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Re: Consultation on the report on End of Life Vehicles in the Producer Responsibility Initiative sector in Ireland

Dear Sir or Madam,

I refer to your Department's consultation on the report on End of Life Vehicles (ELVs) in the Producer Responsibility Initiative (PRI) sector in Ireland and the invitation to make a submission.

The EPA's national waste statistics team has collated, validated and reported data required in order to meet the legislative reporting requirements of Commission Decision 2005/293/EC since the ELV Regulations (SI No 282 of 2006) were introduced. The EPA therefore has had a national overview of ELV treatment at authorised treatment facilities (ATFs) and shredders for a number of years.

The ELV Directive is the only PRI Directive where Ireland is currently failing to meet its targets. The PRI review report gives an overview of the existing system and sets out recommendations for changes to the system. Any new regulations must ensure that the obligations of producers, treatment facilities, compliance schemes (or similar bodies) and regulators interweave with the aim of meeting the ELV Directive targets, especially with the more onerous targets coming into force 1 January 2015.

ATF Level Depollution

The Second Schedule of the ELV Regulations sets out the minimum technical requirements for appropriate treatment and recovery of ELVs. The requirements under part 4, which are to promote the recycling of ELVs, are not being met at all ATFs. Our observation is that ATFs are unaware of all their obligations under the Second Schedule, and that the obligations are not being enforced. We agree that guidance is needed on Second Schedule requirements (recommendations, page 33), but this should be developed once the ELV PRI has been revised.

Co-location of shredders and ATFs

We are not convinced that co-location of shredders and ATFs is a problem (page 33). Undepolluted (or 'fresh') ELVs are assigned an EWC code 16 01 04* on arrival at a shredder/ATF. Depolluted ELVs are assigned EWC 16 01 06. 'Fresh' ELVs (16 01 04*) are depolluted at the co-located ATF prior to shredding.

There is the possibility that undepolluted ELVs arriving at the site are reported as EWC 16 01 06 and are not recognised as undepolluted, but the same could happen at a shredder facility without a co-located ATF.

We are not sure that the recommendation (page 35) to increase monitoring of ELVs accepted by shredders to establish if they are depolluted or undepolluted would work in practice. If a load of ELVs (possibly baled) arrives at a shredder, and the load is reported as depolluted ELVs by the carrier, these checks are nearly impossible. What we think would work is if the shredders were asked to keep an electronic record of the number/tonnages of depolluted and 'fresh' ELVs accepted from each facility they trade with (ATFs, metal handlers and others). The number/tonnages of 'fresh' and depolluted ELVs sent to shredders as reported to the EPA by ATFs and metal handlers can then be compared to the number/tonnages of fresh and depolluted ELVs accepted at shredders from ATFs and metal handlers. This will show up errors in reporting and will help to pin-point facilities that send ELVs that have not passed through an ATF to shredders. This system would have to be set up very carefully and the information flow would need to be thought through and discussed with the shredders before the information is requested.

A well thought out system to stop undepolluted ELVs getting to shredders has a better chance of success compared with a system that tries to detect undepolluted ELVs in loads accepted at shredders.

Difference between ELV arisings and CoDs issued

The report (page 36) gives several reasons why ATFs receive ELVs but do not issue CoDs. In our view, bullet points 4 and 5 are not reasons why ATFs would fail to issue a CoD. Also bullet point 5 (scrappage of Irish registered vehicles in other Member States) does not contribute to the difference between ELVs arising and CoDs issued because such vehicles are not contained in Ireland's ELVs arising figures.

Consideration should be given as to whether ATFs should be legally obliged to use the electronic system for notifying the National Vehicle and Driver File (NVDF), introduced by the Department of Transport in 2010. Only a small percentage of ATFs are currently using the system. The e-system could be developed to allow the ATF to record ELVs in cases where a CoD cannot be issued (eg registered owners do not have vehicle registration papers), but which would allow NVDF to flag ELVs accepted at ATFs (if this provision does not already exist in the system). NVDF statistics would then record ELVs accepted for depollution as well as CoDs issued. Registered owners who have lost their vehicle documentation could bring their ELVs to an ATF and be provided with a record that they have brought the ELV to an ATF for depollution. The incentive to bring an ELV to an ATF that would provide you with evidence would be strongest if the CoD became essential to rid a registered owner of his/her motor tax responsibilities.

Achieving EU ELV Directive Targets

The report outlines a number of developments which had a positive impact on Ireland's recovery and recycling rates (Section 10.3, page 39). Another development is that for 2011 data reporting, EPA replaced the average weight of an undepolluted ELV based on the 2009 Irish shredder trial with the average weight of an undepolluted ELV based on data supplied by the producers (although there were gaps in the data supplied by the producers). The average weight has a big impact on the recycling and recovery rates achieved. It is therefore very important that a new shredder trial is carried out to facilitate the supply of weights for all ELVs in the trial from manufacturers and comparison of these weights with the 'fresh' ELV weights of the cleaned ELVs selected for the trial.

The report (page 40) recommends (i) increased dismantling and (ii) post-shredder treatment abroad to increase recycling rates. Given the fact that pre- and post-shredder recycling and recovery are influenced by a great number of issues, both options should be left open to allow ELV treatment to be adjusted according to changes in markets, regulations, vehicle design and recycling technology. Material contained in auto shredder residue depends on how much dismantling is done before shredding, and the economies of dismantling depend also on whether or not there are markets for recyclable materials from shredder residue. For example, it can be difficult to find use for post-shredder recyclables (eg glass), which may then only leave increased, subsidised, dismantling as an option for the recycling of specific materials.

The report recommends (page 41) the imposition of explicit minimum recycling and recovery targets on shredder facilities, and that these targets are graduated according to the level of ELV treatment that occurred at ATFs prior to shredding. We think that it would be impossible to verify recycling and recovery achieved at shredders in relation to particular batches of ELVs. For Ireland to reach the ELV Directive targets, we need a new shredder trial that yields an up-to-date and reliable average ELV weight and ferrous and non-ferrous metal recovery achieved in connection with ELVs shredded in the State. The ELV shredder and depollution trial will also provide information on the average weights of metal and non-metal recycling and recovery from depollution according to the second schedule of the ELV Regulations.

Overall, the trial will therefore yield an average percentage of metal recycling from ELVs depolluted and shredded in the State and an average non-metal recycling and recovery percentage achieved for ELVs depolluted in the State. The difference between these average recycling and recovery percentages and the EU targets can be made up by either post-shredder recycling and recovery of shredder residue, or by increased dismantling at ATFs and reuse, recycling or recovery of the dismantled materials.

The recycling and recovery of non-metal from ELVs is likely to incur a cost. This cost arises at ATFs or post shredding. The commercial interaction between ATFs, shredders and producers and/or compliance bodies should work out a flexible system to assign costs and benefits according to where reuse, recycling and recovery is achieved. For example, if an ATF undertakes reuse, recycling and recovery in excess of the minimum described in the Second Schedule of the ELV Regulations, less recycling and recovery will be necessary on material from this ATF post shredding, which should be credited to the ATF.

Producers (or compliance bodies) must co-operate with contracted ATFs to achieve and provide evidence of meeting the reuse, recycling, recovery targets. Co-operation would include negotiation with shredders, supporting ATFs with IT systems and financial support for specific, well defined dismantling tasks (see comments re compliance scheme below also).

ATFs who do not take part in a compliance scheme (or similar body) and export ELVs have to make sure that the non-metal recycling and recovery allocation they can expect from foreign shredders in combination with the metal and non-metal recycling and recovery from their own activities covers the shortfall between the foreign average metal recycling percentages and the ELV recycling and recovery prescribed by the ELV Directive.

Under the existing regulations, any non-contracted ATFs are obliged to meet the recycling/recovery targets. Our experience is that ATFs are not aware of this obligation, and it is not being enforced.

Overall and for each scenario, it is very important that we develop a reliable system and data flow that can be followed along all ELV treatment processes.

Structure of the ELV PRI and Need for Compliance Scheme

We agree with the recommendation (page 46) to establish a compliance scheme (or similar body) for ELV PRI. The compliance scheme should be responsible under its authorisation to meet national targets, and have sanctions where they are not met. We agree that the compliance schemes should be funded by producers but that consideration should also be given to introducing a levy to be paid by the vehicle owner when the vehicle is first licensed. This could serve as an additional funding mechanism, if necessary.

The producer/levy funding could be used by the compliance scheme to subsidise the treatment of ELVs at ATFs, where certified that treatment has taken place at least in accordance with the legal requirements. Minimum subsidy could apply where minimum depollution required by the regulations is carried out, and increased subsidy to incentivise additional dismantling and reuse, recycling and recovery of mainly non-metal parts. Funding could target removal of non-metal parts that are currently difficult to market if removed by post-shredder treatment (eg glass). As technology and market outlets change over time, the application of subsidies needs to be fluid to reflect this.

Producers should be required under any amended legislation to fund any characterisation studies that are required to fulfil legislative reporting obligations.

Information, Education and Awareness

Awareness campaigns could be targeted at points where consumers will pay attention to the information, such as when they are preparing to buy or sell a car (eg at car dealerships). Another option could be to use the motor tax renewal communications/NCT communications to raise awareness. Any official documentation regarding registration/deregistration of vehicles should remove references to 'scrapping' of vehicles and direct owners to authorised ATFs and obligations to provide CoD reference data. A compliance scheme should have obligations within their authorisation to lead awareness campaigns and provide funding for same.

There is also the need for guidance/awareness raising of ATFs regarding their obligations under the regulations. Guidance and training for local authorities on the enforcement of key obligations under the regulations should ensure consistent application across the State. These would ideally be developed in tandem with amending regulations.

Data Collection and Reporting

The report states that 'producers and ELV treatment facilities must report on indicators which reflect the environmental performance of a business in the context of achieving the targets set out in the ELV Regulations' (page 48). However, because EPA does not agree with the calculation approach used by the producers, and the annual returns submitted to local authorities do not provide adequate information to inform ELV Directive reporting obligations, the EPA gets information to inform ELV Directive reporting obligations from (i) annual surveys of all authorised treatment facilities/metal handlers (ii) annual surveys of shredders (iii) data from the 2009 ELV depollution and shredder trial (iv) average vehicle weight data from producers (v) shredder credits provided from UK shredders (vi) shredder trial data from UK (vii) data on recovery of shredder residue and metal recycling from the shredder residue at Indaver Carranstown. Local authorities provide the EPA with details of ATFs permitted in their functional area each year so that EPA can ensure that they are surveying all authorised ATFs.

We agree that there is multiplicity of reporting and reporting needs to be streamlined (recommendations, page 51). The EPA ATF and shredder surveys were implemented because the waste facility permit annual returns do not provide the information needed for Commission reporting. Ideally, ATFs would report once, have their data validated once and then used many times by the various stakeholders who need the information. This would be more efficient for regulators and reduce the reporting burden on operators. The annual reporting template needs to be flexible, to incorporate new questions should a new data need arise. The EPA has found that the response rate for the ATF/shredder surveys is high (it has improved in recent years) but there is a resource effort in chasing the operators to achieve these high rates. A considerable number of ATFs still provides returns in hard copy. Any review of regulations should include a legal requirement that operators co-operate with electronic reporting.

Amended regulations should require that the compliance scheme (or similar body), self-compliers, ATFs and shredders make data available to the EPA in the format and at the frequency required in order to meet legislative data reporting needs. It is very important that there is a data trail from the point where a car becomes an ELV throughout the treatment network, which can be reviewed and verified by the EPA, who will need to validate these figures for Commission data reporting. The EPA therefore should be given authorisation to verify data held by compliance schemes, self-compliers, shredders and ATFs which is needed for legislative reporting purposes. Any reporting system/protocols set up by the producers/compliance schemes must be agreed by the EPA as fit for purpose for national legislative reporting obligations.

We agree that investigating the expansion of the Department of Transport's electronic CoD system to integrate a waste reporting module could be useful. A compliance scheme would also have data needs and perhaps the compliance scheme and e-CoD system should be integrated instead. When drafting amending legislation it is important to keep in mind the reporting burden on ATFs and aim to minimise this. ATF/shredder reporting of data to compliance scheme could satisfy some elements of annual return reporting, once the compliance scheme was obliged to provide the data to the regulators.

We would see that there would always be a role for EPA in validation/data verification as long as we are supplying the data to the Department of the Environment, Community and Local Government for Commission data reporting.

Enforcement

Most of the existing PRI legislation gives enforcement obligations to all local authorities, and this is probably not the most effective means of enforcing legislation, particularly where each local authority has a role in setting up registers, enforcing permit obligations etc and multiple systems and local variations can be introduced. We think that rather than set up a dedicated central PRI enforcement unit within a local authority or region (recommendations, page 56), there would be benefit in planned enforcement campaigns, such as undertaken for the unauthorised ELV waste sites. Such campaigns could be co-ordinated through NIECE (network of enforcement agencies) and feature as priority work within the annual RMCEI plans. Such enforcement campaigns could focus initially on enforcement issues that give a long-term benefit in relation to meeting the ELV Directive targets, such as ensuring that the Second Schedule obligations for treatment of ELVs are being enforced. Another effective enforcement campaign could be to identify operators (authorised or unauthorised) that are sending undepolluted ELVs to shredders for shredding but declaring them as depolluted ELVs.

Another argument for not having a dedicated central PRI enforcement unit is that facilities that handle PRI waste also handle non-PRI waste, so the facility may be subject to multiple enforcement visits by regulators.

Administrative sanctions (such as fixed penalty notices) that can be applied by enforcement authorities would be a good introduction to all PRI legislation, because the regulators don't have to rely on going to District Court for imposition of penalties where non-compliances occur. The preparation of a prosecution case is resource intensive.

Regarding collaboration of enforcement authorities and compliance schemes to improve identification of non-compliant operators; care must be taken to ensure that using intelligence provided by the compliance scheme/compliant producers is never considered as an obligation on regulators to act on intelligence provided. The format in which this intelligence is provided needs to be dictated by the enforcing authorities.

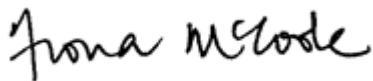
General points:

- There are three metal shredders in the State that process ELVs (there are other metal shredders that don't process ELVs). The treatment of the shredder outputs as described (eg on page 17, 20, 21 and 60 of the report) is out of date.
- The definition of producers and their obligations within the report is inconsistent. Vehicle importers are producers but not referenced as producers on page 1. Page 10 references "obligations for compliance with the legislation fall on manufacturers of vehicles imported into the State". Our understanding is that compliance obligations fall on vehicle importers, not the foreign manufacturers. Elsewhere in the report, producers are described as 'vehicle manufacturers and professional importers'. The final paragraph of page 16 refers to other 'legal economic operators' and incorrectly includes 'unauthorised waste facilities' in this group.
- The report states that 'The EPA reported that in 2010 158,237 ELVs....were accepted for depollution' (Section 8.1, page 17). The reference is not given but we expect it is the quality report to the European Commission for the 2010 data reporting obligation, which stated that 158,237 ELVs arose in 2010. The EPA assumed that the 158,237 ELVs were depolluted. However, 'accepted for depollution' implies that the quoted number of ELV was accepted at ATFs as only ATFs are entitled, by law, to depollute ELVs. The number of ELVs arising in Ireland contains ELVs that were shredded in Ireland but not reported as depolluted by ATFs. This is described in the quality report that accompanied the data return to the European Commission.
- In reference to footnote no. 46 (page 32) please note that the EU also allows glass removal from shredder residue.
- Page 39, bullet points 1 & 2. If these points relate to the data in Table 10.1 (page 38), which are the data tables reported to the Commission under the ELV Directive legislative reporting obligation, the interpretation is incorrect. Bullet point 1 - what is reported as tonnes treated at ATFs and exported for treatment relates to non-metal wastes only. Bullet point 2 - in 2010 the ferrous and non-ferrous fractions were also exported as waste.

A very high priority measure is to carry out a new depollution and shredder trial, especially to revise the average weight of an undepolluted Irish ELV. The shredder trial must include metal recovery in connection with shredders currently processing ELVs in the State; otherwise the data output will not be representative of what is happening in the State.

If you have any queries regarding this submission please do not hesitate to get in touch.

Yours sincerely

A handwritten signature in black ink that reads "Fiona McCoolle". The signature is written in a cursive, slightly slanted style.

Fiona McCoolle
National Waste Statistics Team
Office of Climate, Licensing, Resource & Research