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Re: Review of Section 40 of the Wildlife Act

Dear Mark,

Thank you for providing the EPA with the opportunity to provide commentary on the review of legislative controls governing the control of burning and hedge cutting.

At the outset, the EPA fully concurs with your objective that any changes to the current controls must be in line with Ireland's obligations to protect and enhance our habitats, birds and other species and not to increase the threat to them and that this will be an overriding consideration in any proposals for change.

The EPA also recommends that if any changes are to be considered that they be based on scientific evidence as to their relative merits as biodiversity protection and enhancement measures and as general environmental protection measures, particularly in relation to air quality and climate change. If insufficient evidence is available at this point in time and if there is a need for further research and study of the existing controls then it would be more prudent to leave the controls as they are until such research is completed.

The National Biodiversity Plan identifies hedgerows as a particularly important resource that needs to be managed in the interests of both farming and biodiversity with agri-environmental schemes generally requiring the protection and maintenance of hedgerows. Hedgerows are also identified in the National Biodiversity Plan as important elements of green infrastructure in Ireland. The Heritage Council has also identified the importance of Irish hedgerows as unique features of our landscape and vital for safeguarding our environment – but also that hedgerows need to be properly managed to function effectively and many hedgerows are now under threat and vulnerable to destruction. The guidance documents on effective hedgerow and scrub management that are to be prepared as an action under the National Biodiversity Plan should therefore provide a more comprehensive framework to facilitate the proper management and protection of hedgerows.

The Department of Agriculture Code of Practice on Prescribed Burning sets out detailed advice for controlled burning and also advises that in certain cases, for example, the management of gorse, planned mechanical removal is more effective than fire as a control measure. From an air quality, water quality and general nuisance perspective, controlled burning should be kept to an absolute minimum and ideally would be subject to a suitable form of authorisation/permitting. This could be achieved by placing some or all of the provisions of the Department of Agriculture Code of Practice on a statutory footing by, for example, making the preparation of a burning plan and consultation with relevant stakeholders a legal requirement of an authorisation system.



Burning of biomass is a risk to air and water quality through the generation of a range of pollutants including Polycyclic Aromatic Hydrocarbons. Any revision to the controls should include consideration of how to reduce or eliminate these risks. In relation to air quality, please also note that S.I. No. 286/2009 - Waste Management (Prohibition of Waste Disposal By Burning) Regulations 2009 <http://www.irishstatutebook.ie/2009/en/si/0286.html> puts in place requirements in relation to the burning of agricultural residues, including wood, trees, tree trimmings, leaves, brush, or other similar waste generated by agricultural practices. Burning of this material requires notification to the local authority and a local authority certificate of authorisation since 1 January 2014. The regulations were amended in 2013 (<http://www.irishstatutebook.ie/2013/en/si/0504.html>) introducing a general prohibition on the burning of such wastes as of from January 1st 2016. This means that as of January 1st 2016 there will be a prohibition on the burning of agricultural residues, including wood, trees, tree trimmings, leaves, brush, or other similar waste generated by agricultural practices.


From a climate change perspective, key issues include:

- The area of hedgerow in Ireland is estimated at 272kha, equivalent to 37% of the total forest area. (NFI 2012).
- The county hedgerow surveys seem to indicate that a significant proportion of this is in poor condition.
- There have been measures in previous farm payment schemes to maintain and improve hedgerow condition, but there is a lack of assessment on the impacts of these e.g. their contribution to carbon stocks.
- Analysis of drivers of change is required, and potential for biomass harvest from hedgerows as part of sustainable hedgerows management.
- Additional research is needed on quantifying the carbon storage and sequestration potential and the sustainable use of biomass from hedgerows.

As regards controlled burning, there is very little data on the extent of activity in Ireland. This is a gap in our reporting of greenhouse gas emissions associated with burning (mainly CO₂, CH₄). The EPA would therefore like to see better information available about the extent of burning so as to properly report associated emissions. The introduction of an authorisation system, as suggested above, could also result in improved data and information on the extent of the activity in Ireland.

Should have any questions or queries in relation to this submission please contact me.

Yours sincerely,



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