph 3 was amended by S.I. 2013/390, regulation 49.

(e) Schedule 14 was substituted by S.I. 2013/390, regulation 51.

Parliament and of the Council, detailed rules regarding the calculation of recycling efficiencies of the recycling processes of waste batteries and accumulators(a).”.

**Schedule 20 (mining waste operations)**

**19.**—(1) Schedule 20 is amended as follows.

(2) In the heading to paragraph 13 (planning permission requirements and conditions), omit “requirements and”.

(3) In paragraph 13, omit sub-paragraph (1).

**Schedule 24 (public registers)**

**20.** In Schedule 24, after paragraph 1(2)(c)—

(a) omit “and”;

(b) insert—

“(ca) the information provided to the regulator by the operator of a materials facility under paragraph 4 of Part 2 of Schedule 9A; and”.

**Amendment of the Natural Resources Body for Wales (Functions) Order 2013**

**21.** In the English and Welsh texts of the Natural Resources Body for Wales (Functions) Order 2013(b), in Schedule 4, omit paragraph 377.

*Dan Rogerson*

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

7th February 2014

*Alun Davies*

Minister for Natural Resources and Food

One of the Welsh Ministers

10th February 2014

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(a) OJ No L 151, 12.6.2012, p 9.

(b) S.I. 2013/755 (W.90).

SCHEDULE  
New Schedule 9A

Regulation 16

“SCHEDULE 9A Regulation 35(2)(ca)  
Materials Facilities

PART 1

Introductory provisions, conditions and functions

**Assessment and notification**

1.—(1) At the start of each reporting period, the operator of a materials facility must assess the amount of mixed waste material that facility is likely to receive during the relevant year by having regard to—

- (a) the amount of mixed waste material received at that facility during the period of 12 months immediately preceding the start of that reporting period, and
- (b) the anticipated amount of mixed waste material that will be received by that facility during the relevant year.

(2) The operator must notify the regulator before the end of the reporting period if the assessment undertaken at the start of that period indicates that the materials facility is likely to receive a minimum of 1,000 tonnes of mixed waste material during the relevant year.

(3) Where the operator has given a notification under sub-paragraph (2), no further notification is required under that sub-paragraph in relation to any subsequent assessment, for so long as that notification is not withdrawn.

(4) The operator may withdraw, in writing, a notification given under sub-paragraph (2) at any time if the operator considers that the materials facility is not likely to receive a minimum of 1,000 tonnes of mixed waste material during the relevant year.

(5) In this paragraph, “relevant year” means the period of 12 months that commences on the first day of a reporting period.

**Interpretation**

2.—(1) In this Schedule—

“material particles” means—

- (a) for specified output material that is made up in largest proportion of glass material, particles of that material that measure less than 13 millimetres along their longest dimension; and
- (b) in relation to all other types of specified output material and for mixed waste material, particles of material measuring less than 55 millimetres along their longest dimension;

“materials facility” means, subject to sub-paragraph (2), a regulated facility or part of a regulated facility that receives mixed waste material in order to separate it into specified output material for the purpose of selling it, or transferring it to other facilities or persons to enable that material to be recycled by those facilities or persons;

“mixed waste material” means waste that—

- (a) originates—
  - (i) from households, or

- (ii) from other sources but is similar to household waste in terms of its nature or composition; and
  - (b) consists in largest proportion of two or more of the following kinds of target material mixed together—
    - (i) glass,
    - (ii) metal,
    - (iii) paper,
    - (iv) plastic;
- “non-recyclable material” means waste material that is not capable of being recycled;
- “non-target material” means material that is capable of being recycled but is not a target material;
- “paper” includes cardboard and beverage cartons that include cardboard as a composite material;
- “reporting period” means any of the following periods commencing after 30th September 2014—
- (a) 1st January to 31st March,
  - (b) 1st April to 30th June,
  - (c) 1st July to 30th September,
  - (d) 1st October to 31st December;
- “specified output material” means a batch of material (whether or not waste) that is—
- (a) produced from a separating process for mixed waste material; and
  - (b) made up of one of the following kinds of target material, in largest proportion—
    - (i) glass,
    - (ii) metal,
    - (iii) paper,
    - (iv) plastic;
- “target material” means a material that is identified by the operator of a materials facility as destined to be separated out from mixed waste material in order to produce bulk quantities of that identified material.
- (2) In this Schedule—
- (a) any reference to a “materials facility” excludes a facility or a part of a facility that undertakes the processing or sorting of WEEE, waste batteries or accumulators;
  - (b) references to “recycled” or “recyclable” are to be construed in accordance with the meaning of “recycling” given in Article 3(17) of the Waste Framework Directive.

### **Specification of conditions of environmental permits and exercise of relevant functions**

3.—(1) On the coming into force of this paragraph, any environmental permit relating to a materials facility that is in force at that time, or that is granted after that time, is subject to the condition that the operator of that facility must comply with paragraph 1(1) and (2) of this Part.

(2) Where the operator of a materials facility has given notification under paragraph 1(2) of this Part, any environmental permit relating to that facility (whether in force on the coming into force of this paragraph or granted after that time) is subject to the condition that the operator must comply with Part 2 of this Schedule for so long as that notification has not been withdrawn under paragraph 1(4) of this Part.

(3) The regulator must exercise its relevant functions in relation to a materials facility to ensure compliance with Part 2 of this Schedule.

(4) In the event of any inconsistency between the requirements imposed by virtue of Part 2 of this Schedule and any other condition contained in any environmental permit relating to a materials facility, the requirements imposed by Part 2 of this Schedule prevail.

## PART 2

### Measurement and reporting requirements for materials facilities

#### Input material

1.—(1) The operator of a materials facility must measure the total weight in tonnes of mixed waste material received at that facility, from each supplier, during each reporting period.

(2) The operator of a materials facility must take samples of the mixed waste material received at that facility, from each supplier, during each reporting period, except where that material is to be transferred to another materials facility for the purpose of separating it into specified output material, and measure the composition of those samples.

(3) For the purposes of sub-paragraph (2)—

- (a) one sample must be taken for every 160 tonnes of mixed waste material received at the materials facility from each supplier before 1st October 2016, and
- (b) one sample must be taken for every 125 tonnes of mixed waste material received at the materials facility from each supplier on or after 1st October 2016.

(4) The total weight of all the samples taken for the purposes of sub-paragraph (3) must provide an average weight of 60 kilograms or more per sample, and each sample taken must not weigh less than 55 kilograms.

(5) For the purposes of sub-paragraph (2), measuring the composition of a sample taken means identifying the materials comprising that sample by reference to—

- (a) the types of target material, non-target material and non-recyclable material that is contained in the sample; and
- (b) the weight in kilograms of each type of target material, non-target material and non-recyclable material that is so identified.

(6) Target material that is identified in a sample taken for the purposes of sub-paragraph (2) must, as a minimum, be separately identified by reference to the following materials—

- (a) glass;
- (b) metal;
- (c) paper;
- (d) plastic.

(7) If the sample taken under sub-paragraph (2) contains material particles, they are deemed to comprise the proportions of target materials, non-target materials and non-recyclable materials already identified as making up the other contents of that sample, and the weight of the material particles must be apportioned according to those proportions for that particular sample.

(8) For the purposes of this paragraph, in relation to a batch of mixed waste material received at a materials facility—

- (a) where that batch comprises material collected pursuant to arrangements made by a waste collection authority under section 45(1)(a) or (b) of the Environmental Protection Act 1990<sup>(a)</sup>, that authority is the supplier;

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<sup>(a)</sup> 1990 c. 43.

- (b) where that batch has been transferred from another materials facility, the material facility from which that material was transferred is the supplier;
- (c) in a case not falling within paragraph (a) or (b), the person who collected the material or, if that person is not known, the person responsible for delivering it to the materials facility is the supplier;
- (d) where the batch comprises material from more than one supplier, and the proportion of that batch attributable to a particular supplier cannot reasonably be ascertained, an estimate of the proportion is sufficient.

### **Output material**

2.—(1) Apart from the mixed waste material mentioned in sub-paragraph (2) and the specified output material mentioned in sub-paragraph (3), the operator of a materials facility must measure the total weight in tonnes of all other waste material that leaves the facility in each reporting period.

(2) The operator of a materials facility must measure the total weight in tonnes of all mixed waste material that leaves the facility in each reporting period to be transferred to another materials facility for the purpose of separating that material into specified output material.

(3) The operator of a materials facility must measure the total weight in tonnes of specified output material that leaves the facility in each reporting period.

(4) The operator of a materials facility must take samples of the specified output material produced at that facility in a reporting period, and measure the composition of those samples.

(5) For the purpose of fulfilling the requirements in sub-paragraphs (3) and (4), the specified output material must, as a minimum, be identified by reference to the grade of glass, metal, paper or plastic material making up each batch of specified output material.

(6) For the purpose of sub-paragraph (4), measuring the composition of a sample taken by the operator means identifying the materials comprising that sample, by reference to—

- (a) the type of target material, non-target material and non-recyclable material that is contained in the sample; and
- (b) the weight in kilograms of each type of target material, non-target material and non-recyclable material that is so identified.

(7) The samples mentioned in sub-paragraph (4) must be taken at a minimum frequency of—

- (a) once per the amount in tonnes that is specified in the second column of the following table, in relation to the type of target material that is mentioned in the first column, for any sample taken before 1st October 2016—

<i>Target material</i>	<i>Amount</i>
Glass	50 tonnes
Paper	80 tonnes
Metal	20 tonnes
Plastic	20 tonnes;

- (b) once per the amount in tonnes that is specified in the second column of the following table, in relation to the type of target material that is mentioned in the first column, for any sample taken on or after 1st October 2016—

<i>Target material</i>	<i>Amount</i>
Glass	50 tonnes
Paper	60 tonnes
Metal	20 tonnes
Plastic	15 tonnes.

- (8) The minimum weight of any sample taken for the purposes of sub-paragraph (4) is—

- (a) 10 kg in relation to glass target material;
- (b) 50 kg in relation to paper target material;
- (c) 20 kg in relation to plastic target material; and
- (d) 10 kg in relation to metal target material.

(9) For the purposes of sub-paragraph (5), the grade of a material means a description of that kind of material by reference to its particular material specification.

(10) If the sample taken under sub-paragraph (4) contains material particles, they are deemed to comprise the proportions of target materials, non-target materials and non-recyclable materials already identified as making up the other contents of that sample, and the weight of the material particles must be apportioned according to those proportions for that particular sample.

## Records

- 3.—(1) The operator of a materials facility must record the following information—
- (a) the measurements taken under paragraph 1(1);
  - (b) details of all the samples taken under paragraph 1(2) including the weight of each sample and its composition;
  - (c) the measurements taken under paragraph 2(1) and details of where the other waste material that leaves the facility in each reporting period is sent to;
  - (d) the measurements taken under paragraph 2(2) and details of where the mixed waste material that leaves the facility in each reporting period is sent to;
  - (e) the measurements taken under paragraph 2(3) and details of where the specified output material that leaves the facility in each reporting period is sent to;
  - (f) details of all the samples taken under paragraph 2(4) including the weight of each sample and its composition;
  - (g) details of the amount in tonnes of specified output material that is produced by the materials facility in a reporting period, by reference to the grade of glass, metal, paper and plastic target material that makes up that batch of material.
- (2) The information recorded under sub-paragraph (1) must—
- (a) be retained by the operator of a materials facility for a minimum of four years from the date that it is first recorded; and
  - (b) be produced for inspection by the regulator if required during those four years.

## Reports to the regulator

- 4.—(1) The operator of a materials facility must provide a report to the regulator that includes the information set out in sub-paragraphs (3) and (4).
- (2) The report mentioned in sub-paragraph (1) must be—
- (a) produced in electronic format; and
  - (b) submitted to the regulator in respect of a reporting period within one month of the expiry of that period.
- (3) The following information must be provided for all mixed waste material that is received by the materials facility during a reporting period—
- (a) the measurements taken under paragraph 1(1);
  - (b) the total number of all samples taken for each supplier under paragraph 1(2);
  - (c) the total weight of all the samples taken for each supplier under paragraph 1(2);
  - (d) the average percentage composition levels of all of the samples taken under paragraph 1(2) for each supplier, by reference to the following target materials—

- (i) glass;
  - (ii) metal;
  - (iii) paper;
  - (iv) plastic;
- (e) the average percentage composition levels of each of the following categories of material found in all the samples taken for each supplier under paragraph 1(2)—
    - (i) target materials;
    - (ii) non-target materials; and
    - (iii) non-recyclable materials;
  - (f) the standard deviation of the average percentage composition levels for the target materials found in all the samples taken for each supplier under paragraph 1(2).
- (4) The following information must be provided in respect of specified output material that leaves the materials facility during a reporting period—
- (a) the measurements taken under paragraph 2(1) and details of where the other waste material is sent to in a reporting period;
  - (b) the measurements taken under paragraph 2(2) and details of where the mixed waste material is sent to in a reporting period;
  - (c) the measurements taken under paragraph 2(3);
  - (d) the total number of all samples taken under paragraph 2(4);
  - (e) the total weight in kilograms of all the samples that are taken under paragraph 2(4);
  - (f) the average percentage composition levels of all of the samples taken under paragraph 2(4), by reference to the grades of glass, metal, paper and plastic identified within those samples;
  - (g) the average percentage composition levels of each of the following categories of material found in all the samples taken under paragraph 2(4)—
    - (i) target materials;
    - (ii) non-target materials; and
    - (iii) non-recyclable materials;
  - (h) the standard deviation of the average percentage composition levels for the target materials found in all the samples taken under paragraph 2(4).
- (5) In this paragraph, “average” means the arithmetic mean.”

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675) (“the 2010 Regulations”).

These Regulations make provision—

- (a) for instruments to be served on or given to directors of bodies corporate (regulation 3);
- (b) to amend provision relating to the variation by the regulator of the terms of an environmental permit when it is partially transferred from one operator to another (and to require the regulator to grant a new permit to the transferee, varied in consequence of the transfer), and to provide that where a suspension notice applies to a permit it continues to apply when the permit is transferred to another operator (regulations 4 and 5);
- (c) for revisions to standard rules for environmental permits which do not affect existing permits to take effect on publication of the rules (regulation 7);

- (d) to clarify the position relating to the exercise of functions in relation to waste mobile plant (regulation 8), and a consequential amendment is made to the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W.90)) (regulation 21);
- (e) to remove the requirement for a local authority to include on its register certain information which is included on the register of the Environment Agency (in respect of England) or the Natural Resources Body for Wales (in respect of Wales) (regulation 10);
- (f) to make a number of corrections and clarifications relating to activities under Schedules 1 and 14 to the 2010 Regulations (regulations 6, 11, 14(a) and (c) and 17) (as some of these issues arose from errors introduced by S.I. 2013/390, this instrument is being issued free of charge to all known recipients of that instrument);
- (g) to allow the discharge of water from certain open-loop ground-source heating and cooling systems to be an exempt groundwater activity (regulations 12 and 13);
- (h) to remove a requirement on the regulator to serve a notice in relation to a proposed condition of an environmental permit requiring an operator to carry out works in relation to land which the operator is not entitled to do without obtaining the consent of another person (regulation 14(b));
- (i) to remove the requirement on the regulator not to grant an environmental permit for certain waste operations or mining waste operations if planning permission or development consent is needed for the operation but is not in force (regulations 15 and 19);
- (j) to require certain materials facilities that separate out single-stream waste materials (such as glass, paper, metal and plastic) from mixed waste materials of household or similar origin, to take samples and measure the composition of those samples (recording and reporting obligations are also introduced) (regulations 9, 16 and 20 and the Schedule);
- (k) in relation to the enforcement of Article 3 of Commission Regulation (EU) No 493/2012 laying down, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, detailed rules regarding the calculation of recycling efficiencies of the recycling processes of waste batteries and accumulators (OJ No L 151, 12.6.2012, p 9) (regulation 18).

A full impact assessment of the effect that the amendments relating to materials facilities (regulations 9, 16 and 20 and the Schedule) will have on the costs of business and the voluntary sector is available at [www.gov.uk/defra](http://www.gov.uk/defra) and is annexed to the Explanatory Memorandum which is available alongside the instrument at [www.legislation.co.uk](http://www.legislation.co.uk). Two impact assessments covering the remainder of the amendments that impact on business and regulators are also available on [www.legislation.gov.uk](http://www.legislation.gov.uk).