

WASTE REGULATIONS ROUTE MAP

APPENDICES

A.1.0 About this Document

The Waste Regulations Route Map document was prepared by Eunomia Research & Consulting on behalf of a working group comprising members of the local authority waste networks (coordinated through the Waste Network Chairs), the London Waste and Recycling Board (LWARB), and WRAP.

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A.2.0 Templates

The following tables may be used as templates for the collection of some of the data that you may require in order to assess which materials you need to collect for recovery (and particularly for recycling) and which may need to be collected separately from other materials.

Table 1: Composition Template

Material	Tonnes	%
Paper		
Glass		
Etc...		

Table 2: Collection Methods for Each Material Template

Collection Method	Materials	Tonnes	Total Gross Cost of Collections
Kerbside Refuse			
Kerbside Co-mingled recycling			
Etc...			

Table 3: Materials Collected Separately and Co-mingled Template

Waste Type	Collection Channel	Tonnes	Collected Separately from Refuse?	Collected Separately from Other Recyclate?	Collected in Sub-streams?	Cost/income per Tonne Sent for Treatment/ Recycling
Paper	Kerbside		Y	N	N	
Glass	Bring		Y	Y	Y – Brown, Green, Clear	
Etc...						

Table 4: MRF Output Assessment Template

SOLD AS	% of Output	Purity of Output	Recycled (%)	High Quality Recycling (%)
News & Pams				
Mixed paper				
Card				
Small Glass				
Large Glass				
Aluminium				
Steel				
Mixed Plastics				
PET				
HDPE				
SRF				
Landfill				
Total				

Table 5: Household Types

Wards	Household Types						Total
	Standard Kerbside Properties	High Rise Flats	Clearway /Stopping Restrictions	Limited Storage	Sparse Rural	Difficult Access	
1							
2							
3							
Total							

Table 6: Number of Households by Type and Collection

Collection Type	Household Types						Total
	e.g. Standard Kerbside Properties	High Rise Flats	Clearway /Stopping Restrictions	Limited Storage	Sparse Rural	Difficult Access	
Kerbside Separate							
Kerbside Twin Stream							
Kerbside Co-mingled							
Kerbside Special (e.g. narrow access)							
Near Access Separate							
Near Access Co-mingled							
No Service							
Total							

A.3.0 Legislative Context and Timeline

This section provide an outline of the relevant legislation pertaining to the requirement to separately collect waste.

A.3.1 Revised Waste Framework Directive (2008/98/EC)

The revised Waste Framework Directive (2008/98/EC) (WFD) significantly revised and updated Directive 2006/12/EC, placing significant emphasis on the waste hierarchy and its effective implementation in accordance with life-cycle thinking. Directive 2008/98/EC sets out a number of provisions to help insure that materials are moved up the waste hierarchy and that measures are taken to promote 'high quality' recycling. Recital 28 of the Directive states:

This Directive should help move the EU closer to a 'recycling society', seeking to avoid waste generation and to use waste as a resource. In particular, the Sixth Community Environment Action Programme calls for measures aimed at ensuring the source separation, collection and recycling of priority waste streams. In line with that objective and as a means to facilitating or improving its recovery potential, waste should be separately collected if technically, environmentally and economically practicable, before undergoing recovery operations that deliver the best overall environmental outcome. Member States should encourage the separation of hazardous compounds from waste streams if necessary to achieve environmentally sound management.

Articles 4, 10, 11, 13 and 15 are of particular relevance in the context of this work, and set out the legal requirements that Member States have to transpose into national legislation in order to achieve the above objectives. The details and implications of each of these Articles are briefly discussed below.

The requirement that Member States follow the waste hierarchy as a priority order is set out in Article 4 of the WFD (see Box 1). The hierarchy is intended to ensure that the 'best overall environmental outcome' is achieved through maximising waste prevention and improving resource efficiency. Deviations from the hierarchy are only allowed where the results of a life-cycle assessment suggests that this may be preferable.

Box 1: Article 4

Waste Hierarchy

1. *The following waste hierarchy shall apply as a priority order in waste prevention and management legislation and policy:*
 - a) *prevention;*
 - b) *preparing for re-use;*
 - c) *recycling;*
 - d) *other recovery, e.g. energy recovery; and*
 - e) *disposal.*
2. *When applying the waste hierarchy referred to in paragraph 1, Member States shall take measures to encourage the options that deliver the best overall environmental outcome. This may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste.*

Member States shall ensure that the development of waste legislation and policy is a fully transparent process, observing existing national rules about the consultation and involvement of citizens and stakeholders. Member States shall take into account the general environmental protection principles of precaution and sustainability, technical feasibility and economic viability, protection of resources as well as the overall environmental, human health, economic and social impacts, in accordance with Articles 1 and 13.

Article 10 refers to 'recovery'¹ and states that the recovery of materials must be in accordance with the waste hierarchy (Article 4) and in a manner which does not endanger human health or the environment (Article 13, see Box 4). Paragraph 2 of this article includes the first formal requirement that Member States must ensure that wastes 'be collected separately if technically, environmentally and economically practicable and shall not be mixed with other waste or other material with different properties'.

¹ The WFD defines recovery in Article 3(15): "'recovery' means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy".

Box 2: Article 10

Recovery

1. Member States shall take the necessary measures to ensure that waste undergoes recovery operations, in accordance with Articles 4 and 13.
2. Where necessary to comply with paragraph 1 and to facilitate or improve recovery, waste shall be collected separately if technically, environmentally and economically practicable and shall not be mixed with other waste or other material with different properties.

The requirement for setting up separate collections is mentioned again in Paragraph 1 of Article 11, this time in respect of ensuring that 'high quality' recycling is achieved:

Member States shall take measures to promote high quality recycling and, to this end, shall set up separate collections of waste where technically, environmentally and economically practicable and appropriate to meet the necessary quality standards for the relevant recycling sectors.

This clause introduces what has become referred to in the UK as the "practicability requirement" and the "necessity requirement" (see Section 0 for more details). The former refers to the requirement that deviations from separate collections should have sufficient justification on technical, environmental, and economic grounds. The necessity requirement stipulates that the type of collection system in place should be sufficient to allow necessary quality standards to be achieved for relevant recycling sector.

Article 11(1) also stipulates that:

Subject to Article 10(2), by 2015 separate collection shall be set up for at least the following: paper, metal, plastic and glass.

According to the Guidance which accompanies the WFD the 'moment of collection is the beginning of any waste management processes which are covered by the WFD'.² The WFD defines collection in Article 3(10) as:

'collection' means the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility.

Separate collection is defined in Article 3(11) as follows:

'separate collection' means the collection where a waste stream is kept separately by type and nature so as to facilitate a specific treatment.

Article 11 of the WFD also introduces objective targets for the preparation for re-use and recycling of household and 'similar' waste. The target stipulates that by 2020 a minimum of 50%, by weight, of at least paper, metal, plastic and glass should be collected for recycling or prepared for re-use.

² European Commission (2012) *Guidelines on the Interpretation of Key Provisions of Directive 2008/98/EC on Waste*, June 2012, http://ec.europa.eu/environment/waste/framework/pdf/guidance_doc.pdf, page 36

Re-use and Recycling

1. *Member States shall take measures, as appropriate, to promote the re-use of products and preparing for re-use activities, notably by encouraging the establishment and support of re-use and repair networks, the use of economic instruments, procurement criteria, quantitative objectives or other measures.*

Member States shall take measures to promote high quality recycling and, to this end, shall set up separate collections of waste where technically, environmentally and economically practicable and appropriate to meet the necessary quality standards for the relevant recycling sectors.

Subject to Article 10(2), by 2015 separate collection shall be set up for at least the following: paper, metal, plastic and glass.

2. *In order to comply with the objectives of this Directive, and move towards a European recycling society with a high level of resource efficiency, Member States shall take the necessary measures designed to achieve the following targets:*
 - a) *by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50 % by weight;*
 - b) *by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight.*

The Guidance which accompanies the WFD is not legally binding, but domestic courts are required to take into account such Guidance when interpreting the meaning of European Directives.³ Section 4.4 of the Guidance describes what the Commission means by 'technically, environmentally and economically practicable':

The combination of terms 'technically, environmentally and economically practicable' describes the preconditions for Member States being, to varying extents, obliged to set up separate collection under Articles 10 and 11 WFD. The wording has been introduced into the WFD without any preceding examples in EU waste management legislation.

'Technically practicable' means that the separate collection may be implemented through a system which has been technically developed and proven to function in practice.

'Environmentally practicable' should be understood such that the added value of ecological benefits justify possible negative environmental effects of the separate collection (e. g. additional emissions from transport). 'Economically practicable' refers to a separate collection which does not cause excessive costs in comparison with the treatment of a non-separated waste stream, considering the added value of recovery and recycling and the principle of proportionality.⁴

³ UK Recyclate Ltd and Others v Secretary of State for Environment, Food and Rural Affairs and Welsh Ministers, Royal Court of Justice, Case No. CO/6117/2011, 6th March 2013, Available at: http://www.esauk.org/judicial_review_outcome/Judicial_Review_Judgment_FINAL.pdf, paragraph 18

⁴ European Commission (2012) *Guidelines on the Interpretation of Key Provisions of Directive 2008/98/EC on Waste*, June 2012, http://ec.europa.eu/environment/waste/framework/pdf/guidance_doc.pdf, page 57

As part of the Judicial Review of the UK's transposition of Article 11 (see Section 0 below) Mr Justice Hickinbottom made the following statement in relation to the above guidance:

This guidance suggests that the phrase 'technically, environmentally and economically practicable' is used in the Directive as a term of art, importing the principle of proportionality and demanding a sophisticated context-driven exercise of judgment, balancing (amongst other things) the positive and negative environmental and economic effects of separate collection.⁵

He further stated that:

Nor does the Waste Framework Directive, as a matter of law, require a particular authority to make a decision with regard to practicability for the entire area it covers, or for any particular area. Whether separate collection is technically, environmentally and economically practicable depends upon a balancing exercise, that is both sophisticated and context-specific [...]). The relevant factors will be different (and, certainly, will attract different weight) in a city centre from a sparsely populated countryside, and may well be different within the same city centre or within the same particular sparsely populated area. One can imagine idiosyncratic collection circumstances (perhaps remote households) where the exercise of assessing the practicability of separate collection will require an especially specific, if not unique, consideration of the relevant factors. As the Commission Guidance in respect of the Waste Framework Directive [...] stresses (Notice, page 3):

"In practical implementation and enforcement, specific circumstances and the context of the waste management situation, as well as the requirements of the legislation, will always need to be taken into account."

Indeed, as a matter of law, as I have indicated, the test for technical, environmental and economical practicability not only permits but demands consideration of the particular collection circumstances.⁶

Article 13, cross-referred to in Article 10 above, states that Member States' must take the necessary measures to ensure that human health and the environment are not endangered in the process of managing our wastes. This Article is important for setting the context of how waste management systems should be developed and run in Member States, but has not been subject to significant debate in the same way as Articles 10 and 11 above.

⁵ UK Recyclate Ltd and Others v Secretary of State for Environment, Food and Rural Affairs and Welsh Ministers, Royal Court of Justice, Case No. CO/6117/2011, 6th March 2013, Available at: http://www.esauk.org/judicial_review_outcome/Judicial_Review_Judgment_FINAL.pdf, paragraph 19

⁶ UK Recyclate Ltd and Others v Secretary of State for Environment, Food and Rural Affairs and Welsh Ministers, Royal Court of Justice, Case No. CO/6117/2011, 6th March 2013, Available at: http://www.esauk.org/judicial_review_outcome/Judicial_Review_Judgment_FINAL.pdf, paragraph 45

Box 4: Article 13

Protection of Human Health and the Environment

Member States shall take the necessary measures to ensure that waste management is carried out without endangering human health, without harming the environment and, in particular:

- a) without risk to water, air, soil, plants or animals;*
- b) without causing a nuisance through noise or odours; and*
- c) without adversely affecting the countryside or places of special interest.*

Article 15 of the WFD outlines who has responsibility for the collection and management of waste. The Article is reproduced in full in Box 5.

Box 5: Article 15

Responsibility for Waste Management

- 1. Member States shall take the necessary measures to ensure that any original waste producer or other holder carries out the treatment of waste himself or has the treatment handled by a dealer or an establishment or undertaking which carries out waste treatment operations or arranged by a private or public waste collector in accordance with Articles 4 and 13.*
- 2. When the waste is transferred from the original producer or holder to one of the natural or legal persons referred to in paragraph 1 for preliminary treatment, the responsibility for carrying out a complete recovery or disposal operation shall not be discharged as a general rule. Without prejudice to Regulation (EC) No 1013/2006, Member States may specify the conditions of responsibility and decide in which cases the original producer is to retain responsibility for the whole treatment chain or in which cases the responsibility of the producer and the holder can be shared or delegated among the actors of the treatment chain.*
- 3. Member States may decide, in accordance with Article 8, that the responsibility for arranging waste management is to be borne partly or wholly by the producer of the product from which the waste came and that distributors of such product may share this responsibility.*
- 4. Member States shall take the necessary measures to ensure that, within their territory, the establishments or undertakings which collect or transport waste on a professional basis deliver the waste collected and transported to appropriate treatment installations respecting the provisions of Article 13.*

A.3.2 Waste (England and Wales) Regulations 2011 (as Amended)

Article 288 of the Treaty on the Functioning of the European Union stipulates that Member States are obliged to implement European Directives; however, the way in which they choose to achieve the objectives/results of the Directives is left up to Member States themselves. The third paragraph of Article 288 of the Treaty reads:

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

The WFD requires that Member States transpose the laws, regulations and administrative provisions of the Directive into national legislation by December 2010.⁷ In England and Wales this was done through the Waste (England and Wales) Regulations 2011 which came into force on the 29th March 2011 ('the 2011 Regulations').⁸ The regulations of particular relevance to this project are Regulations 12, 13 and 14 (Regulation 12 came into force in September 2011).

Soon after publication Defra was challenged on their interpretation and transposition of the WFD's requirements for separate collection as the 2011 Regulations explicitly included co-mingling as a form of separate collection in Regulation 13(2). Under the threat of Judicial Review (see Section 0 for more details), Regulation 13 was amended to remove the reference to co-mingling and the updated regulations were published in the Waste (England and Wales) (Amendment) Regulations 2012 ('the 2012 Regulations').⁹ A discussion of these regulations, the amendments and their implications are outlined below.

The waste hierarchy set out in Article 4 of the WFD is transposed into national legislation through Regulation 12 (see

⁷ Directive 2008/98/EC, Article 40(1) reads as follows: 'Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 12 December 2010'.

⁸ Waste (England and Wales) Regulations 2011, www.legislation.gov.uk/uksi/2011/988/contents/made

⁹ Waste (England and Wales) (Amendment) Regulations 2012, www.legislation.gov.uk/uksi/2012/1889/contents/made

Box 6). Regulation 12 is referred to at a number of points in the 2011 Regulations and aims to act as the main principle whereby waste should be managed in England and Wales. Indeed, Defra guidance on implementing the waste hierarchy states that all businesses and public bodies who handle waste are required to:

*...take all such measures as are reasonable in the circumstances to apply the waste hierarchy to prevent waste, and to apply the hierarchy as a priority order when you transfer your waste to another person.*¹⁰

The guidance does not stipulate how the term “reasonable” can be interpreted and it is therefore not clear how far local authorities will have to go in order to prove that they have taken ‘*all such measures as are reasonable*’. At present, local authorities are obliged to state that they have complied with Regulations 12 by explicitly stating this on all Waste Transfer Notes for different consignments of waste. In order to clarify how the waste hierarchy applies to different waste streams, Defra’s Guidance also provides an overview of how the waste hierarchy may be applied to different materials based on the latest life cycle evidence available at the time of publication (i.e. 2011).

¹⁰ Defra (2011) *Guidance on Applying the Waste Hierarchy*, June 2011, www.gov.uk/government/publications/guidance-on-applying-the-waste-hierarchy, page 7

Box 6: Regulation 12

Duty in Relation to the Waste Hierarchy

1. *An establishment or undertaking which imports, produces, collects, transports, recovers or disposes of waste, or which as a dealer or broker has control of waste must, on the transfer of waste, take all such measures available to it as are reasonable in the circumstances to apply the following waste hierarchy as a priority order:*
 - a) *prevention;*
 - b) *preparing for re-use;*
 - c) *recycling;*
 - d) *other recovery (for example energy recovery);*
 - e) *disposal.*
2. *But an establishment or undertaking may depart from the priority order in paragraph (1) so as to achieve the best overall environmental outcome where this is justified by life-cycle thinking on the overall impacts of the generation and management of the waste.*
3. *When considering the overall impacts mentioned in paragraph (2), the following considerations must be taken into account—*
 - a) *the general environmental protection principles of precaution and sustainability;*
 - b) *technical feasibility and economic viability;*
 - c) *protection of resources;*
 - d) *the overall environmental, human health, economic and social impacts.*

Article 11(1) of the WFD was transposed via Regulation 13. However, as alluded to above, the original reading of Regulation 13 explicitly included co-mingling as a form of 'separate collection' by the inclusion of the following clause:

For the avoidance of doubt, co-mingled collection (being the collection together with each other but separately from other waste of waste streams intended for recycling with a view to subsequent separation by type and nature) is a form of separate collection.¹¹

After the Campaign for Real Recycling (CRR) was given permission to Judicially Review the transposition of Regulation 13 the Secretary of State and Welsh Ministers chose to review the drafting resulting in an amendment through the 2012 Regulations. Regulation 13 was amended to the form shown in

¹¹ Waste (England and Wales) Regulations 2011, Regulation 13(2)

Box 7, which closely follows the text of the WFD.

The CRR maintained that the amendments to Regulation 13 still failed to transpose the requirements of the WFD but were unsuccessful in challenging the amended Regulation 13 (see Section 0).

Box 7: Regulation 13 (as Amended)

Duties in Relation to Collection of Waste

1. This regulation applies from 1st January 2015.
2. Subject to paragraph (4), an establishment or undertaking which collects waste paper, metal, plastic or glass must do so by way of separate collection.
3. Subject to paragraph (4), every waste collection authority must, when making arrangements for the collection of waste paper, metal, plastic or glass, ensure that those arrangements are by way of separate collection.
4. The duties in this regulation apply where separate collection—
 - a) is necessary to ensure that waste undergoes recovery operations in accordance with Articles 4 and 13 of the Waste Framework Directive and to facilitate or improve recovery; and
 - b) is technically, environmentally and economically practicable.

Given the concerns raised by the Judicial Review and ongoing uncertainty around the subject of how local authorities should respond to their obligations under Regulation 13, the then waste minister Lord de Mauley wrote an open letter to local authorities in October 2013. He noted that:

It appears that some local authorities may be taking the view that co-mingled collections of paper, glass, plastic and metal waste streams will remain permissible in all circumstances after 1st January 2015. I therefore thought it would be helpful now to remind local authorities of the effect of the Regulations.¹²

He went on to state:

From 1st January 2015 an establishment or undertaking which collects waste paper, metal, plastic or glass must do so by way of separate collection. These requirements apply where separate collection:

- a) *is necessary, in effect, to provide high quality recyclates; and*
- b) *is technically, environmentally and economically practicable.*

Where waste paper, metal, plastic or glass has been collected separately all reasonable steps must be taken to keep that stream separate from other waste streams wherever this is necessary to provide high quality recyclates.¹³

The letter highlighted concerns about the inclusion of glass in co-mingled streams and the implications of this for material quality. It also notes that local authorities who are considering changes to their service – that is, changes which do not involve a move to source separation – need to think carefully about how they may justify these changes on the grounds of the “necessity” and “practicability” principles (Regulation 13(4)(a) and (b)):

Any local authorities considering new collection or disposal plans should take care to ensure that they are placing themselves in a position to fulfil their legal duties from 2015. This is particularly important for local authorities who may be considering moving away

¹² Letter by Lord de Mauley, Parliamentary Under Secretary, Defra, October 2013, www.gov.uk/government/uploads/system/uploads/attachment_data/file/250013/waste-separate-collection-201310.pdf, page 2

¹³ *Ibid.*, page 2

from separate collection, or including glass within a co-mingled stream. Local authorities should consult their own lawyers as necessary, and should keep a clear audit trail given the potential for legal challenge.¹⁴

Box 8: Regulation 14 (as Amended)

Duty in Relation to Collected Waste

1. An establishment or undertaking which collects, transports or receives waste paper, metal, plastic or glass must, from 1st January 2015, take all such measures available to it in that capacity as are reasonable in the circumstances to ensure that where that waste has been separately collected it is not mixed with other waste or other material with different properties.
2. This duty applies where keeping waste separate is necessary to ensure that waste undergoes recovery operations in accordance with Articles 4 and 13 of the Waste Framework Directive and to facilitate or improve recovery.

A.3.3 Judicial Reviews

In August 2011 His Honour Judge Jarman QC gave the members of the Campaign for Real Recycling (CRR) –the Claimants –permission to seek a Judicial Review on the grounds that Regulation 13 in the Waste (England and Wales) Regulations 2011 failed to transpose Article 11(1) of the WFD by considering ‘co-mingling’ to be equivalent to ‘separate’ collection. The proceedings were stayed to provide time for the Secretary of State and Welsh Ministers to reconsider Regulation 13, which was subsequently redrafted as part of the Waste (England and Wales) (Amendment) Regulations 2012 (see Section 0).

The claimants, however, felt that the amendments to Regulation 13 still failed to adequately transpose the WFD and chose to pursue a fresh Judicial Review. This focused on a narrow technical aspect of the legislation which centred around what the limitations of Article 10(2) in the WFD may impose. They sought to argue that, properly transposed, the Waste Framework Directive requires separate collection of four materials subject only to the test of practicability, not necessity. Mr Justice Hickinbottom outlined the case as follows:

The relevant obligation appears in the third paragraph of Article 11(1), namely that “by 2015 separate collection shall be set up for at least the following: paper, metal, plastic and glass”. It is common ground, now, that “separate collection” here requires each of the four named types of waste to be separately collected. That obligation is limited by only one restriction, namely it is “Subject to Article 10(2)...”. This case turns on what is imported by that phrase. In fact, the area of controversy is yet more focused, because, as I understand it, all parties agree that “Subject to Article 10(2)” means “Subject to the limitations on separate collection set out in Article 10(2)”. The issue is therefore focused on what those limitations comprise.¹⁵

For the sake of brevity, the arguments of the Judicial Review are not examined here; instead the reader is referred to the full judgement delivered in Cardiff 6th March 2013. The judge concluded:

...the interpretation of the third paragraph of Article 11(1) of the Waste Framework Directive is unambiguously clear: the obligation to set up separate collection of paper, metal, plastic and glass

¹⁴ Ibid., page 2

¹⁵ UK Recyclate Ltd and Others v Secretary of State for Environment, Food and Rural Affairs and Welsh Ministers, Royal Court of Justice, Case No. CO/6117/2011, 6th March 2013, Date Accessed: 10th March 2014, Available at: www.esauk.org/judicial_review_outcome/Judicial_Review_Judgment_FINAL.pdf, paragraph 33

from 2015 is restricted by both the practicability and necessity requirements that also restrict the obligation in Article 10(2) to collect separately for the purposes of recovery. That is also generally concordant with the objectives and aims of the Directive, and general European law principles.¹⁶

Mr Justice Hickinbottom refused application to the European Court of Justice and ended by saying:

... I conclude that, so far as the Article 11(1) obligation is concerned, that has been properly transposed into domestic law by the amended Regulation 13 of the 2011 Regulations.¹⁷

The Claimants did not seek to pursue the issue further and publically stated that they would not be seeking to appeal the decision.

A.3.4 Other Relevant Legislation/Regulations

A.3.4.1 MRF Regulations

The quality of MRF outputs plays a pivotal role in the debate around collection methods and the necessity of achieving 'high quality' recycling. Indeed, to the extent that it can be shown that a MRF is producing low quality outputs it may be argued that source separation is necessary to achieve 'high quality' recycling. Action has been taken in order to better account for MRF output quality in the form of the recently published MRF regulations.

The MRF regulations were laid before parliament on the 11th February 2014 as part of the Environmental Permitting (England and Wales) (Amendment) Regulations 2014 (Regulation 16), and come into force on the 1st October 2014.¹⁸ These regulations set out the MRF Code of Practice for England and Wales and require that facilities processing more than 1,000 tonnes per annum undertake regular sampling and reporting on all material inputs and outputs.

It is important to note that while these regulations provide a clear reporting framework, requiring facilities to provide information on the amount and types of target materials, non-target materials, and non-recyclable materials, there are no clear stipulations about threshold limits which have to be achieved. There is thus no clear distinction between what constitutes a 'high' and 'low' quality input and/or output and no mechanism for ensuring that high quality is achieved at obligated facilities.

¹⁶ *Ibid.*, paragraph 66

¹⁷ *Ibid.*, paragraph 68

¹⁸ Environmental Permitting (England and Wales) (Amendment) Regulations 2014, www.legislation.gov.uk/uksi/2014/255/contents/made

A.4.0 Relevant Resources

Legislation:

- Revised Waste Framework Directive (2008/98/EC), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008L0098:EN:NOT>
- Environmental Protection Act 1990, www.legislation.gov.uk/ukpga/1990/43/contents
- Waste (England and Wales) Regulations 2011, www.legislation.gov.uk/uksi/2011/988/contents/made
- Waste (England and Wales) (Amendment) Regulations 2012, www.legislation.gov.uk/uksi/2012/1889/contents/made
- Environmental Permitting (England and Wales) (Amendment) Regulations 2014, (which incorporate the MRF Regulation) www.legislation.gov.uk/uksi/2014/255/contents/made

Case Law:

- Council of Civil Service Unions v Minister for the Civil Service (1985) AC 374, (22 November 1984) <http://www.bailii.org/uk/cases/UKHL/1983/6.html>
- UK Recyclate Ltd and Others v Secretary of State for Environment, Food and Rural Affairs and Welsh Ministers, Royal Court of Justice, Case No. CO/6117/2011, 6th March 2013, www.esauk.org/judicial_review_outcome/Judicial_Review_Judgment_FINAL.pdf

Guidance:

- Defra (2011) Guidance on Applying the Waste Hierarchy, June 2011, www.gov.uk/government/publications/guidance-on-applying-the-waste-hierarchy
- European Commission (2012) Guidelines on the Interpretation of Key Provisions of Directive 2008/98/EC on Waste, June 2012, http://ec.europa.eu/environment/waste/framework/pdf/guidance_doc.pdf
- Defra (2013) Waste Management Plan for England https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265810/pb14100-waste-management-plan-20131213.pdf
- Defra (2014) Energy from waste: A guide to the debate (revised edition) www.gov.uk/government/uploads/system/uploads/attachment_data/file/284612/pb14130-energy-waste-201402.pdf
- Letter from Lord de Mauley, Parliamentary Under Secretary, Defra, October 2013, www.gov.uk/government/uploads/system/uploads/attachment_data/file/250013/waste-seperate-collection-201310.pdf

Composition

[Municipal Waste Composition: Review of Municipal Waste Component Analyses](#)

This 2009 study is based on 535 datasets. The majority of these relate to audits of kerbside waste in England, with a reasonably large number of HWRC datasets also for England. It includes a smaller number of dataset for the Devolved Administrations and for other municipal waste streams (municipally collected commercial waste, bulky waste collections, etc).

Lifecycle Thinking:

[European Commission Guidance on Applying Lifecycle Thinking to Waste Management](#)

The European Commission's Joint Research Centre has developed guidance on how lifecycle thinking can be applied to waste management, including suggestions regarding how straightforward criteria can be developed as a guide to decision-making.

[Cost Benefit Analysis](#)

The assessment of some kinds of emissions impacts (e.g. CO₂) lends itself well to appraisal through a cost benefit analysis, which enables the environmental impact of each option to be compared with its financial cost. The European Commission has produced detailed guidance on cost benefit analysis, which may be useful.

[Lifecycle Tools](#)

The performance of options against environmental criteria may be assessed using a detailed life cycle approach through the use of a dedicated tool. WRATE, formerly owned by the Environment Agency, is quite widely used, but contains assumptions that have not been updated for some time. Some consultants may also offer their own in house lifecycle tool.

[Options Appraisal](#)

Whilst there is not a single, widely accepted method for waste collection options appraisal, most local authorities will be familiar with the process, which is often used when considering changes to a collection service – for example, when re-tendering a contract or developing a long-term service strategy. An options appraisal will look to assess the financial costs and environmental performance of a number of optimised collection systems to enable their relative merits to be understood, using a cost and performance model such as WRAP's Kerbside Analysis Tool (KAT). In this context, the options appraisal should include a waste flow model allowing the variation in yield and end destination to be considered, as well as a simple environmental model allowing environmental impacts such as climate change emissions (including those associated with materials recycling) to be taken into account.

A.5.0 Glossary

Definitions are provided below of the key terms used in this Route Map.

Collection	The gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility. ¹⁹ For the purposes of the Route Map, 'collection' is understood to take place when waste discarded by a householder or business is transferred from their control to the collector's – for kerbside collections, when the person's waste container is emptied or removed; and for bring sites, household waste recycling centres and street litter bins, when the person deposits the waste in the container.
Co-mingled	Refers to a recycling scheme where materials are collected in a single compartment vehicle with the sorting of materials occurring at a Material Recovery Facility (MRF). ²⁰
Disposal	Any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy. ²¹
Glass	This term does not have a clear legal definition in the WFD, which places no limit on the extent of the term. For the purposes of the Route Map, it is understood to mean all glass within the waste stream, not just glass containers such as bottles and jars.
'High quality' recycling	This term does not have a clear legal definition. Its meaning is discussed on [page ref].
Kerbside sort	A dry kerbside recycling scheme where materials are sorted by material type at the kerbside into different compartments on a vehicle. ²²
Metal	This term does not have a clear legal definition in the WFD, which places no limit on the extent of the term. For the purposes of the Route Map, it is understood to mean all metals in the waste stream, not just metal cans.
MRF	A Material Recovery Facility, a 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. ²³
Paper	This term does not have a clear legal definition in the WFD, which places no limit on the extent of the term. For the purposes of the Route Map, it is understood to mean all paper within the waste stream, including cardboard.
Plastic	This term does not have a clear legal definition in the WFD, which places no limit on the extent of the term. For the purposes of the Route Map, it is understood to mean all plastics within the waste stream, including plastic bottles, other rigid plastics and plastic film.
Practicable	Feasible or capable of being done. ²⁴
Preparation for	Checking, cleaning or repairing recovery operations, by which products or

¹⁹ WFD, Article 3 (10)

²⁰ WRAP Glossary of terms used within Online Recycling Information System (ORIS)
<http://www.wrap.org.uk/content/glossary-terms-used-within-online-recycling-information-system-oris>

²¹ WFD, Article 3 (19)

²² WRAP Glossary of terms used within Online Recycling Information System (ORIS)
<http://www.wrap.org.uk/content/glossary-terms-used-within-online-recycling-information-system-oris>

²³ Environmental Permitting (England and Wales) (Amendment) Regulations 2014, Schedule "New Schedule 9A", Part 1(2)

²⁴ UK Recyclate Ltd and Others v Secretary of State for Environment, Food and Rural Affairs and Welsh Ministers, Royal Court of Justice, Case No. CO/6117/2011, paragraph 18

Re-use	components of products that have become waste are prepared so that they can be re-used without any other pre-processing. ²⁵
Prevention	Measures taken before a substance, material or product has become waste, that reduce the quantity, impact or harmful content of waste. ²⁶
Recovery	Any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. This can include waste being used as fuel, or being recycled. ²⁷
Recycling	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. ²⁸
Remelt	The reprocessing of waste glass in glass furnaces to produce new glass bottles and containers. ²⁹
Separate collection	Collection where a waste stream is kept separately by type and nature so as to facilitate a specific treatment. ³⁰
The four materials	Glass, metal, paper and plastic. ³¹
Waste	Any substance or object which the holder discards or intends or is required to discard. ³²
Waste Regulations	The Waste (England and Wales) Regulations 2011 as amended by the Waste (England and Wales) (Amendment) Regulations 2012.
WFD	The European Waste Framework Directive (2008), Directive 2008/98/EC of the European Parliament and of the Council.
TEEP	Technologically, Economically and Environmentally Practicable. Separate collections of some kinds of waste are required where they are both necessary to facilitate or improve recovery and 'TEEP'.
Treatment	Recovery or disposal operations, including preparation prior to recovery or disposal. ³³
WEEE	Waste Electrical and Electronic Equipment.

²⁵ WFD, Article 3 (16)

²⁶ WFD, Article 3 (12)

²⁷ WFD, Article 3 (15)

²⁸ WFD, Article 3 (17)

²⁹ WRAP, Recycling Glass in the Hospitality Sector <http://www.wrap.org.uk/content/recycling-glass-hospitality-sector>

³⁰ WFD, Article 3 (11)

³¹ Waste (England and Wales) Regulations 2011 (as amended), Regulation 13(2)

³² WFD, Article 3 (1)

³³ WFD, Article 3 (14)