

National Association of Waste Disposal Officers

GOVERNMENT CONSULTATION ON THE TRANSPOSITION OF ARTICLES 45689 AND ANNEXES I AND II OF THE END OF LIFE VEHICLES DIRECTIVE (2000/53/EC): "THE END OF LIFE VEHICLES REGULATIONS 2003 AND THE END OF LIFE VEHICLES (STORAGE AND TREATMENT) (ENGLAND AND WALES) REGULATIONS 2003"

RESPONSE BY THE NATIONAL ASSOCIATION OF WASTE DISPOSAL OFFICERS (NAWDO)

1. The National Association of Waste Disposal Officers welcomes the opportunity to comment on the proposed regulations.
2. NAWDO supportive of the principles of the directive in seeking to place responsibility for end of life vehicles (ELV's) with producers under the "producer responsibility" principles. However, NAWDO is disappointed that the UK Government has chosen to delay the implementation of full producer responsibility until 1 January 2007. Requiring last owners of vehicles to pay for the pollution costs until this time will result in a significant increase in the numbers of abandoned vehicles presented to local authorities for disposal. Whilst the Government have gone some way to recognise the financial implications to local authorities of this, it is very disappointing that the Government has chosen not to place the financial burden of implementing the Directive on the producers at this time.
3. The principle impact of the proposed regulations on Waste Disposal Authorities will be in relation to their statutory functions to deal with abandoned vehicles.
4. *The Government seeks views on the definition of "put on the market".*
5. This definition is important to provide the distinction as to whether vehicles fall under the free take back provisions of the Directive or not. In some cases, it will not be possible to determine when a vehicle was put on the market, possibly due to

the removal of its identification marks or VIN. In such cases there needs to be an objective test capable of being applied, probably based on the mark and model of the vehicle, to determine, on the balance of probabilities, whether or not a vehicle falls within the scope of the regulations. For example, manufacturers records will show the probable age of a vehicle across a range of dates depending on the model and trim used. The numbers concerned are likely to be very low (at least to begin with) and NAWDO therefore proposes that in such cases, there should be a presumption that the vehicle was first put onto the market after the relevant date, thus including it in the free take back provisions. This would then provide manufacturers with an incentive to ensure adequate dating information is in the public domain to date the vast majority of vehicles not identifiable from the VIN.

6. *The Government seeks views on the provisions for free take back of vehicles put on the market from 1 July 2002.*
7. It is unclear from the regulations what would constitute a complete vehicle. As the obligation to take back free of charge applies only to complete vehicles it is important that this definition is again understood and objective. Many vehicles which are abandoned will rapidly become devoid of any high value or useable parts however, NAWDO maintains that such a vehicle should still be considered an end of life vehicle for the purposes of the regulations. NAWDO suggests that the vehicle has come to the end of its useful life and should fall within the definition of a vehicle subject to the take back provisions. The fact that it has been abandoned, and its probable devaluation arising as a consequence of its abandonment, should not remove it from inclusion within the definition. If any or all abandoned cars fall outside the definition of ELV then there is a perverse incentive on producers not to attract vehicles through take-back. However, if all abandoned cars are considered ELVs which are required to be taken free of charge then there is an incentive on producers to ensure sufficient ATFs to minimise cars being abandoned. Therefore, NAWDO maintains that all abandoned cars collected by local authorities, regardless of their condition or existence of constituent parts should be considered as ELV's and subject as free take back provisions.

8. Whilst it is accepted that relatively few abandoned vehicles will be subject to free take back provisions until 2007, it is important that these principles are established from the outset. NAWDO looks forward to the proposed further consultation of free take back for complete ELV's post 2006 put onto the market.
9. NAWDO also requests that it be made explicit that the obligations relating to free take-back can not be avoided by the assignment of a notional value to an ELV. It is important that the determination of "value" is made after the costs of de-pollution have been deducted from any market value of the ELV prior to it's destruction, and not before. For example, an ELV may have a market value of say, £20 before the costs of de-pollution are deducted, but a net negative market value of say, £40 after the costs of de-pollution are taken into account. Unscrupulous traders should be prevented from taking advantage of this potential loophole.
10. In relation to the partial regulatory impact assessment, NAWDO disagrees with the Government statement in relation to issues of equity and fairness. The draft regulations are inequitable in that they fail to provide free take back of vehicles put onto the market before 1 July 2002. Free take back provisions are therefore only available for relatively high value vehicles most likely to be owned by high income households or businesses. Requiring last owners to pay for de-pollution costs until 2007 for vehicles placed on the market before July 2002 will place additional financial burdens on lower income households as they are predominantly the last owners of ELV's.
11. Paragraph 38 of the RIA refers to costs and numbers associated with end of life of processing ELV's. NAWDO assumes the estimated cost of £60.00 per ELV refers to vehicles with all their constituent parts, and in a relatively good condition. It is highly likely this cost will be significantly greater for serious damaged vehicles with few recoverable parts, and especially vehicles which have been subject to fire. Such vehicles would in themselves be much more hazardous and require further treatment than a typical end of life vehicle. The regulatory impact assessment takes no account of the additional costs the local authorities of dealing with more abandoned vehicles and the high

unit rates that are likely to apply as last owners take more measures to prevent the identification of vehicles and therefore avoid being traced. This will inevitably lead to more vehicles being abandoned and burnt out, probably with the VIN removed in the process.

12. *Parts of the consultation document refers to article 6 and annex 1 of the directive.*
13. NAWDO supports the principles of applying appropriate permitting to all premises storing or treating ELV's however, it is unclear as to whether the permits would be expected to apply to storage of abandoned cars pending their establishment of ELV's. It is probable that the majority of abandoned cars will go on to be proven to be ELV's however, the objective must continue to be to remove abandoned cars as quickly as possible from the highway. Care must be taken to ensure that the regulations are not providing a perverse incentive whereby it would be less costly and easier to leave the vehicles in place and for them to be transported directly to the ATF when they are established as ELV's. NAWDO suggests that the permitting regulations recognise opportunities to grant exemptions to storage facilities where abandoned cars are stored pending their determination as ELV's. Such exemptions could be subject to minimum standards and maximum numbers to provide further comfort that no undue risk of environmental pollution would result.
14. Paragraph 5.2 on page 54 deals with consignment of ELV's under the special waste regulations. It is important that this is acknowledged and that it will not apply to the removal of an abandoned vehicle from the public highway to a point of storage or disposal. Consignment in such circumstances would again provide a perverse incentive to leave the vehicle where it is pending final disposal and treatment.
15. Section 9 on page 58 deals with planning permissions for ATF's and storage facilities. NAWDO is concerned that the requirements for planning permissions should not frustrate the ability for industry to develop the appropriate ATF's and storage facilities necessary. As with the issue concerning refrigerators during 2002, it is imperative that industry is enabled to develop the

appropriate infrastructure in time for the implementation of the regulations.

16. NAWDO is pleased to provide the comments above in response to the Governments consultation and implementation of the end of life vehicles directive. Further questions or clarification should be directed to:

Ian Fielding - Vice Chairman NAWDO,
c/o North Yorkshire County Council
County Hall
Northallerton
North Yorkshire
DL7 8AH
Tel 01609 532161

(NB whilst the text of this consultation response is based on that submitted separately by one of the members of NAWDO, the original text has been edited so that the thrust of the comments can be considered to be entirely representative of the views of the Association)