**Audit Protocol Put on Market EEE in the Netherlands effective from 1 March 2021**

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# General

## Introduction

The Regulation of the State Secretary for Infrastructure and the Environment of 3 February 2014, number IENM/BSK- 2014/14758, laying down rules concerning waste electrical and electronic equipment, last amended on 28 November 2020 (hereinafter referred to as the WEEE Regulation) is the Dutch implementation of Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (OJEU 2012, L 197). The WEEE Regulations stipulate that producers and importers who put electrical and electronic equipment on the Dutch market for the first time are responsible for the separate collection, processing, recovery and environmentally sound disposal of this electrical and electronic equipment. From 2019, the target is that at least 65 percent of the average weight of electrical and electronic equipment put on the Dutch market in the previous three years must be collected and processed.

The Organisation for Producer Responsibility for WEEE in the Netherlands ('OPEN Foundation') fulfils the legal producer responsibility for the collection and processing of waste electrical and electronic equipment on behalf of its affiliated producers and importers. On the basis of the waste-management fee agreement for waste electrical and electronic equipment (hereafter: 'WEEE agreement' or 'WMFA') and the Notice of the universally binding declaration agreement for waste-management fee for WEEE, Ministry of Infrastructure and Water Management with reference 7385 of 18 February 2021 (hereafter: 'the UBD'), producers and importers who put electrical and electronic equipment on the Dutch market for the first time have to join the OPEN Foundation by signing a waste-management fee agreement.

In order to finance the so-called waste management structure, producers and importers (hereafter jointly referred to as 'participant(s)') pay a waste-management fee to the OPEN Foundation. To this end, by no later than 1 April after the end of a calendar year, participants submit an annual statement to the OPEN Foundation of the weight and the number of items of electrical and electronic equipment put on the Dutch market in the last expired calendar year. The WEEE Management Agreement, article 5.2 and the UBD, article 4, paragraph k, stipulate that the OPEN Foundation has the right to have this list of participants audited by an external and independent auditor. The OPEN Foundation has opted to ask the auditor to perform an assignment to carry out agreed specific work, while the lists of participants for the last three calendar years are the subject of audit.

Participants are then subjected to an audit once in a period of three calendar years. The auditor shall issue one report of factual findings as a result of his work, covering an investigation period of three calendar years.

## Purpose of the audit protocol

The purpose of this audit protocol is to issue instructions to the participant's auditor who meets the criteria specified in section [1.3](#_bookmark3) regarding the nature, scope and timing of the agreed specific work on the participant reports for the past three calendar years. This audit protocol also describes the way in which the auditor should report on the results arising from the agreed specific work performed.

## Scope of the audit and audit protocol

This audit protocol is related to audits of participants who report at least 1 million kilograms of electrical and electronic equipment in a calendar year and who pay a minimum waste-management fee of € 50,0001 . As described in section [1.2](#_bookmark2), the audit focuses on a period of three calendar years. If the above criteria are met in at least one of these three calendar years, the participant must commission an auditor to carry out agreed specific work based on this accountancy protocol. This is illustrated by the following example:

|  |  |  |
| --- | --- | --- |
|  | **First audit period** | **Second audit period** |
| **Criterion** | **2021**2 | **2022** | **2023** | **2024** | **2025** | **2026** |
| Annual number of kilograms of EEE | 950,000 | 1,050,000 | 875,000 | 975,000 | 850,000 | 825,000 |
| Annual waste-management fee | € 50,250 | € 55,000 | € 45,950 | € 52,000 | € 45,000 | € 43,500 |
| Have both criteria been met? | No | **Yes** | No | No | No | No |
| Audit required? | Yes, because both criteria have been met in at least one year | No, because both criteria have not been met in at least one year |

The costs of performing the agreed specific work by the auditor shall be borne by the participant.

Participants who in a calendar year report less than 1 million kilograms of electrical and electronic equipment put on the Dutch market and/or pay less than € 50,000 waste-management fee can be selected annually by the OPEN Foundation. An auditor engaged by the OPEN Foundation will perform the agreed upon specific work as described in this auditor protocol regarding the participant reports. The costs for carrying out the agreed upon specific work by the auditor are for the account of the OPEN Foundation.

## Legislation and regulations

The following legislation and regulations apply (in alphabetical order):

* Waste-Management Fee Agreement between Interested Parties and the OPEN Foundation regarding WEEE of 1 April 2020;
* Notification of the universally binding declaration of the agreement on the waste-management fee for WEEE, Ministry of Infrastructure and Water Management, reference 7385, 18 February 2021;
* Regulation of the State Secretary for Infrastructure and the Environment of 3 February 2014, number IENM/BSK- 2014/14758, laying down rules regarding waste electrical and electronic equipment, last amended 28 November 2020; and
* Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (OJEU 2012, L 197).
1. Producers and importers of lighting are required to have an audit carried out if they pay at least € 50,000 in waste management levies. The number of kilograms of electrical and electronic equipment put on the Dutch market is not relevant with respect to this.
2. For a start-up enterprise, the first investigation period starts in the year in which the enterprise registers with the

OPEN Foundation as a participant.

## Object of the audit and deadlines

On an annual basis, no later than 1 April after the end of a calendar year, participants report to the OPEN Foundation the weight quantities and the number of items of electrical and electronic equipment put on the Dutch market on the last expired calendar year. Participants have to report the weight quantities and the number of items via the online platform MyOPEN [(https://my.stichting-open.org/nl- nl/login?returnUrl=/](https://my.stichting-open.org/nl-nl/login?returnUrl=/)).

The auditor's report of findings must be uploaded in MyOPEN no later than 1 September after the end of the last calendar year of the audit.

## Audit product

The auditor reports on the findings arising from the agreed specific work described in this audit protocol through a report of factual findings. Paragraph [2.4](#_bookmark16) of this audit protocol provides further instructions on the content of the report of factual findings. In order to ensure that the factual findings resulting from the work carried out meet the purpose and the information requirement of the OPEN Foundation, the auditor is requested to make use of the Model Report of Factual Findings as included in paragraph [3.2](#_bookmark19) of this audit protocol.

## Review of the work

The OPEN Foundation can request an auditor to conduct a review of the auditor charged with reviewing the participant reports, in order to check whether the audit is carried out according to this auditor protocol. The OPEN Foundation notifies the participant and its auditor of this request. Upon request, the auditor must provide all information and documents for the purpose of the above-mentioned review. If and as far as the above review shows that the review has not been executed in accordance with this audit protocol, the extra costs of this review are for the account of the participant. In all other cases, the costs of this review are for account of the OPEN Foundation.

## Definitions and terms

For the purposes of this Auditor Protocol, the following definitions apply (in alphabetical order):

* **WMFA:** the waste-management fee agreement of the OPEN Foundation declared universally binding by decree of 18 February 2021 with reference 7385 of the Ministry of Infrastructure and Water Management.
* **Auditor:** The chartered accountant or accountant-administration consultant appointed by the participant or the OPEN Foundation as referred to in the Dutch Accounting Profession Act.
* **Participant:** A participant is a producer or importer who is the first to place electrical and electronic equipment on the Dutch market.
* **Participant Report:** The reported weight quantity and the number of units of electrical and electronic equipment put on the Dutch market by the participant in the most recently completed calendar year, as referred to in the WEEE Management Regulations.
* **EEE:** Electrical and electronic equipment, as indicated in Annex IV of Directive no. 2012/19/EU containing a non-exhaustive list of electrical and electronic equipment covered by the categories mentioned in Appendix III of Directive no. 2012/19/EU. MyOPEN: The registration and management programme in which participants report the weight and number of items of electrical and electronic equipment put on the Dutch market for the last expired calendar year to the OPEN Foundation no later than 1 April after the end of a calendar year.
* **Product category:** The product categories for EEE as included on the List of Products and Charges on [the website of the OPEN Foundation.](https://my.stichting-open.org/productlist-external)
* **Report of factual findings:** The report of factual findings included in paragraph [3.2](#_bookmark19) of this audit protocol based on Standard 4400N 'Engagements to perform agreed specific work'.
* **OPEN Foundation:** Producers Responsibility Organisation for E-waste Netherlands (Stichting Organisatie Producentenverantwoordelijkheid E-waste Nederland), see [https://www.stichting-open.org/.](http://www.stichting-open.org/)
* **Rates:** The recycling fees adopted in the Products and Rates List on [the website of the OPEN Foundation.](https://my.stichting-open.org/productlist-external)

# Auditing activities

## Objective of the specific work

The auditor’s activities and the report of factual findings to be issued on the basis of these activities are intended to enable the participant to comply with the requirements set out in the WEEE Regulation, article 5.2, and to enable the OPEN Foundation to form an opinion on the weight quantity and the number of items of electrical and electronic equipment put on the Dutch market by the participant over the past three calendar years. On this basis, the OPEN Foundation will determine the final waste-management fee for these calendar years.

## Audit method

The participant's auditor shall perform the agreed specific work in accordance with Dutch law, including Standard 4400N 'Assignments to perform agreed specific work' and this auditor protocol.

Under the performance of the engagement, the auditor shall comply with the relevant ethical rules in the Verordening gedrags- en beroepsregels auditors (VGBA) (Regulation on the Auditor's Conduct and Professional Rules) and, if applicable, the Verordening inzake de onafhankelijkheid van auditors bij assurance-opdrachten (ViO) (Auditor's Independence Regulation for assurance engagements).

## Description of agreed specific work

This section details the agreed specific work to be performed by the auditor in 18 audit-work steps.

1. The Regulation of the State Secretary for Infrastructure and the Environment of 3 February 2014, number IENM/BSK-2014/14758, laying down rules regarding waste electrical and electronic equipment, last amended on 28 November 2020 (hereinafter referred to as the WEEE Regulation), must be taken note of.
2. It must be established that the participant has drawn up a process description in which the process of compiling the participant reports is described. This process description describes the way in which the participant determines and records the number of items of electrical and electronic equipment put on the Dutch market and the weight quantity, as defined in the WEEE Management Regulations, of the products sold during the audit period. Establish that the process description corresponds to the information obtained during the audit. No work is required on the existence and the operation of this process by the auditor.
3. If the participant has not drawn up a process description as referred to under work step [2](#_bookmark13): information must be obtained from the participant about the process of developing the participant reports. Information is obtained about the way in which the participant determines and records the number of items of electrical and electronic equipment put on the Dutch market and the weight of the products, as defined in the WEEE Management Regulations, sold during the audit period. Establish that the information gathered is consistent with the information obtained during the investigation. No work is required on the existence and the operation of this process by the auditor.
4. It must be established that the participant has drawn up a comparison per product category of the average weight of electrical and electronic equipment put on the Dutch market per year during the survey period. The average annual weight is calculated by dividing the total weight in kilograms per product category by the number of units of that product category put on the Dutch market in the year in question, taken from the participants' statements. It must be established that the participant has a written explanation for fluctuations of more than 10 percent between the three calendar years covered by the survey and it must be established that this explanation is consistent with the information obtained during the survey.
5. It mut be established that the participant has drawn up a comparison per product category of the number of units of electrical and electronic equipment put on the Dutch market per year of the audit period. It must be established that the participant has a written explanation for fluctuations of more than 10 percent between the three calendar years covered by the audit and that this explanation is consistent with the information obtained during the audit.
6. It must be established that the participant’s reports are based on a substantiation for each calendar year of the survey and it must be established that the weight quantity and the number of units of electrical and electronic equipment put on the Dutch market per product category included in the participant reports are consistent with this substantiation. The substantiation that underlies the participant reports must be mentioned. It is explicitly not the auditor's intention to form an opinion on the content of this substantiation.
7. It must be established that the substantiation obtained under work step [6](#_bookmark14) per calendar year regarding the number of units of electrical and electronic equipment put on the Dutch market is consistent with the financial accounts per calendar year in euros and subsequently derived in numbers.
8. It must be established that the substantiation obtained under work step [6](#_bookmark14) per calendar year is arithmetically correct.
9. Based on the substantiation obtained in work step [6](#_bookmark14), it must be established per calendar year that the products included in this substantiation were sold in the calendar year in which they are accounted for in the participants' statement. The accountant establishes this by verifying that the invoice date of the products sold as included in the substantiation obtained under step [6](#_bookmark14) falls in the calendar year in which these products are recognised for as sold.
10. From the financial administration underlying the participant's reports Xᶟ sales invoices with electrical and electronic equipment must be selected, which are produced or imported by the participant, spread across the calendar years in the investigation period. It must be established that these sales invoices are addressed to a Dutch entity with a Dutch Chamber of Commerce number, or a natural person established in the Netherlands based on the name and address details on the sales invoice.
11. For X3, randomly selected products covered by the WEEE Regulation that have not been accounted for in the participant reports, it must be established, through the collection of information from the participant and/or observation on site, that these products were first placed on the Dutch market by a party other than the participant, or that they are exports.

 ᶟNumber of sales invoices / products according to the following scale:

**Number of unique sales invoices / products sales lines Scope**

1-100 5 sales invoices / products / sales lines

101-300 7 sales invoices / products / sales lines

301-700 10 sales invoices / products / sales lines

701-1.500 12 sales invoices / products / sales lines

> 1,500 15 sales invoices / products / sales lines

1. For X4 products X5 (evenly divided across the product categories) it must be established for each calendar year in the audit period that the net weight used in the participant reports corresponds with the actual weight. This actual weight is determined on the basis of a weighing of the product by the participant or by linking up with the product specification of the supplier of the product concerned.
2. For the selected products at work step [12](#_bookmark15), it must be established that these products are included in the applicable product category in the participant report of the relevant calendar year, as recorded in the List of Products and Charges, included on the website of the OPEN Foundation.
3. Based on the website and/or product catalogue of the participant, it must be established which product categories the participant puts on the Dutch market. It must be established that the participant has included these product categories in the participant reports. The auditor is explicitly not supposed to form an opinion about the completeness of the product categories listed on the participant's website and/or product catalogue.
4. For X3 negative sales lines (returns), as recorded in the financial administration underlying the participants' statements, spread across the calendar years in the investigation period, it must be established that these negative sales lines are based on a credit invoice or other written evidence showing that the product concerned was not put on the Dutch market.
5. Information must be obtained from the participant to establish that the participant has not deducted any sales from the participant’s reports in the calendar years of the audit period to a Dutch customer who has subsequently exported these products. The auditor is explicitly not supposed to form an opinion about the completeness of the number of units of electrical and electronic equipment put on the Dutch market and the weight of these units.
6. If the participant uses estimates, averages, assumptions or partial observations to determine the net weights in the participant reports, it must be established that the participant has written substantiation for these estimates, averages, assumptions or partial observations.
7. Written confirmation must be obtained from the participant stating that the participant agrees with the findings identified during the audit.

4Quantity of products according to the following graduated scale:

|  |  |
| --- | --- |
|  | Number of product categories |
|  |  **1 - 2** |  **3 - 4** |  **5 - 6** |  **6 - 7** | **> 7** |
| Number of unique products | **1 - 100** | 5 | 10 | 15 | 20 | 25 |
| **101 - 300** | 10 | 15 | 20 | 25 | 30 |
| **301 - 700** | 15 | 20 | 25 | 30 | 35 |
|  **701 - 1.500** | 20 | 25 | 30 | 35 | 40 |
| **> 1.500** | 25 | 30 | 35 | 40 | 45 |
|  | Number of products in selection spread across the calendar years in the audit period |

5Five (or less if applicable) products must be selected for which under working step 4 a variation of more than 10% in the average weight of that product category compared to the previous calendar year has been established. The other products must be selected on the basis of the scale in footnote 4.

## 2.4 Report of factual findings

In order to guarantee uniformity in terms of the layout of the report, auditors charged with the audit must use the 'Model Report of Factual Findings' included in paragraph [3.2](#_bookmark19) of this audit protocol. The model report of factual findings is a more detailed version of the outline report of factual findings as included on the website of the Royal Netherlands Institute of Chartered Accountants.

Findings shall be quantified by the auditor, stating the documentation which a finding is based on. If a finding cannot be quantified, the auditor shall describe in detail why the participant is unable to quantify the finding. When a work step cannot be performed, the auditor must explain the reason why the work step cannot be performed.

The auditor is not expected to form an opinion on the adequacy and suitability of the agreed specific work to be performed in relation to the purpose for which it is performed or for any other purpose. In performing the specific work, the auditor is explicitly not supposed to form an opinion on the content of the oral and written substantiation provided by the participant.

The appendix to the report of factual findings shall include a copy, certified by the auditor, of the audited participant reports.

# Models

## 3.1 Accountability model

The model for the participant report is available on the online platform of the OPEN Foundation (MyOPEN). The participant must complete and export the participant report in the online platform of MyOPEN [(](https://my.stichting-open.org/nl-nl/login?returnUrl=/)https://my.stichting-open.org/nl-nl/login?returnUrl=/). This can be done by performing the following actions:

* + - Go to the report form of the respective calendar years
		- Unfold Step 4 ‘Check statement’
		- Select the entire table
		- Copy and paste the values into the Excel form
		- Save the file with the RP number in the name

The participant report can be printed in PDF format. The three annual reports of participants should be certified by the auditor and included as appendices to the report of factual findings.

## Model Statement of Factual Findings

### Report of factual findings regarding the participant reports of <<Name of participant>>

To: **<<Name of participant>>**

### Assignment

We have performed agreed specific work with respect to the participant reports for the calendar years <<202X up to and including 202X>> (hereafter: the participant reports) of <<Name participant>> , of which we have attached copies to this report certified for identification purposes. The assignment has been agreed upon with you and Stichting Organisatie Producentenverantwoordelijkheid E-waste Nederland (hereinafter: "OPEN Foundation") and its purpose is to enable you to comply with the requirements included in the Regulation of the State Secretary for Infrastructure and the Environment of 3 February 2014, number IENM/BSK-2014/14758, laying down rules concerning waste electrical and electronic equipment, last amended on 28 November 2020 (hereinafter: the WEEE Regulation).

The agreed specific activities are laid down by the OPEN Foundation in the Audit Protocol Put on Market EEE in the Netherlands effective from 1 March 2021 with reference <<to be included>>.

The terms and conditions of the contract are described in our order confirmation of <<Date>> with reference <<....>>.

### Responsibilities

It is your and the OPEN Foundation’s responsibility to determine whether the agreed specific work is adequate and suitable for the purpose described above.

We conducted our work in accordance with Dutch law and in conformity with Dutch Standard 4400N, "Assignments for providing agreed-upon specific services", and the Audit Protocol Put on Market EEE in the Netherlands effective from 1 March 2021 with reference <<to be included>>. Under the performance of this engagement we have adhered to the relevant ethical rules that apply to us in the Verordening gedrags- en beroepsregels accountants (VGBA) (Regulation on the Auditor's Conduct and Professional Rules).

Further to this, we have complied with the independence rules of the Verordening inzake de onafhankelijkheid van accountants bij assurance-opdrachten ((ViO) Auditor's Independence Regulation for assurance engagements).6

### Activities and findings

This section contains a description of the specific activities agreed upon and reports on our factual findings based on the work performed, in addition to the explanation of the terms of reference of the engagement stated in the paragraph Engagement.

We do not make any statement on the adequacy of the specifically agreed upon activities or on what the factual findings mean for the participants' statements as a whole. You and the OPEN Foundation will have to make your own assessment on this matter, with regard to which you and the OPEN Foundation can make use of this report of factual findings and any other available information.

6 If the auditor has not complied with the provisions on independence as laid down in the ViO, this sentence will be deleted.

The specifically agreed activities to be performed are derived from section 2.3 of the Audit Protocol Put on Market EEE in the Netherlands effective from 1 March 2021. Our work and our findings are as follows:

|  |  |  |
| --- | --- | --- |
| **Work step** | **Work performed** | **Factual findings** |
| 1 | <<to be completed>> | <<to be completed>> |
| 2 | <<to be completed>> | <<to be completed>> |
| 3 | <<Et cetera> | <<Et cetera> |

**[If applicable*:*** Due to [... (reason)] it was not possible to perform the following agreed specific work: ...].

### Restriction in use and distribution

The expectations of the intended users have been taken into account in drafting this report. Therefore, this report is intended for you and the OPEN Foundation only. This report shall not be issued to others without our prior consent, unless statutory regulations dictate otherwise. Passages from this report shall not be (caused to be) quoted either, whether or not with acknowledgement of the source.

<<Place and date>>

<<Name of accountancy firm>>

<<Name of auditor>

Initials for authentication purposes:

Appendix: certified copy of the participant reports, drawn up by the Board of << Name of participant>>.