



Consultation on the Transposition of Articles 4, 5, 6,
8, 9 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

7 March 2003

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INTRODUCTION

PURPOSE OF THE CONSULTATION

- 1.1 This consultation document seeks your views on two draft Statutory Instruments, entitled:
- (a) The End of Life Vehicles Regulations 2003
 - (b) The End of Life Vehicles (Storage and Treatment) (England and Wales) Regulations 2003
- to be made under section 2(2) of the European Communities Act 1972. These may be merged into a single Statutory Instrument.
- 1.2 When approved, these Regulations will transpose into law certain provisions of Directive 2000/53/EC on End-of-Life Vehicles. Some aspects relate to devolved matters, and separate regulations may be made for Scotland and Wales. There will also be a further consultation shortly on draft regulations in respect of the remaining provisions of the Directive. Northern Ireland will publish similar separate consultation papers in relation to (a) and (b) above in the near future.

RESPONSES

- 1.3 You may respond either to DTI or to Defra, who will copy responses to one another, and to the devolved administrations, as appropriate:

By e-mail: peter.cottrell@dti.gsi.gov.uk

By post: Peter Cottrell
Technological Innovation and Sustainable
Development Directorate
Department of Trade and Industry
Bay 426 (Red Zone)
151 Buckingham Palace Road
London SW1W 9SS

or By e-mail: rachel.clifton@defra.gsi.gov.uk

By post: Rachel Clifton
Waste Management Division
Department for Environment, Food and Rural
Affairs
Bay 7/H11
Ashdown House
123 Victoria Street
London SW1E 6DE

CLOSING DATE

- 1.4 Responses must be received by 6 June 2003.

OUTCOME

- 1.5 It is our intention to publish the outcome of this consultation shortly after the closing date for responses.

CONFIDENTIALITY

- 1.6 Responses to this consultation document may be made publicly available in whole or in part, at the Departments' discretion. If, in responding, you do not wish all or part of your response (including your identity) to be made public, you should state in the response which parts you wish us to keep confidential. Where confidentiality is not requested, responses may be made available to any enquirer, including enquirers from outside the UK, or published by any means, including on the Internet.

CONSULTATION PAPER AVAILABILITY

- 1.7 The consultation document is available on the DTI and Defra websites (www.dti.gov.uk and www.defra.gov.uk) and may also be obtained on request from Peter Cottrell or Rachel Clifton, whose details are given in paragraphs 1.3 and 1.8.

HELP WITH QUERIES

- 1.8 If you would like help with queries or further information about the consultation covering Articles 4, 5, 8, 9 and Annex II, please contact Peter Cottrell (DTI), Bay 426, 151 Buckingham Palace Road, London SW1W 9SS; e-mail: peter.cottrell@dti.gsi.gov.uk; telephone: 020 7215 1330; fax 020 7215 5860.
- 1.9 If you would like help with queries or further information about the consultation covering Article 6 and Annex I, please contact Rachel Clifton (Defra) 7/H11, Ashdown House, 123 Victoria Street, London SW1E 6DE; e-mail: rachel.clifton@defra.gsi.gov.uk; telephone 020 7944 6401; fax 020 7944 6409.

BACKGROUND TO THE DRAFT REGULATIONS

2.1 The End of Life Vehicles (ELV) Directive (2000/53/EC) came into force on 21 October 2000. Member States should have transposed the Directive into national law by 21 April 2002. Copies of the Directive are available on www.dti.gov.uk

2.2 The Directive aims to reduce the amount of waste from end-of-life vehicles. In particular it:

- restricts the use of certain heavy metals in the manufacture of new vehicles;
- requires the establishment of adequate systems for the collection of ELVs;
- states that owners must be able to have their complete ELVs accepted by these systems free of charge, even when they have a negative value. This should apply from the date upon which the Regulations come into force, in respect of vehicles first put on the market on or after 1 July 2002;
- requires producers (vehicle manufacturers or importers) to pay 'all or a significant part' of the costs of take back for complete ELVs with a negative or no value;
- requires that ELVs can only be scrapped ('treated') at authorised facilities, which must meet tightened environmental treatment standards;
- introduces a Certificate of Destruction, which triggers the removal of a scrapped vehicle from the national register;
- requires that certain components are marked to aid recovery and recycling, and that information is provided to aid dismantling.

These provisions are the subject of the draft Regulations appended to Parts 1 and 2 of this Consultation Document.

The ELV Directive also:

- states that owners must be able to have their ELVs, if complete, accepted at authorised treatment facilities free of charge, whatever date they were first put on the market, from 1 January 2007 at the latest;

- sets rising re-use, recycling and recovery targets which must be achieved by January 2006 and January 2015.

These provisions will be the subject of draft regulations to be published for further consultation in due course.

Certain other provisions of the Directive have yet to be finalised under the European Commission-led Committee procedure provided for in the Directive.

THE CONSULTATION DOCUMENT -- PART 1 (covering Articles 4, 5, 8, 9 and Annex II of the ELV Directive)

The draft Regulations are arranged in the following Parts:

Part I	GENERAL
Part II	APPLICATION
Part III	DESIGN REQUIREMENTS
Part IV	INFORMATION REQUIREMENTS
Part V	CERTIFICATE OF DESTRUCTION
Part VI	TAKE BACK OF VEHICLES

Schedule 1	Exemptions from the heavy metals restrictions
Schedule 2	Minimum requirements for the Certificate of Destruction
Schedule 3	Enforcement of the design requirements
Schedule 4	Specimen form of compliance notice
Schedule 5	Information in Certificate of Compliance

Part 1 GENERAL

1.1 This part of the draft Regulations gives their title, and defines a number of terms used. The latter reflect the definitions appearing in the ELV Directive itself.

1.2 “Vehicle” in this context means one designated as category M₁ or N₁ as defined in Directive 70/156/EEC (the Type Approval Directive – broadly passenger cars and light vans – and three wheel motor vehicles, as defined in Directive 92/61/EEC; and an “end-of-life vehicle” means a vehicle which is waste within the meaning of Article 1(a) of Directive 75/442/EEC (the Waste Framework Directive).

Part II APPLICATION

1.3 This part explains that the Regulations apply where appropriate to new vehicles, including their components and materials, and to end-of-life vehicles, irrespective of their being equipped with components other than those present at the time the vehicle was first put on the market.

1.4 It also specifies those provisions that do not apply to vehicles produced in small numbers, special purpose vehicles, and three-wheel motor vehicles.

Part III DESIGN REQUIREMENTS

1.5 This part of the Regulations transposes the provisions of Article 4 of the ELV Directive, restricting the use of certain heavy metals in the manufacture of vehicles, with exemptions, some of which are time-limited.

Prohibition on heavy metals

1.6 Article 4 of the Directive states that materials or components of vehicles put on the market after 1 July 2003 may not contain lead, mercury, cadmium or hexavalent chromium other than in cases listed in the Directive's Annex II. The Directive also requires that Annex II be regularly reviewed. The first of these reviews has already taken place, with a revised Annex II being published in the Official Journal of the European Communities on 29 June 2002. The review process included two technical studies completed by an independent consultant appointed by the European Commission, as well as investigations carried out directly by the Commission services. The Commission also had several meetings with the relevant economic operators, as well as discussions with member States. The text of the revised Annex II, which was adopted by the EU Waste Legislation Technical Adaptation Committee on 22 May 2002, is reflected in Schedule 1 to the draft regulations.

Maximum Concentration Values

1.7 It is evident that a zero level of restricted substances is in some cases impossible to achieve. This is especially true when manufacturers are using certain recycled materials, whose composition may not always be as readily monitorable as virgin materials. The first review of Annex II also addressed this issue, and recognised it by adding a paragraph providing for a range of tolerances of unintentionally introduced heavy metal impurities in specified materials. These tolerances are in line with current EC legislation on hazardous substances and preparations.

1.8 We construe the heavy metal restrictions as applying to vehicle components that are required for that vehicle to perform its function of carrying passengers. We take the view that the heavy metal restrictions do not apply to accessories added to special purpose vehicles, for example medical equipment in ambulances, kitchen equipment in motor caravans, in

order for them to carry out their particular special purpose. We propose to implement in a way that makes this point clear.

1.9 We would welcome your views on this issue.

Replacement Parts for Vehicles

1.10 The heavy metals restrictions in the Directive apply to vehicles put on the market on or after 2 July 2003. The restrictions also apply to replacement components for such vehicles, but not to replacement parts for vehicles put on the market before these dates.

1.11 The expression “put on the market” is not defined in the Directive. It is often used in the context of single market measures. It is understood (in the context of New Approach Directives) to mean when a product is made available for the first time within the Community. This is considered to occur when a product is transferred from the manufacturing stage with the intention of distribution on the Community market.

1.12 We would welcome your views on the implications of this interpretation.

Enforcement

1.13 It is proposed that the Vehicle Certification Agency should be the enforcement authority for this part of the regulations. Producers will be expected, at the request of the enforcement authority, to submit technical documentation or other information showing that vehicles comply with these design requirements.

1.14 Do you agree that the enforcement regime described in the regulations is satisfactory?

Part IV INFORMATION REQUIREMENTS

1.15 This part of the Regulations transposes some of the provisions of Articles 8 and 9 of the Directive. A European Commission decision, under Article 8, is expected to be published shortly, which will provide for standards in respect of the coding of plastic and rubber components, weighing more than 100 grammes and 200 grammes respectively, as an aid to recovery and recycling. The Regulations are expected to have accommodated this Decision before they come into force.

1.16 Article 8 of the Directive also requires vehicle manufacturers, within 6 months of putting a new vehicle type on the market, to make available dismantling information in respect of that vehicle type, to aid re-use, recovery and recycling.

1.17 Article 9 of the Directive requires, amongst other things, that producers publish information regarding the design of vehicles, with a view to their recoverability and recyclability.

Enforcement

1.18 It is proposed that the Vehicle Certification Agency should be the enforcement authority for this part of the Regulations. Producers will be expected at the request of the enforcement authority to submit information showing that coding standards have been used, and that information regarding vehicle design has been published.

1.19 Do you agree that the enforcement regime described in the regulations is satisfactory?

Part V CERTIFICATE OF DESTRUCTION

1.20 This part of the Regulations sets down the arrangements which are proposed for the introduction and issue of a “Certificate of Destruction”.

1.21 Article 5.3 of the ELV Directive states:

Member States shall set up a system according to which the presentation of a certificate of destruction is a condition for deregistration of the end-of-life vehicle. This certificate shall be issued to the holder and/or owner when the end-of-life vehicle is transferred to a treatment facility. Treatment facilities, which have obtained a permit in accordance with Article 6, shall be permitted to issue a certificate of destruction. Member States may permit producers, dealers and collectors on behalf of an authorised treatment facility to issue certificates of destruction provided that they guarantee that the end-of-life vehicle is transferred to an authorised treatment facility and provided that they are registered with public authorities.

Issuing the certificate of destruction by treatment facilities or dealers or collectors on behalf of an authorised treatment facility does not entitle them to claim any financial reimbursement, except in cases where this has been explicitly arranged by Member States.

1.22 In order that the Certificate of Destruction (CoD) is mutually recognised and accepted in all Member States (so that, for example, cars becoming ELVs while being driven in another EU country can be legitimately removed from the home register), a “minimum requirement” for the design of the CoD was drawn up by the European Commission and adopted by Member States. The form of the Certificate of Destruction which it is proposed should be introduced here will embody those minimum requirements, which are set down in Schedule 2 to these Regulations.

1.23 Although the Directive allows producers, dealers and collectors on behalf of authorised treatment facilities to issue CoDs, the Government believes that only authorised treatment facilities themselves should be able to issue CoDs. Once an ELV treatment facility becomes authorised by the Environment Agencies – see accompanying DEFRA consultation paper on Article 6 -- an electronic link will be established with DVLA (who have been trialling the process with more than 100 volunteer dismantlers and scrapyards over the past year).

1.24 Do you agree that only authorised treatment facilities should be allowed to issue CoDs?

1.25 Under the Regulations, the last owner or keeper (or, if a company, a representative) of a vehicle will be issued with a CoD when that vehicle is accepted by an authorised treatment facility as an ELV for depollution and dismantling, and the ATF's electronic link with DVLA has confirmed approval to issue. The generation of the CoD will trigger the deregistration of the vehicle from the DVLA register.

1.26 Once a CoD has been issued for an ELV, that vehicle may not be re-registered, although administrative arrangements will be put in place to allow this possibility when there has been a genuine mistake in the identity of a notified vehicle.

Part VI DELIVERY OF VEHICLES TO AUTHORISED TREATMENT FACILITIES

1.27 This part of the Regulations provides that authorised treatment facilities must accept end-of-life vehicles that were put on the market on or after 1 July 2002 without imposing a charge on the last owner/holder of the vehicle. This obligation applies where the vehicle is complete and has a negative value. The cost of this "free take back" will be met by producers, in respect of the vehicles which they put on the market on or after 1 July 2002, which are complete when presented at an authorised treatment facility, and which have a negative value.

1.28 Although it is likely that there will be very few such relatively young cars which fall into the category of having no value, producers will need to demonstrate to the enforcement authority that they have put in place suitable arrangements to enable this "free take back" service to be provided in respect of the vehicles which they put on the market. These arrangements will be for the producers to determine, but the enforcement authority will expect to see a communication link established with insurance companies, recovery businesses etc, and their representative organisations, such that vehicles put on the market from 1 July 2002 would, if complete and having a negative value, be eligible for free take-back at an authorised treatment facility.

1.29 It is proposed that the DTI will be the enforcement authority for this part of the Regulations. Producers will be expected to register with the Department their responsibility for the brands of vehicles which they put on the market from 1 July 2002, to thereafter submit certificates declaring their compliance with the free take-back provision, to the Department, and providing supporting documentation. The Department will need to be satisfied that the arrangements are sufficient to meet the likely demands for free take-back for such vehicles.

1.30 These proposals may change following the second consultation exercise on "free take-back" for all complete ELVs with a negative value, post-2006. Arrangements covering this later period may take a different form.

1.31 Do you agree that the system proposed for providing free take-back for vehicles put on the market from 1 July 2002 is satisfactory?

PARTIAL REGULATORY IMPACT ASSESSMENT (RIA) ON DRAFT STATUTORY INSTRUMENT RELATING TO THE IMPLEMENTATION OF ARTICLES 4, 5, 8, 9 AND ANNEX II OF DIRECTIVE 2000/53/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON END OF LIFE VEHICLES (THE 'ELV' DIRECTIVE)

BACKGROUND

1. This partial RIA discusses the potential costs, benefits and risks which could affect businesses, charities and the voluntary sector in the UK in relation to the Draft Statutory Instruments for implementation of Directive 2000/53/EC¹ of the European Parliament and of the Council on End of Life Vehicles (ELVs), as outlined in the main text of this consultation document.

ISSUE AND OBJECTIVE

2. The ELV Directive aims to reduce the amount of waste from end of life vehicles (ELVs). It introduces a number of measures in order “..to promote the prevention of waste..” from vehicles, and requires Member States to ensure that ELVs are treated to a set of required standards. It also sets rising reuse, recycling and recovery targets for material from ELVs.

RISK ASSESSMENT

3. The design requirements of the draft Regulations should reduce the risks of potential negative environmental impacts from the use and disposal of certain heavy metals as a consequence of the proposed restrictions on their future use. The information requirements of the draft Regulations should contribute to reducing the potential risks of negative environmental and economic impacts from ineffective or inefficient disposal of ELVs. The Certificate of Destruction (CoD) requirements of the draft Regulations should contribute to reducing the risks of certain types of car crime.

OPTIONS

4. This partial RIA considers the costs and benefits of the options for the different Parts of the draft Regulations as discussed in the main text of the Consultation Document.

ISSUES OF EQUITY AND FAIRNESS

5. The draft Regulations do not present any particular issues in relation to issues of equity and fairness. The requirements are consistent with those set

¹ And as amended by the EC Commission Decision of 19 February 2002 (2002/15/EC) and the Commission Decision of 27 June 2002 (2002/525/EC).

out in the text of the ELV Directive. The benefits of the requirements should be spread fairly evenly across different economic and social classes and different geographical regions in the UK.

IDENTIFYING THE BENEFITS

Part III of Draft Statutory Instrument ‘Design Requirements’ - Article 4 of the ELV Directive: Prevention

6. Article 4 of the ELV Directive deals with the prevention of waste from ELVs. It requires manufacturers to ensure that from 1 July 2003 materials and components of vehicles do not contain lead, mercury, cadmium or hexavalent cadmium. However, Annex II of the Directive allows a number of exemptions from these restrictions.

7. The heavy metal restrictions, and particularly the exemptions, have been the focus of much discussion, and the EC Commission published a decision on amendments to Annex II of the Directive on 27 June 2002, which subsequently replaced the original text.

8. The new text changes the thrust of Annex II in essentially two ways.² First, by accepting that “*..the total avoidance of heavy metals is in some instances impossible to achieve..*” it allows certain concentration levels of heavy metals in specific materials and components. Secondly, it allows a number of time-limited exemptions to the restrictions, given that over time “*..the use of those substances in such applications will become avoidable.*”

9. The benefits of Article 4 are principally in terms of the prevention of the possible release into the environment of potentially hazardous substances in the production of vehicles and the subsequent disposal of ELVs. It is not straightforward to estimate the amount of heavy metals that currently exist in the vehicles in the UK’s car parc, and future estimates are complicated by the exemptions. In addition, it is not easy to estimate the potential harm to the environment and human health from heavy metals in ELVs specifically, now or in the future.

10. In terms of Article 4 there should also be economic benefits from the avoidance of the costs of needing to remove hazardous materials from ELVs in the future and this in turn should help to facilitate material re-use and recovery, but these cost savings are difficult to quantify.

Part IV of Draft Statutory Instrument ‘Information Requirements’ – Article 8 of ELV Directive: Coding Standards/Dismantling Information, and Article 9 of ELV Directive: Reporting and Information

² The new Annex II involves 21 exemptions for materials and components from Article 4 of the Directive compared to 13 exemptions in the original text. It also provides a greater detail of transparency in relation to the original exemptions.

11. Article 8 of the ELV Directive requires Member States to ensure that producers and material and equipment manufacturers, use component and material coding standards to facilitate identification for reuse and recovery.

12. Article 8 also requires Member States to ensure that producers provide dismantling information for each type of new vehicle put on the market³ to enable the removal of hazardous substances from ELVs and to facilitate the achievement of the reuse and recovery targets laid down in Article 7 of the Directive. In addition, component manufacturers are required to provide relevant information to facilitate the reuse of components from ELVs.

13. There should be two main benefits from this Article. First, the easier identification of materials and substances should aid the re-use and recovery of material from ELVs and so reduce the potential negative environmental impacts of waste material from ELVs. Secondly, more ready identification should have a positive effect on the efficiency through which the Directive's treatment requirements and re-use and recovery targets are achieved.

14. The proposed enforcement regime in the draft regulations is likely to form part of the existing vehicle type approval process and so is not expected to result in significant costs to producers.

Part V of Draft Statutory Instrument 'Certificate of Destruction' – Article 5 of ELV Directive: Collection

15. Article 5 of the ELV Directive requires that a certificate of destruction (CoD) is a condition of deregistration of an ELV. The draft Regulations propose that only Authorised Treatment Facilities (ATFs) be allowed to issue CoDs to last owners/holders of ELVs as proof of appropriate destruction. This should help to secure the environmental benefits from treating ELVs to the new standards required by the Directive, and should also provide the benefit of minimising the risks of fraud.

Part VI of Draft Statutory Instrument 'Delivery of Vehicles to Authorised Treatment Facilities

16. Article 5 of the ELV Directive allows "free take back" for last holders of complete ELVs which were put on the market as new vehicles after 1 July 2002 and which have a negative value when they arise as waste. The benefits of this provision will be in terms of contributing to the overall aims of the Directive with respect to the environmentally sound disposal of ELVs in general.

³ Within 6 months of the vehicle first being put on the market.

QUANTIFYING AND VALUING THE BENEFITS

17. The environmental benefits from the design requirements set out in the draft Regulations are extremely difficult to quantify given that they depend on the pathway and the dose response functions through which hazardous substances can cause harm. Negative effects from hazardous substances are generally cumulative unless received in large doses, but the impacts can be significant though the likelihood of harm will differ between cumulative and 'one-off' impacts.

18. The benefits from the Certificate of Destruction (CoD) requirements are also difficult to quantify. The partial RIA produced for DTI's 2001 Consultation used information from the Home Office, which suggested that the CoD system could, in tandem with other policy measures, help to reduce the number of vehicles that are involved in insurance frauds and "ringing" by up to 50 per cent. If this were achieved this would bring benefits of some £200 million per annum, though it is difficult to disentangle the value of the benefits that will accrue from the introduction of the CoD alone given that it will form part of an overall system to reduce car crime.

BUSINESS SECTORS AFFECTED

19. The business sectors potentially affected are motor vehicle manufacturers and professional importers (SIC 3410), motor vehicle component manufacturers (SIC 3430), salvage operators, dismantlers and shredders (SIC 8322), reprocessors (SIC 3710, 3720), and secondary metal merchants (SIC 5157). There are 36 vehicle manufacturers selling in the UK and 9 vehicle producers in the UK. There are some 7,000 vehicle component manufacturers of which 90 per cent are small and medium-sized enterprises (SMEs).

20. It is estimated that there may be up to 3500 dismantling sites in the UK, of which estimates suggest that possibly up to 500 to 800 are operating illegally. Dismantlers are typically small firms. Because of the high capital costs involved, shredding operations tend to be large businesses. There are 37 shredding facilities in the UK, half of which are owned by two firms. There are some 1200 reprocessors and recyclers in total in the UK.

COSTS

Part III of Draft Statutory Instrument 'Design Requirements' - Article 4 of the ELV Directive: Prevention

21. The partial RIA produced by the DTI for its Consultation Paper of August 2001 considered the costs of Article 4 of the ELV Directive in the context of an industry that had made significant advancements in terms of the recyclability of its products and had taken steps voluntarily to limit the use of hazardous substances in the production of vehicles.

22. However, the Directive's restrictions are unlikely to be costless. But it is not straightforward to estimate the potential costs of the restrictions even for industry players involved directly in vehicle production.

23. One industry estimate is that the restrictions could involve costs of up to £500 million for vehicle manufacturers in the UK. This is a consequence of the need for re-engineering and re-tooling. However, this estimate needs to be put in context. Development, engineering and tooling costs incurred in the production of a new vehicle can exceed this figure. In addition, these are one-off costs, which need to be considered in terms of the full economic life of the equipment involved. If we take ten years as the useful economic life of the relevant equipment then these estimates equate to an estimated annualised cost of some £60 million.⁴

24. In terms of running costs, the industry view is that the heavy metals restrictions are unlikely to produce significant differences in costs. However, there are likely to be some additional costs *if* the substitutes for the restricted metals result in higher energy costs or more rapid depreciation of machinery.

25. The allowance of maximum concentration levels should help to reduce the costs of the restrictions. Avoiding the need to scrap replacement parts for vehicles put on the market before 1 July 2003 should result in significant cost savings compared to the alternative of requiring *all* these replacement parts to be scrapped. The latter is likely to be extremely costly and it is not obvious that it would produce any net environmental benefit.

Part IV of Draft Statutory Instrument 'Information Requirements' – Article 8 of ELV Directive: Coding Standards/Dismantling Information, and Article 9 of ELV Directive: Reporting and Information

26. The partial RIA produced in August 2001 considered the costs of this Article in the context of the significant strides the industry had made both in terms of coding parts, and in terms of providing dismantling information.

27. The Directive's requirements to mark certain plastic and rubber components weighing more than 100 grammes and 200 grammes respectively are thus not expected to involve significant extra costs to vehicle manufacturers. The Government is aware that any extension of the requirements for coding parts needs to be assessed in terms of the potentials costs and benefits involved.

28. In response to the DTI's 2001 Consultation one industry group said that *"vehicle manufacturers have already made significant investment in component parts marking of plastics in vehicles..(and) there would be little value in extending parts marking to other materials for which there are well developed separation techniques."*

⁴ Calculated as an equivalent annual cost over 10 years using the Government's current discount rate.

29. In terms of dismantling information, the IDIS system is already established in the UK. This is an electronic based information system set up by vehicle manufacturers to aid the process of dismantling vehicles. New vehicles are already placed on IDIS within six months of production, and virtually all UK vehicle manufacturers belong to the IDIS system. Small vehicle manufacturers, those who produce less than 500 new vehicles per year, are allowed to be exempt from the provisions of Article 9, and the draft regulations propose to take advantage of this exemption.

30. The industry says that only if a significant extension of the IDIS system is required by the Regulations will there be an expansion of costs to industry. The current draft Regulations do not envisage such an extension.

31. In terms of the future administrative costs of the IDIS system, one industry estimate is that the Directive will require each UK vehicle manufacturer to spend 'one-man year' per annum in terms of administration. Industry estimates suggest this could cost UK vehicle manufacturers around £1.5 million per annum.⁵

Part V of Draft Statutory Instrument 'Certificate of Destruction' – Article 5 of ELV Directive: Collection

32. The partial RIA produced in August 2001 took industry estimates of between £8 and £12 per ELV for the costs of issuing a Certificate of Destruction (CoD).

33. Given that the UK proposes to introduce an electronic system for CoDs, this figure now seems somewhat pessimistic. A more recent industry estimate is that the process of issuing a CoD by an authorised treatment facility (ATF) could take between 15 and 20 minutes on average. Using a labour cost figure of £25 per hour gives a cost estimate from industry of around £6-£8 per CoD. However, official statistics suggest that the average hourly cost of labour (including wage and non-wage costs) is currently some £14 per hour. A time of 15-20 minutes would then be equivalent to around £3-£5 per CoD.

34. If there were on average 2 million ELVs per annum in the UK, the estimates above produce total cost estimates in the range of £6 million - £16 million per annum for the issuing of CoDs.

35. To these costs need to be added the one-off costs of investing in information technology to enable electronic issue and notification of CoDs. A computer can be purchased for below £1,000 nowadays. If it lasts five years, then for the estimated 3,500 businesses currently dealing with ELVs this represents an estimated annualised cost of some £¾ million.⁶ In addition the

⁵ Calculated as 'one man year' for vehicle manufacturers costing £40,000 multiplied by 36 vehicle manufacturers.

⁶ Calculated as £1,000 multiplied by 0.22 (using the Government's current discount rate) multiplied by 3,500.

partial RIA produced in August 2001 suggested that the DVLA would incur estimated annualised costs of around £20,000 for changing the UK'S current notification of destruction system.⁷

Part VI of Draft Statutory Instrument 'Delivery of Vehicles to Authorised Treatment Facilities'

36. For vehicles put on the market from 1 July 2002, the Directive requires producers to meet all, or a significant part of, the costs of free take back for last holders if these vehicles arise as complete ELVs with no, or negative value prior to the 'full' producer responsibility requirements from 1 January 2007 onwards. It is not clear that there will be significant numbers of post 1 July 2002 new vehicles arising as no, or negative value ELVs prior to 1 January 2007.

37. Industry estimates are that some 200,000 vehicles each year are scrapped before the end of their 'natural' life. This is for all age groups of vehicles. New vehicles falling into this category are likely to be those seriously damaged by fire or those involved in a major accident.

38. Vehicles involved in fires fall into one of three categories: accidental fire; consequence of insurance fraud; or as a result of being abandoned. New vehicles involved in fires are more likely to have been stolen, abandoned and then torched. New vehicles are likely to have an up-to-date licence. 20 per cent of the estimated 238,000 abandoned vehicles in the UK are licensed vehicles. This means that some 48,000 abandons are licensed, a percentage of which will be new vehicles and may be torched. It is extremely difficult to estimate what this percentage will be, but if one in five licensed abandons are new vehicles stolen and torched, this could result in possibly up to 9,000 premature ELVs, first put on the market after 1 July 2002. The costs of treatment of these at an estimated £60 per ELV would be in the region of £500,000 per annum until 1 January 2007, but it is not possible to estimate what proportion will have a negative value.

39. To this estimate must be added the cost of free take back for new vehicles which prematurely become negative ELVs via major accident. It is even more difficult to estimate this figure, but an assumption that it is of the same proportion as for new vehicles involved in fires would give a total cost estimate for treatment of vehicles put on the market after 1 July 2002 of around £1 million per annum until 1 January 2007. Again, however, it is not possible to estimate what proportion will have a negative value.

CONSULTATION WITH SMALL BUSINESS: "THE LITMUS TEST"

40. The DTI's consultation paper issued in August 2001 produced 123 responses, a number of which were from small businesses and representative

⁷ Calculated as the equivalent annual cost of £150,000 one-off cost over 10 years at 3.5% discount rate.

bodies. One small firm representative body expressed concern about the potential administrative burdens of the Directive and the disproportionate impact these could have on small firms.

41. The Government is aware of these concerns and is seeking to implement Regulations that do not disproportionately impact on small firms. However, there needs to be a level playing field for businesses involved in implementing the ELV Directive and information technology needs to be effectively used to help minimise any administrative costs.

COMPETITION ASSESSMENT

42. The design requirements of the draft Regulations are not expected to have significant implications for competition since these will be largely one-off costs which are not substantial within the context of the turnover of vehicle manufacturers. Existing firms as well as new or potential firms have to bear these costs.

43. The information requirements are also not expected to have significant effects on competition. Much of the required information is already provided and existing firms as well as new or potential firms will have to bear these costs.

CONCLUSIONS

44. The draft Regulations are expected to produce environmental and economic benefits from the future disposal of ELVs. These benefits are very difficult to quantify. However, they could be substantial in terms of environmental benefits from the future avoidance of potential damage from certain hazardous substances in vehicles and ELVs, and in terms of economic benefits from contributing to reductions in vehicle crime.

45. The estimated costs of the draft regulations are calculated as £60 million per annum for the design requirements, £1.5 million per annum for the information requirements, £7 million - £17 million per annum for the Certificate of Destruction requirements, and £1 million per annum for free take back of vehicles put on the market after 1 July 2002 which arise as complete ELVs with no, or negative value. This represents an estimate of total policy costs of £69.5 million - £79.5 million per annum.

References

Heavy Metals in Vehicles II – Final Report for the DG Environment, Nuclear Safety and Civil Protection of the Commission of the European Communities, July 2001.

End of Life Vehicles Directive – First Report, Trade and Industry Committee, HC 299, November 2001.

Directive 2000/53/EC on End of Life Vehicles – UK Government Consultation Paper, August 2001.

Appendix 2

DRAFT STATUTORY INSTRUMENT

2003 No.

**[ENVIRONMENTAL PROTECTION] [even though not made under s93/EA1995]
The End of Life Vehicles Regulations 2003**

Made 2003
Coming into force 2003

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

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2. Interpretation

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SCHEDULE 1 MATERIALS AND COMPONENTS EXEMPT FROM ARTICLE 4(2)(A)

SCHEDULE 2 CERTIFICATE OF DESTRUCTION

SCHEDULE 3
ENFORCEMENT OF THE DESIGN REQUIREMENTS

SCHEDULE 4
SPECIMEN FORM OF COMPLIANCE NOTICE

SCHEDULE 5
INFORMATION IN CERTIFICATE OF COMPLIANCE

The Secretary of State, being a Minister designated ^(a) for the purposes of section 2(2) of the European Communities Act 1972 ^(b) in respect of matters relating to the prevention of waste from vehicles and forms of recovery of end-of-life vehicles and their components, in exercise of the powers conferred on her by that section, hereby makes the following Regulations:-

PART I

GENERAL

Citation, commencement and extent

1. These Regulations –
 - (a) may be cited as the End of Life Vehicles Regulations 2003 and shall come into force on 2003;
 - (b) extend to

Interpretation

2. In these Regulations -

“the Directive” means Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles ^(c) as amended by

- (a) Commission Decision of 19 February 2002, 2002/151/EC ^(d), and
- (b) Commission Decision of 27 June 2002, 2002/525/EC ^(e);

“authorised treatment facility” means any establishment or undertaking carrying out treatment operations which obtains a permit from or is registered with the competent authorities in compliance with Article 6 of the Directive and Articles 9, 10 and 11 of the Waste Directive;

“dismantling information,” means all information required for the correct and environmentally sound treatment of end-of-life vehicles;

“end-of-life vehicle” means a vehicle, which is waste within the meaning of Article 1(a) of the Waste Directive;

“hazardous substance” means any substance which is considered to be dangerous under Directive 67/548/EEC ^(a);

^(a) S.I. 2001/3495

^(b) 1972 c.68

^(c) O.J. No. L269, 21.10.2000, p.34

^(d) O.J. No. L050, 21.07.2002, p.94

^(e) O.J. No. L170, 29.06.2002, p.81

^(a) O.J. No. L196, 16.08.1967, p.1

“prevention” means measures aiming at the reduction of the quantity and the harmfulness for the environment of end-of-life vehicles, their materials and substances;

“producer” means the vehicle manufacturer or the professional importer of a vehicle into a member State;

“recovery” means any of the applicable operations provided for in Annex IIB to the Waste Directive;

“recycling” means the reprocessing in a production process of the waste materials for the original purpose or for other purposes but excluding energy recovery. Energy recovery means the use of combustible waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;

“reuse” means any operation by which components of end-of-life vehicles are used for the same purpose for which they were conceived;

“treatment” means any activity after the end-of-life vehicle has been handed over to a facility for depollution, dismantling, shearing, shredding, recovery or preparation for disposal of the shredder wastes, and any other operation carried out for the recovery and/or disposal of the end-of-life vehicle and its components;

“vehicle” means any vehicle designated as category M₁ or N₁ defined in Annex IIA to Council Directive 70/156/EEC relating to the type-approval of motor vehicles and their trailers^(b), and three wheel motor vehicles as defined in Council Directive 92/61/EEC relating to the type-approval of two or three wheel motor vehicles^(c), but excluding motor tricycles;

“The Waste Directive” means Council Directive 75/442/EC^(d) on waste.

PART II APPLICATION

Vehicles and End-of-Life Vehicles to which these Regulations apply

3. (1) These Regulations apply to vehicles and end-of-life vehicles including their components and materials.
- (2) Notwithstanding regulation [38(3)] the Regulations shall apply irrespective of how the vehicle has been serviced or repaired during use and irrespective of whether it is equipped with components supplied by the producer or with other components whose fitting as spare or replacement parts accords with the appropriate Community provisions or domestic provisions.

Existing Community legislation and relevant national legislation

4. Nothing in these Regulations shall affect the application of existing Community legislation and relevant national legislation, in particular as regards safety standards, air emissions and noise controls and the protection of soil and water.

Application to vehicles produced in small series

5. Where a producer only makes or imports vehicles to which Article 8(2)(a) of Directive 70/156/EC applies regulations [16] to [25] shall not apply.

^(b) O.J. No. L042, 23.02.1970, p.1

^(c) O.J. No. L225, 10.08.1992, p.72

^(d) O.J. No. L194, 25.07.1975, p.39

Article 7 derogation for special purpose vehicles

6. Regulations [] and [] do not apply to special purpose vehicles as defined in the second indent of Article 4(1)(a) of Council Directive 70/156.

Limited Application to three wheel vehicles

7. Only regulations [] to [] and [] apply to three wheel motor vehicles.

PART III DESIGN REQUIREMENTS

Prohibition on heavy metals

8. A producer shall ensure that materials and components of vehicles put on the market on or after [2 July] 2003 do not contain lead, mercury, cadmium or hexavalent chromium except in the cases listed in Schedule 1 to these Regulations.

Requirement for technical documentation

9. A producer shall at the request of the enforcement authority submit technical documentation or other information showing that the materials and components of vehicles put on the market on or after [2 July] 2003 comply with the requirements of regulation 8 [above] and Schedule 1.

10. A producer shall ensure that he keeps the information necessary for him to submit to the enforcement authority the documents referred to in regulation 9 for a period of four years from the date that he puts the materials and components on the market.

Enforcement

11. Schedule 3 shall have effect for the purposes of providing for the enforcement of Part III of the Regulations and for matters incidental thereto.

Offences

12. Any person who contravenes a requirement of regulation –

- (a) 8; or
- (b) 9; or
- (c) 10

shall be guilty of an offence.

Penalties

13. A person guilty of an offence under regulation 12 shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Defence of due diligence

14. (1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 12 above it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due –

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

Liability of persons other than the principal offender

15. (1) Where the commission by any person of an offence under regulation 12 is due to the act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under Part III of these Regulations (including where it is so guilty by virtue of paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

PART IV INFORMATION REQUIREMENTS

Coding Standards

16. A producer shall use the material and component coding standards referred to in regulation [17] [below], to facilitate the identification of those materials and components suitable for reuse and recovery.

17. For the purposes of regulation [16] “material and component coding standards” means the standards established by the Commission pursuant to Article 8(2) of the Directive in accordance with the procedure laid down in Article 11 of the Directive.

18. A producer shall at the request of the enforcement authority submit information showing that material and component coding standards have been used.

19. A producer shall ensure that he keeps the information necessary for him to comply with a request from the enforcement authority to submit the information referred to in regulation [18] [above] for a period of [] years from the date that he puts the materials and or components on the market.

Dismantling Information

20. (1) A producer shall provide dismantling information to the enforcement authority for each type of new vehicle put on the market within six months after the date that the vehicle is put on the market.

(2) The dismantling information shall identify, in so far as it is needed by treatment facilities, the different materials and components of the vehicle, and the location of all hazardous substances in the vehicles in order to achieve the objectives in Article 7 of the Directive, that is to say:-

- (a) the reuse of components which are suitable for reuse;
- (b) the recovery of components which cannot be reused; and
- (c) giving preference to recycling when environmentally viable;

without prejudice to requirements regarding the safety of vehicles and environmental requirements such as air emissions and noise control.

21. (1) Manufacturers of components used in vehicles shall make available to authorised treatment facilities upon request from those facilities information concerning dismantling, storage and testing of components which can be reused.

(2) The obligation in paragraph (1) above is without prejudice to any duty of confidence in respect of industrial or commercial information apart from that imposed by these Regulations.

Reporting and Information

22. (1) A producer shall publish information on –

- (a) the design of vehicles and their components with a view to their recoverability and recyclability;
- (b) the environmentally sound treatment of end-of-life vehicles in particular the removal of all fluids and dismantling;
- (c) the development and optimisation of ways to reuse, recycle and recover end-of-life vehicles and their components;
- (d) the progress achieved with regard to recovery and recycling to reduce the waste to be disposed of and to increase the recovery and recycling rates.

(2) The producer shall:

- (a) make the information referred to in regulation [22](1)[above] accessible to prospective buyers of vehicles; and
- (b) include the information referred to in regulation [22](1) in promotional literature used in the marketing of new vehicles.

Enforcement authorities

23. It shall be the duty of the Secretary of State to enforce this Part of the Regulations and in carrying out her duties she may act through the Vehicle Certification Agency, an executive agency of the Department of Transport.

Compliance Notices

24. (1) Where an enforcement authority has reasonable grounds for suspecting that any or all of the requirements of the following regulations have not been complied with –

- (a) regulation [18],
- (b) regulation [20], and
- (c) regulation [22]

it may serve a notice in writing, referred to as a compliance notice in these Regulations, on the producer.

- (2) Schedule 4 shall have effect in respect of a compliance notice.

Offences

25. (1) Subject to paragraph 2, a producer who fails to comply with any or all of the requirements of the following regulations–

- (a) regulation [18],
- (b) regulation [20], and
- (c) regulation [22]

shall be guilty of an offence.

(2) The enforcement authority shall not commence proceedings for an offence under this Part unless a compliance notice has been served on the producer and the time limit specified for compliance in the compliance notice has expired.

(3) A producer who is guilty of an offence under paragraph 1 above shall be liable on summary conviction to fine [].

PART V CERTIFICATE OF DESTRUCTION

Issue of the certificate of destruction

26. Subject to regulation [27] [below] an authorised treatment facility shall issue a certificate of destruction to the last owner or holder of an end-of-life vehicle transferred to it for treatment.

Prohibition of charges

27. An authorised treatment facility shall not make any charge for the certificate of destruction.

Form and Content of certificate of destruction

28. The certificate of destruction issued by the authorised treatment facility shall contain at least the information listed in Schedule 2, which sets out the Annex to Decision 2002/151/EC concerning certificates of destruction.

Certificates of destruction and changes to the register kept and maintained by the Secretary of State in respect of the end-of-life vehicle

29. When an end-of-life vehicle is transferred to an authorised treatment facility for treatment the facility shall –

- (a) notify the Secretary of State;
- (b) not issue a certificate of destruction until the Secretary of State confirms that the process of checking the vehicle's registration details against the register has been satisfactorily completed;
- (c) where the requirements of sub paragraphs (a) and (b) are fulfilled, issue the certificate of destruction to the last owner or holder of the vehicle; and

Amendments to the Road Vehicles (Registration and Licensing) Regulations 2002

30. The Road Vehicles (Registration and Licensing) Regulations 2002 are amended as follows –

- [(a) in regulation 17 the words “destroyed or” shall be deleted; and]
- (b) after regulation 17 the following shall be inserted –

“Vehicles to which the End-of-Life Vehicles Directive applies

17A -(1) This regulation applies to vehicles which –

- (a) are registered in the British records; or
- (b) are designed or adapted for use on a road and would be registered but for the fact that they fall into the exemption in regulation 29(2); and
- (c) are vehicles to which Directive 2000/53 of the European Parliament and of the Council on end-of-life vehicles applies.

(2) Where a vehicle to which this regulation applies –

- (a) is transferred to an authorised treatment facility in Great Britain the treatment facility shall notify the Secretary of State of the issue of a certificate of destruction pursuant to regulation [] of the End-of-Life Vehicles Regulations and at the same time surrender the registration document to him.
- (b) is transferred to an authorised treatment facility in another EEA State, the last owner or holder of the vehicle shall notify the Secretary of State of the issue in that other EEA State or in Northern Ireland of the certificate of destruction and at the same time surrender the registration document to him.

(3) Where the Secretary of State has been notified of the issue of a certificate of destruction he shall not as respects the vehicle to which it relates –

(a) record in the British records any further change of keeper;

(b) accept the required declaration in paragraph 1(1) of Schedule 4.

(4) In this regulation “authorised treatment facility”, “certificate of destruction”, “EEA State” and “regulated vehicle” have the meanings that they have in the End-of-Life Vehicles Regulations [2003].”.

Amendments to the Vehicle Excise and Registration Act 1994

31. Section 22 of the Vehicle Excise and Registration Act (a) is amended as follows –

(a) insert after section (1G)

“[1H] Regulations under subsection (1) shall not permit the removal of the registration details from that part of the register which records vehicles registered in Great Britain of a vehicle to which the End-of-Life Vehicles Directive 2000/53/EC applies unless the Secretary of State has been notified that an end-of-life vehicle has been transferred to an authorised treatment facility and has confirmed that the process of checking the vehicle’s registration details against the register has been satisfactorily completed”.

Requirement to maintain an electronic system for the issue and notification of certificates of destruction

32. (1) Every authorised treatment facility shall –

(a) maintain in operation an electronic system for the issue and notification of certificates of destruction;

(b) ensure, in so far as it is within its control, that the electronic system remains connected to the vehicle registration database.

(2) Subject to paragraph (3), an authorised treatment facility shall issue and notify each certificate of destruction to the Secretary of State by means of its electronic system.

(3) Where it is not practicable to check either the particulars in the register or to notify the Secretary of State of the issue of a certificate of destruction by electronic means, the authorised treatment facility may –

(a) issue a certificate of destruction to the last owner or holder of the vehicle; and

(b) send a copy of the certificate of destruction by post to the Secretary of State.

33. A certificate of destruction validly issued –

(1) by an authorised treatment facility in another EEA State or in Northern Ireland; or

(2) where permitted by a licensing authority in another EEA State, by a producer, dealer or collector on behalf of an authorised treatment facility;

in accordance with –

- (a) Article 5(3) of the Directive; and
- (b) Decision 2002/151/EC;

shall have legal effect in Great Britain and all rights, powers, liabilities, obligations and restrictions arising out of or incidental to such certificates or their issue shall be recognised and available in law, and be enforced, allowed and followed accordingly.

Interpretation

34. In this Part of the Regulations-

- (a) “register” means the record kept by or on behalf of the Secretary of State of the vehicles registered by him in Great Britain under section 21 of the Vehicles Excise and Registration Act 1994;
- (b) [“Secretary of State” means the Secretary of State for Transport.]

Enforcement

35. (1) The enforcement authority referred to in this Part shall be [?]

[(2) A person who contravenes regulation [] to [] shall be guilty of an offence and liable on summary conviction to a fine not exceeding [?] on the standard scale.]

Restrictions on disclosure of information

36. (1) Subject to the following provisions of this regulation, a person shall be guilty of an offence if he discloses any information which was obtained by him from –

- (a) the register;
- (b) the electronic system established for the issue and notification of certificates of destruction as mentioned in regulation 32(1) above.

(2) Paragraph (1) above shall not apply to a disclosure made –

- (a) to any of the following authorities –
 - (i) The Secretary of State;
 - (ii) The Environment Agency;
 - (iii) Scottish Environment Protection Agency;
 - (iv) the Director General of Fair Trading;
 - (v) a Local Weights and Measures Authority;
 - (vi) in Northern Ireland the Department of Enterprise, Trade and Investment; or

[(b) to a motor vehicle insurance company;] or

(c) in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings.

- (3) A person guilty of an offence under this regulation shall be liable –
 - (a) on summary conviction to a fine not exceeding level [] on the standard scale;
 - (b) on conviction on indictment to a fine.

PART VI
DELIVERY of END-OF-LIFE VEHICLES to TREATMENT FACILITIES

Application

37. This Part of the Regulations applies to end-of-life vehicles that are vehicles put on the market on or after the 1st of July 2002, and which have no market value.

Delivery of an end-of-life vehicle to a treatment facility

38. (1) Subject to regulation [38(3)] below an authorised treatment facility shall accept delivery of an end-of-life vehicle without imposing a charge on the last owner or holder as a result of the end-of-life vehicle having no market value.

(2) Producers shall meet all [or a significant part] of the costs of the obligation referred to in regulation [38(1)] above and/ or accept delivery of end-of-life vehicles under the same conditions referred to in that provision in accordance with this Part of these Regulations.

(3) In circumstances where the end-of-life vehicle does not contain the essential components of a vehicle, in particular the engine and coachwork, or contains waste which has been added to the end-of-life vehicle an authorised treatment facility may impose a charge.

39. Producers shall be responsible for meeting all [or a significant part] of the costs of the obligation referred to in regulation [38(1)] above in respect of vehicles which they have put on the market [on or after 1 July 2002].

Enforcement

40. It shall be the duty of the Secretary of State to enforce this Part of the Regulations.

(1) A producer shall furnish a certificate of compliance to the enforcement authority in respect of his obligations in regulations [38] and [39].

(2) Schedule 5 shall apply as regards the information to be contained in a certificate of compliance.

Offences

41. (1) A person who contravenes regulation [38(1)] shall be guilty of an offence.

(2) In respect of the certificate of compliance as provided in regulation [40] a person who –

- (a) fails upon request to furnish a certificate of compliance;
- (b) knows the information provided in or in connection with the certificate to be false or misleading in a material particular; or
- (c) furnishes such information recklessly and it is false or misleading in a material particular.

shall be guilty of an offence.

(3) A person guilty of an offence under paragraph (1) and/or (2) above shall be liable-

(a) on summary conviction to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment to a fine.

SCHEDULE 1

Regulation 8

MATERIALS AND COMPONENTS EXEMPT FROM REGULATION 8

Materials and components	Scope and expiry date of the exemption	To be labelled or made identifiable in accordance with Article 4(2)(b)(iv)
<u>Lead as an alloying element</u>		
1. Steel for machining purposes and galvanised steel containing up to 0.35% lead by weight		
2. (a) Aluminium for machining purposes with a lead content up to 2% by weight (b) Aluminium for machining purposes with a lead content up to 1% by weight	1 July 2005 1 July 2008	
3. Copper allow containing up to 4% lead by weight		
4. Lead-bronze bearing shells and bushes		
<u>Lead and lead compounds in components</u>		
5. Batteries		X
6. Vibration dampers		X
7. Wheel balance weights	Vehicles type-approved before 1 July 2003 and wheel balance weights intended for servicing of these vehicles: 1 July 2005	X
8. Vulcanising agent and stabilisers for elastomers in fluid handling and powertrain applications	1 July 2005	
9. Stabiliser in protective paints	1 July 2005	
10. Carbon brushes for electric motors	Vehicles type-approved before 1 July 2003 and carbon brushes for electric motors intended for servicing of these vehicles: 1 January 2005	
11. Solder in electronic circuit boards and other applications		X

Materials and components	Scope and expiry date of the exemption	To be labelled or made identifiable in accordance with Article 4(2)(b)(iv)
12. Copper in brake linings containing more than 0.5% lead by weight	Vehicles type-approved before 1 July 2003 and servicing on these vehicles: 1 January 2004	X
13. Valve seats	Engine types developed before 1 July 2003: 1 July 2006	
14. Electrical components which contain lead in a glass or ceramic matrix compound except glass in bulbs and glaze of spark plugs		X (for components other than piezo in engines)
15. Glass in bulbs and glaze of spark plugs	1 January 2005	
16. Pyrotechnic initiators	1 July 2007	
<u>Hexavalent chromium</u>		
17. Corrosion preventative coatings	1 July 2007	
18. Absorption refrigerators in motorcaravans		X
<u>Mercury</u>		
13. Discharge lamps and instrument panel displays		X
<u>Cadmium</u>		
20. Thick film pastes	1 July 2006	
21. Batteries for electrical vehicles	After 31 December 2005, the placing on the market of NiCd batteries shall only be allowed as replacement parts for vehicles put on the market before this date	X

- a maximum concentration value up to 0.1% by weight and per homogeneous material, for lead, hexavalent chromium and mercury and up to 0.01%

by weight per homogeneous material for cadmium shall be tolerated, provided these substances are not intentionally introduced (1);

- a maximum concentration value up to 0.4% by weight of lead in aluminium shall also be tolerated provided it is not intentionally introduced (2);
- a maximum concentration value up to 0.4% by weight of lead in copper intended for friction materials in brake linings shall be tolerated until 1 July 2007 provided it is not intentionally introduced (3);
- the reuse of parts of vehicles which were already on the market at the date of expiry of an exemption is allowed without limitation since it is not covered by Article 4(2)(a);
- until 1 July 2007 new replacement parts intended for repair (4) of parts of vehicles exempted from the provisions of Article 4(2)(a) shall also benefit from the same exemptions.

(1) “Intentionally introduced” shall mean “deliberately utilised in the formulation of a material or component where its continued presence is desired in the final product to provide a specific characteristic, appearance or quality”. The use of recycled materials as feedstock for the manufacture of new products, where some portion of the recycled materials may contain amounts of regulated metals, is not to be considered as intentionally introduced.

(2) See footnote 1.

(3) See footnote 1.

(4) This clause applies to replacement parts and not to components intended for normal servicing of vehicles. It does not apply to wheel balance weights, carbon brushes for electric motors and brake linings as these components are covered in specific entries. See, for example, indent 3.

SCHEDULE 2

Regulation 28

MINIMUM REQUIREMENTS FOR THE CERTIFICATE OF DESTRUCTION ISSUED IN ACCORDANCE WITH ARTICLE 5(3) OF DIRECTIVE 2002/151/EC

1. Name, address, signature and registration or identification number (1) of the establishment or undertaking issuing the certificate.
2. Name and address of competent authority responsible for the permit (in accordance with Article 6(2) of Directive 2000/53/EC for the establishment or undertaking issuing the certificate of destruction.
3. Where the certificate is issued by a producer, dealer or collector on behalf of an authorised treatment facility, the name and address and registration or identification number 2 of the establishment or undertaking issuing the certificate.
4. Date of issue of the certificate of destruction.
5. Vehicle nationality mark and registration number (attach the registration document or a statement by the establishment or undertaking issuing the certificate that the registration document has been destroyed (3)).
6. Class of vehicle, brand and model.
7. Vehicle identification number (chassis).
8. Name, address, nationality and signature of the holder or owner of the vehicle delivered.

(1) This requirement may be waived in the case where the national registration or identification system does not provide for such number.

(2) In the case where no registration document exists on paper due to the use of an electronic registration system, this requirement may be waived.

SCHEDULE 3

Regulation 11

ENFORCEMENT OF THE DESIGN REQUIREMENTS

Enforcement

1. (1) It shall be the duty of the Secretary of State to enforce these Regulations, and in carrying out that duty she may act through the Vehicle Certification Agency, an Executive Agency of the Department of Transport, and “enforcement authority” in this Part shall be construed accordingly.

(2) Nothing in these Regulations shall authorise any enforcement authority to bring proceedings in Scotland for an offence.]

Interpretation

2. In this schedule “materials and components” means the materials and components of vehicles put on the market after 1 July 2003 as mentioned in regulation [___].

Test purchases

3. (1) An enforcement authority shall have power, for the purpose of ascertaining whether materials and components comply with the requirements of regulation [___] to make, or to authorise an officer of the authority to make, any purchase of materials and components.

(2) Where –
 - (a) any materials and components purchased under this paragraph by or on behalf of any enforcement authority is submitted to a test; and
 - (b) the test leads to –
 - (i) the bringing of proceedings for an offence under regulation [___] in relation to the materials and components or the forfeiture of materials and components of the same description under paragraph [___] or [___] below; or
 - (ii) the serving of a suspension notice in respect of any materials and components; and
 - (c) the authority is requested to do so and it is practicable for the authority to comply with the request,

the authority shall allow the person from whom the materials and components were purchased or any person who is a party to the proceedings or has an interest in any materials and components to which the notice relates to have the materials and components tested.

Powers of search etc.

4. (1) Subject to paragraph 4 below, a duly authorised officer of an enforcement authority may at any reasonable hour and on production, if required, of his credentials exercise any of the powers conferred by the following provisions of this paragraph.

- (2) The officer may, for the purpose of ascertaining whether there has been a contravention of any of the requirements of regulation –
- (a) inspect any materials and components and enter any premises other than premises occupied only as a person's residence; or
 - (b) examine any procedure (including any arrangements for carrying out a test) connected with the production of any materials and components.
- (3) If the officer has reasonable ground for suspecting that there has been a contravention of any of the requirements of regulation [] he may for the purpose of ascertaining (by testing or otherwise) whether there has been any such contravention, seize and detain any materials and components.
- (4) If the officer has reasonable grounds for suspecting that any materials and components are manufactured or imported materials and components which have not been put on the market in [England and Wales] [Great Britain] since they were manufactured or imported he may –
- (a) for the purpose of ascertaining whether there has been any contravention of regulation [] require any person carrying on a business, or employed in connection with a business, to produce any records relating to the business;
 - (b) for the purpose of ascertaining (by testing or otherwise) whether there has been any contravention, seize and detain the materials and components;
 - (c) take copies of, or of any entry in, any records produced by virtue of paragraph (a) above.
- (5) The officer may seize and detain –
- (a) any equipment, any document, record or information which the officer may require production of, or any other thing, which he has reasonable grounds for believing may be required as evidence in proceedings for an offence under these Regulations; or
 - (b) any equipment which he has reasonable grounds for suspecting may be liable to be forfeited under paragraphs [] and [] below.
- (6) The officer may, for the purpose of the exercise of his powers under subparagraphs (3), (4) or (5) above seize materials and components, any document or record or any other thing and –
- (a) require any person having authority to do so to open any container; and
 - (b) himself open or break open any such container where a requirement made under paragraph (a) above in relation to the container has not been complied with.

Provisions supplemental to paragraph 3

5. (1) An officer seizing materials and components, records, documents, information or other things under paragraph 4 above shall inform the person from whom they are seized that such materials and components, records or other things have been so seized.
- (2) If a justice of the peace –

- (a) is satisfied by any written information on oath that there are reasonable grounds for believing either –
- (i) that any materials and components, documents, records, information or other things which any officer has power to inspect under paragraph 4 above are on any premises and that their inspection is likely to disclose evidence that there has been a contravention of any of the requirements of regulation [] of these Regulations; or
 - (ii) that such a contravention has taken place, is taking place or is about to take place on any premises; and
- (b) is also satisfied by any such information either –
- (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this paragraph has been given to the occupier; or
 - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,

the justice may by warrant under his hand, which shall continue in force for one month, authorise any officer of an enforcement authority to enter the premises, if need be by force.

- (3) An officer entering any premises by virtue of paragraph 3 above or a warrant under sub-paragraph (2) of this paragraph may take with him such other persons and such equipment as may appear to him necessary.
- (4) On leaving any premises which a person is authorised to enter by a warrant under sub-paragraph (2) of this paragraph, that person shall, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as he found them.
- (5) Where any materials and components seized by an officer under paragraph 4 above are submitted to a test, the officer shall inform the persons mentioned in sub-paragraph (1) of this paragraph of the result of the test and, if –

- (a) proceedings are brought for an offence in respect of a contravention in relation to any materials and components of Part III of these Regulations or for the forfeiture of the relevant materials and components under paragraphs [] and [] below, or a suspension notice is served in respect of the materials and components; and
- (b) the officer is requested to do so and it is practicable to comply with the request,

the officer shall allow any person who is a party to the proceedings or, as the case may be, has an interest in the materials and components to which the notice relates to have the materials and components tested.

- [(6) In the application of this paragraph to Scotland, the reference in sub-paragraph (2) above to a justice of the peace shall include a reference to a sheriff and the references to written information on oath shall be construed as references to evidence on oath.]

Appeal against detention of equipment

6. (1) Any person having an interest in any materials and components, documents, record, information or other thing which is for the time being detained under any provision of this Schedule by an enforcement authority or by an officer of such an authority may apply for an order requiring the materials and components to be released to him or to another person.
- (2) An application under this paragraph may be made –
- (a) to any magistrates’ court in which proceedings have been brought in England and Wales –
- (i) for an offence under regulation []; or
- (ii) for the forfeiture of materials and components under paragraph [] below;
- (b) where no such proceedings have been so brought, by way of complaint to a magistrates’ court; [or
- (c) in Scotland, by summary application to the sheriff.]
- (3) An application under this paragraph to a magistrates’ court [or to the sheriff], for an order requiring the materials and components to be released shall be made only if the court [or sheriff] is satisfied –
- (a) that proceedings –
- (i) for an offence under regulation [] in respect of the materials and components; or
- (ii) for the forfeiture of the materials and components under paragraph [] or [] below, have not been brought or, having been brought, have been concluded without the materials and components being forfeited; and
- (b) where no such proceedings have been brought, that more than six months have elapsed since the materials and components were seized.
- (4) Any person aggrieved by an order made under this regulation by a magistrates’ court in England and Wales, or by a decision of such a court not to make such an order, may appeal against that order or decision to the Crown Court and an order so made may contain such provision as appears to the court appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates’ Courts Act 1980.

Suspension notices

7. (1) Where an enforcement authority has reasonable grounds for suspecting that regulation [] has been contravened, the authority may serve a notice (“a suspension notice”) in relation to the materials and components prohibiting the person on whom it is served, for such period ending not more than six months after the date of the notice as is specified therein, from putting the materials and components onto the market without the consent of that authority.
- (2) A suspension notice served by an enforcement authority in respect of any materials and components shall –
- (a) describe the materials and components to which it relates in a manner sufficient to identify it;

(b) set out the grounds on which the authority suspects that regulation [] has been contravened; and

(c) state that, and the manner in which, the person on whom the notice is served may appeal against the notice under paragraph [] below.

(3) A consent given by an enforcement authority for the purposes of a suspension notice may impose such conditions on the doing of anything for which the consent is required as that authority considers appropriate.

(4) A suspension notice may require the person on whom it is served to keep the enforcement authority which served the notice informed of the whereabouts throughout the period during which the notice has effect of any of the materials and components in which that person has an interest.

(5) Where a suspension notice has been served on any person in respect of any equipment, no further such notice shall be served on that person in respect of the same materials and components unless –

(a) proceedings against that person for an offence under regulation [];
or

(b) proceedings for the forfeiture of the equipment under paragraph []
or [] below,

are pending at the end of the period specified in the first-mentioned notice.

Appeals against suspension notices

8. (1) Any person having an interest in any materials and components in respect of which a suspension notice is for the time being in force may apply for an order setting aside the notice.

(2) An application under this paragraph may be made –

(a) in England and Wales –

(i) to any magistrates' court in which proceedings have been brought –

(aa) for an offence under regulation []; or

(bb) for the forfeiture of the equipment under paragraph []
below; or

(ii) where no such proceedings have been so brought, by way of complaint to a magistrates' court; or

[(b) in Scotland, by summary application to the sheriff.]

(3) On an application under this paragraph to a magistrates' court in England and Wales the court shall make an order setting aside the suspension notice only if the court is satisfied that there has been no contravention in relation to the equipment of the requirements of regulation []

[(4) On an application under this paragraph to the sheriff he shall make an order setting aside the suspension notice only if he is satisfied that at the date of making the order] –

(a) proceedings for an offence under regulation []; or

(b) proceedings for the forfeiture of the equipment under paragraph [] below,

have not been brought or, having been brought, have been concluded.

(5) any person aggrieved by an order made under this regulation by a magistrates' court in England and Wales or by a decision of such a court not to make such an order, may appeal against that order or decision to the Crown Court and an order so made may contain such provision as appears to the court appropriate for delaying and coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Court Act 1980.

Contravention of a suspension notice

9. Any person who contravenes a suspension notice shall be guilty of an offence.

Obstruction etc. of officers of enforcement authorities etc.

10. Any person who –

(a) intentionally obstructs any officer of an enforcement authority who is acting in pursuance of any provision of this Schedule;

(b) intentionally fails or refuses to comply with any requirements made of him by any officer of an enforcement authority under any provision of this Schedule;

(c) without reasonable cause fails or refuses to give any officer of an enforcement authority who is so acting any other assistance which the officer may reasonably require of him for the purposes of the exercise of the officer's functions under any provision of this Schedule,

shall be guilty of an offence.

[Extension of time for bringing summary proceedings

11. In England and Wales a magistrates' court may try an information in respect of an offence committed under these Regulations if the information is laid within twelve months from the time when the offence is committed [and in Scotland summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed].]

Forfeiture: England and Wales

12. (1) An enforcement authority in England and Wales may apply under this paragraph for an order for the forfeiture of any materials and components on the grounds that there has been a contravention in relation thereto of regulation [].

(2) An application under this paragraph may be made –

(a) where proceedings have been brought in a magistrates' court in respect of an offence in relation to the materials and components under regulation [];

(b) where an application with respect to some or all of the materials and components has been made to a magistrates' court under paragraph 5 or 7 above, to that court; and

(c) where no application for the forfeiture of the materials and components has been made under paragraph (a) or (b) above, by way of complaint to a magistrates' court.

(3) On an application under this paragraph the court shall make an order for the forfeiture of the materials and components only if it is satisfied that there has been a contravention in relation thereto of regulation [__].

(4) For the avoidance of doubt it is hereby declared that a court may infer for the purposes of this paragraph that there has been a contravention in relation to any materials and components of regulation [__] if it is satisfied that the provision has been contravened in relation to materials and components which is representative of those materials and components (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

(5) Any person aggrieved by an order made under this paragraph by a magistrates' court, or by a decision of such court not to make such an order, may appeal against that order or decision to the Crown Court and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of an order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980).

(6) Subject to sub-paragraph (7) below, where any materials and components are forfeited under this paragraph it shall be destroyed in accordance with such directions as the court may give.

(7) On making an order under this paragraph a magistrates' court may, if it considers it appropriate to do so, direct that the equipment to which the order relates shall (instead of being destroyed) be released, to such person as the court may specify, on condition that that person –

(a) does not supply the materials and components to any person otherwise than –

(i) to a person who carries on a business of buying materials and components of the same description as the first mentioned equipment and repairing or reconditioning it; or

(ii) as scrap (that is to say, for the value of materials included in the materials and components rather than for the value of the materials and components themselves); and

(b) complies with any order to pay costs or expenses (including any order under paragraph 15 below) which has been made against that person in the proceedings for the order of forfeiture.

[Forfeiture: Scotland

13. (1) In Scotland an order for forfeiture of any relevant equipment in relation to which there has been a contravention of regulation [__] may be made by the sheriff –

(a) on an application by the procurator-fiscal made in the manner specified in section 134 of the Criminal Procedure (Scotland) Act 1995[23]; or

(b) where a person is convicted of any offence in respect of any such contravention, in addition to any other penalty which the sheriff may impose.

(2) The procurator-fiscal making an application under sub-paragraph (1)(a) above shall serve on any person appearing to him to be the owner of, or otherwise to have an interest in, the materials and components to which the application relates a copy of the application, together with a notice giving him the opportunity to appear at the hearing of the application to show cause why the materials and components should be not be forfeited.

- (3) Service under sub-paragraph (2) above shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the Criminal Procedure (Scotland) Act 1995.
- (4) Any person upon whom a notice is served under sub-paragraph (2) above and any other person claiming to be the owner of, or otherwise to have an interest in, the materials and components to which an application under this paragraph relates shall be entitled to appear at the hearing of the application to show cause why the materials and components should not be forfeited.
- (5) The sheriff shall not make an order following the application under sub-paragraph (1)(a) above –
- (a) if any person on whom notice is served under sub-paragraph (2) above does not appear, unless service of the notice on that person is proved; or
 - (b) if no notice under sub-paragraph (2) above has been served, unless the court is satisfied that in the circumstances it was reasonable not to serve notice on any person.
- (6) The sheriff shall make an order under this paragraph only if he is satisfied that there has been a contravention in relation to the materials and components of regulation [__].
- (7) For the avoidance of doubt it is hereby declared that the sheriff may infer for the purposes of this paragraph that there has been a contravention in relation to any materials and components of regulation [__] if he is satisfied that that provision has been contravened in relation to materials and components which are representative of those materials and components (whether by reason of being of the same design or part of the same consignment or batch or otherwise).
- (8) Where an order for the forfeiture of any materials and components is made following an application by the procurator-fiscal under sub-paragraph (1)(a) above, any person who appeared, or was entitled to appear, to show cause why it should not be forfeited may, within 21 days of the making of the order, appeal to the High Court by Bill of Suspension on the ground of an alleged miscarriage of justice; and section 182(5)(a) to (e) of the Criminal Procedure (Scotland) Act 1995 shall apply to an appeal under this paragraph as it applies to a stated case under Part X of that Act.
- (9) An order following an application under sub-paragraph (1)(a) above shall not take effect –
- (a) until the end of the period of 21 days beginning with the day after the day on which the order is made; or
 - (b) if an appeal is made under sub-paragraph (8) above within that period, until the appeal is determined or abandoned.
- (10) An order under sub-paragraph (1)(b) shall not take effect –
- (a) until the end of the period within which an appeal against the order could be brought under the Criminal Procedure (Scotland) Act 1995; or
 - (b) if an appeal is made within that period, until the appeal is determined or abandoned.
- (11) Subject to sub-paragraph (12) below, materials and components forfeited under this paragraph shall be destroyed in accordance with such directions as the sheriff may give.

(12) If he thinks fit, the sheriff may direct the materials and components to be released to such person as he may specify, on condition that that person does not supply them to any person otherwise than –

- (a) to a person who carries on a business of buying materials and components of the same description as the first-mentioned materials and components and repairing or reconditioning them; or
- (b) as scrap (that is to say, for the value of materials included in the materials and components rather than for the value of the materials and components themselves).]

Recovery of expenses of enforcement

14. (1) This paragraph applies where a court –

- (a) convicts a person of an offence under regulation []; or
- (b) makes an order under paragraph [] or [] above for the forfeiture of any materials and components.

(2) The court may in addition to any other order it may make as to costs or expenses) order the person convicted or, as the case may be, any person having an interest in the materials and components the subject of the order for forfeiture, to reimburse an enforcement authority for any expenditure which has been or may be incurred by that authority –

- (a) in investigating the offence, and, without prejudice to the generality of the foregoing, in having the materials and components tested;
- (b) in connection with any seizure or detention of the materials and components by or on behalf of the authority; or
- (c) in connection with any compliance by that authority with directions given by the court for the purposes of any order for the forfeiture of the materials and components.

Service of documents etc.

15. (1) Any document required or authorised by this Schedule to be served on a person may be so served –

- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address;
- (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary or clerk of that body; or
- (c) if the person is a partnership, by serving it in accordance with that paragraph on a partner or on a person having control or management of the partnership business.

(2) For the purposes of sub-paragraph (1) above, and for the purposes of section 7 of the Interpretation Act 1978 [24] (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served by virtue of these Regulations shall be his last known address except that –

- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body corporate;

(b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership;

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

Savings for certain privileges

16. (1) Nothing in this Schedule shall be taken as requiring any person to produce any documents or records if he would be entitled to refuse to produce those documents or records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or, in Scotland, that they contain a confidential communication made by or to an advocate or solicitor in that capacity, or as authorising any person to take possession of any documents or records which are in the possession of a person who would be so entitled.
- (2) Nothing in this Schedule shall be construed as requiring a person to answer any question or give any information if to do so would incriminate that person or that person's spouse.

Savings for action taken under other enactments

17. Nothing in this Schedule shall be construed as preventing the taking of any action in respect of any relevant materials and components under the provisions of any other enactment.

SCHEDULE 4

Regulation 24

SPECIMEN FORM OF COMPLIANCE NOTICE

- (1) A compliance notice shall:
- (a) state that the Enforcement Authority suspects a requirement of the Regulations has been contravened;
 - (b) specify the reason it is suspected that a requirement in the Regulations has been contravened and give particulars thereof;
 - (c) require the producer to comply with the requirement; and
 - (d) specify the time limit within which the producer must comply with the requirement; and
 - (e) warn the producer that unless the requirement is complied with [or satisfactory evidence] has been provided within the period specified in the notice he may be prosecuted under regulation 25.

SCHEDULE 5

INFORMATION IN CERTIFICATE OF COMPLIANCE

The information to be contained in a certificate of compliance is as follows –

- (a) the name and address of the [approved] person who issues the certificate of compliance;
- (b) the date of the certificate;
- (c) the producer in respect of whom the certificate is issued;
- (d) the information relevant to demonstrate the producer's compliance with the obligations in regulation [] –

- responsibility for new vehicles which the producer has put on the market on or after the 1 July 2003.

THE CONSULTATION DOCUMENT -- PART 2 (covering Article 6 and Annex I)

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1. PREFACE

- 1.1. This part of the consultation document proposes implementation options and draft regulations for Article 6 and Annex 1 of the End of Life Vehicles Directive (2000/53/EC)
- 1.2 This part of the document relates to England, Wales and Scotland. Separate proposals will be made for Northern Ireland.

2. INTRODUCTION

- 2.1 The End of Life Vehicles Directive (2000/53/EC) builds on the earlier EC “Framework Directive” on Waste (75/442/EEC) which was substantially reworked in 1991. The Framework Directive aims to regulate the production, removal, disposal and recovery of waste. It requires that waste should be recovered or disposed of “without endangering human health and without using processes or methods which could harm the environment” (Article 4).
- 2.2 This is achieved by requiring that all waste disposal or recovery operations must hold a permit under Article 9 (disposal) or 10 (recovery), or be registered as exempt from the requirement to have a permit under Article 11 of the Framework Directive.
- 2.3 The End of Life Vehicles Directive (ELVD) aims to increase the reuse, recycling and recovery of end of life vehicles (ELVs) and their components so as to reduce the disposal of waste, as well as to improve the performance of all the economic operators involved in the life cycle of vehicles, and especially the operators directly involved in the treatment of ELVs. Article 2 defines an ELV as a vehicle (also defined) which is waste within the meaning of the Framework Directive.
- 2.4 The current arrangements for the treatment of ELVs in the UK comply with the requirements of the Framework Directive, and are set out in the Waste Management Licensing Regulations 1994 (as amended by the Waste Management Licensing (Amendment etc) Regulations 1995) made under the Environmental Protection Act 1990.
- 2.5 In the UK at present, vehicles that have reached the end of their useful life are generally scrapped at either dismantling yards or salvage yards, or directly at a shredding operation. These vehicles are designated as waste, and therefore the operations to scrap them are classified as waste recovery operations. They are regulated under the terms of the Environmental Protection Act 1990, as described above. This legislation requires that operators should either hold a waste management licence, (which qualifies as an Article 10 permit under the terms of the Framework Directive) or have a registered exemption from licensing (Article 11). In the case of England and Wales, the

Environment Agency (EA) is designated as the competent authority for these purposes. In Scotland it is the Scottish Environment Protection Agency (SEPA). In this document they are referred to as 'the Agencies' or 'the relevant Agency' as appropriate.

Changes required by the ELVD

2.6 Article 6 of the ELVD requires that any business carrying out treatment operations on ELVs (referred to in the Directive as an Authorised Treatment Facility) must obtain a permit from the competent authorities in compliance with the Framework Directive, or be registered as a derogation (hereafter referred to as an exemption) from such permit requirements in the case of businesses recovering only **de-polluted** vehicles. In effect, this will mean that it will no longer be sufficient to hold a registered exemption from licensing if a business wishes to undertake treatment activities on ELVs **before** they have been de-polluted.

2.7 Further, the ELVD requires that **all** sites that store or treat ELVs will have to comply with the prescribed technical standards contained in Article 6 and Annex 1 to the ELVD. Although a waste management licence qualifies as a permit for the purposes of the Framework Directive, the effect of the ELVD will be that even these licensed sites will need to comply with new standards in order to incorporate the specific requirements of the Directive if they are to continue operating.

2.8 There are therefore two main changes required by the ELVD in the context of authorised treatment facilities:

1. **sites that are currently registered as exempt from licensing under WML Regulations will need to obtain a permit under the new ELV Regulations in compliance with the Framework Directive if they are to continue to treat ELVs prior to de-pollution;**
2. **all sites that want to continue to treat ELVs will need to comply with minimum technical requirements if they are to continue operating.**

"Treatment" is defined in Article 2 of the ELVD as "any activity after the end of life vehicle has been handed over to a facility for depollution, dismantling, shearing, recovery or preparation for disposal of the shredder wastes, and any other operation carried out for the recovery and/or disposal of the end of life vehicle and its components". This definition covers the whole range of operations carried out by motor vehicle dismantlers, salvagers and shredders.

2.9 In transposing the requirements relating to authorised treatment facilities, the Government does not wish to impose any unduly onerous conditions on operators, or 'gold-plate' the requirements. It is

important to retain sufficient salvage and dismantling capacity to handle the volume of ELVs that arises, and to aim to avoid increasing the numbers of vehicles that are abandoned.

- 2.10 The Government has considered the relative merits of staying with a regulatory system based on the present waste management licences, or creating a new permit that satisfies the requirements of the ELVD. It proposes that there should be a new permit, but discusses alternative ways of proceeding for current waste management licence holders. The relative considerations are discussed in section 6 of this consultation document.
- 2.11 This paper therefore contains proposals for setting-up a permit to authorise ELV treatment facilities and contains a first draft of regulations to that effect, as well as a Regulatory Impact Assessment.

3. STORAGE

- 3.1 The ELVD requires that ELVs must be stored, even temporarily, in accordance with the general requirements of Article 4 of the Waste Framework Directive (without endangering human health or harming the environment) and in compliance with the relevant technical requirements of Annex 1 to the ELVD. The Annex 1 requirements for storage prior to treatment are that the site should have :

-impermeable surfaces for appropriate areas, with the provision of spillage collection facilities, decanters and cleanser-degreasers, and

-equipment for the treatment of water, including rainwater, in compliance with health and environmental regulations.

- 3.2 Although Article 6 of the ELVD does not specifically require a permit to be held in order to store ELVs, they have to be stored in accordance with prescribed technical standards and also in accordance with the requirements of the WFD. The WFD defines storage as a recovery operation (unless it is at the site of production), Annex II B refers, and all these recovery operations require a permit. We therefore interpret this as requiring that storage of ELVs should be subject to a permit..

4. DEFINITION OF AN END OF LIFE VEHICLE AND 'LAST OWNER'

- 4.1 Article 2(2) of the ELVD defines a 'vehicle' as any vehicle designated as category M or N defined in Annex IIA to Directive 70/156/EEC, and 3-wheeled motor vehicles defined in Directive 92/61/EEC but excluding motor tricycles.

- 4.2 Article 2(2) of the ELVD also defines an end of life vehicle as a 'vehicle which is waste' within the meaning of Article 1 of the Framework

Directive. The ELVD therefore makes no change to the definition of waste but relates it back to the Framework Directive. The latter states that “Waste shall mean any substance or object set out in Annex I... which the holder discards or intends or is required to discard”. Annex I describes 16 categories of waste, the last of which is Q16, “any materials, substances or products which are not contained in the above categories”.

- 4.3 This definition is the basis on which the industry currently operates, and is the basis on which waste management licences and registered licensing exemptions have been made in Great Britain. One further factor arising from the ELVD in this context is the provision in Article 5(1) requiring systems of collection for all ELVs to be set up. It follows that, as an ELV is a vehicle which is waste, all such vehicles consigned to a collection facility are waste.
- 4.4 For practical purposes, it is important to establish the point at which a vehicle becomes an end of life vehicle, rather than a repairable proposition. The words ‘end of life’ in themselves imply that the vehicle is no longer capable of further use as a vehicle, so it is important to ensure that it is so described when its last owner is certain of that fact and has indicated an intention to discard, or has discarded it. Once a certificate of destruction (COD) has been issued that is final confirmation that the vehicle is waste and there is no possibility that it can be repaired and go back on the road.
- 4.5 In the case of abandoned vehicles collected by a local authority that are obviously incapable of repair, that authority may be unable to identify the previous owner. In these cases, it becomes the last owner itself and is then responsible for consigning the vehicle to a treatment facility for destruction. The local authority will then be issued with the COD.
- 4.6 The ELVD does not apply to all types of vehicle that may need to be disposed of, such as heavy good and commercial vehicles. ELV treatment sites may, however, want to take in such vehicles as well as those covered by the Directive. As long as the measurement protocols eg for shredders, to be devised are sophisticated enough to distinguish between ELVD and non-ELVD vehicles, (so that recovery targets are not skewed and performance is not inaccurately recorded), we consider it would be sensible if non-ELVD vehicles could also be treated at facilities that treat ELVs.

Views are invited on whether non-elvd vehicles should also be able to be treated at ELV treatment sites.

5. HAZARDOUS WASTE

5.1 Another factor affecting the treatment of end of life vehicles is their inclusion in the European Hazardous Waste List since January 2002. Hazardous waste is subject to the requirements of the Hazardous Waste Directive (91/689/EEC). In England, Scotland and Wales, the Directive is transposed by the Special Waste Regulations 1996. These regulations are currently being reviewed – the intention is to replace them with new regulations for hazardous waste. These are likely to come into force early in 2004. They will implement the new Hazardous Waste List, and ELVs will therefore be classified as hazardous. The regulations will make provision for hazardous waste to be managed by recording and tracking its movement and disposal. To achieve this, all producers of hazardous waste will be required to register with the relevant Agency; movements of hazardous waste will need to be accompanied by a consignment note providing a detailed description of each waste and its hazards, and those receiving hazardous waste (the “consignees”) will be required to send quarterly returns to the Agencies giving details of the waste they have received. Those producing, consigning, transporting and receiving hazardous waste will be required to keep copies of consignment notes.

5.2 Although the status of individual vehicle components will not be affected by the change, as hazardous components are already subject to the requirements of the Special Waste Regulations, there are some implications for treatment under the ELVD. Once the new hazardous waste regulations are implemented, a vehicle that has been consigned to a collection point as waste, and has become an ELV, will become subject to the new hazardous waste regulations. The requirements for de-pollution stipulated in Annex 1 of the ELVD do not necessarily remove all the hazardous components with regard to the Hazardous Waste List. Guidance on de-polluting a vehicle under the ELVD and rendering it non-hazardous under the Hazardous Waste List will be available shortly: “De-polluting ELVs – Guidance for Treatment Facilities” from AEA Technology - netcen. It will also be available on the Defra website.

6. PROPOSALS

6.1 A working group comprising representatives of the motor manufacturing industry, the dismantling, salvage and shredding industries, the EA, SEPA, DTI and DEFRA officials has been meeting regularly to consider the implementation of Article 6. The Government’s aim has been to make the proposed regulation for treatment centres as straightforward to obtain as possible by building on the existing system, whilst still meeting the Waste Framework Directive requirements, and providing for the improved standards in Annex 1 of the ELVD to be met.

6.2 Waste management licences are site specific and their framework is contained in primary legislation, Part II of the Environmental Protection Act 1990. The disadvantages of amending

this system to provide for the changes required by the ELVD include the potential for variability in the standards required at each site, and the requirement for each applicant to meet the requirements of the fit and proper person test, even if they have been operating satisfactorily for many years already under the terms of a registered exemption. However, some sites currently recover a mixture of waste under the terms of a waste management licence, and there could be disadvantages to them if a new permit was introduced that did not cover all the types of waste handled.

- 6.3 An alternative regulatory path is for the Secretary of State or the relevant Minister of the devolved Administrations to use appropriate powers to set up a specific permit to authorise treatment of ELVs . This has the benefit of allowing the issue of a single permit for each treatment site which could embrace recovery activities across the industry.
- 6.4 We propose that new, free-standing permits will be provided to set up a separate system for permits for treatment centres handling ELVs. They will be based where appropriate on the conditions included in the current permit system made under the Pollution Prevention and Control (England and Wales) Regulations 2000, but will differ from them in a number of respects. Treatment facilities permitted under this system will become Authorised Treatment Facilities (ATFs) and will be able to treat ELVs. These permits will qualify as recovery permits under Article 10 Framework Directive on Waste and will thus satisfy the changes required by the ELVD.
- 6.5 However, we want to avoid requiring a site to have to hold separate authorisations for separate waste recovery activities. For people who already treat ELVs under the terms of a waste management licence, see proposals in section 8 below.

7. NEW APPLICANTS

- 7.1 If an applicant has not operated a treatment site previously and holds neither a waste management licence nor a registered exemption, then in order to maintain consistency and fairness, he or she will need to comply with the way in which the requirements of the Framework Directive on Waste have hitherto been implemented .
- 7.2 The applicant will therefore need to satisfy a fit and proper person test similar to that currently attaching to a waste management licence. A person shall be treated as not being a fit and proper person if it appears to the Agencies:
- that he or another relevant person has been convicted of a relevant offence
 - that the management of the activities to be permitted will not be in the hands of a technically competent person

- that the person who will hold the permit had not made and either has no intention of making, or is in no position to make, financial provision adequate to discharge the obligations arising from the licence.

Statutory guidance on the interpretation of these criteria will be available.

- 7.3 Before a permit can be issued, the relevant Agency will also have to be satisfied that the site will meet the technical requirements of Article 6 and Annex 1 of the End of Life Vehicles Directive. (See section 16 below for an explanation of these technical requirements).

8. CURRENT HOLDERS OF WASTE MANAGEMENT LICENCES AND REGISTERED EXEMPTIONS FROM LICENSING

- 8.1 We anticipate that many operators who will wish to treat ELVs in the future will already have either a waste management licence or a registered exemption. They will already have proved their suitability in this area:

- by complying with waste management licence conditions, including the fit and proper person test: or
- by operating in compliance with the appropriate regulation, (in the case of those with old licences under the Control of Pollution Act that fell to be treated as waste management licences in 1995): or
- by complying with prescribed conditions under a registered exemption.

We therefore propose that these operators should not have to comply with a fit and proper test in order to obtain a new permit in the same way that new applicants will.

Waste Management Licence Holders

- 8.2 Those holding current waste management licences for sites dealing with end of life vehicles, (which may or may not also recover general scrap metal or other waste), who wish to continue to store or treat elvs under the terms of the Directive, already hold an authorisation that qualifies as an Article 10 permit for the purposes of the Framework Directive. However, in many cases the site in question may not meet the technical standards required by the ELVD.

- 8.3 It is proposed that these operators should be notified by the Agencies, of the terms and conditions that their site is required to meet under the terms of the ELVD. At that point,

either

the waste management licence will fall to be treated as a permit under the ELV Storage and Treatment Regulations and will be subject to the same conditions as new permits made under the Regulations. We are

considering how the permit may be framed in order to cover other waste recovery operations

Or

as an alternative, they should continue to operate under that licence, amended as necessary to incorporate the requirements of the ELVD. This has the advantage of providing continuity, as long as the sites either already meet or carry out works to meet, the technical requirements of the ELVD. It does, however, mean that two different types of authorisation would allow similar dismantling and treatment activities for ELVs. A review of waste permitting as a whole in the UK will be undertaken by Defra shortly, and it is expected that this would resolve any remaining anomalies between the differing requirements of different regulatory regimes.

- 8.4 The draft regulations at present reflect only the second option, but that is not necessarily the one that is preferred.
- 8.5 The relevant Agency will inspect sites in accordance with its regular programme to ensure compliance with the relevant conditions. If an operator does not want to continue to treat ELVs under the new conditions, or cannot meet the requirements, the permit (or waste management licence) may be surrendered.

Registered exemption holders who want to treat elvs

- 8.6 Operators who currently hold a registered exemption from waste management licensing will need to replace this exemption with a permit if they want to continue to treat elvs prior to depollution, and they will need to comply with the relevant technical conditions.
- 8.7 If the exemption also covers other scrap metal recovery operations, the permit will be drawn so that it covers those activities as well as the treatment of end of life vehicles. This is intended to simplify the process for site operators who would otherwise have to hold both a site permit and a registered exemption.
- 8.8 The operator will have a set period (we suggest 60 days) from the commencement of the Regulations to apply to the relevant Agency for a permit to replace the existing exemption, as long as the exemption has been registered for at least 3 months (see section 10 below). If he or she applies after the set period, the application will be treated as if it were a new application for a permit.
- 8.9 Compliance with the technical requirements will be regulated by the relevant Agency in accordance with its programme of site inspections.
- 8.10 Current holders of registered exemptions who wish to store or undertake recovery operations **only** on vehicles that have been previously de-

polluted, may continue to operate under a derogation from the permit requirement. See section 14.

Views are invited on the conditions proposed for new applicants, and registered exemption holders to enable them to apply for a new permit to operate an Authorised Treatment Facility, and on the alternative options for waste management licence holders

9. PLANNING PERMISSION

- 9.1 At present, under the current waste regulatory regime, applicants for a waste management licence have to hold prior planning permission for the site. Although planning consent is not a specific requirement for a registered exemption, it is unlawful to operate a site without a relevant planning consent.
- 9.2 All applicants for a permit to operate an authorised treatment facility should hold a relevant planning permission for the site in order to satisfy the requirements of the Framework Directive. If they do not, or if they need planning permission for additional works, they should apply to the local planning authority.
- 9.3 Planning permission will mean the same as in the Pollution Prevention and Control (England and Wales) Regulations 2000 and Planning Pollution and Control (Scotland) Regulations 2000 respectively currently define planning permission. In England and Wales that is “a certificate under section 191 of the Town and Country Planning Act 1990 (**certificate of lawful use or development**) in relation to the use of the application site for the carrying out of the specified waste activity, and an **established use certificate** under section 192 of that Act”. In Scotland it is an express grant of planning permission under the Town and Country Planning (Scotland) Act 1997 or a certificate under s.150 of the Town and Country Planning (Scotland) Act 1997 (Certificate of Lawfulness of existing use or development) in relation to the use of the application site for the carrying out of specified waste activities. The issue of planning consents is the responsibility of the local planning authority, not the Environment Agency or SEPA.

10. TRANSITIONAL ARRANGEMENTS FOR PERMIT

- 10.1 The ELVD itself does not provide for any arrangements for a transition from the old system to the new, but there will inevitably be a period during which current arrangements will cross-over with the new permits.
- 10.2 We propose that anyone holding a waste management licence that has been obtained at any time up until the coming into force of the

Regulations to implement Article 6, will qualify as the holder of an existing licence.

- 10.3 An operator who has registered an exemption from licensing under the Waste Management Licensing Regulations to recover scrap metal or dismantle vehicles at least 3 months prior to the commencement of the regulations will qualify as someone who can apply for a permit in the 60 day period allowed. A 3 month period is proposed as a reasonable time in which the relevant Agency would have inspected the site to ensure compliance with the conditions of an exemption from licensing.
- 10.4 If the current holder of a waste management licence or registered exemption from licensing wants to move his operation to a new site, they will need to apply for a permit on the same terms as a new applicant.

11. OTHER PROVISIONS OF THE PERMIT

- 11.1 The regulations will also make provision for permits to be revoked or suspended by the Agencies should there be a breach of conditions, or should there be a risk to the environment or harm to human health. The relevant Agency will have powers to enter the site to remove unauthorised waste in breach of permit conditions.
- 11.2 Permits will be able to be transferred from one operator to another, as long as the transferee satisfies the fit and proper person test.
- 11.3 We propose that permits should be able to be surrendered provided that the relevant Agency is satisfied that the site has been cleared and left in a state that does not pose a risk to the environment or harm to human health. The objectives to be met before a permit can be surrendered will be to remove the waste and ensure that the drainage system is clean.
- 11.4 There will also be provision for appeals against the refusal by the relevant Agency to grant a permit, or its revocation or suspension of a permit, or its refusal to accept a surrender. As with all appeals made under the waste management regulatory system, an appeal should only be made as a last resort after discussion and negotiation with the Agencies has been exhausted.

12. OFFENCES, PENALTIES, AND CHARGES

Offences

- 12.1 It will be an offence to store or to treat ELVs other than in compliance with the requirements of the ELVD.

- 12.2 It will be an offence to store or treat ELVs other than in compliance with the terms and conditions of a permit made under the new regulations (or, depending on the decision taken in respect of waste management licence holders, the licence).
- 12.3. It will be an offence to make a false statement in connection with an application for a permit, or its modification, surrender or transfer, or in any material particular.

Penalties

- 12.4 We intend that these should be comparable to current waste regulation penalties.

Fees and Charges

- 12.5 The Agencies will levy charges for the new permit, which will qualify as an environmental licence in accordance with the statutory scheme. They will consult separately on proposals for these.

Views are invited on these provisions for inclusion in a new permit

13. EXEMPTIONS/"DEROGATIONS"

- 13.1 There may be some facilities that only carry out recovery operations after ELVs have been de-polluted, and the Directive envisages that these may be exempted from obtaining a permit ('derogated' in the terms of the ELVD) under Article 11 of the Framework Directive. Some sites may also find it convenient to operate with a combination of a permit for areas where treatment is carried out before de-pollution, and with an exemption for areas handling de-polluted vehicles.
- 13.2 The Government intends to make use of this exemption in appropriate circumstances. Article 6(2) of the Directive contains the relevant provisions.
- 13.3 There are, however, some different requirements in the ELVD relating specifically to exemptions in the context of ELVs. Article 6(2) requires that a site will require inspection by the relevant Agency **before** an exemption is registered (rather than an inspection afterwards as applies at present for registered exemptions). There must also be an inspection of the exempted site once each year. In order to comply with the objectives of the ELVD, the inspection must verify:
- * the type and quantities of waste to be treated
 - * the general technical requirements to be complied with
 - * the safety precautions to be taken.

- 13.4 This means that operators who wish to handle de-polluted ELVs, **even if they already hold a registered exemption**, must apply to the relevant Agency for registration under the terms of the ELVD, and their site inspected before they can register it for that purpose.
- 13.5 Exemptions under Article 11 of the WFD are provided on the basis of general rules with which the operator must comply. The conditions of the general rules apply to the extent that they are relevant. We propose that the general rules for operators wanting to obtain a derogation from the permit requirement will be modelled as far as appropriate on those currently applying to holders of registered exemptions under the Waste Management Licensing (Amendment) Regulations 1995.
- 13.6 Member States utilising the exemption from permitting provided in the ELVD are required to send the results to the Commission.

Views are invited on the proposed use of the exemption provisions

14. CERTIFICATES OF DESTRUCTION

14.1 Article 5 of the Directive requires systems to be established so that Certificates of Destruction (CODs) are issued to the last-owners on delivering vehicles into the collection system. It is proposed that the only people who will be allowed to issue these CODs will be permitted treatment facilities. (See Part 1 of the consultation paper for full details of CODs).

14.2 As the August 2001 consultation paper from DTI stated, it is proposed that an electronic notification system should be used for CODs from the outset. This will mean that every permitted treatment facility will need to have the equipment to notify the DVLA each time a COD is issued for an end of life vehicle. Although we do not propose that possessing electronic equipment should be a permit condition, it will not be possible to operate a treatment centre without it. The DVLA will use the statistical information derived from the electronic return of CODs to compile data on ELVs.

15. THE MINIMUM TECHNICAL REQUIREMENTS FOR TREATMENT OF ELVS.

15.1 The minimum technical requirements for treating elvs are contained in Article 6(3) and Annex 1 of the Directive.

15.2 The requirements in Article 6(3) are that

- ELVs should be stripped before further treatment,
- hazardous materials and components should be removed and selectively segregated to avoid contamination of shredder waste,

- both stripping operations and storage of parts should be done in such a way as to ensure the suitability of the components for reuse, recovery and recycling.
 - treatment operations for the de-pollution of vehicles should be carried out as soon as possible
- 15.3 Annex 1 of the ELVD contains requirements to be met for the purposes both of storage and treatment of ELVs, including their temporary storage.
- 15.4 Appendix 2 to this consultation paper contains the minimum technical requirements of Annex 1 along with an explanation of the basis on which the Government expects them be interpreted, which has been prepared in conjunction with the EA and SEPA. These minimum requirements indicate the considerations that operators will need to take account of if their sites are to receive a permit, or (where appropriate) to qualify for a derogation.
- 15.5 The EA and SEPA will have regard to the use to which the facility is to be put and the length of time over which it is intended to operate, when inspecting sites which are the subject of a permit. Their Inspectors will be expected to employ their normal inspection criteria to consistent standards.

INITIAL REGULATORY IMPACT ASSESSMENT

Background

1. This RIA discusses the potential costs and benefits of the implementation in England and Wales of Article 6 of the End of Life Vehicles Directive (2000/53/EC), through the introduction of a system of authorised treatment facilities to store and treat end of life vehicles. In Scotland the Directive will be implemented at the same time and on similar terms. In Northern Ireland, implementation will follow in due course.
2. Options for the implementation of the Directive as a whole were outlined in the consultation paper issued by the Department of Trade and Industry in August 2001.

Issue and Objectives

3. The main requirement of Article 6 and the associated Annex 1 of the Directive, is for Member States to ensure that only operators who have received a permit should be able to treat end of life vehicles, and to prescribe minimum technical standards for the site. The objectives of this provision are to help reduce negative impacts on the environment, and to encourage the reuse and recovery of waste. There is also an option for businesses to register an exemption (derogation) from permitting for depolluted vehicles only, after specific conditions have been complied with.
4. These objectives for Article 6 are part and parcel of the overall objectives for the Directive, which are to increase the reuse, recovery and recycling of end of life vehicles and their components, and improve the environmental performance of all the economic operators involved in the life cycle of vehicles.

Risk Assessment

5. The disposal of an end of life vehicle has the potential to lead to environmental damage. With effect from January 2002 undrained end of life vehicles have been added to the EC Hazardous Waste List. In addition, some of the components of a vehicle are individually hazardous and will remain so when removed or dismantled, even after a vehicle has been 'de-polluted' under the terms of the End of Life Vehicles Directive.
6. In the UK, the disposal of vehicles is already regulated under a system of waste management licences issued under the 1990 Environmental Protection Act, or at sites which are registered as exempt from licensing. (This is the way in which the UK has implemented the requirements of the Waste Framework

Directive – waste management licences qualify as permits under Articles 9 and 10 of that Directive, and registered exemptions from licensing qualify as derogations from permit requirements under Article 11). Applicants for waste management licences have to satisfy a test that they are ‘fit and proper persons’, whereby they have to be judged technically competent, have made adequate financial provision to satisfy the obligations of the licence, and hold no unspent relevant convictions. They also have to hold prior planning consent for the site. In the case of registered exemptions, there are minimum statutory requirements that have to be complied with.

7. The effect of the ELVD will be that the existing exemption from registration will no longer be available to sites treating ELVs prior to depollution. All sites treating ELVs before de-pollution will have to hold a permit, and to operate to minimum technical standards. The potential benefit to the environment, therefore, is the extent to which the standards required under the ELVD are more stringent than those currently required under the existing regulatory system, mainly in respect of the drainage and separate storage of liquids from the vehicle, the separate removal of components, and the nature of the surface on which these activities are carried out.

The risk to the environment, were these standards not implemented, would lie in the potential for pollution of groundwater and water courses, and the contamination of land.

Identifying the Options

8. Four options have been identified:

Option 1 is to require all registered exemption holders to apply for a waste management licence under the current arrangements, and to amend all licences to incorporate the minimum technical requirements of the Directive

Option 2 is to implement Article 6 by making arrangements for a new permit, but without taking up the option of allowing derogations from the permit requirements for operations after vehicles have been de-polluted (the derogation is provided under Article 11(1)(b) of the Waste Framework Directive. This would require everyone handling ELVs whether before or after they have been de-polluted, to hold a permit.

Option 3 is to implement Article 6 by making arrangements for a new permit and also make use of the option to allow derogations from permit requirements for operations after vehicles have been de-polluted (an Article 11 derogation, as above)

Option 4 is to implement option 3 but allow a transitional period for sites to be brought up to the required standard – 6 months would be reasonable.

9. Option 1 would perpetuate the current waste management licensing arrangements, where licences are issued on a site by site basis, applicants have to satisfy a fit and proper person test..

10. Option 2 would provide a straightforward system whereby permits would be required for every aspect of treating and storing end of life vehicles, even after they had been de-polluted in accordance with the requirements of Annex 1 of the ELVD. However, this might require the same high technical standards to apply to every part of a site, even where it was not necessarily appropriate, and would involve additional capital expenditure by the operator, and associated maintenance costs.

11. Option 3 would require everyone to obtain a permit for sites where they wanted to treat end of life vehicles prior to de-pollution, but would allow them to hold a registered derogation from the permit requirement for sites, or for parts of sites, where only de-polluted vehicles were to be handled or stored, thus requiring less expenditure.

12. Option 4 would allow more time for sites to be brought up to the standards required before either a permit or a registered derogation could be issued. However, it should be noted that the Directive does not allow for a transitional period of any kind.

Issues of Equity or Fairness

13. Of the four options identified:

Option 1 – would perpetuate the somewhat patchy arrangements nationally whereby some regions operate to different standards and requirements than others due to the way enforcement was carried out historically, and would require registered exemption holders to comply with standard licence conditions.

Option 2 – would provide the ‘level playing field’ requested by operators whereby all facilities would operate to the same standards regardless of the state of the vehicles being handled. However, the amount of expenditure required to meet those standards would be higher than in option 3 without necessarily giving any environmental or other benefit.

Option 3 – would make use of the discretion offered by the provisions of Article 6 of the ELVD to make the degree of regulation proportionate. Everyone wanting to treat vehicles prior to de-pollution would require a permit, but those wanting only to handle vehicles that had already been through the de-pollution process could obtain a registered exemption (derogation). All authorised treatment facilities would operate to the same standards, and so the dismantling and salvage industry would be operating on a ‘level playing field’.

Option 4 – would have the same issues as option 3, but the period over which sites met the required standards would be longer and would allow operators more time to phase expenditure. However, a formal transition period is not allowed under the terms of the Directive.

14. Any environmental benefits flowing from the implementation of Article 6 would impact equally at local and national level.

15. The administrative proposals for permits for treatment centres, whereby both current waste management licence holders and registered exemption holders will be able to obtain a permit, acknowledge that the majority of operators will be those already in the business, and the main impact on them will be the need to bring their sites up to the standards required by Annex 1 of the ELVD. New applicants for permits, who currently hold neither waste management licences nor registered exemptions from licensing, will also need to comply with the requirements of the fit and proper person test, but this is considered to be equitable because this test is the standard way in which the requirements of the Waste Framework Directive have been implemented in the UK.

Identification of Benefits

16. Of the four options identified:

Option 1 – would have additional environmental benefits

Option 2 – would provide environmental benefits

Option 3 – would also provide environmental benefits.

Option 4 – would provide the same environmental benefits as option 3 though over a longer timescale, and would also benefit the operators financially to some extent. Although it might also reduce the risk of adverse environmental impacts, (such as an increase in abandoned vehicles or stockpiling them), the Directive does not provide for a transitional period, and operators have already had plenty of time to prepare their sites for the advent of the Directive.

17. The main benefit of implementing Article 6 and the associated Annex 1 of the ELVD will be the institution of the minimum technical requirements for treatment, which will generally constitute an improvement on current standards, in some cases significantly so. Higher treatment standards would provide a better quality of materials for recycling, with consequent benefits for end-product use. The introduction of a standard permit for all sites treating end of life vehicles would put operators onto a 'level playing field', as they will all be complying with the same technical standards as a condition of the permit. Although holders of registered exemptions from licensing at present already operate to certain statutory minimum requirements, holders of waste management licences (especially those issued under the former Control of Pollution Act) tend to have a wider and varying range of conditions to comply with, and waste management licences are site specific.

18. The implementation of Article 6 should also lead to a better and more comprehensive regulation of dismantling and salvage sites, which will be enforced by the Environment Agency in England and Wales, and the Scottish Environment Protection Agency (SEPA) in Scotland. At present it remains an

industry where there is still a significant element of unregulated operators who do not comply with the necessary technical requirements, to the detriment of the environment. It is proposed that only properly authorised treatment sites that hold a permit should be able to issue the Certificates of Destruction required by the ELVD. These are issued to the last owner or keeper of a vehicle and trigger its removal from the vehicle register. This should lead to the further reduction of unregulated sites who will be unable to comply with this requirement.

Compliance Costs

19. The business sector most affected by the implementation of Article 6 will be the dismantling, salvaging and shredding industries. The main costs for these businesses are almost all associated with ensuring that sites intended for the treatment of end of life vehicles are brought up to the minimum technical standards required by the ELVD. There may also be additional maintenance costs in keeping the site up to the standard required for a number of years. The process of de-polluting an ELV to the standards required by the Directive may also involve more labour costs than currently – paragraph 23 below deals in more detail with what this might involve.

20. The enforcement of these minimum technical standards is for the Environment Agency or SEPA, who will be the body responsible for the permit requirements at individual sites. They will achieve this by a system of regular site inspections to ensure that permit conditions are being complied with. The consultation paper contains an Annex giving guidance as far as possible on how these minimum technical standards should be applied. The industry has also been drawing up its own code of practice for use by operators, aiming to establish what works might be required under the terms of the Directive, as well as identifying other works that are either good practice or required under other legislation. The main additional costs for sites already in operation are likely to arise from the need to provide impermeable surfaces where they do not already exist or are inadequate, and the provision of systems for the separate drainage and storage of liquids. Some may choose to install new de-pollution rigs. On some sites, buildings may need to be provided in order to house new de-pollution equipment, or to carry out operations in all weather conditions, but these will be an investment decision for businesses to take individually depending on the scale of the de-pollution operations they want to carry out.

21. According to an assessment of the industry by the Environment Agency at September 2001, there were 684 vehicle dismantling sites holding waste management licences, with an additional 267 scrap metal dealers who also dismantled vehicles. There were 1391 vehicle dismantling sites holding a registered exemption from licensing, with a minimum additional 216 scrap metal sites known to also dismantle vehicles. This gives a **minimum** 2558 total of regulated sites currently dismantling vehicles. (Because of the system for issuing registered exemptions, which covers all scrap metal activities and does not necessarily distinguish vehicle dismantling, the Agency estimates

that there may be further sites that also dismantle vehicles, or handle vehicle components, possibly over 1,000).

22. In February 2001, the CARE Group (Consortium for Automotive Recycling), comprising motor manufacturers, dismantlers and shredders, prepared a presentation of the potential costs of bringing three different types of site up to ELVD standards. The three types of site they identified were Class A, shredders and feeder yards; Class B, independent, low throughput dismantlers (both of these would also handle other types of scrap metal); and Class C, high throughput dismantlers. For individual sites in each Class, they estimated a range of costs depending on the level of provision of facilities

	Class A Site	Class B Site	Class C Site
Depollution rig and total concrete	£326,698	£207,402	£806,926
Depollution rig and concrete On top of hardcore/plastic	£212,719	£151,356	£399,938
Depollution rig and concrete In building only	£134,514	£112,145	£124,514

These costs are based on a typical depollution rig and would vary with the sophistication of the equipment used. Smaller operations may not necessarily require a depollution rig at all, and it will not be a requirement of the permit, so at many sites the costs are likely to be significantly less. The CARE group also estimated that the additional variable compliance costs as a result of operating to ELVD standards might be approximately £50 per vehicle treated.

23. Trials carried out by one vehicle manufacturer to establish how long it might take to de-pollute an ELV established that the total absolute maximum time for the process – from moving the vehicle from storage on site to loading the remains onto a transporter – was 140 minutes. A rough estimate is that this could be up to 60 minutes less depending on the marque and model of vehicle. The stages of de-pollution that are specifically required by the Directive identified in this exercise were the drainage of fluids (maximum of 25 minutes) and, (if required because of the planned end-use of the material), the removal of glass (maximum of 20 minutes). There was no separate estimate made of the time to remove large plastic parts.

24. Further costs would include the provision of a computer of sufficient capacity to issue electronic Certificates of Destruction and, depending on regulations implementing other parts of the Directive, provide supplementary information to DVLA; the cost of a permit (based on the Agency's current fees and charges for waste management regulation); and possibly obtaining planning permission from the local authority for additional works to sites. There might also be a need to train staff to use new equipment or to become

familiar with new techniques required by the minimum technical standards in the Directive, but it is not thought that extra staff would need to be taken on unless the volume of ELVs being handled increased substantially.

25. Less directly, some of these costs are likely to be passed on in time to vehicle manufacturers and professional importers, who are required by the Directive to meet “all or a significant part of the costs of free take-back”. The Government has announced that this obligations will start in 2007 for all ELVs, and they are currently considering a number of mechanisms for bringing it into effect.

26. Sites, or parts of sites, where a **derogation from the permit** is required, (where elvs are only treated post-de-pollution) would need to provide impermeable surfaces for vehicles to be stored, if these did not already exist, but costs would generally be significantly lower overall .

Competition

27. Paragraph 23 of the preamble to the ELVD says that member states should “ensure that ... competition is preserved, in particular as regards the access of small and medium-sized enterprises to the collection, dismantling, treatment and recycling market.”

28. It is possible that some businesses currently operating in this area may choose not to make the necessary investment required by Article 6 and Annex 1 to continue to treat end of life vehicles. Because many of these are multi-purpose scrapyards, it is probable that they will continue in operation handling waste other than end of life vehicles.

29. However, the Government is well aware of the need to retain sufficient treatment capacity for the volume of end of life vehicles likely to arise in the future.

Consultation with Small Businesses

30. The Article 6 Working Group, led by Defra, has included bodies representing small dismantlers and salvagers, whose views have been fully taken into account during the course of preparing implementation proposals.

Other Costs

31. The burden of issuing new permits for treatment centres, inspecting sites and regulating activities will fall on the Environment Agency, who are obliged to recover their costs in this respect through a statutory scheme of fees and charges. Initially there may be additional work for their regional offices, but the system they devise for levying fees and charges for permits for treatment centres should ensure that their costs are fully-recovered.

Monitoring Effectiveness

32. The effectiveness of the implementation of the Directive in respect of authorised treatment facilities will be monitored and measured through the records kept by the Environment Agency. Records will also be kept on the number of sites using the registered derogation from permitting. These will require an inspection once a year and the results sent to the Commission.

MINIMUM TECHNICAL REQUIREMENTS

Annex i of the ELVD sets out the minimum technical requirements for treatment in accordance with Article 6(1) and (3). We propose that statutory guidance following the making of the Regulations should include further advice about what these requirements will involve, based on the following .

Further relevant advice may be found in the guidance resulting from a research project carried out for Defra into depollution and hazardous waste.

The site operator should determine how the standards set by the relevant legislation and the conditions of permits are to be met, having regard to statutory advice and any professional advice he or she may obtain. The Environment Agency or SEPA will, however, have to be satisfied that works carried out are sufficient to satisfy these standards,

The requirements of Annex I, and explanation of them as far as possible at present, are set out below.

(Wording of the ELVD is in italics)

1. Sites for storage (including temporary storage) of end-of-life-vehicles prior to their treatment:

-impermeable surfaces for appropriate areas with the provision of spillage collection facilities, decanters and cleanser-degreasers

“Impermeable surface” means a surface or pavement constructed and maintained to a standard sufficient to prevent the transmission of liquids beyond the pavement surface, and should be read in conjunction with the term “sealed drainage system” (below) .

The definition of sealed drainage system is intended to be the same as that defined in the Waste Management Licensing Regulations 1994 (as amended), that is:

“Sealed drainage system” in relation to an impermeable pavement, means a drainage system with impermeable components which does not leak and which will ensure that:

- (a) no liquid will run off the pavement otherwise than via the system;
- (b) except where they may lawfully be discharged, all liquids entering the system are collected in a sealed sump

This requirement of the Directive means that all areas where end of life vehicles that have not been de-polluted are stored, for whatever length of time, must have an impermeable pavement and sealed drainage system.

The type of impermeable surface required for the storage of elvs prior to their treatment is likely to depend on a number of factors at the particular site. These factors are likely to include the volume of elvs and type and volume of other materials dealt with, the type and level of activity undertaken on the surface, the length of time the surface is meant to be in service, and the level of maintenance

Areas of a site where different activities are undertaken may be constructed to different standards provided that, where necessary, (ie where there is storage of waste) the surface is impermeable. Whether the type of surface should be the same across the entire site is likely to depend upon similar factors to the above, such as the volume of elvs dealt with, the length of time the surface is intended to be in service, and the level of maintenance.

Whether a surface is in fact impermeable will depend on how it is constructed and the use it is put to.

A surface will not be impermeable and therefore will be unacceptable if, for example,

- * it is composed of hardstanding made up of crushed or broken bricks or other types of aggregate
- * it has slabs or paving not properly joined or sealed
- * spillages or surface water will not be contained within the system
- * it is made of tarmac laid where battery acid is likely to drip (but see below)
- * it is in a large battery store but is not made of acid-resistant concrete
- * it is made of tarmac where harsh physical activity is likely to damage the surface (but see below)

There may also be other unacceptable examples.

Surfaces made of tarmac may possibly be considered by the Agencies to be acceptably impermeable, depending on the grade of tarmac provided and the method by which it was laid.

'Spillage collection facilities' include the impermeable pavement and sealed drainage system as the primary means of containment. However, spill kits to deal with spillages of oils, fuels and acids should be provided as appropriate

- equipment for the treatment of water, including rainwater, in compliance with health and environmental regulations

On most sites, two systems for the management of water will be necessary, for clean water and for contaminated water.

Clean water can be dealt with by surface water drains that should carry only uncontaminated water from roofs to a watercourse or soakaway. (Reference should be had to sustainable urban drainage systems (SUDS)).

The treatment of contaminated water to the necessary standard will require a sealed drainage system, as defined above.

2. Sites for treatment:

-impermeable surfaces for appropriate areas with the provision of spillage collection facilities, decanters and cleanser-degreasers

An impermeable surface will be required for the whole area in which treatment operations are taking place. Whether a particular type of surface is appropriate is likely to depend upon the treatment carried out at the site, the volume of elvs and type and volume of other materials dealt with, the activities undertaken on the surface, the length of time the surface is intended to be in service, and the level of maintenance.

The term 'impermeable surface' should be read in conjunction with the term 'sealed drainage system' as defined in 1. above.

A 'surface' in this context may not be the uppermost layer, For instance, concrete may be protected by a hardcore layer for certain activities such as burning (ie flame cutting). Under these circumstances the operator will need to be able to demonstrate the continued effectiveness of the impermeable pavement.

See also the general advice on impermeable surfaces and sealed drainage systems under item 1. above.

-appropriate storage for dismantled spare parts, including impermeable storage for oil-contaminated spare parts

Some spare parts, eg engines, require oil in order to preserve working surfaces. Such parts must be appropriately segregated and stored in or on containers that are secured such that oil cannot escape from them. Oily parts must be stored on an area with an impermeable surface, and a sealed drainage system..

-appropriate containers for storage of batteries (with electrolyte neutralisation on site or elsewhere), filters, and PCB/PCT- containing condensers

The process of electrolyte neutralisation may be classified as a PPC activity under the terms of the Pollution, Prevention and Control Act 1999. We consider that only oil-filters need to be removed and stored separately.

Containers must be secure so that oil, battery-acids or other fluids cannot escape from them, and so that liquids, including rainwater, cannot enter them. They must be labelled to identify their contents.

-appropriate storage tanks for the segregated storage of end of life vehicle fluids; fuel, motor oil, gearbox oil, transmission oil, hydraulic oil, cooling liquids, antifreeze, brake fluids, battery acids, air-conditioning system fluids and any other fluid contained in the end of life vehicle

The objective of keeping fluids from the vehicle stored separately is to protect the environment and facilitate their recovery, recycling and reuse. It is not intended that fluids should be separately recovered and stored if they cannot be recovered, recycled or reused individually. Therefore, fluids that should be collected and reused together, will not need to be stored separately. However, any fluids that are categorised as hazardous waste under the European Waste Catalogue may not be mixed unless they fall within the same EWC code. Hazardous and non-hazardous wastes may not be mixed.

If 'any other fluid' (ie any fluid other than that listed), is collected it must be identified and stored in accordance with the above paragraph.

Storage tanks or drums for each category of fluid should be of sufficient strength and integrity to ensure that in normal circumstances they are unlikely to burst or leak. A suitable secondary containment system should be provided. For example, tanks should either have double skins or be appropriately bunded. (Bunding for liquid storage tanks should be at least 110% of the capacity of the largest container). The Environment Agency and SEPA provide guidance on bunding which can be obtained directly from those agencies.

Generally, storage of oils, fuels etc should be consistent with the standards set out in the Control of Pollution (Oil Storage) (England) Regulations 2001, although there should be no minimum quantity limits.

- equipment for the treatment of water, including rainwater, in compliance with health and environmental regulations

As with storage areas, equipment for the treatment of water will require the separate collection of clean and contaminated waters and the installation of a sealed drainage system.

-appropriate storage for used tyres, including the prevention of fire hazards and excessive stockpiling

Tyres will need to be stored so that the risk of fire or spread is minimised. Unnecessary stockpiling of tyres should be avoided.

3. Treatment operations for depollution of end of life vehicles:

- removal of batteries and liquefied- gas tanks

We consider that this will include liquefied petroleum gas, and compressed natural gas tanks. Lead acid batteries must be removed as must any

accessible back-up batteries unless they are required for the subsequent reuse of the part.

Lead acid batteries must be handled carefully and stored in secure containers on impermeable surfaces. All batteries should be handled and stored having regard for the potential fire-risk associated with them.

- *removal or neutralisation of potential explosive components (eg air bags)*

Consideration should be given to the ways in which they may be deployed or otherwise neutralised ie exploded. The impact of noise and vibration on the local environment should be minimised.

The size, location, number of vehicles dealt with and permitted operating hours at the site may be factors to take into account when deciding whether neutralisation is appropriate. If it is not, removal of the components is required. It may be appropriate to consult the Health and Safety Executive in some cases, for example at larger sites where a high volume of ELVs is being treated.

- *removal and separate collection and storage of fuel, motor oil, transmission oil, gearbox oil, hydraulic oil, cooling liquids, anti-freeze, brake fluids, air-conditioning system fluids and any other contained in the end of life vehicle, unless they are necessary for the re-use of the parts concerned*

As with storage requirements, the objective is to minimise the impact on the environment and facilitate the reuse, recycling and recovery of waste liquids. Apart from screen wash fluid, and shock absorber, power assisted steering and suspension system oils, the fluids listed in Annex 1 would require depollution under the Hazardous Waste Directive.

Where depollution is carried out by draining (rather than removal of the component), residual fluid may be left. The component could therefore be considered as hazardous, but it is intended that in these instances threshold criteria should apply, comparing the percentage of residual fuel left in the component with the total weight.

Liquids which need to be retained within a component in order to make it re-usable need not be removed

It should be noted that any fluids that are classified as hazardous waste should not be mixed, apart from the mixing of fluids which fall within the same European Waste Catalogue code. Any components containing CFCs in an end of life vehicle should also be removed and dealt with in accordance with the requirements of the EC Ozone Depleting Substances Regulations (2037/2000), which requires that controlled substances, such as CFCs in air-refrigeration, air-conditioning and fire-protection and extinguishing equipment, should be recovered for destruction before such equipment is disposed of.

Controlled substances may also be found in coolants and insulating foam (for example in refrigerated vehicles).

Controlled substances in other equipment should also be recovered for destruction if practicable.

-removal, as far as feasible, of all components identified as containing mercury

Information provided by motor manufacturers will be of great importance in identifying such components; Article 8 of the Directive requires them to provide dismantling information, including information on the location of all hazardous substances in the vehicle

4. Treatment operations in order to promote recycling;

- removal of catalysts

Catalytic converters from exhaust systems must be removed. The immediate casing of such catalysts should be preserved intact until the unit reaches a specialist recycler.

- removal of metal components containing copper, aluminium, and magnesium if these metals are not segregated in the shredding process

In practice, all these metals are segregated at shredders and recovered at media separation plant

- removal of tyres and large plastic components (bumpers, dashboard, fluid containers, etc) if these materials are not segregated in the shredding process in such a way that they can effectively be recycled as materials

- removal of glass

Treatment operations are all specified in order to promote the recycling of materials, a primary objective of the Directive. It will therefore be necessary to ensure that glass is removed and kept separate from other wastes. Although there is no specific reference in the Annex to removing glass if it is not segregated in the shredding process (cf the item above referring to tyres and large plastic components), it is our view that separation of glass post-shredding would be acceptable in some circumstances. The reference to glass is to all glass components in a vehicle, some of which may not be removed easily before shredding.

Nevertheless, the process of removing and separating glass should ensure that the end product is of suitable quality to be useable. If it is intended for reuse as cullet then large panes should be removed from the vehicle before shredding. If it is intended as secondary aggregate, it may be left in the vehicle.

5. Storage operations are to be carried out avoiding damage to components containing fluids or to recoverable components and spare parts.

We consider that this applies to parts and components that are being stored after de-pollution and treatment of the vehicle, in order to prevent damage to the parts that may cause harm to the environment, as well as to maximise their value for reuse, recycling and recovery.

[Draft regulations laid before Parliament under paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.]

STATUTORY INSTRUMENTS

2003 No.

ENVIRONMENTAL PROTECTION, ENGLAND

[AND WALES]

The End-of-life Vehicles (Storage and Treatment) (England [and Wales]) Regulations 2003

[Approved by both Houses of Parliament]

<i>Made</i>	- - - -	2003
<i>Coming into force</i>	- -	2003

The Secretary of State, being a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste and in relation to the prevention of waste from vehicles and forms of recovery of end-of-life vehicles and their components, in exercise of the powers conferred on her by the said section 2(2), hereby makes the following Regulations[, a draft of which has been laid before and approved by a resolution of each House of Parliament]-

Title, commencement and application [extent]

1. These Regulations -
 - (a) may be cited as the End-of-life Vehicles (Storage and Treatment) (England [and Wales]) Regulations 2003;
 - (b) shall come into force on [] 2003;
 - (c) apply [extend] to England [and Wales].

Interpretation

2. In these Regulations -

^(a) S.I. 1992/2870 and 2001/3495.

^(b) 1972 c.68.

"depollute", in relation to an end-of-life vehicle, means to carry out on it any of the operations described in paragraph 3 of Schedule 1 that are possible (or, in the case of a component identified as containing mercury, feasible) in respect of it, and only when all such operations have been completed shall a vehicle qualify as "depolluted"; "depollution" and any cognate expressions shall be construed accordingly;

"Directive 2000/53" means Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles^(a);

"end-of-life vehicle" has the same meaning as does "end-of life vehicle" in Directive 2000/53;

"energy recovery" means the use of combustible waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;

"operator" means the person having control over any storage, treatment or treatments in respect of which a permit has been granted under regulation 8 or, as the case may be, an exemption has been registered under regulation 9;

"recovery" means any of the operations listed in Annex IIB to the Waste Directive which are applicable to an end-of-life vehicle or its components [or, as the case may be, to scrap metal other than any contained in, or originating from, an end-of-life vehicle];

"recycling" means the processing in a production process of any waste, or constituent of waste, either for its original purpose or for any other purpose other than energy recovery;

"re-use", as a noun, means any operation by which any component of an end-of-life vehicle [or, as the case may be, any scrap metal other than that contained in, or originating from, an end-of-life vehicle] is used, for the second or subsequent time, for the same purpose as that for which it was originally conceived;

"scrap metal" has the meaning given by section 9(2) of the Scrap Metal Dealers Act 1964^(a);

"treatment", in relation to an end-of-life vehicle, means any activity carried out after the end-of-life vehicle has been handed over to an operator to de-pollute, dismantle, shear or shred that vehicle, or to recover or to prepare for disposal any shredder waste from that vehicle, or any other operation carried out either for the recovery or the disposal of that vehicle or any of its components, and the verb "treat" and any cognate expressions shall be construed accordingly;

"treatment", in relation to any scrap metal other than that contained in, or originating from, an end-of-life vehicle, means any activity carried out for the recovery, [recycling or re-use] of such metal;

"the Waste Directive" means Council Directive 75/442/EEC on waste^(b);

Applications

3.-(1) An application made to the Environment Agency under any provision of these Regulations shall –

(i) be made on a form provided for the purpose by the Environment Agency;

^(a) OJ No. L 269, 21.10.2000, p.34; amended by Commission Decisions 2002/151/EC (OJ No.L50, 21.2.2002, p.94) and 2002/525/EC (OJ No.L170, 29.6.2002, p.81).

^(a) 1964 c.69.

^(b) OJ No. L194, 25.7.75, p.39; amended by Council Directives 91/156/EEC (OJ No. L78, 26.3.1991, p.32) and 91/692/EEC (OJ No. L377, 31.12.1991, p.48) and by Commission Directive 96/350/EC (OJ No. L 135, 6.6.1996, p.32).

- (ii) include such information as the Environment Agency shall reasonably require, and
- (iii) be accompanied by the appropriate charge prescribed for the purpose under a charging scheme made under section 41 of the Environment Act 1995 (c).

(2) An application made under these Regulations may be withdrawn at any time before it is determined.

Obligation to treat end-of-life vehicles

4. No person shall intentionally deal with an end-of-life vehicle in such a way as to avoid its submission for treatment in accordance with these Regulations.

Storage or treatment of end-of-life vehicles: general requirements

5.-(1) No person shall store or temporarily store an end-of-life vehicle unless -

- (a) he does so in accordance with the general requirements contained in Article 4 of the Waste Directive, and
- (b) he complies with the technical requirements applicable to such storage which are set out in Schedule 1.

(2) No person shall treat an end-of-life vehicle unless -

- (a) he does so in accordance with the general requirements contained in Article 4 of the Waste Directive, and
- (b) he complies with the technical requirements applicable to such treatment which are set out in Schedule 1 and fulfils the following obligations -
 - (i) save where it has already been so treated he shall first -
 - (aa) strip the vehicle in a way that reduces [minimises?] any adverse impact on the environment of both that and any subsequent treatment [or equivalent arrangement?], and
 - (bb) strip any component or material which has been labelled or otherwise made identifiable as required further to Article 4(2)(iv) of Directive 2000/53 [or of DTI regulation [?] ?];
 - (ii) save where it has already been so treated in whole or in part, and subject to subparagraph (i), he shall complete the depollution of the vehicle as soon as possible;
 - (iii) he shall segregate any hazardous materials or components that he removes in such a way so as not to contaminate any part of the vehicle that is subsequently to be shredded;
 - (iv) he shall perform any stripping or storage of the vehicle that he carries out in such a way as to ensure the suitability of its components for recycling, but if that is not possible then for re-use or recovery.

Storage or treatment of end-of-life vehicles: requirement for permit or registered exemption

6.-(1) Subject to paragraph (2) and to regulation 10, no person shall store or treat any end-of-life vehicle except under, and to the extent and at the place authorised by, a permit granted by the Environment Agency under these Regulations.

(2) Where the treatment consists only in the carrying out of one or more operations for recovery on a depolluted end-of-life vehicle and is conducted in accordance with the general rules contained in Part[s]1 [and 3] of Schedule 2, those operations may instead be carried out under the terms of an exemption registered with the Environment Agency.

Permits or registered exemptions: extension to treatment of scrap metal

7.-(1) A permit to treat any end-of-life vehicle may, in addition, authorise the treatment of any scrap metal (other than such metal contained in, or originating from, an end-of-life vehicle), and to the extent that such is authorised by a permit under these Regulations the same treatment will not be required to be subject to a separate waste management licence granted under section 36 of the Environment Protection Act 1990^(a) or, as the case may be, a separate exemption registered with the Environment Agency under regulation 18 of the Waste Management Licensing Regulations 1994^(b).

(2) An exemption registered with the Environment Agency in respect of the carrying out of any operation for recovery on a depolluted end-of-life vehicle may, in addition, apply to any treatment of scrap metal (other than such metal contained in, or originating from, an end-of-life vehicle) which qualifies as an exempt activity under the Waste Management Licensing Regulations 1994, and to the extent that -

- (a) such is the subject of an exemption registered with the Environment Agency under these Regulations, and
- (b) is conducted in accordance with the general rules contained in Part[s] 2 [and 3] of Schedule 2,

the same treatment will not be required to be subject to a separate exemption registered with the Environment Agency under regulation 18 of the Waste Management Licensing Regulations 1994.

(3) This regulation shall be without prejudice to the system for registration of scrap metal dealers (as defined therein) required by the Scrap Metal Dealers Act 1964 **(a)**.

Storage or treatment permits: general provisions

8.-(1) An application for a permit to treat any end-of-life vehicle shall be made to the Environment Agency.

(2) Any person desiring to treat scrap metal under cover of a permit described in regulation 7 shall so inform the Environment Agency in his application for a permit under paragraph (1).

(3) Subject to paragraph (4), where an application for a permit is duly made to it, the Environment Agency shall either grant the permit subject to the conditions required or authorised to be imposed by regulation 12 or refuse to grant the permit.

(4) A permit shall not be granted unless the Environment Agency considers that the applicant will become the operator were the permit to be granted or that, upon becoming the operator, he will ensure that any treatment will comply with the conditions to which the permit would be subject.

(5) A permit shall not be granted unless the Environment Agency is satisfied that the applicant is a fit and proper person (as described in Schedule 3) to carry out the treatment that is the subject of his application, but this provision shall not apply to -

- (a) a person for the time being holding a waste management licence granted to him by the Environment Agency under section 36 of the Environmental Protection Act 1990, or

^(a) 1990 c.43.

^(b) S.I. 1994/1056; amended by S.I. []

- (b) a person described in regulation 11(1) who applies to the Environment Agency for the grant to him of a permit within 60 days of the coming into force of these Regulations.
- (6) A permit may authorise any one or more types of treatment.
- (7) The Environment Agency shall notify the applicant in writing of its decision on his application within three months of its receipt of his application.
- (8) If the Environment Agency refuses to grant a permit, it shall notify the applicant in writing of its reasons for refusal.

Exemptions registered with the Environment Agency in respect of the treatment of depolluted end-of-life vehicles: general provisions

9.-(1) An application to register an exemption from the requirement to have a permit in respect of the treatment of any depolluted end-of-life vehicle (whether or not also covering the treatment of any other scrap metal as described in regulation 7(2)) shall be made to the Environment Agency.

(2) Upon receipt of an application under paragraph (1), the Environment Agency shall register the exemption, unless -

- (a) it considers that the applicant will not be the operator under the registered exemption;
- (b) it is unable to verify, further to its inspection of the site (including any plant and other facilities) at which the treatment that is the subject of the registered exemption is to take place -
 - (i) the type or types of waste to be treated;
 - (ii) the quantity of such waste to be treated;
 - (iii) the general technical requirements that are to be met in respect of such treatment;
 - (iv) the safety precautions that are to be taken in respect of such treatment,
 in order that the objectives referred to in Article 4 of the Waste Directive are achieved in respect of such treatment.

[(3) A registered exemption may be in respect of any one or more types of treatment of a depolluted end-of-life vehicle.]

(4) If, further to paragraph (2), the Environment Agency is unable to register the exemption, it shall notify the applicant in writing of its reasons for that inability.

(5) Details of all registered exemptions made under this regulation shall be kept by the Environment Agency in a register, and shall contain the following particulars in respect of each such registration -

- (a) the name and address of the person who applied to register the exemption;
- (b) the type or types of treatment covered by the registered exemption, and stating whether or not the exemption extends to treatment of other scrap metal as described in regulation 7(2);
- (c) the place where such treatment is to be carried out.

Waste management licences

10.-(1) A person who is already carrying out storage or treatment (or both) of any end-of-life vehicle at the time of coming into force of these Regulations under the authority of—

(a) a waste management licence granted to him by the Environment Agency under section 36 of the Environmental Protection Act 1990, or

(b) any other licence that is treated as such a waste management licence pursuant to section 74 of that Act,

may continue to carry out such storage or treatment (or both) under the terms of that licence subject to his always fulfilling the further requirements in respect of such storage or treatment (or both) now imposed upon him by regulation 5.

Registered exemptions under the Waste Management Licensing Regulations 1994: transitional arrangements

11.-(1) A person who is already carrying out treatment on an end-of-life vehicle at the time of coming into force of these Regulations in accordance with the terms of an exemption, registered with the Environment Agency, from the requirement to hold a waste management licence under section 36 of the Environmental Protection Act 1990, and who desires to continue such treatment thereafter shall, within 60 days of their coming into force, apply to the Environment Agency under these Regulations either -

(i) for the grant to him of a permit under regulation 8; or

(ii) to register an exemption under regulation 9;

in respect of such treatment.

(2) A person who applies to the Environment Agency in accordance with paragraph (1) may continue after the coming into force of these Regulations to treat end-of-life vehicles as permitted under his existing registered exemption until such time as the Environment Agency notifies him in writing of its determination of his application, provided that such continuing treatment always conforms to the requirements of regulation 5(2).

(3) A person described in paragraph (1) who fails to apply to the Environment Agency within 60 days of the coming into force of these Regulations for a permit or, as the case may be, registration, shall not thereafter carry out any treatment on an end-of-life vehicle unless he is first granted a permit or, as the case may be, he first registers an exemption under these Regulations.

Conditions of permits

12.-(1) Any permit granted under regulation 8 -

(a) is subject to the condition that such of the technical requirements for the storage and treatment of end-of-life vehicles set out in Schedule 1 as apply in respect of any activity carried out under such permit shall be complied with or, as the case may be, shall not be contravened;

[(b) is subject to the condition that no significant alteration shall be made -

(i) to the site, the plant, or other facilities otherwise than by way of repairs or maintenance, or

(ii) to the method of operation at the site,

without the Environment Agency's prior agreement in writing.]

- (c) shall be subject to any further condition, specific to the site, the plant, or other facilities, or the storage or treatment in respect of which the permit is granted, as the Environment Agency considers it appropriate to impose (any such conditions being referred to hereinafter as "specific conditions").
- (2) The Secretary of State may give directions to the Environment Agency -
 - (a) as to the specific conditions which are, or are not, to be included in -
 - (i) all permits, in permits of a specified description or in any particular permit;
 - (ii) as to the objectives which are to be achieved by conditions included in such permits.
 - (3) The Environment Agency may at any time alter the specific conditions of a permit, whether in response to an application made to it or where it appears to it to be necessary or expedient so to do.
 - (4) An operator may apply to the Environment Agency for an alteration of the specific conditions to which his permit is subject.
 - (5) Where an application is made to it under paragraph (4), the Environment Agency shall determine whether to alter the specific conditions of the permit in question.
 - (6) Where the Environment Agency decides to alter the specific conditions of a permit, whether on an application to it under paragraph (4) or otherwise, it shall serve on the operator a notice in writing specifying the alteration of those conditions of the permit and the date on which the alteration is to take effect.
 - (7) Where the Environment Agency decides on an application under paragraph (4) not to alter the specific conditions of the permit, it shall notify the operator in writing of its reasons for refusal.

Application to transfer a permit

- 13.-**(1) If an operator wishes to transfer the permit granted to him under regulation 8 to another person ("the proposed transferee") he and the proposed transferee shall jointly make an application to the Environmental Agency to effect the transfer.
- (2) Where an application is made to it under paragraph (1) the Environment Agency shall -
 - (a) if satisfied, on the basis of the information supplied to it in the application that the proposed transferee -
 - (i) is a fit and proper person (as described in Schedule 3), and
 - (ii) will become the operator under the permit after it has been transferred, and that he will ensure that any storage or treatment (or both) will comply with the specific conditions (including any new specific conditions imposed at the time of the transfer) to which the permit is subject,
 effect the requested transfer, or
 - (b) if not so satisfied, give notice in writing to both the operator and the proposed transferee, stating that the application has been refused.
 - (3) The Environment Agency shall effect a transfer under this regulation by causing the permit to be endorsed with the name and other particulars of the proposed transferee as now being the operator in respect of the storage or treatment (or both) thenceforth to be carried out under it.

(4) The Environment Agency may, by notice in writing, require the operator or the proposed transferee to furnish such further information specified in the notice, within the period so specified, as the Environment Agency may require for the purpose of determining an application under this regulation.

Application to surrender a permit

14.-(1) If an operator has ceased, or if he intends to cease, to store or to treat end-of-life vehicles under a permit granted under regulation 8, he may apply to the Environment Agency to surrender that permit.

(2) Where an application is made to it under paragraph (1), the Environment Agency shall -

- (a) if satisfied, on the basis of the information supplied to it in the application, that such steps (if any) as are appropriate to avoid any pollution risk resulting from the storage or treatment carried out on such of the site as is the subject of the requested surrender and to return the said site to a satisfactory state have been taken by the operator, accept the surrender and give the operator notice of this, and the permit in question shall cease to have effect on the date specified in the application;
- (b) if not so satisfied, give to the operator a notice in writing stating that the application has been refused.

(3) The Environment Agency shall notify the operator under paragraph (2)(a) or (b) within three months of its receipt of his application.

Revocation of a permit

15.-(1) The Environment Agency may at any time revoke a permit, in whole or in part, by serving a notice (a "revocation notice") in writing on the operator.

(2) Without prejudice to the generality of paragraph (1), the Environment Agency may serve a revocation notice in relation to a permit where -

- (a) it appears to the Environment Agency that an operator in relation to whom, in the course of his application for a permit, it determined that he was a fit and proper person, has ceased to be such a person by reason of his having been convicted of a relevant offence within the meaning given in Schedule 3 or by reason of any storage or treatment which is carried out under the permit having ceased to be in the hands of a technically competent person.
- (b) the person to whom that permit was granted has ceased to be the operator under that permit.

(3) A revocation notice shall specify -

- (a) the extent of the revocation;
- (b) the date on which the revocation shall take effect;
- (c) any steps which the Environment Agency considers that it is appropriate to require the operator to take to -
 - (i) avoid any pollution risk resulting from the treatment carried out on the site, or that part of it, affected by the revocation;
 - (ii) return the site, or that part of it, to a satisfactory state,

and the date by which these steps are to be taken, which may be a later date than the date on which the revocation is to take effect.

(4) A permit in respect of which a revocation notice has been served shall be revoked to the extent, and on the date, specified in that notice.

(5) Before the date specified in any revocation notice as the date on which the revocation is to take effect, the Environment Agency may withdraw that notice.

[Duty of the Environment Agency to ensure compliance with conditions

16. While a permit is in force, it shall be the duty of the Environment Agency to take such action under these Regulations as may be necessary for the purpose of ensuring that the conditions of the permit are complied with.

Enforcement notices

17.-(1) If the Environment Agency is of the opinion that an operator has contravened, is contravening or is likely to contravene any condition of his permit it may serve on him a notice (an "enforcement notice") in writing.

(2) An enforcement notice shall -

- (a) state that the Environment Agency is of that opinion;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the period within which those steps must be taken.

(3) The steps that may be specified in an enforcement notice as steps that must be taken to remedy the contravention of any conditions of a permit may include both steps that must be taken to make the carrying out of any treatment comply with the conditions of the permit and steps that must be taken to remedy the effects of any pollution caused by the contravention.

(4) The Environment Agency may withdraw an enforcement notice at any time.

Suspension notices

18.-(1) If the Environment Agency is of the opinion, as respects any storage or treatment authorised under a permit granted under these Regulations, that the carrying out of that storage or treatment involves an imminent risk of serious pollution, it shall, unless it intends to arrange for steps to be taken under regulation 19(1) in relation to the risk, serve a notice in writing under this regulation (a "suspension notice") on the operator.

(2) Paragraph (1) applies whether or not the storage or treatment in question is regulated by or contravenes a condition of the permit.

(3) If the Environment Agency is of the opinion, as respects the carrying out of any storage or treatment under a permit granted under these Regulations, that the operator carrying out the activities has ceased to be a fit and proper person (as described in Schedule 3) in relation to those activities by reason of their management having ceased to be in the hands of a technically competent person, it may serve a suspension notice on that operator.

- (4) A suspension notice shall -
- (a) state the Environment Agency's opinion, as mentioned in paragraph (1) or (3), as the case may be;
 - (b) in the case of a notice served under paragraph (1), specify -
 - (i) the imminent risk involved in the storage or treatment;
 - (ii) the steps that must be taken to remove it and the period within which they must be taken;
 - (c) state that the permit in question shall, until the notice is withdrawn, cease to have effect to authorise the carrying out of the treatment specified, and
 - (d) where the permit in question is to continue to have effect to authorise the carrying out of any storage or treatment, state any steps, in addition to those already required to be taken by the conditions of the permit, that are to be taken in carrying out that storage or treatment (or both).
- (5) Where a suspension notice is served under this regulation the permit shall, on the service of the notice, cease to have effect as stated in the notice.
- (6) The Environment Agency may withdraw a suspension notice at any time and shall withdraw a notice when it is satisfied -
- (a) in the case of a notice served under paragraph (1), that the steps required by the notice to remove the imminent risk of serious pollution have been taken;
 - (b) in the case of a notice served under paragraph (3), that the management of the storage or treatment is in the hands of a technically competent person.

[Power of Environment Agency to prevent or remedy pollution

19.-(1) If the Environment Agency is of the opinion, as respects any storage or treatment under a permit granted under these Regulations, that the carrying out of that storage or treatment involves an imminent risk of serious pollution, it may arrange for steps to be taken to remove that risk.

(2) Where the commission of an offence under regulation 21 causes any pollution the Environment Agency may arrange for steps to be taken towards remedying the effects of the pollution.

(3) In the event that it intends to arrange for steps to be taken under paragraph (2) the Environment Agency shall, at least seven days before the steps are taken, notify the operator in writing of the steps that are to be taken.

(4) Subject to paragraph (5), where the Environment Agency arranges for steps to be taken under this regulation it may recover the cost of taking those steps from the operator concerned.

(5) No costs shall be recoverable under paragraph (4) where the Environment Agency arranges for steps to be taken under paragraph (1) if the operator shows that there was no imminent risk of serious pollution requiring any such steps to be taken and no other costs shall be recoverable which the operator shows to have been unnecessarily incurred by the Environment Agency.

(6) [right of entry etc. for Agency and its contractors]]

Appeals to the Secretary of State

20.-(1) Subject to paragraph (3), the following persons, namely -

- (a) a person who has been refused the grant of a permit under regulation 8;
- (b) a person who has been refused the alteration of the specific conditions of a permit, on an application under regulation 12(4);
- (c) a person who is aggrieved by the specific conditions attached to a permit granted to him following an application under regulation 8 or by an alteration in such conditions following an application under regulation 12(4);
- (d) a person whose application under regulation 13(1) for the Environment Agency to effect the transfer of a permit has been refused, or who is aggrieved by the specific conditions attached to his permit to take account of the transfer;
- (e) a person whose application under regulation 14 for the surrender of a permit has been refused, or who is aggrieved by the specific conditions attached to his permit to take account of such surrender,

may appeal against the decision of the Environment Agency to the Secretary of State [or where she so directs, to a person appointed by her].

(2) Subject to paragraph (3), a person on whom a notice of alteration of specific conditions, other than following an application under regulation 12(4), or on whom a revocation notice is served, may appeal against the notice to the Secretary of State [or where she so directs, to a person appointed by her].

(3) Paragraphs (1) and (2) shall not apply where the decision or notice, as the case may be, implements a direction of the Secretary of State given under regulation 12(2).

(4) On the determination of an appeal against a decision of the Environment Agency under paragraph (1) the Secretary of State may -

- (a) affirm the decision;
- (b) where the decision was a refusal to grant a permit or to alter the specific conditions of a permit, direct the Environment Agency to grant the permit or to alter the specific conditions of the permit, as the case may be;
- (c) where the decision was as to the specific conditions attached to a permit, quash all or any of the specific conditions in question;
- (d) where the decision was a refusal to effect the transfer or to accept the surrender of a permit, direct the Environment Agency either to effect the transfer or to accept the surrender, as the case may be,

and where she exercises any of the powers in sub-paragraph (b) or (c) she may give directions as to the specific conditions to be attached to the permit in question.

(5) On the determination of an appeal under paragraph (2) the Secretary or State may either quash or affirm the notice and, if she affirms it, may do so either in its original form or with such modifications as she may in the circumstances think fit.

(6) Where an appeal is brought under paragraph (1) (b), (c), (d) or (e) in relation to the specific conditions attached to a permit, the bringing of the appeal shall not have the effect of suspending the operation of those specific conditions.

(7) Where an appeal is brought under paragraph (2) against a notice of alteration of specific conditions, the bringing of the appeal shall not have the effect of suspending the operation of the notice.

(8) Where an appeal is brought under paragraph (2) against a revocation notice, the revocation shall not take effect pending the final determination, or the withdrawal, of the appeal.

(9) Schedule 4 shall have effect in relation to the making and determination of appeals under this regulation.

Offences

21.-(1) It is an offence for a person -

- (a) to fail to comply with or to contravene regulations 4, 5, 6 or 11(3);
- (b) to fail to comply with or to contravene a condition of a permit granted under regulation 8;
- (c) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, for the purpose of obtaining for himself or another any grant of a permit, any registered exemption, any alteration of the specific conditions of a permit, any transfer of a permit, or any acceptance of the surrender of a permit;
- [(d) to fail to comply with an enforcement notice served on him under regulation 17;]
- (e) intentionally to make a false entry in any record required to be kept by virtue of a permit;
- (f) to breach any general rule contained in Schedule 2.

(2) A person found guilty of an offence under paragraph (1) shall be liable -

- (a) upon summary conviction, to a fine not exceeding level [] on the standard scale;
- (b) upon conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Signed by authority of the
Secretary of State for
Environment, Food and Rural Affairs

SCHEDULE 1

regulations 2, 5(1)(b) and (2)(b) and 12

TECHNICAL REQUIREMENTS FOR THE TREATMENT AND STORAGE OF END-OF-LIFE VEHICLES

1. The storage or temporary storage of an end-of-life vehicle prior to treatment shall only be carried out at a site -
 - (a) having, in appropriate areas, impermeable surfaces and provided with spillage collection facilities, decanters, and cleanser-degreasers, and
 - (b) provided with equipment for the treatment of water (including rainwater) in compliance with all applicable legislation concerning health and environmental matters.
2. The treatment of an end-of-life vehicle shall only be carried out at a site -
 - (a) having, in appropriate areas, impermeable surfaces and provided with spillage collection facilities, decanters and cleanser-degreasers;
 - (b) provided with storage facilities that are appropriate for dismantled spare parts, including impermeable storage facilities for spare parts that are contaminated with oil;
 - (c) provided with containers that are appropriate for the storage of batteries (whether electrolyte neutralisation is carried out on-site or elsewhere), filters, and condensers containing any PCB or PCT or both;
 - (d) provided with storage tanks that are appropriate for the separate segregated storage of any fluid from an end-of-life vehicle;
 - (e) provided with equipment for the treatment of water (including rainwater) in compliance with all applicable legislation concerning health and environmental matters;
 - (f) at which there is appropriate storage for used tyres without excessive stockpiling, and minimising any risk of fire.
3. Treatment operations for the depollution of an end-of-life vehicle shall consist of -
 - (a) the removal of the battery or batteries;
 - (b) the removal of the liquified gas tank;
 - (c) the removal or neutralisation of all potentially explosive components (including air bags);
 - (d) the removal and separate collection and storage of all of -
 - (i) the fuel;
 - (ii) the oil from the engine, from the transmission system, from the gearbox, and from the hydraulic system;
 - (iii) the cooling liquids;
 - (iv) the anti-freeze;
 - (v) the brake fluids;

(vi) the fluids from the air-conditioning system,

and any other fluid contained in the said vehicle, but excluding any of the foregoing which is to be retained in the part of the vehicle in which it is found by reason of being necessary for the re-use of that part;

(e) the removal, so far as is feasible, of all components identified as containing mercury.

4. The following treatment operations must be carried out (where the listed article or other thing is first present in an end-of-life vehicle) for the purpose of recycling -

(a) the removal of the catalyst or catalysts;

(b) the removal (either during shredding or separately) of all metal components containing one or more of copper, aluminium and magnesium;

(c) the removal (either during shredding or separately) of the tyres;

(d) the removal (either during shredding or separately) of all large plastic components (including bumpers, the dashboard, and any fluid container) in such a way that they can be effectively recycled as materials;

(e) the removal of all glass.

5. Any storage operations shall be carried out in such a manner as avoids damage to -

(a) any component containing a fluid or fluids;

(b) any recoverable components;

(c) any spare part.

SCHEDULE 2

regulations 6(2) and 7(2)

GENERAL RULES (AS REQUIRED TO BE ADOPTED FURTHER TO ARTICLE 11(1) OF THE WASTE DIRECTIVE)

Part 1

GOVERNING OPERATIONS FOR RECOVERY CARRIED OUT ON DEPOLLUTED END- OF-LIFE VEHICLES UNDER THE TERMS OF A REGISTERED EXEMPTION

1. Any treatment carried out under an exemption registered with the Environment Agency as described in regulation 6(2) shall be subject to the limit that no more than 40 depolluted end-of-life vehicles shall be so treated under each such registration during any period of seven days.

Part 2

GOVERNING ANY TREATMENT OF OTHER SCRAP METAL, AS DESCRIBED IN REGULATION 7(2), UNDER THE TERMS OF A REGISTERED EXEMPTION

1. The carrying out, on a type of scrap metal described in the following table, of any of the treatments specified in that Table in relation to that type of scrap metal -
 - (a) shall not, in any period of seven days, exceed the limit specified in relation to that kind of waste in that Table;
 - (b) shall be carried out with a view to the recovery [,recycling or re-use] of the scrap metal (whether or not by the person carrying out the treatment listed in that Table);
 - [(c) every part of that place upon which the treatment is carried out is surfaced with an impermeable surface provided with a sealed drainage system; and
 - (d) the plant or equipment used in carrying out the treatment is maintained in reasonable working order].

TABLE

Type of scrap metal	Types of treatment	7-day limit
Ferrous metals or ferrous alloys in metallic non-dispersible form (but not turnings, shavings or chippings of those metals or alloys)	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	8,000 tonnes
The following non-ferrous metals, namely copper, aluminium, nickel, lead, tin, tungsten, cobalt, molybdenum, vanadium, chromium, titanium, zirconium, manganese or zinc, or non-ferrous alloys, in metallic non-dispersible form, of any of those metals (but not turnings, shavings or chippings of those metals or alloys).	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	400 tonnes
Turnings, shavings or chippings of any of the metals or alloys listed in either of the above categories.	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	300 tonnes

Note: "shearing" means the cold cutting of metal by purpose-made shears.

PART 3 GOVERNING ANY TREATMENTS, AS APPLICABLE

1. In relation to the carrying out of any treatment at any place under the terms of an exemption registered with the Environment Agency, the operator -
 - (a) shall have established administrative arrangements to ensure that -
 - (i) only depolluted end-of-life vehicles and, if such be the case, scrap metal of a type listed in the Table in Part 2 are accepted at that place; and
 - (ii) no such vehicles and, if such be the case, scrap metal are accepted at that place in such a quantity as would cause there to be a breach of any of the terms and conditions of the registration; and
 - (b) shall carry out a monthly audit to confirm compliance with the terms and conditions of the registration;
 - (c) shall keep records showing, for each calendar month, the total quantity of depolluted end-of-life vehicles and, if applicable, scrap metal of a type listed in the Table in Part 2 recovered during that month at that place, and shall send details each January of the total quantities of all such vehicles and scrap metal recovered at that place during the preceding year to the Environment Agency.]

SCHEDULE 3

regulations 8(5), 13(2), 15(2) and 18(3)

FIT AND PROPER PERSON

1. Whether a person is or is not a fit and proper person to carry out any storage or treatment shall be determined by reference to the fulfilment of the conditions of the permit which apply or will apply to the carrying out of that storage or treatment.
2. Subject to paragraph 3, a person shall be regarded as not being a fit and proper person if it appears to the Environment Agency that -
 - (a) he or another relevant person has been convicted of a relevant offence;
 - (b) the management of the storage or treatment which is or is to be carried out is not or will not be in the hands of a technically competent person[; or
 - (c) the person who holds or is to hold the permit has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the permit in relation to the storage or treatment].
3. The Environment Agency may, if it considers it proper to do so in any particular case, regard a person as a fit and proper person notwithstanding that paragraph 2(a) applies in his case.
4. For the purposes of paragraph 2-
 - (a) "relevant offence" means an offence prescribed under section 74(6) of the Environmental Protection Act 1990^(a) for the purposes of section 74(3)(a) of that Act; and
 - (b) the qualifications and experience required of a person for the purposes of section 74(3)(b) of that Act which are prescribed under section 74(6) of that Act shall be treated as the qualifications and experience required of a person for the purposes of paragraph (3)(b).
5. In paragraph 2(a), "another relevant person" means, in relation to the holder or proposed holder of a permit -
 - (a) any person who has been convicted of a relevant offence committed by him in the course of his employment by the holder or proposed holder, or in the course of the carrying on of any business by a partnership one of the members of which was the holder or proposed holder;
 - (b) a body corporate which has been convicted of a relevant offence committed when the holder or proposed holder was a director, manager, secretary or other similar officer of, or was purporting to act in any such capacity in relation to, that body corporate; or
 - (c) where the holder or proposed holder is a body corporate, a person who is a director, manager, secretary or other similar officer of, or any person who was purporting to act in any such capacity in relation to, that body corporate and who -

^(a) 1990 c.43 ; see regulation 3 of the Waste Management Licensing Regulations 1994 (S.I.1994/1056).

(a) 1995 c.25

- (i) has been convicted of a relevant offence; or
- (ii) was a director, manager, secretary or other similar officer of, or was purporting to act in any such capacity in relation to, another body corporate at a time when a relevant offence for which that other body corporate has been convicted was committed

SCHEDULE 4

regulation 20(9)

APPEALS TO THE SECRETARY OF STATE [OR TO A PERSON APPOINTED BY HER]

1.-(1) A person who wishes to appeal to the Secretary of State under regulation 20 shall give to the Secretary of State written notice of the appeal together with the documents specified in sub-paragraph (2) and shall at the same time send to the Environment Agency a copy of that notice together with copies of the documents specified in sub-paragraph (2)(a) and (f).

(2) The documents mentioned in sub-paragraph (1) are -

- (a) a statement of the grounds of appeal;
- (b) a copy of any relevant application;
- (c) a copy of any relevant permit;
- (d) a copy of any relevant correspondence between the appellant and the Environment Agency;
- (e) a copy of any decision or notice which is the subject matter of the appeal; and
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.

(3) An appellant may withdraw an appeal by notifying the Secretary of State in writing and shall send a copy of that notification to the Environment Agency .

2.-(1) Subject to sub-paragraph (2), notice of appeal in accordance with paragraph 1 is to be given -

- (a) in the case of an appeal under regulation 20(1), before the expiry of the period of six months beginning with the date of the decision or deemed decision which is the subject matter of the appeal;
- (b) in the case of an appeal under regulation 20(2) against a notice of alteration of specific conditions before the expiry of the period of two months beginning with the date of the notice.
- (c) in the case of an appeal under regulation 20(2) against a revocation notice before the date on which the revocation takes effect;

(2) The Secretary of State may in a particular case allow notice of appeal to be given after the expiry of the periods mentioned in sub-paragraph (1)(a) or (c).

3.-(1) Before determining an appeal under regulation 20, the Secretary of State may afford the appellant and the Environment Agency an opportunity of appearing before and being heard by a person appointed by him (the "appointed person") and he shall do so in any case where a request is duly made by the appellant or the Environment Agency to be so heard.

(2) A hearing held under sub-paragraph (1) shall be held in private.

(3) Where the Secretary of State causes a hearing to be held under sub-paragraph (1) he shall give the appellant and the Environment Agency at least 28 days notice in writing (or such shorter period of notice as they may agree) of the date, time and place fixed for the holding of the hearing.

(4) The Secretary of State may vary the date fixed for the holding of any hearing and sub-paragraph (3) shall apply to the variation of a date as it applied to the date originally fixed.

(5) The Secretary of State may also vary the time or place for the holding of a hearing and shall give such notice of any such variation as appears to him to be reasonable.

(6) After the conclusion of a hearing, the appointed person shall make a report in writing to the Secretary of State which shall include his conclusions and his recommendations or his reasons for not making any recommendation.

(7) Subsections (2) to (5) of section 250 of the Local Government Act 1972^(a) (local inquiries: evidence and costs) shall apply to hearings held under this paragraph by an appointed person as they apply to inquiries caused to be held under that section by a Minister, but with the following modifications, that is to say -

- (a) with the substitution in subsection (2) (evidence) for the reference to the person appointed to hold the inquiry of a reference to the appointed person;
- (b) with the substitution in subsection (4) (recovery of costs of holding the inquiry) for the references to the Minister causing the inquiry to be held of references to the Secretary of State;
- (c) with the substitution of the reference in that subsection to a local authority with a reference to the Environment Agency;
- (d) with the substitution in subsection (5) (orders as to the costs of the parties) for the reference to the Minister causing the inquiry to be held with a reference to the Secretary of State.

4.-(1) Where the appeal is to be disposed of on the basis of written representations, the Environment Agency shall submit any written representations to the Secretary of State not later than 28 days after receiving a copy of the documents mentioned in paragraph 1(2)(a) and (f).

(2) The appellant shall make any further representation by way of reply to any representations from the Environment Agency not later than 28 days after the date of submission of those representations by the Environment Agency.

(3) Any representations made by the appellant or the Environment Agency shall bear the date on which they are submitted to the Secretary of State.

(4) When the Environment Agency or the appellant submits any representations to the Secretary of State it, or as the case may be, she shall at the same time send a copy of them to the other party.

(5) The Secretary of State may in a particular case -

- (a) set later time limits than those mentioned in this paragraph;
- (b) require exchanges of representations between the parties in addition to those mentioned in paragraph (1) and (2).

5. The Secretary of State shall give notice in writing to the appellant and to the Environment Agency of the determination of the appeal and shall provide each with a copy of any report mentioned in paragraph 3(6).

6. Where a determination of the Secretary of State on an appeal is quashed in proceedings before any court, the Secretary of State -

- (a) shall send to the appellant and to the Environment Agency a statement of the matters with respect to which further representations are invited for the purposes of further consideration of the appeal;
- (b) shall afford to them the opportunity of making, within 28 days of the date of the statement, written representations in respect of those matters; and

^(a) 1972 c.70; section 250 has been amended by the Statute Law (Repeals) Act 1989 (c.43) and the Housing and Planning Act 1986 (c.63), Schedule 12.

- (c) may, as she thinks fit, cause a hearing to be held or re-opened and, if she does so, paragraphs 3(2) to 7 shall apply to the hearing or the re-opened hearing as they apply to a hearing held under paragraph 3(1),

and paragraph 5 shall apply to the re-determination of the appeal as it applies to the determination of an appeal.

THE CONSULTATION CRITERIA

1. *Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.*
2. *It should be clear who is being consulted, about what questions, in what timescale and for what purpose.*
3. *A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.*
4. *Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others) and effectively drawn to the attention of all interested groups and individuals.*
5. *Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation*
6. *Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and the reasons for decisions finally taken.*
7. *Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.*

The complete code is available on the Cabinet Office's web site, address www.cabinet-office.gov.uk/servicefirst/index/consultation.htm.

COMMENTS OR COMPLAINTS

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to Mr P Martin, DTI Consultation Co-ordinator, Room 725, 1 Victoria Street, London SW1H 0ET or telephone him on 020 7215 6206 or email philip.martin@dti.gsi.gov.uk