



AUTOMOTIVE RECYCLERS OF CANADA

Submission to Environment Canada re:

Consultation Document

*Proposed Extended Producer Responsibility Regulations for Managing End-of-Life
Ozone-Depleting Substances (ODS) and their Halocarbon Alternatives: Increasing the
dual benefit to the ozone layer and climate protection*

December 18, 2009

Introduction

The Automotive Recyclers of Canada (ARC) represents 425 automotive dismantlers and recyclers across Canada.

Our members subscribe to an approach to end-of-life-vehicle (ELV) management that seeks to derive the maximum economic and material value through recovery of reusable or remanufacturable automotive components, the recycling of non-reusable materials and the recovery of toxic materials for recycling or proper disposal all with a view to minimizing the environmental burdens associated with ELV management.

Examples of ARC members' environmentally progressive practices include:

- ARC is a partner of the "Switch Out" Extended Producer Responsibility (EPR) program for the recovery of mercury switches from ELVs. This program requires the removal of mercury containing switches from ELVs prior to further processing or recycling in order to reduce discharges of mercury from ELVs to the environment;
- ARC members provide ELV management to the Government of Canada's Retire Your Ride vehicle scrappage incentive program which requires adherence to National Code of Practice for Automotive Recyclers Participating in the National Vehicle Scrappage Program.
- ARC was contracted by Environment Canada to develop the Code of Practice for the Retire Your Ride program, and has also been contracted to deliver the educational and audit components of the Code implementation.
- ARC is currently in discussions with Environment Canada as to how to make the Code a legacy item beyond the 2011 time horizon of Retire Your Ride.

The Canadian ELV processing market

The ELV processing sector is vibrant and highly competitive. Accordingly, any scheme to increase the recovery of automotive wastes - including ODS - should seek to harness, and build upon, the efficiencies associated with the existing ELV processing market while driving that market to operate at higher environmental standards.

ARC supports Environment Canada's goal of improving the end of life management of ODSs and we believe that a regulatory approach that harnesses existing market dynamics in the context of high environmental standards and simple incentives can improve recovery of ODS in the automotive sector at least cost to producers and their consumers.

Automotive Recycling and ODS

ARC members handle automotive ODSs in accordance with provincial regulations and the National Code of Practice for Retire Your Ride.

With respect to refrigerants, the Code requires the air conditioning units of ELVs to be tested for the presence of refrigerants and requires that those refrigerants be removed as

per provincial and territorial regulations. While regulations vary from province to province, all prohibit the release of ODSs and most require recovery in accordance with certified standards.

There are currently two principle disincentives to the increased recovery of ozone depleting substances by ELV processors:

- Costs of recovering ODSs from the vehicles. As stated above, ARC members recover ODS in compliance with the Code. For ARC members the cost of recovering ODS from those ELVs is recovered through the derived value of the reusable, remanufacturable and recyclable components of ELVs processed.

However, a significant percentage of ELVs in Canada are processed whole (i.e. shredded) on large-scale without dismantling for reusable components and pre-removal of materials containing hazardous substances. In these cases the value of the recovered metals is insufficient to cover the additional cost associated with the pre-removal of substances of concern; and

- Costs associated with the proper disposal of non-reusable ODS once they have been recovered from ELVs by ELV processors.

Both of these disincentives are ideally addressed through an EPR approach utilizing the existing ELV processing sector. A simple EPR scheme would see:

1. ELVs directed solely to legitimate ELV processors that can be accredited and verified as operating to the National Code of Practice for Automotive Recyclers. As a general principle the ARC supports a common approach to managing ODSs for the entire automotive recycling sector - if an organization does not meet required environmental standards it should not be eligible to participate in the ODS extended producer responsibility program; and
2. ODS recovered by accredited and verified ELV processors be collected and transported to an ODS processor for proper recycling or disposal at no cost to the ELV processor. The cost of this portion of the program would be covered by ODS producers.

We now provide specific comments with regard to the proposals contained in the proposed ODS EPR regulations consultation document.

Specific Comments on the Environment Canada Proposal

1) Extended Producer Responsibility (EPR)

The ARC supports the general principle of EPR subject to key program attributes:

- the regulatory framework should rely on market-force instruments to enable the regulated community to discharge its environmental obligations at the lowest possible cost;
- the regulatory framework should encourage the recovery of ODSs through evolution of the existing recycling infrastructure - improved recovery rates can be achieved by addressing existing economic disincentives to ODS recovery within each sector.

2) Scope of the Regulations

Designated Substances

ARC supports Environment Canada's proposed list of designated substances.

Designated Equipment

With respect to designated equipment, the ARC believes that it is important for the regulations to establish a level playing field with respect to goods manufactured in Canada and in other countries. Domestic manufacturers should not be disadvantaged by the application or scope of the regulatory framework.

The ARC supports the inclusion of mobile air conditioning equipment, but because the proposal appears to exclude imported automotive equipment, it would appear that domestic automotive manufacturers could potentially be disadvantaged by the proposal. The ARC supports the inclusion of imported automobiles and trucks in the regulatory framework. This can be achieved by also assigning the “first importer” of ODS substances into Canada with responsibility for end-of-life ODS management. In this case a first importer would be defined as:

“A person who imports ODS into Canada, for which a brand owner does not exist in Canada, and who is the first to take title to the ODS upon or after arrival in Canada from elsewhere.”¹

With respect to domestic manufacturers some mechanism will also be required to account for ODS contained in products that are exported out of the country (as ODSs related to exported equipment will not be recoverable).

3) Regulated Community

Required participation in a stewardship program should be defined in a way that enables businesses to discharge their EPR responsibilities in a variety of ways including potentially contracting with service providers rather than actually participating in the formation and operation of a Producer Responsibility Organization under the regulations.

¹ This definition is adapted from the definition provided in the Ontario Tire Stewardship, Used Tires Program Plan as prepared for Waste Diversion Ontario. February 27, 2009

4) Administration of EPR Program

Producer Responsibility Organization

ARC agrees that EPR obligations should apply to individual companies that would have the opportunity to discharge these obligations individually or through participation in, or service arrangements with, one or more Producer Responsibility Organizations (PROs). With respect to PROs, it is important that they act only to discharge ODS producer EPR obligations and not to unduly restrict competition in producer or ODS recovery or ODS disposal markets.

Fees and Levies

In competitive markets where producers discharge their EPR obligations individually or as voluntary collectives what producers might pay to service providers or PROs need not be subject of government oversight. These charges are the subject of market negotiations between parties. They are in fact private arrangement between parties to meet environmental outcomes set in public policy. Producers will seek the lowest costs options for discharging their obligations to meet those outcomes thus ensuring least cost to themselves and their consumers.

As an example Refrigerant Management Canada (RMC - an existing ODS recovery program for the air conditioning and stationary refrigerant sector operated by the Heating, Refrigeration and Air Conditioning Institute of Canada) levies producers fees that are voluntarily paid and are not subject to government oversight.

By extension, where EPR for ODS materials is mandated by law, a competitive market would ensure that any exorbitant levies for ODS disposal services charged by one PRO would be countered by the ability of producers to turn to other ODS compliance schemes or service providers who could provide more cost-effective alternatives.

In summary, there is little need for government oversight of program charges, fees or levies where competitive markets will ensure lowest costs and where those producers that subscribe to PROs will undoubtedly demand financial transparency on the disposition of funds they remit.

Collection

The ARC supports the notion of a seller take back provision for bulk refrigerants.

With respect to ODS recovery from mobile applications in remote locations, ARC supports an approach that would see producers provide ODS collection and transportation services to any ELV processor recovering ODS from ELVs. Geographic coverage should be as wide as the ELV processing footprint. Obviously such collection and transportation would be more infrequent in remote areas in order to reduce transportation costs.

Elements of the Plan Required for a Stewardship Program

The required elements of the potential stewardship program are generally reasonable. However, given the discussion on levies and fees described above it is unclear why the government will want ODS EPR schemes to provide financial audits of those operations when (as discussed above) those operations are the subject of private arrangements to meet the desired environmental outcomes.

It is somewhat perplexing that Environment Canada would develop regulations requiring the submission of detailed EPR plans but would then not provide ODS producers or ODS producer responsibility organizations with any indication or certainty that the plan they have submitted meets the requirements of the regulations – something that would be afforded through an approval.

Declarations

It is difficult to assess the utility of declarations without knowing exactly what information would be required within the declarations, but the declarations would appear to be unnecessary if Environment Canada were to approve the actual stewardship plans.

Reporting and Performance Indicators and Targets

ARC's primary concern with regard to performance indicators and targets relates to environmental performance. Specifically:

- ELV processors participating in ODS EPR program(s) need to operate in accordance with the National Code of Practice for Automotive Recyclers Participating in the National Vehicle Scrappage Program with regard to ODS and they need to be periodically verified as doing so as a condition of ongoing eligibility for participation;
- The ODS EPR program(s) should ensure that tracking and reporting mechanisms for recovered ODS are effective and provide transparent accounts of the final disposition of ODS. That said they should be simple and easy to undertake in order to ensure ease of participation.

Conclusion

ARC supports the principle of EPR for ODS.

To be successful ARC believes that ODS EPR regulations need to ensure that ODS EPR programs ensure that ELV processors operate to a common environmental standard while providing them with the right incentives to remove more ozone depleting and greenhouse gas intensive substances from Canada's environment.