POLICY NOTE

THE WASTE (RECYCLATE QUALITY) (SCOTLAND) REGULATIONS 2015

SSI 2015/101

1. The above instrument was made in exercise of the powers conferred by section 35(6) of the Environmental Protection Act 1990 and section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999 ("the 1999 Act"), and all other powers enabling them to do so. The instrument is subject to negative procedure.

2. This instrument amends the Waste Management Licensing (Scotland) Regulations 2011 ("the WML Regs") and the Pollution Prevention and Control (Scotland) Regulations 2012 ("the PPC Regs") to make compliance with a new statutory Code of Practice for Material Recovery Facilities ("Code of Practice on Sampling and Reporting at Materials Recovery Facilities") a condition of any waste management licence or PPC permit that is granted or varied by SEPA.

3. The "Code of Practice on Sampling and Reporting at Materials Recovery Facilities" has been published under section 34(7) of the Environmental Protection Act 1990 (as amended).

Policy Objectives

4. The main policy driver for this instrument and the accompanying statutory Code of Practice is the need to promote and deliver high quality recycling, as required by the Waste Framework Directive, and Section 34 of the Environmental Protection Act 1990 as amended by the Waste (Scotland) Regulations 2012 which requires that all waste holders take "reasonable steps to promote high quality recycling".

5. There are greater environmental and economic benefits to closed loop recycling where a product is used, discarded, captured, and then the component materials recycled into a new product of similar functionality which can itself be used, discarded and captured, to be recycled again, continuously cycling the material resource though the supply chain.

6. Recycling services that deliver high quality materials can also help increase public confidence and participation in recycling activities. Householders and businesses want to know that the action they are taking is making a genuine contribution towards protecting the environment and sustainable economic growth. If it transpires that material collected for recycling is sent to landfill, or worse still, illegally exported, then this could undermine confidence and damage efforts to increase recycling rates.

7. Clarity and certainty around the quality of recycled materials placed on the market will help create the confidence needed to invest in the expansion of Scotland's reprocessing sector, a sector that will become increasingly important as the drive toward a more efficient use of resources and more sustainable product use and design continues.

Consultation

8. In 2012, the Scottish Government consulted on a range of proposals to to improve and maintain the quality of recyclable materials collected, sorted and presented to the market in Scotland. One of those proposals was to introduce a statutory arrangement such that all Material Recovery Facilities located in Scotland that sort mixed dry recyclate (above a minimum throughput) measure the composition of inputs and outputs at minimum frequencies using a standardised approach and make this information available for dissemination.

9. Almost all of those who responded to the consultation agreed that there was a need for such a Code Of Practice to improve the quality of output material. A list of consultees is attached at Annex A and a summary of consultation responses was published on 20 December 2013

Policy Summary

10. The instrument introduces a requirement to those holding a relevant waste management licence or PPC permit to comply with the Materials Recovery Code.

11. The "Code of Practice on Sampling and Reporting at Materials Recovery Facilities" requires the operators of material recovery facilities to weigh and sample materials received at the facility and leaving the facility, and identify the composition of the samples with regard to the type of material contained within. The Code sets out an approach to sampling, including weight, frequency, reporting periods, measurement and materials to be sampled, and the information to be recorded and reported to SEPA. The Code also contains a requirement to record and report to SEPA information about the end destination for the material (or where that is not available, the next destination), and the use to which the material is to be put.

12. The information collected by SEPA through the requirements of the Code will support future policy consideration of measures to further improve recyclate quality. The Code clarifies that information on end and next destination reporting will be treated as commercial in confidence.

Ensuring Awareness

13. The Scottish Environment Protection Agency (SEPA) and Zero Waste Scotland (ZWS) will contact all operators of MRFs likely to come into scope, and provide them with copies of the Code. ZWS and SEPA will make available guidance – "Materials Recovery Facilities – Testing and Reporting Guidance". This is intended to assist operators of MRFs in designing and carrying out their material testing and reporting procedures. In addition ZWS will offer training and advice, as well as support via the MRF Quality Testing Infrastructure Capital Fund to help MRF operators to understand their obligations under the Code.

Financial Effects

14. A Business and Regulatory Impact Assessment ("BRIA") has been published in respect of the "Code of Practice on Sampling and Reporting at Materials Recovery

Facilities". This identified potential costs for MRF operators, local authorities, reprocessors, and the regulator (SEPA).

EQIA

15. This instrument does not have a disproportionate impact on any specific sector, and on this basis it was not deemed necessary to produce an Equality Assessment .

Scottish Government - Environmental Quality Division
March 2015

Annex A

The following organisations responded to the consultation on proposals to improve and maintain the quality of recyclable materials in 2012:

(The 38 responses were a mixture of online responses and interviews. Those that were interviews are indicated by a star* and are anonymous.)

Local Authority and Representative Bodies

Local Authority Recycling Advisory Committee (LARAC)
Convention of Scottish Local Authorities (COSLA)
North Lanarkshire Council
East Dunbartonshire Council
Aberdeen City Council
Stirling Council
Dundee City Council
Fife Council
Scottish Borders
LA A*
LA B *

Professional/ Representative/ Trade Body

Chartered Institution of Wastes Management
The Packaging Federation
Food Service Packaging
Resource Association
Valpak
Scottish Environmental Services Association (SESA)
Campaign for Real Recycling
Association for Organics Recycling (AfOR)

Waste Management Companies – Material Collection/ management

Changeworks Recycling
Bryson Recycling
Binn Waste Management
Palm Recycling

Waste Management Companies – Material Processing Facilities (MRFs)

Four MRF operators were interviewed*
Of these, two employed over 250 people and are UK wide operators of MRFs and the other two employed less than 250 people and are Scottish based only.

Waste Management - Reprocessors and Manufacturers

British Glass

Closed Loop Recycling
Tata Steel
Novelis
ECO Plastics
Smurfit Kappa
DS Smith Recycling
1 other reprocessing company employing less than 250 people, based in Scotland but operating throughout the UK*

Drink Manufacturing Companies/ Bodies

Coca-Cola Enterprises Ltd
Scottish Whisky Association
Cross Party Group of Scotch Whisky