Environment Agency Charge proposals from 2018

We are the Environment Agency. We protect and improve the environment.

Acting to reduce the impacts of a changing climate on people and wildlife is at the heart of everything we do.

We reduce the risks to people, properties and businesses from flooding and coastal erosion.

We protect and improve the quality of water, making sure there is enough for people, businesses, agriculture and the environment. Our work helps to ensure people can enjoy the water environment through angling and navigation.

We look after land quality, promote sustainable land management and help protect and enhance wildlife habitats. And we work closely with businesses to help them comply with environmental regulations.

We can't do this alone. We work with government, local councils, businesses, civil society groups and communities to make our environment a better place for people and wildlife.

Published by:

Environment Agency
Horizon House, Deanery Road,
Bristol BS1 5AH
Email: enquiries@environment-agency.gov.uk
www.gov.uk/environment-agency

Further copies of this report are available from our publications catalogue:
www.gov.uk/government/publications

or our National Customer Contact Centre:
T: 03708 506506

Email: enquiries@environment-agency.gov.uk.

Foreword

The Environment Agency carries out a wide range of regulatory services fundamental to the way we protect the environment. These services include flood and coastal erosion risk management, regulation of water quality and abstraction, waste, pollution prevention and navigation.

We know it works - England is a much cleaner and greener place as a result of our activities.

We charge the businesses we regulate for this work; however, this amount doesn't now fully cover the cost of our activities.

We set up a programme of work called the Strategic Review of Charges to reform our charging schemes for 2018-23. We want to ensure we have charges in place that work better for business and the environment, to reduce reliance on grant in aid income from the taxpayer, and are financially sustainable.

We have reviewed the way we regulate and the charges we set, to help us make it as easy as possible for businesses to do the right thing. We plan to ensure our charges are more closely linked to the cost of regulation.

We are committed to making sure our charges are fair and transparent, and reflect the full cost of providing our chargeable services. Most of our charges have been fixed for at least six years or more and some don't fully reflect the costs of providing the service.

We work on the following principles:

- regulation should be based on risk
- cost recovery is required for all schemes and regulatory activities
- we will continue to make efficiencies in the services we deliver
- we will introduce new chargeable services that benefit customers if they choose to pay for them

Consultation

As a result of our review we are proposing to replace the current Environmental Permitting (EP) Charging Scheme (effective from 1 April 2014) and most of the Operational Risk Appraisal (OPRA) assessment except the compliance scoring where applicable.

This consultation sets out our new approach to charging.

We have also reviewed a number of other charging schemes. We have also identified areas where we offer or can offer a discretionary charged service.

We will continue to review this approach throughout that time and if we need to change it due to unforeseen circumstances or additional duties we will consult again.

By introducing this new charging proposal. We will:

- significantly simplify the way customers work out their charges - our current system is complicated and done in a different way for different regimes; the new one will be the same basis for everyone
- make sure people pay for the regulatory service they receive and this is what will cause the most change in costs for our charge payers
- offer optional enhanced services that customers may want to use
- reduce reliance on taxpayer funds currently needed to support our regulatory work

Contents

1. About this consultation

1.1. What we are consulting on

We are consulting on proposals to make changes to a number of our charging schemes, setting charges for the period 2018-2023. The changes proposed aim to: sustain and improve our customer services and regulatory activity; move to full cost recovery for our work; implement a simpler, fairer and more transparent charges scheme; and deal with elevated environmental risks.

We would like to seek your views and analysis so that we can understand the impacts and benefits, as you consider them, of the proposals. This includes if you consider these proposals to have any significant economic impacts or perceive any barriers to market entry. If there are significant impacts, we would like to hear from you about any mechanisms you think could be used to mitigate these effects. Please include this information in your response to any relevant consultation questions. We would also like to hear any suggestion on how we can improve these proposals.

The consultation seeks views on charging proposals for the majority of our regulated regimes.

We are significantly simplifying the way customers work out their charges for regimes within the Environmental Permitting (England and Wales) Regulations 2016 (EPR), including waste, water discharges and installations. Our current system is very complicated and done in a different way for different regulatory regimes. The new one will be much the same for everyone. In addition, to ensure that we have a mechanism to recover the cost of activities over and above expected levels we have proposed to enable charging for this work on a time and materials basis. We also propose that for customers wishing to receive additional services for advice and guidance we will also charge them on a time and materials basis. We are making sure everyone pays for the service they receive and this will cause some changes in costs for some businesses.

Changes to charges are also being proposed for some other regimes including the Waste Electrical and Electronic Equipment (WEEE) Regulations, discretionary Planning Advice, Control of Major Accident Hazards (COMAH) Regulations and the EU Emissions Trading System (EU ETS). As with the EPR proposals the proposals are focussed on ensuring that charges cover the costs of our regulatory activities. This will lead to an increase in charges for some customers regulated within these regimes.

We are also seeking views on the principles we intend to follow when we fundamentally review our Navigation charges. We intend to consult on Navigation charges in 2018.

For abstraction charging, we have set out our plans and aspirations for a future reform of our abstraction charging scheme that will accompany the forthcoming reform of the abstraction licensing regime. This is in addition to proposals to amend certain water abstraction charges from 1 April 2018. We welcome comments on this in advance of a future consultation.

The changes proposed can be implemented without a change of legislation in Parliament. We have existing legal powers to make charging schemes in relation to our environmental permitting, and other functions which cover the present proposals. These powers are in sections 41 to 43 of the Environment Act 1995 and require charging schemes to be subject to public consultation and to be approved both by the Secretary of State and HM Treasury, before being made. If approved by the Secretary of State, Department for the Environment, Food and Rural Affairs (Defra), we will publish them and the majority of them will come into effect on 1 April 2018.

1.1.1. Background

We have not undertaken a review and set of proposals on this scale before. While some of our charges are relatively new, others have not been fundamentally reviewed in 25 years. Whilst delivering efficiency has enabled us to absorb some of the increases in our costs that have happened since charges were previously set, this is no longer feasible on such a large scale. A review is necessary now because some of our charges are not cost reflective as they could be and do not fully cover the costs of our activities. We also think the structure of charges could be improved to be simpler and more flexible.

As part of this review we have undertaken an assessment of our regulatory activities to understand how we can be more effective and provide a greater benefit to business. This includes getting the right balance across our regulatory activities including permitting, site-based compliance inspections and off-site assessment and support.

We have followed HM Treasury's Managing Public Money and Classification of Receipts guidance when calculating the costs of our regulatory services and setting our charges. We structure our charges to balance simplicity of use with precision of charge level. Our approach has been based on assessing full cost recovery, identifying efficiencies and exploring opportunities to improve the service we offer.

Environmental Permitting Regulation (EPR) permits

The Environmental Permitting Regulations apply to a range of activities covering: waste management; industrial processes; discharges of treated effluents to the water environment; flood and coastal risk management; and radioactive substances.

Across these activities there are over 100,000 permits that have been issued, of which 70,000 are within scope of this review as they are ongoing, chargeable operations.

The Regulations also effect some control over tens of thousands of other, generally lower risk activities by imposing controls on specific activities that are exempt from permitting and may be covered by 'general binding rules'.

Other permits and approvals covered by this consultation

Water abstraction: there are 1,684 water abstraction licence holders (from domestic households and Small to Medium Enterprises (SMEs) to multi-national companies) who pay annual subsistence charges in the Thames regional charging area (only those licence holders are affected by the proposed 2018 changes).

Control of Major Accidents and Hazards (COMAH): there are 640 COMAH sites in England. Of these an approximately 120 sites are involved in the refining, manufacturing or supply of fuels, 280 are involved in chemicals manufacture and 240 are involved in warehousing and distribution of fuels and chemicals.

European Union's Emissions Trading Scheme (EU ETS): there are 740 installations plus 140 aviation operators.

Waste Electrical and Electronic Equipment (WEEE): over 5,300 producers of Electrical and Electronic Equipment (EEE) are registered with the Environment Agency. Currently 29 Environment Agency-approved Producer Compliance Schemes are in operation in England. Of businesses receiving, treating and recycling WEEE there are 173 Approved Authorised Treatment Facilities (AATFs) and 51 Approved Exporters (AEs) in England.

1.2. What this consultation means to you

As a result of this review and ensuring our charges reflect our costs and our regulatory effort, most of our existing charge payers will see a change in their bill; some of them will see substantial changes. Consequently we think that this consultation will be of particular interest to:

- operators, trade associations and businesses that we regulate under the regimes described above
- other regulators, the public, community groups and non-governmental organisations with an interest in environmental issues

Throughout this consultation document there are specific questions which we welcome your feedback on.

1.2.1. EPR Permit holders/operators

If you hold an environmental permit please read Sections 3 and 4 of this consultation. Within those sections are subsections on applications for new permits, changes to a current permit, and transferring and surrendering permits. There are also subsections on subsistence charges. Following that are subsections divided into regimes and sectors. If for example you have a flood

risk activity then please read the general subsections and then the specific subsection on flood risk activities.

You will also need to read the guidance to the EPR charging scheme and the charging tables which are divided out again into regime and sectors. Once you have found your activities you will then be able to see the charges for all types of application and the subsistence charges for it.

1.2.2. Other charging schemes

Please read section 5 of this consultation. This is divided into the specific areas covered by the scheme (see contents list for page number) with details of the charging proposals. Each section is followed by a number of Consultation questions.

1.2.3. Discretionary charged services

Section 6 covers services which we propose to offer as discretionary chargeable services. They are: EPR discretionary pre application service; Definition of Waste service; spatial planning advice; and marine licensing advice. Each section is followed by a number of Consultation questions.

1.2.4. Future charge proposals

Section 7 signposts future proposals.

1.3. Next steps and supporting material

This consultation is your opportunity to contribute towards the development of these charging proposals. Once we have considered all the consultation responses and made any changes we will produce a consultation response document. We hope to be able to bring the new charging schemes into force on 1 April 2018.

The EPR charging scheme and guidance

The Environment Agency (Environmental Permitting) (England) Charging Scheme 2018 (the EPR Charging Scheme) covers a number of complex issues and therefore draft supporting guidance has been produced. It covers the different types of operations that require a permit under EPR and what charges apply.

Both the EPR charging scheme and the accompanying guidance are included in this consultation.

The EPR charging scheme will include the Tables of Application and Subsistence Charges in a Schedule. For consultation purposes, the Schedule is included as a separate document.

Other charging schemes and guidance

The Environment Agency (Waste - Miscellaneous) (England) Charging Scheme 2018 (which includes the proposals for revised WEEE charges) and the Environment Agency (EU Emissions Trading Scheme) (England) Charging Scheme, are also included in this consultation.

Guidance relating to the WEEE and EU ETS proposals, as well as all the other proposals in this consultation, is within the consultation document and will then form the basis of webpage guidance on Gov.uk.

2. Setting our charges

2.1. Our charges - our aims

We charge to make sure we can cover our costs when exercising our regulatory functions.

Those functions consist of:

- services that we make available to all in the regulated community, which are accessed 'on demand'
- other activities we tailor in a planned way to ensure we deploy our resources effectively and efficiently to achieve the aims of the regulations

This means:

- We receive full cost recovery, to include administration, environmental planning and assessment, registration, monitoring, permitting and compliance assessment (plus associated corporate costs) with no cross-subsidy between regimes
- Our charges reflect our regulatory effort
- Cost recovery is stable from one year to the next, and charges are broadly predictable and don't create perverse behaviours
- Customers understand the basis for our charges and what level of charge and service they can expect from us
- We can demonstrate that we are cost-effective, and deliver ongoing efficiency gains for both us and our customers
- Our charging schemes reflect the requirements of HM Treasury's Managing Public Money guidance

2.2. Our current charging schemes

Environmental Permitting

The Environmental Permitting Regulations brought together several previous permitting systems into one so we already have a commonality in our approach to regulating these activities. There were also several relevant charging systems, however these were not reviewed at that time to fully reflect our new ways of working. For example, one of the existing charging systems (for discharges to water) has not changed significantly since its implementation in 1992.

The current use of the Operator Risk Assessment (OPRA), Charges for Discharges (CfD), Tier 2 charges and look-up tables has led to a complex set of calculations so that arriving at the correct application charge needs a degree of skill on an operator's part, or assistance from us in pre-application discussions.

For EPR activities particularly, we are aiming to implement simpler and more consistent charging arrangements.

Other charging schemes

For other activities not under the EPR (such as EU ETS, Navigation, Water abstraction, COMAH and WEEE) see section 2.5.

2.3. How we have approached the review of charges for EPR regimes

We looked through the permits under the various regulatory regimes in EPR (Waste, Installations, Water Discharges, Radioactive Substances Regulation, and Flood Risk Consents) to reflect on our different levels of regulatory effort.

The factors that can define our approach at a regulated facility are:

- the nature of the activity
- the scale of the activity
- the location of the activity in relation to the risk posed to the local environment (applications only)

We reviewed our permitting and compliance work, with the use of time recording and expert judgement, to assess our different levels of regulatory effort. We use a mix of different regulatory interventions to assess different applications, to ensure that permits are complied with and standards remain appropriate.

All permitted activities have been placed into categories based on our regulatory approach and effort to control the risks posed by the operation (e.g. balance of on-site versus off-site regulation) and therefore the different costs of regulation.

All told, our proposals now include some 250 permit categories (annual subsistence charges) and some 275 different application charges. Supplements may also apply. This compares to over 3,000 different subsistence and application charges levied under our existing charging systems.

We will charge either using fixed charges where costs are known up front and are payable at the point of application, or use a time and materials approach which allows us to use a pre- calculated hourly rate for work of variable lengths and invoiced accordingly.

New Application charges

Activities that we undertake each time we issue a particular permit are included in our baseline application charge. Additional assessments that may be needed will be charged as additional components. The range of additional components that could apply is listed in Section 2.1.12 of the Guidance to the EPR Charging Scheme. Examples include: sensitive locations assessment for sites designated under the Habitats Directive, or Fire Prevention Plans where the waste types and activities covered by the application would lead us to believe there is a risk of waste fires.

Levying additional supplementary charges for only those applications that involve more complex considerations also means that we can offer the most cost reflective ‘baseline application charge’ for the simpler applications, which can reduce barriers to entry and encourage growth.

We have tested this approach and have found it to be much simpler and faster to calculate than the previous OPRA based system.

The specific application baseline charges are detailed in the Application charges tables.

Supplementary application charges are described in section 2 of the Guidance to the EPR Charging Scheme.

New Subsistence charges

To ensure full subsistence cost recovery, we reviewed each category of permit in each sector to quantify the effort required for effective regulation. The breadth and diversity of activities requiring permits means that there is significant tailoring of our regulatory activity to different permitted activities.

In common with our application charges approach above, we considered both the work of our operator facing teams who deliver the most visible aspects of our regulation, and also that of the other teams who are contributors, within the Environment Agency and the Defra family.

The specific baseline charges are detailed in the Subsistence charges tables.

As with application charges we are proposing some fixed cost supplementary subsistence charges, to recover costs for more unusual or one-off events, including a 'first year charge' (See Section 4.6.2 of this document) and a charge for the review of a waste recovery plan (See Section 4.3.2 of this document). These too are described in the Guidance to the EPR Charging Scheme.

2.4. Supplementary time and materials charges

Our wholly predictable and planned regulatory activity can be funded through fixed annual subsistence and application charges as described above.

We also intend to use time and materials, at a defined hourly rate, or other supplementary fixed charges, where we incur unusual and less predictable costs dealing with specific customers. This approach will allow more targeted and timelier cost recovery for resource deployed over and above that planned and recovered via baseline charges.

This enables us to target the recovery of costs in-year from the responsible person for unusual activity and events that are not part of the usual planned regulatory activity at all sites. An example of this would be the follow-up work assessing reports or fresh proposals, related to 'improvement conditions' imposed in a permit variation. This work is independent of activity covered by our baseline charges and seeks only to recover additional costs we incur in year on a case by case basis.

The circumstances in which we'd apply fixed charges and time and material supplementary charges are specified in section 4. Further information is within the consultation and related guidance documents. In each circumstance the customer will have a clear indication of when supplementary charging will apply. In the case of time and material charging, this provision will only be used in specific, limited circumstances. We will notify operators when they are entering time and materials supplementary charging, and keep them informed of estimated costs of on-going supplementary work.

Consultation question

1. Do you agree with the proposals to charge fixed charges where we have greater certainty over costs and time and materials in other instances?

X **Yes**

No

Not applicable

If not, please explain why.

The REA agree with this proposal with the proviso that there is absolute clarity as to how time and materials are allocated on an individual case by case with a clear breakdown of costs shown to the applicant. Clarity and transparency are important in order that operators have sight of costs in advance for budgeting purposes. Fixed costs provide this greater certainty.

The REA is keen to ensure that applicants do not end up making unduly large contributions compared to the actual regulatory services that they receive. Furthermore one-off costs such as first year charges could deter new entrants. The REA agree that a combined fixed costs and time and materials approach appears to be a sensible way forward, however, the Environment Agency should clarify what it considers to be "unusual activity" and "events that are not part of the usual planned regulatory activity" so that applicants can manage costs. The example provided (assessments of reports relating to improvement conditions) does not appear to be unusual.

2.5. How we have approached the review of charges for other regimes and discretionary services

For other activities not under the EPR (such as EU ETS, Navigation, Water abstraction, COMAH and WEEE) we followed a similar approach to that above. We:

- assessed our current regulatory system or service and how much resource we need
- identified all the activities carried out to deliver our statutory duties, and the outputs produced by those activities

- explored any simplification opportunities available that could make our desired activity even more cost-beneficial
- developed charges for new services, where applicable

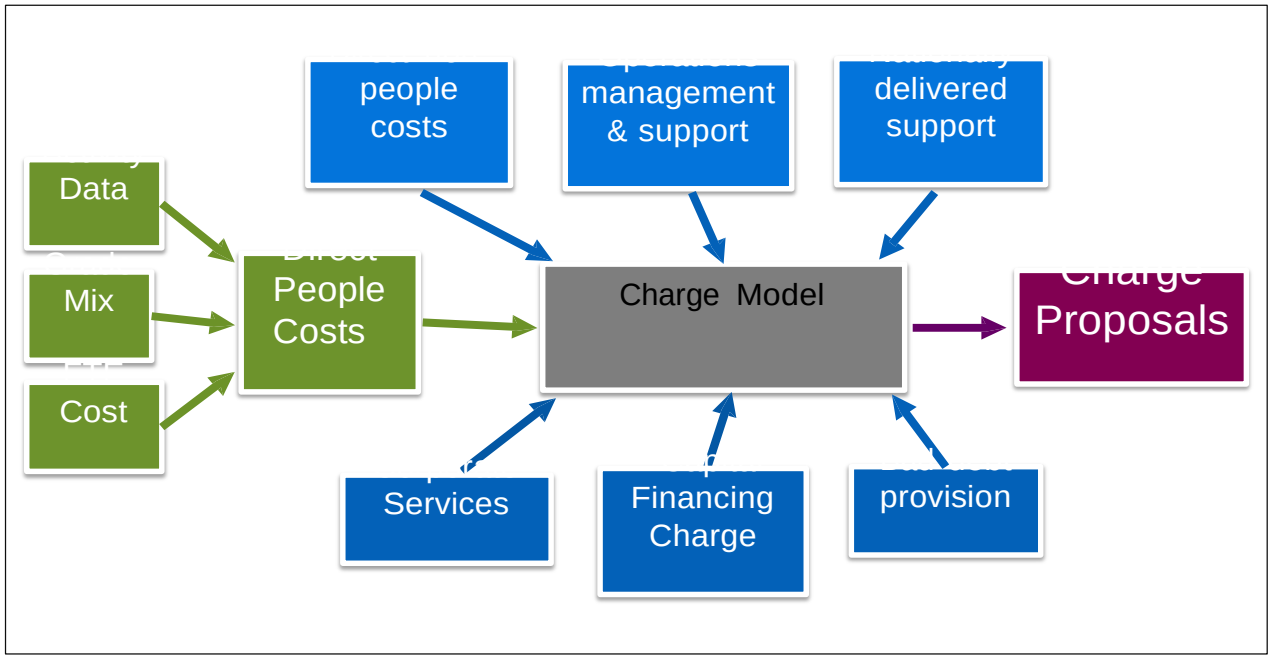
2.6. How have we modelled our charges

We are required to follow HM Treasury's Managing Public Money (MPM) and Classification of Receipts guidance when calculating the costs of our services and setting our charges. These guidance documents ensure that all government departments and public bodies collect and spend

your charges correctly by setting out what we can, and cannot, charge for. HM Treasury scrutinise all our proposals against these rules.

We have modelled the costs required to regulate permits in a consistent manner across all our major regimes (with the exception of water abstraction). Modelling for our remaining regimes will follow.

The diagram below shows the types of cost that are included in our modelled charge proposals.



Direct delivery costs

Direct delivery costs can be delivered locally, for example by area or water catchment experts, or nationally by specialist teams such our National Permitting Service.

We have modelled our revised charges based on our assessment of the time we need to spend on our regulatory activities for each permit category in each regime, and the average grade mix of the teams that will carry out the tasks. Our baseline activities have been assessed by considering operators that are compliant with their permit conditions. The proposed charges are then calculated based on our average hourly cost of the staff undertaking these activities (including National Insurance and pension costs), and other costs identified in MPM guidance as recoverable, such as travel. We use data on actual current costs to inform (but not determine) the future level of these costs in our models. These costs are attributable directly to the customer, either as a cost for a particular permit category or as an hourly rate.

Indirect costs – support services to enable direct delivery of work

These are services provided across all our chargeable and non-chargeable work, whose costs are recoverable under MPM guidance. Without support services, a regulatory regime and charging scheme could not operate.

During 2010 to 2017, we have delivered two major reorganisations to reduce expenditure and increase efficiency, centralising services where appropriate, As a result some of our direct delivery

activities now operate from within our indirect functions, such as guidance development for delivery staff.

All our staff, whether operational staff who do the "front line" work or support staff need such services as:

- training
- technical support and guidance
- legal advice to ensure they operate within the law
- HR policies and advice from HR business partners for line managers
- transactional finance staff to raise invoices, deal with payment queries and chase payments
- financial planning, performance monitoring, statutory accounting and auditing
- fully functioning and maintained buildings
- IT systems and communication devices to do their work, store work securely and an IT helpdesk and other resources to resolve technical problems

Some of these services are now being delivered by the new Defra Corporate Service as part of the Defra Transformation Programme. Future efficiency savings due to be delivered by this new consolidated service have been included in the charge proposals. All of Defra's delivery bodies are required to recover their relevant share of the Defra Corporate Service costs from their charge payers.

The services that remain delivered by Environment Agency staff exist to support the whole of our business, both direct and indirect functions. They are not always easily allocated directly back to specific sources of income but nevertheless we are required under MPM guidance to ensure that all charge payers make a fair contribution to indirect costs. In order to do this therefore we apportion indirect costs across all funding streams in proportion to their annual revenue costs.

Fixed costs

We have some fixed costs within the Environment Agency that are not variable to changes in staff activity levels, or volume of work increasing or decreasing. They can be contracts that have to be paid regardless of our activity levels. These are included in our modelling to ensure we recover the total of the fixed cost, including any contractual increases which are often linked to the Consumer Prices Index (CPI).

Financing costs

We are required to include the depreciation and cost of capital related to the fixed assets used by each regulatory regime. These assets include specific assets used exclusively by the regimes, and a proportion of corporate assets (such as IT systems and buildings) used by many regimes. We calculate the annual depreciation charge by using the net book value and remaining asset life. The cost of capital is calculated as 3.5% of the average net book value throughout the year.

Bad debt

We are required to include a provision for bad debts in our charges, to cover unpaid charges that we cannot recover through our normal debt recovery process. An example of this would be where a company has gone into liquidation. The level of bad debt varies by charging scheme due to different levels of credit risk.

Cost pressures

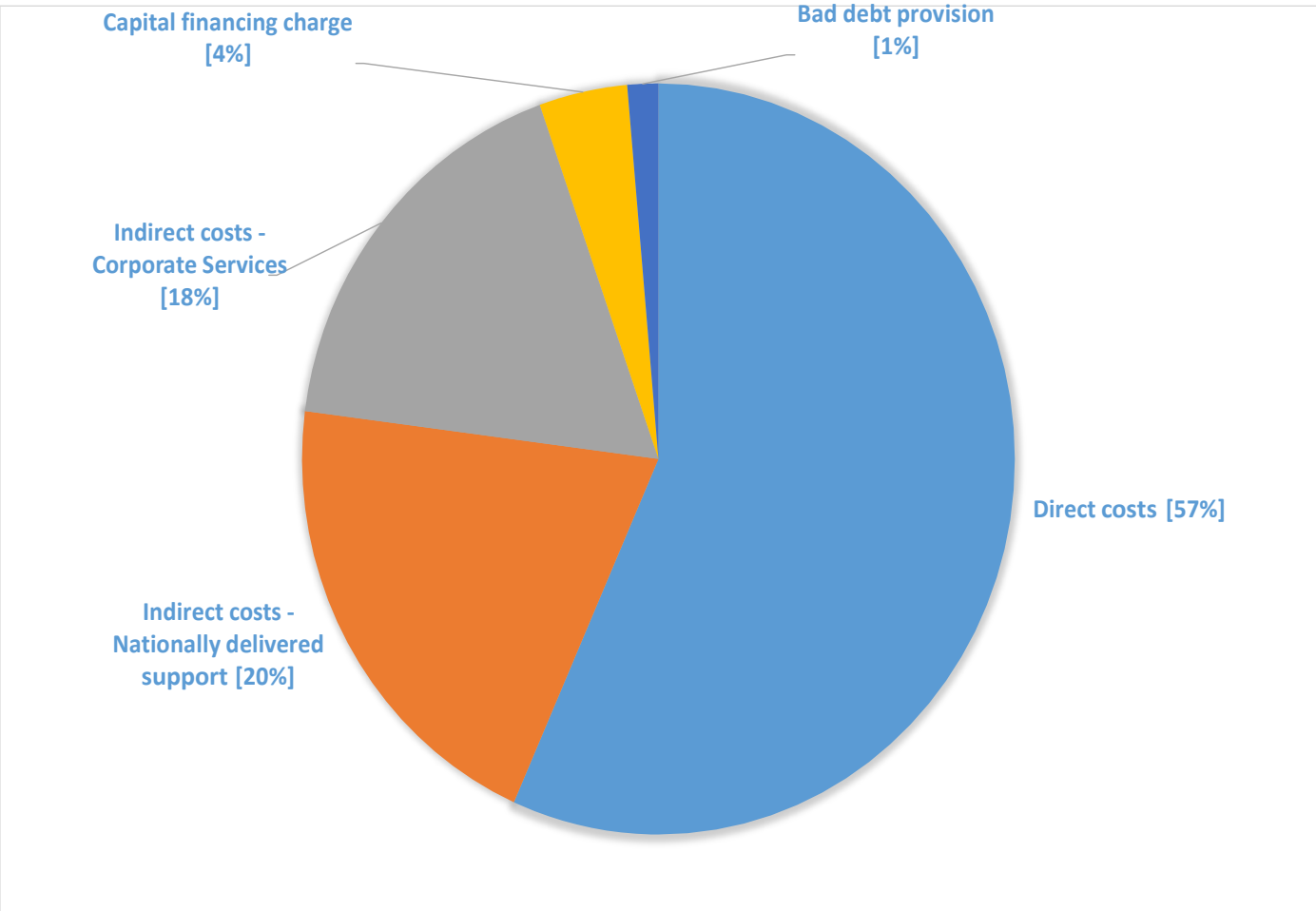
We have built inflation into our proposals at the current government CPI projections, with the exception of pay inflation which has been capped at 1% per annum. Staff costs form the majority of our direct costs. We have also overlaid efficiency savings where we have change programmes already planned for (see Efficiency Savings section below).

We are proposing to hold our charges unchanged through the 5 year period, with inflation expected to be offset by efficiency savings. Should our assumptions for inflation and efficiency programmes prove to be materially out of line with actual results, the Environment Agency would

bear a significant financial impact. We therefore propose to review our charges mid-way through the 5 year period to ensure we are not materially over-recovering or under-recovering our costs.

A typical breakdown of our costs for each regulatory regime is illustrated in the following pie chart:

Distribution of charge income



2.7. Efficiency savings

2.7.1. Plans for future efficiencies

We have plans for future efficiency measures, which have been reflected in our charge proposals.

Examples include:

- savings from the Corporate Services changes delivered through Defra's Transformation Programme
- undertaking a strategic review of environmental monitoring and implementing Defra Group's Digital transformation
- working with Defra Digital Services to trial a new system for the Waste Industry to make application and management of permits more efficient

- various industries, led by landfill, will be able to submit their monitoring compliance data digitally using the Data Returns Service - this will simplify our customer interactions and eliminate technical and process duplication

2.8. Transition from existing scheme to proposed scheme

We propose to implement the proposed charges from 1 April 2018. The intent is that from that date the new charging provisions will apply to our future regulatory actions. However, 'fully paid for' regulatory activities that are in progress having been commenced before that date, will be completed under the remit of the existing charging scheme.

For example, this means that applications received before 1 April 2018 will pay application charges due under the existing scheme. There may be subsequent supplementary charges due where advertising is necessary, or where applications are subsequently amended by the applicant. These supplements would have been due under the existing scheme and will continue to be due under the proposed scheme at the same charge. No new supplements due under the new scheme will apply to such applications, so we would not, for example levy supplementary charges relating to extended consultation for sites of high public interest.

Annual subsistence charges for existing permits will be levied at the proposed rates set out in this consultation for 2018/19. These baseline charges do not cover any unusual or exceptional regulatory effort that may be required. Hence, any additional work that we undertake after 1 April (for example in responding to exceptional pollution events; in assessing submissions made to us in response to permit conditions, etc) will incur supplementary charges as set out in this consultation.

We have proposed a supplementary charge to provide additional early engagement with a new operator. We propose to have a first year charge to cover the costs of an additional site visit and advice, when these sites first commence operations. This would apply to activities that commence after 1 April 2018.

Consultation Question

2. Please tell us if you have any comments about the proposed transitional arrangements outlined in section 2.8

The proposed timing for implementation of any changes is unreasonable. Most companies operate a Financial Year commencing on the 1st April which means that budgets will have already been agreed for 2018. The changes proposed are significant for a number of operators and this leap in costs cannot be borne in one hit but should be made in step changes over a longer period (say two years). There has been little thought given to the impact these changes will have on cash flow to SMEs who are the mainstay of the resources management sector. Sites who currently require Odour Management Plans, bioaerosol monitoring and Fire Prevention Plans (which many are now required to produce) will suddenly find that using this example above, they have an additional £3,107 cost burden thrust on them.

Waste recycling companies often have long-term contracts and commitments with waste producers to take away and recycle wastes. Contracts can extend over several months or years. The opportunity for submitting consultation responses ends on the 26th January which is 9 weeks before the proposed implementation date of the new charging scheme. It will be even less time between formal/final publication of the response and proposed start date for new charges. In our opinion, this is insufficient notice as the time frame doesn't reflect existing long-term waste recycling contracts or commitments and therefore doesn't allow time for the new charging scheme to be written into existing agreements. This is particularly the case where there will be significant increases in upfront costs to the EA i.e. those associated

with subsistence charges for land spreading (the new annual charge and deployment charge increases of ~120% where recycling companies operate under tens or hundreds of deployments per year).

The proposal to charge more for new sites assumes that the site requires an additional burden of cost to the regulator. Many new sites are a replica of what has gone before and do not require any additional time effort by the EA but it is assumed that in all cases this will be the case, this is not fair or proportionate charging.

In summary the speed of change is too rapid for industry and cannot deem them to be ‘reasonable’. There is insufficient time to assimilate these cost change proposals and the transition time needs to be extended to accommodate industry rather than fitting in with the regulators need to force this through so rapidly.

3. Environmental Permitting Regulatory approach

We want to have a common framework and consistent approach to define all the charge-funded activities that we need to deliver via the Environmental Permitting (England and Wales) Regulations 2016 (EPR).

These activities currently are:

- flood risk activities
- groundwater activities
- installations
- mining waste operations
- radioactive substances activities
- waste operations
- water discharge activities
- medium combustion plant (expected to be included in EPR before 1st April 2018.

Our regulatory functions are strongly influenced by the specific risks posed by each regulated activity. These risks are usually a combination of:

- the nature of the activity
- the scale of the activity and the materials involved
- the location of the activity including the sensitivity of the receiving environment, and
- the way in which the activity is undertaken

3.1. Common Regulatory framework

We have taken a consistent approach to determine our proposed charges in that we have split permitted activities into categories that reflect the regulatory effort needed for the group of customers carrying on that activity. We have:

- assessed our desired level of activity in each regime including on-site and off-site regulatory work
- considered the value of the desired activity in delivering our regulatory duties, our role and in optimising outcomes
- explored any simplification opportunities available that could make our desired activity even more cost-beneficial
- determined which of the desired activities formed our baseline activity, as they were predictable and consistent, and which were supplementary, as activities that were not always required or were difficult to quantify
- worked out the costs of that desired level of activity
- developed charges for new services

By introducing this new charging proposal. We will:

- significantly simplify the way customers work out their charges - our current system is very complicated and done in a different way for different regimes; the new one will be the same basis for everyone
- make sure people pay for the regulatory service they receive - this is not always the case at the moment, and this is what will cause the most change in costs for our charge payers
- offer optional enhanced services that customers may want to use
- reduce reliance on taxpayer funds currently needed to support our regulatory work

3.1.1. Applications

When we receive an application we undertake a number of administrative checks to ensure that the application is complete. We:

- check that all sections of the application form is complete
- check that all required risk assessments and hazard management plans have been included
- compile additional information to assist in the subsequent technical determination - this includes location screening, Companies House checks, and previous convictions checks

We then start the technical assessment of the application, checking that the technical information submitted is sufficiently complete to allow the technical determination of the application to commence.

Throughout this process any errors or shortcomings are notified to the applicant and an opportunity is provided for them to be remedied.

We will assess the application for the inclusion of appropriate technical controls and standards. We will consult internal experts and, where appropriate, consult external partners.

Risk assessments and risk management plans for hazards such as noise, odour or fire risk will also be assessed. For some activities, an assessment of operator competence is also carried out to verify that they are likely to conduct the operation in accordance with the requirements of the permit.

Where additional information is required we will issue notices to obtain this.

Once we are satisfied that appropriate technical standards have been incorporated into a draft permit, and the applicant has provided sufficient evidence to give us confidence that they will operate the site in accordance with the permit and without causing pollution or harm, the draft will be shared with the applicant. Where appropriate we will carry out public consultation.

When this work is completed, the application is determined and the permit issued (or if necessary, refused). All necessary records are made, including updating the external public register.

3.1.2. Compliance

When a permit is in place we will undertake a number of different activities to check on the compliance with the conditions of that permit. In common with our permitting service approach, we consider both the activity within our teams which face the operators and deliver the most visible aspects of our regulation, but also the other teams which are contributors within the Environment Agency and the Defra family.

Our regulatory effort includes:

Inspection activities

Inspection is one of the most visible and tangible regulatory interventions. This includes the preparatory time spent by our officers (familiarising themselves with the permit conditions, the recent compliance history, compiling materials to pass onto and discuss with the operator).

The time on site may include undertaking visual observation, review of site operations and environmental systems, maintenance activities, training and competence of staff, measurement, sampling, discussion with and advising the operator.

There is post-inspection work too: recording the findings from the visit; recording any specific compliance issues raised; carrying out follow-up communication on any issues raised on-site with or by the operator; and placing of the necessary records on the public register.

Audit activities

More in-depth scrutiny of all or part of the activities on site is pivotal. The subject of the audits may be driven by site specific issues (complaints or other compliance history) or by learning from other similar sites giving rise to preventative programmes of work. Audits can require a team of officers so that different parts of processes can be scrutinised simultaneously. As with inspections there will be preparatory, on-site and post-audit activity.

Incident prevention, readiness and compliance response

Anticipating, advising on prevention, and providing an out-of-hours standby arrangement to respond to incidents, should they occur, is an important part of our role. This will often not be on site, and may be regime specific, a sectoral initiative or operator specific. If incidents occur our officers could be alerted by the operator, the emergency services or the public. Our response would depend on the significance and severity of the incident. In calculating baseline charges we have assumed that no serious incidents occur at the sites and that our regulatory effort for non-serious incidents would be suitably low-key.

Monitoring and data analysis

Most permits require monitoring by operators and the submission of data to us. That data is analysed in desk-based activity by our staff, with follow up contact with operators as required. We undertake a programme of environmental monitoring, so that the operator's results (which are usually restricted to the immediate vicinity of the activity) can be set in the context of the wider environment and so the continuing acceptability of the permitted operation in that locality can be confirmed.

Permit maintenance

We have regulatory obligations to ensure that information concerning permits is placed on public registers. We need to keep records up to date, which includes dealing with notifications from operators that they have changed their company name or changed address for example. We also need to ensure that invoices are raised to provide operators with charging information and that bills are paid (or reminders sent and debts pursued). We also have to maintain records of inspections/audits, incidents, site communications and ensure these are recorded on our systems, and where appropriate placed on the public register.

Sector wide liaison

We aim to provide a nationally consistent service, so that operators of similar sites in different parts of the country have a level playing field in their market. Our national sector based approach, with groups of officers (Sector Groups), planning and delivering interventions across the sectors, informed by national engagement with respective Trade Associations, is our preferred means of delivering such consistency since we implemented this way of working in 2013.

Standard setting

One aspect of permit review that may require changes to permits is when expected standards of operation change. This may be driven by shifts in the local environment (for example. change in river flow trends due to climate change) or improved technology or scientific understanding (for example. when EU Commission 'Best Available Techniques Reference Documents' are revised for different regulated activities) that means it is economically feasible or otherwise imperative to reduce impacts of existing activities. Our officers advise operators of forthcoming changes to standards, so that they can make appropriate preparations.

Local Engagement

There is often a degree of local interest in the activities at the sites we regulate. Even at compliant sites, operating as we would expect, there is benefit to the operator in maintaining local liaison groups, which we are invited to attend. Where this is the norm within a permit category we have included this cost within our proposed charges.

On-demand services

Finally, we will also have considered the use and costs of our 'on-demand' services, such as our customer service centre, that can be telephoned at any time by operators or the public with queries about the sites we regulate, or when operators require assistance in locating guidance or standards.

Consultation question

3. Please tell us if you have any comments about the common regulatory framework outlined in section 3.1.

Every site that is regulated needs to be treated as a stand-alone unit as circumstances differ from site to site and each site needs to be regulated based on its specific performance. There are widespread differences in respect to inspection intervals between sites often based not on risk but on the sites profile. A time and materials charging regime has the potential to charge more frequently visited sites a disproportionately higher fee for no apparent reason.

Industry seeks transparency in any changes to charging and sites that do not pose (and have no history of pollution events) should have their visits reduced to reflect this effort which will result in a reduction of charges. Industry does not have an issue with poorly performing sites being scrutinised more vigorously as long as this approach is consistent.

Site visits are normally followed by the issuing of a Compliance Assessment Report (CAR) form. The REA requests that these forms are completed (as used to be the case) directly after the visit in conjunction with the operator in order that actions can be agreed. Too often the CAR report is sent in weeks (and in some cases months) later and the content often bears no resemblance to what was agreed on the day. This approach breeds mistrust and does not result in a positive outcome for the regulator or operator and also delays any subsequent site changes requested. With costs now being charged on a time and materials basis, this would be a much more transparent method of issuing these forms (on the day of the inspection) and more cost effective for both parties.

The REA supports a sector based approach where common concerns are shared between different regulatory regimes and then shared with trade associations; this encourages improved communication and trust.

Professionally managed sites encourage engagement with their local communities in order to forge a relationship with them so that they understand better their purpose and role within the local community and build trust.

Operators risk being charged twice for the EA visiting sites with standard rate permits and separate installations, even though both should be able to be checked at the same time. This added to undermining the case for standard rules permits, which had been developed to reduce costs. More clarity on costs for sites with both activities and installations is required. On subsistence fees for activities the EA had accepted one fee for multiple sites so this should also apply in the same manner to activities and installations when they are co-located.

Whilst we agree with the principle with the EA better recovering its costs, we do have concerns about current service levels provided by the EA for permitting activities, as well as concerns regarding inconsistences in the EA's approach to both permitting and compliance issues. The costs outlined in the SROC, purport to more accurately reflect the level of EA resources required, and now include the 'time and materials' approach potentially imposing additional costs. If these cost changes were to go ahead, the REA expect there to be even more scrutiny by our members on EA performance and an expectation that service levels and consistency will dramatically improve.

Whilst the proposed charges aim to recover the EA's costs in regulating a site, we think there is also continued scope to make further efficiencies through smarter regulation. For example, making more use of operators' existing externally verified management systems (including taking into account Certification schemes such as the PAS100 and PAS 100 certification schemes used in the biowaste sector) for example could free up EA resources and enable potentially lower costs to be imposed on operators. We hope that the proposals for the EA to transition to a 'Performance Based Regulatory' approach will address these concepts soon so that responsible operators can be rewarded.

Administrative stage:

The administrative stage must be clearer in terms of the timeframes for the applicant to respond with any missing information and what this means in terms of the delay to the issue date. We would suggest that a service level agreement for the application/deployment processes 'as a whole' is put in place and the process of appeal at any stage in the process is also clear. How and who can any complaints be made to and what is the escalation procedure. Will there be an Ombudsman?

Proposed solutions:
The first area to look for efficiency savings should be the 'administrative check' stage of applications, in particular for deployments. This initial check should be done by the permitting officer who, at the same time, can make an early assessment as to whether any third party or internal expert advice is needed for determination of the application. Currently the latter assessment is made too late in the process and can add unnecessary delays from time of receipt to issue of deployment. Some third party consultees have statutory response times which lengthen the timescales to issue of the deployment (Natural England 28 days).

Technical stage:

Redeployments should attract a lower fee, e.g. where same land or same waste streams. The technical assessments will have been done previously. (See response to question 74)

Consideration should also be given to a tiered system of charges dependant on the quality of applications submitted. Applications of a higher quality should be fast-tracked and attract a lower fee.

Where a 'Request for Information' is made relating to Local Wildlife Areas the deployment should not be delayed as applicants do not have access to this information given it is not available in the public domain.

3.1.2
The section on inspection and audit activity is not clear as relates to deployments/mobile plant field site visits.

Ensuring Quality of EA officers

It has been noted by REA members that they have often spent significant amounts time liaising with often inexperienced permitting and local area officers, often having to reintroduce projects or sites that have been in operation for a number of years and previously visited by the EA staff. This lack on continuity is concerning as the framework moves to a time a time and material charging system. It is not fair or appropriate for businesses to pay for additional time or material costs associated with rapid staff

turnover/training as it would be preferable to continually work with individual's familiar with the process/operations. This doesn't appear to be accounted for in the common regulatory framework.

Clear itemised cost within the framework

There is concern that the section within the framework referring to site visits, audits etc is vague and it is not clear if every permit site or mobile plant deployed sites will receive the same attention or number of visits. If this forms part of the standard costs and is incorporated into the new charging scheme, then we would expect the baseline number of visits/audits per annum to be itemized and the full costs made transparent.

4. The model for the EPR charging scheme

Through our charging schemes we look to encourage good environmental compliance and particularly to meet the objective of cost reflectivity, where the level of charge reflects the level of regulatory effort.

We have designed a new risk-based charging model for activities permitted via Environmental Permitting (England and Wales) Regulations 2016 (EPR) which will support the regulatory approach and framework.

This new risk-based charging model no longer depends upon an OPRA profile for EPR installations, waste operations and mining waste activities. The new scheme also replaces the 'Charges for discharges' approach for surface water and groundwater discharges and the different charging provisions for Tier 2 activities, radioactive substances permits and flood risk activity permits. It will let us embed a consistent charging approach to activities regulated under EPR, and support a new, single EPR Charges scheme.

We anticipate that the removal of much of the OPRA system, in particular, would reduce administrative costs for charge payers. The need to develop an OPRA profile for each site to calculate application charges, and the ongoing need to check and confirm that profile to determine annual charges, will no longer apply and save time for businesses.

We would like your views on the potential impacts of no longer requiring OPRA profiles to be completed at the application stage and reviewed annually.

Consultation questions

4. We anticipate that there will be time saving for businesses if you no longer are required to complete an OPRA profile. Do you agree?

Yes

X No

Don't know

Not applicable

If not, please explain why.

This statement is not applicable to every kind of permit. For installation activities OPRA profiles are time consuming to complete but for simple waste activities they take very little

time to complete. The site's complexity will determine the level of time spent on completing an OPRA profile. For mobile plant permits for land spreading and waste treatment OPRA profiles are not onerous or time consuming and seldom require additional information that that supplied for the permit application.

When an operator applies for some current permits they are required to make an OPRA profile.

5. How much time do you think will be saved by not having to complete an OPRA profile as part of a permit application? (in hours)

- For a waste application, one hour is typically spent on completing one of these profiles
- For an installation activity, eight hours or more may be spent on completing this profile as this is much more complex in nature.

6. Who usually completes the OPRA profile that is required when applying for a waste, installations or mining waste permit?

Manager, director or senior official

X Scientific or technical staff

Administrative or secretarial staff

X Third-party consultant

Other

not applicable

If other, please specify.

This will vary according to the size of operator. Larger sites will have a compliance Manager who deals with his work but for smaller sites this work will need to be carried out by an independent consultant.

Each year an operator is required to review their OPRA profile for some current permits.

7. How much time do you think will be saved by not having to annually review your OPRA profile? (in hours, per year)

As above this will vary on the site's complexity. Between 0ne hour and 8 hours.

8. Who usually completes the annual review of your OPRA profile?

X Manager, director or senior official

Scientific or technical staff

Administrative or secretarial staff

X Third-party consultant

Other

Not applicable

If other, please specify.

For larger sites this will be completed by the Compliance Manager or for small sites by a third–party consultant who specialises in this work.

4.1. Overview

Using our common regulatory framework, we have assessed the effort we need to deploy to effectively regulate different categories of permits. First, we looked at our regulatory activities at the regime level within EPR (for example, water discharges or waste operations), then we created the permit categories within each regime listed in the tables of charges in the schedule to the charging scheme. The categories each represent a group of operations where we need to deliver a common level of regulatory effort to determine applications and / or to secure on-going compliance.

The regulatory effort for each permit category was then applied to a financial model that captured the full costs required across our organisation to deliver the necessary regulation and this set the charges.

The resources needed to assess a permit application and those to assess the compliance of an operation during its lifetime can be very different. Therefore there are two models - one for

applications and one for subsistence/compliance - but both use the same common regulatory framework.

4.2. Baseline charges (application stage)

We aim to produce permits fit for purpose that deliver the legal requirements and set proportionate, risk-based standards in the permit.

We split permits into a number of different categories to reflect our different levels of regulatory effort at the permit application stage. Here the factors that consistently lead us to define our approach at a regulated facility are:

- the nature of the activity
- the scale of the activity
- the location of the activity in relation to the risk posed to the local environment (at application stage)

We have developed baseline charges for applications for all of our permit categories. These are listed in the tables of charges in the schedule to the charging scheme. These fixed charges aim to cover the wholly predictable and planned regulatory activity that will always be required when determining applications in each category. Further details and consultation questions for regimes and sectors can be found in Section 4.9 of this document.

Corresponding permit variation, transfer and surrender charges for these permit categories are also set out in those tables (where applicable). The calculation of each of those charges (as a percentage of the application charge, or a fixed sum) is set out in the associated Guidance to the EPR Charging Scheme. Further details and consultation questions can be found in Section 4.3 below.

4.2.1. Pre-application advice across all EPR regimes and sectors

We recognise that providing good pre-application advice is an important part of the application process. We plan to retain some contribution to pre-application work within the baseline application fee to cover essential advice such as the type of permit required, signposting to application forms and what accompanying documents should be submitted. Any further advice at pre-application stage can be requested as part of our discretionary enhanced pre-application advice service - Section 4.3.1.

Consultation question

9. Do you agree with the proposal to include only basic pre-application advice in all of our application charges?

Yes

X No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

It is very important that from the on-set of an application, applicants are clear as to what information is required as this will improve the quality of applications and save the applicant and regulator time in the longer term.

However, it should be noted that Pre-application advice is not a service which every applicant will require, especially if the application is for a standard rules permit and the application is being compiled and submitted by a permitting consultant who is familiar with the process.

If it must be chargeable, basic pre-application advice should not be encompassed in any way in the baseline application fee. It should be a discretionary service similar to/or as part of the proposed enhanced pre-application advice service.

The guidance on what is included in the 'basic' pre application advice needs to be clearer. It should also specify clearly what is required in the application in order for it to be 'Duly Made'. Technical considerations can then follow as part of the determination process, but should not hinder obtaining 'Duly made' status. If an applicant satisfies the requirements given in this advice then an application should be considered duly made.

4.3. Supplementary charges (application stage)

Baseline application charges cover those regulatory costs that we would always expect to incur in determining an application in a particular permit category. Additional costs are incurred when applications have additional complexity. In such circumstances, we propose to levy additional supplementary charges. In this way the baseline application charges can be set at the minimum level.

4.3.1. Discretionary enhanced pre-application advice service

As described in Section 4.2.1, an element of advice would be provided as part of our application charges for Standard Rules and Bespoke permits. If an operator would like further advice on their application, we have proposed a discretionary time and materials charged service for our permitting pre-application advice across all regimes and sectors. The benefit of gaining an enhanced service from us would be to improve the quality of the application and gain advice on technical issues that might arise during the application process.

This discretionary enhanced service will be charged at *£100* per hour.

The enhanced service could include face-to-face meetings and providing advice on the following, for example:

- complex modelling
- risk assessment preparation
- parallel tracking complex permits and models
- hazardous substances assessments or indicative limits up front
- monitoring requirements (including baseline)

Consultation question

10. Do you agree with the proposal for a discretionary enhanced pre-application advice service?

X Yes

No

not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

The devil will be in the detail as to who decides on whether this additional advice is necessary. If it is the EA, then this will effectively provide them an opportunity to request additional monitoring. If it is at the operator's discretion then they can make the choice in the knowledge that this will incur additional costs. This is in effect a

consultancy service offered by the EA. Where does the £100/fee come from as this is high compared with commercial rates

It should be noted that, in the past, the EA have not been able to give definitive answers on certain aspects of the application and in most cases it is left to the operator to suggest analytical parameters, threshold limits, mitigation measures, operational procedures etc. We would expect from this service to have help with all aspects of the proposed operations, including technical and operational details in a relatively short time frame. We would not want to commit to paying for this service if we had to wait several weeks or months for queries/issues to be raised with the EA technical team before receiving the support we requested. This would cause delay to applications which would be outside of our control. This would be difficult to accept when paying potentially several hundred pounds for the service. Time is often of the essence in the commercial world and this is not often considered by the regulator.

It needs to be clearer that the provision of advice by other third party providers on any technical pre- application requirements will be acceptable by the EA (e.g. defined in recognised standards).

In addition, we do also have some concerns about how the £100 per hour will be calculated and whether the applicant will consider that they are getting value for money. If the quality of the advice provided by the EA is poor, what recompense does the applicant have to recover the cost from the EA?

With regards to application fees, it is quite common for the EA to require additional plans such as pest management plans, etc. However, for Animal By-Product Regulation (ABPR) approved plants it is a requirement to demonstrate effective pest control management and they more readily audit this than the EA. We understand that APHA are also looking to charge from April ’18 so the REA requests that at the permit application stage things such as pest control plans should not form part of the application where a site is also required to go through ABPR as it is already adequately covered by this process, otherwise costs could easily be accrued just because it becomes standard practice to request these documents.

4.3.2. Non-discretionary supplementary application charges

Supplementary charges that may be payable when an application is made are set out in the associated Guidance to the EPR Charging scheme.

In particular we propose to levy fixed charges for:

- additional assessments relating to sensitive locations, odour management plans, etc.
- assessment of Waste Recovery Plans
- application amendments made during determination which require additional consultation
- advertising
- when we issue multiple information notices relating to the same issue during an application

We also propose to levy variable supplementary charges for:

- processing and returning submissions which are not 'duly made' applications (20% of the application charge, capped at *£1,500*)
- additional costs incurred for high public interest applications (time and materials *£100* / hour)
- processing applications for novel activity (time and materials *£100* / hour)

Waste recovery plans

If your application is for the permanent deposit of waste on land as a recovery activity you need to show that by submitting a waste recovery plan (WRP). You can submit your WRP either at the pre-application stage or as part of your application. You may even choose to re-submit a revised plan after a permit is granted and while deposits are taking place.

We will charge *£1,231* for each new, varied or revised WRP you submit.

Consultation question

11. To recover our costs we intend to charge each time we review a waste recovery plan. Do you agree with this approach?

Yes

X No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

Review and assessment of WRPs have historically fallen within the permit application fee. Whilst it is appreciated that the EA need to cover time and material costs, it is difficult to comprehend why this cannot remain included within the proposed increased baseline fee, especially as this plan forms the key part of these types of applications. With proposed increases in baseline fees, annual charges and also pre-application advice we would expect review of WRPs to be accounted for already. In addition to this, repeat fees for revised or amended WRPs is unreasonable, especially where revisions or amendments are minor.

Non-refundable part of charge

We check your application when it arrives to make sure it is complete and we can accept it as 'duly made' that is we have enough information to start to determine your permit application. We will contact you if information is missing.

If we cannot progress past this stage for any reason we will return the application and refund the application charge less 20% to cover our costs to that point. The amount we will retain is capped at *£1,500*.

Consultation question

12. Do you agree with our proposal to retain a proportion of the fee to cover costs associated with processing poor applications?

X Yes

No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

It is important it is known what a ‘good’ application looks like. Too often the EA request information from the operator which is not relevant and in some cases demonstrates a complete lack of understanding on their behalf. This is particularly relevant to deployment

applications. Poor applications should be penalised as long as industry know what a good application looks like so that they can comply. Guidance note required.

Additional charge for high public interest applications

If we decide an application is of high public interest in accordance with our public participation statement, we will recover any additional costs we incur over and above the usual application charge, by way of a time and materials charge.

A site of high public interest could be a site that is already generating a lot of public interest, or have the potential to generate high public interest (whether for environmental, legal or political reasons). They typically would require more effort to determine the permit. This might encompass

more time to carry out technical assessments and/or enhanced public engagement throughout each stage of the application.

We will recover our costs through a time and materials charge, given the variable nature of this additional activity. The hourly rate is *£100*.

Consultation question

13. Do you agree with the proposals to recovering additional costs for determining public interest applications through time and materials?

Yes

X No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

A SHPI site may only be categorised as such through no fault of the operator (i.e not because it is causing a public nuisance but because it is 'deemed' by local residents to pose a threat). SHPI site classification needs to be clarified. If additional scrutiny is required by the EA through no fault of the operator then it is not a valid reason to charge them more! What categorises a site as meeting the SHPI criteria should be explained as this information is not in the public domain.

We would like some clarity regarding how the EA would determine and deal with vexatious complainants (not an uncommon problem). It would also be helpful if the EA could develop a package of information that could provide information regarding generic concerns that are likely to be raised on each occasion a particular facility is proposed. Such an approach could signpost to relevant EA, Government, Health Protection Agency etc., guidance/information. This approach would hopefully provide reassurance to local residents, as well as saving the EA time.

Application amendments during determination

We will charge you if you want to amend an application (before it has been determined) when that means further public consultation would be required (for example, if there is a change to the proposed operator, or where there is a significant change in activities or scale of operation)

This will be a fixed charge of *£1,930*. This additional charge must be paid prior to your application being determined. This is separate to the advertising charge.

Consultation question

14. Do you agree with the fixed charge approach for application amendments during determination?

Yes

X No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

What is unacceptable is additional information being requested which was not initially asked for as this not only delays applications but will cost the applicant more money. Clear guidance again will be useful here to spell out what is required.

It is suggested that it would be fairer to have a scale of charges depending on the extent of the amendment required and also the amount of time spent by the EA in determining prior to the amendment being submitted should be taken into account. This should be itemised and traceable. A minor amendment made when the EA had just began determination is a very different situation to a major amendment submitted towards the end of the determination process.

Although depending on the nature of the request, the fixed fee for each request of £1200 may be excessive especially if the issue in question is minor. A scaled fee may be more appropriate.

Variations to permits required by the EA should not be chargeable unless the permit holder agrees to go ahead. Otherwise the EA can decide to vary a permit limitless numbers of times, and be paid a variation fee each time.

Charge for novel activities

Permit applications for activities using novel activities may need additional specialist regulatory effort and we need to recover our costs.

Novel activities are those technologies, risk assessment models or approaches that we have not authorised before. There is likely to be no existing guidance or precedent proven to be acceptable. Regulating such technologies must be carefully assessed as part of the application.

We will charge for permit applications for novel activities using a time and materials charge. The rate is *£100* per hour.

Consultation question

15. Do you agree with our proposal to recover costs of determining permits for novel activities through time and materials charging?

Yes

X No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

In principle this would be acceptable, however if there is evidence to support valid permit applications either from similar activities elsewhere outside of the UK then this should be considered. Who determines if a process is 'Novel'? Just because the EA has not permitted such an activity it does not mean that it is not common practice elsewhere. Fracking for example is widespread overseas but not in the UK, is this considered to be a Novel process? We do not want to see innovation stifled in light of a push to encourage the Circular Economy within the resources sector, this approach is too subjective.

Charge for additional information notices

Where we need additional information to enable us to determine an application we will issue a notice requiring information.

Sometimes applicants' responses appear to meet the requirements of the notice but still do not provide us with sufficient information to enable a permit to be issued and we then have to issue a further notice on the same issue. This causes us additional assessment costs beyond those covered by the baseline charge and we therefore propose that, when we have to issue three or more information notices relating to the same issue, we will levy a further charge to recover our additional assessment costs.

This will be a fixed charge of *£1,200* for each additional notice relating to the same issue. This will only be used when we need to request the same information more than twice. Routine requests for further information are contained within our baseline charge.

Consultation question

16. Do you agree with our proposals to charge for further information requests not covered within the baseline charge?

Yes

X No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

It is important that the EA guidance provides CLEAR and CONCISE information on what is required for applications this should then not be necessary. Too often it is left to the operator to double guess what is required by the EA resulting in an iterative process which delays applications. If **poor** applications are made then an additional charge is **valid** as this wastes EA time and resources. If three requests are made then this may be as a result of the applicant not being made aware that specific information was required in the first place rather than them omitting this information deliberately.

Variations and surrenders

If you apply to vary your permit, or if we decide to vary your permit, you may have to pay a variation charge unless the change is administrative only.

The variation charges are set out in the relevant Application Charge table in the scheme. Your application to vary can include one or more of the variation categories below if you have multiple activities

Depending on the change to the permit and the permit regime, you can apply for:

- an administrative only change (no charge)
- a minor variation at 30% of the new application charge
- a normal variation at 50% of the new application charge

- a substantial variation at 90% of the new application charge
- for Flood Risk activity permit variations we apply a fixed charge of *£68 (*minor variation) or *£204*
  (any other variation)
- for variations to water discharge activity permits held by sewerage undertakers and being varied, as part of the Water Industry National Environment Programme under the 5 yearly Asset Management Plan (AMP), to secure Event Duration Monitoring we apply a fixed charge of *£903*
- for radioactive substances activities permit variations there are specific, fixed charges for each type of variation in each permit category detailed in the relevant Application Charge Table.

If you want to surrender part or all of your permit you may have to pay a surrender charge. This will be charged in accordance with the Application Charge tables in the scheme.

Depending on the change to the permit and the permit regime (see below), you can apply for:

- a full surrender at 60% of the new application charge
- a low risk or basic surrender at 20% of the new application charge

Consultation question

17. Do you agree with our proposal to use the new application fee as the basis for variation and surrender charges?

X Yes

No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

As long as there is absolute clarity as to what constitute administrative, minor, normal and substantial variations.

The administrative 'phase' is not well defined and, for deployments, is viewed as an unnecessary bureaucratic stage. The process from receipt to issue of deployment has to be better defined for the EA to be in any way able to justify the significant increase in costs which are proposed. A service level agreement with an agreed timeline from receipt to issue is required. What 'stops the clock' and why must be clear and how this can be challenged/ appealed by the applicant needs to be clear.

Batch transfers

A batch transfer is when a number of your permits are being transferred to a single operator at or near the same time.

The total charge in that case will be the largest transfer charge in the relevant Application Charge Table in the scheme with the additional concurrent transfers reduced by 80% of the transfer charge in the relevant Application Charge Table in the scheme.

This does not apply to batch transfers of landfill permits.

Consultation question

18. Do you agree with our approach for discounting batch transfers to a single operator at the same time?

X Yes

No

Not applicable

If not, please explain why.

A discounted approach is welcomed on batch transfers but I would think this is not a regular activity other than for the larger waste management operators with multiple sites.

4.4. Application for multiple activities under one permit

If you are applying for a permit that covers more than one type of activity described in the relevant Application Charge table in the scheme, the charge you have to pay is the sum of the activities.

The activity with the largest charge will be charged as 100% of that charge in the relevant Application Charge table.

Secondary activities which are reasonably associated to the principal activity will be charged at a reduced fee of 50% of the activity to take account of the common tasks involved during the determination such as consultation, operator competence checks, etc.

A reduced fee of 10% of the new charge for an activity will be charged if that activity is carried out multiple times on the same site.

Consultation question

19. Do you agree with the approach we have used to cover our costs associated with determining permits at multi-activity sites?

X Yes

No

Not applicable

If not, please explain why.

This seems a fair and proportionate approach to multi-activity sites where there are common work activities which will require a common and shared assessment for risk by the EA, The REA would request however that secondary activities should only be charged at 25% of their original fee as there will be many common shared tasks which will have already been covered by the higher principal application fee**.**

4.5. Baseline subsistence charges (compliance stage)

We have set our baseline charges to recover the full costs of the functions we perform in regulating those permits that operate at the 'expected' compliance level.

We use a mix of different regulatory interventions to make sure permits are complied with and that any standards set in the permit remain appropriate.

We split permits into a number of different categories to reflect our different levels of regulatory effort at the compliance stage, reflecting the mix of compliance interventions that we must use to

manage the risks to the environment posed by that activity. The factors that consistently lead us to define our approach at a regulated facility are:

- the nature of the activity
- the scale of the activity

We have developed baseline charges for compliance for each of our permit categories; these are listed in the tables of charges in the schedule to the charging scheme. These fixed charges aim to cover the wholly predictable and planned regulatory activity that will be required when regulating permits in each category.

4.6. Supplementary subsistence charges (compliance stage)

Baseline subsistence charges cover those regulatory costs that we would always expect to incur in regulating a particular permit category. Additional costs can be incurred when one-off or uncommon situations arise. In such circumstances we propose to levy additional supplementary charges. In this way, the baseline subsistence charges can be set at the minimum level.

Consultation question

20. Please tell us if you have any comments about the approach to annual subsistence charging outlined in sections 4.5 and 4.6.

4.5 You need to define 'wholly predictable' and 'planned regulatory activity' Also need to define 'one off' or 'uncommon situations' if charges are to be levied. It needs to be clear how many field site visits will be programmed in under mobile plant permits.

We agree with the approach in principle if it reduces the baseline costs as much as possible. It would however be completely at the EA's discretion, whether additional costs would be incurred which gives rise to an increase in financial risk relating to the job/application if the one-off or uncommon situation takes a long time to resolve. This would come down to how the content of the application is interpreted which may also vary between officers depending on their knowledge. Could this be unfair if an inexperienced officer is handling a new application?

A 1 in 4 year auditing programme is costed within the proposed £530 annual subsistence fee for mobile plant permits. Is this a worthwhile exercise and what will this work entail to justify this cost.

4.6.1. Non-planned compliance work

We propose to apply a time and materials approach to non-planned compliance and associated regulatory work at permitted sites. .

Planned compliance activity at a site is funded through subsistence charges. Time and materials charging enables us to cost recover in that year for certain unplanned events which trigger the need for additional regulatory effort.

The circumstances where this charge is proposed to be applied would be for each of the following:

- a substantiated or confirmed pollution incident (category 1 or 2) from a permitted site where there is potential for significant harm to human health or the environment - this will apply where we do not already have an ability to cost recover for unplanned work (for example we will continue to apply section 161ZC Water Resources Act 1991 for water pollution incidents)
- the additional regulatory effort required when dealing with suspension notices for a site

  These will be charged at *£84* per hour.

- the additional work required, where under a permit condition the operator provides a submission explaining how they will meet the specific requirements, for our consideration and approval

  This will be charged at *£100* per hour.

See section 3.1 of Guidance to the Charging Scheme 2018 for further explanation.

Consultation question

21. Do you agree with our approach to charging for non-planned compliance work at permitted sites?

X Yes

No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

Yes, in principle. However, it potentially means current on-site visits and all the associated work including travel to sites and preparation will be charged at £84/hr proposed only for Cat 1 or Cat 2 pollution incidents NOT routine. 3.1.5 Explanatory note in Draft Guidance document is not clear as to what this covers. Clarification is required please.

It is also noted that it would be completely at the EA's discretion, whether additional costs would be incurred which gives rise to an increase in financial risk relating to the job/application if the one-off or uncommon situation takes a long time to resolve. This would come down to how the content of the application is interpreted which may also vary between officers depending on their knowledge and skills. There are therefore concerns about what this might entail if an inexperienced officer is handling a new application. These concerns should be addressed by the EA within its framework.

we are concerned that local residents of waste sites, once aware of the new charging scheme will use this as a vehicle to attempt to put operators out of business by generating numerous complaints in the hope of generating significant costs for the operator through time and materials charges accrued by investigating EA officers.

4.6.2. A new charge at the commencement of operations

There are benefits to additional early engagement with a new operator. Making sure that an operation commences on the correct basis could save both the operator and ourselves considerable costs incurred in putting matters right later. We propose to have a first year charge to cover the costs of an additional site visit and advice, when these sites first commence operations.

This first year charge is costed to provide a specific number of hours of effort, we anticipate eight hours, at *£84* per hour, for this service which would be a charge of *£672.*

We want to engage further with customers on this point during the consultation. **Consultation questions**

22. Do you agree with the additional charge to cover extra regulation work in the first year of operation on an activity?

Yes

X No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

If the operator is already operating sites of a similar nature then this does not seem necessary. For genuine new operators who have no track record this would be a valid approach.

Furthermore, the pre-application advice service, determination of permit, agreement on permit conditions and regular audits, site visits as proposed should be enough to satisfy all regulation required. We would suggest this would be most appropriate for large-scale and complex installations, site-based technologies etc and not mobile plant or standard rules permits.

23. Do you agree that this first year charge should apply across all regimes and sectors under EPR or should it apply to some sectors only? (If so which sector/s?)

All regimes and sectors

X Some regime and sectors only

Don't know

If you have answered some regimes and sectors only, please tell us which regimes and sectors it should apply to.

The first year charge is most likely to be most applicable to more complex and large scale sites with multiple activities rather than routine operations such as mobile plant or standard rules permits**.**

4.6.3. Pre Operational and pre construction charges

There may be a delay between issuing a permit and any work starting to construct or operate a facility. We propose to waive baseline subsistence charges for the period during which neither construction nor operation has commenced, to reflect that we have not yet started our regulatory scrutiny of the site. The exception is for waste incinerators and co-incinerators where we will charge a fixed pre-construction charge as in the Subsistence Charge tables, and full subsistence charges as soon as construction begins.

Consultation question

24. Do you agree with our approach to charging for pre operational and pre construction?

Yes

No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

4.7. Subsistence charges for multi-activity operations.

We have set out proposed charges for permitted activities, having considered these from a regime and sector perspective. For most permits the activities will fall within a single charge category and only that charge will be due, though supplementary charges may also be necessary for any first year charge, or any unplanned, unusual and exceptional work. The 'most apt' charge is levied for any single activity where there is any doubt as to the appropriate category.

However, some operations and permits cover more than one type of activity described in the charging scheme table. In these cases the subsistence charge to pay is usually the sum of the charges for the different activities (the 'sum of all charges rule'). For example a landfill site with a permitted discharge to watercourse would pay the charge for both the regulation of the landfill and the charge for the regulation of the discharge.

We have some sectors where activities are diverse and often involve a number of complementary or ancillary activities, which could each merit a separate charge. We have sought to keep things simple for the customers affected by creating charge categories that include the most common ancillary activities – usually through a 'component' approach. Hence, for the Food & Drink, Paper Pulp & Textiles and Chemicals sector we have dis-applied the 'sum of all charges rule'. This is referenced further in the section of this consultation document relating to each sector

Within the waste transfer and treatment sector the permit categories have been specifically designed such that our regulatory costs are recovered by levying the charge for the highest cost waste installation and / or the highest cost waste operation occurring under any permit. This arrangement replaces a number of rules under our previous charging scheme, dealing with activities that might fall within a number of different charge categories, or may be charged differently if they were on adjacent land.

We have also made provision for water discharge activities to face only one charge, as they do currently, where effluents are combined into one discharge. As effluent monitoring is already addressed in the regulation of most installation facilities, we will not levy a separate water discharge charge for these cases. The exceptions are for some aspects of Onshore Oil & Gas, Mining Waste, Waste Transfer and Treatment and Landfill sectors, where we have ensured that the charges are complementary.

Consultation question

25. Please tell us if you have any comments regarding our proposed arrangements to recover regulatory costs at multi-activity sites?

Yes

X No

Not applicable

If not, please explain why.

4.8. Permit Compliance

Past experience of regulating sites with environmental permits has taught us that the compliance record of the operator means we have to vary the amount of regulatory effort that we deploy to the site. The more compliant an operator, the easier it is to assure ourselves that activities are controlled and potential impacts on people and the environment are minimised. Sadly, the opposite is also true. To ensure that we look after the environment, we need to be able to put more of our effort into the non-compliant operators.

OPRA is the current risk assessment tool that helps us do this for installations and waste operations. OPRA provides an assessment of the environmental risk of operating these activities.

Our baseline charges take account of the nature of the permitted activity, the scale of the activity and for applications only the location of the activity (who or what is in the vicinity that may be affected).

Our charges should, however, also respond to the variable costs of subsistence. For waste activities and installations, we intend to continue to apply compliance band multipliers in order to recover costs associated with regulatory interventions applied to sites which are in OPRA compliance bands.

In addition we propose to provide for some of this variability by levying time and materials charges for exceptional events that occur in-year at all EPR sites.

We propose, as an interim measure, to retain the existing compliance system that is already in place in our regimes in EPR (for example installations and waste), pending roll-out of a new approach and further consultation.

Flood risk activities

Due to the broad range of regulated flood risk activities, although we use the Compliance Classification Scheme for flood risk activities, we have not and do not intend to charge subsistence based on OPRA compliance bands. Instead, we have developed tailored subsistence categories
for these activities.

4.8.1. Our arrangements for compliance (installations and waste activities only)

Under our existing OPRA based charging scheme, we modify the charges that we levy for waste and installations permits based on the compliance band. This enables us to recover most of the costs for the regulatory activities incurred, in responding to permit non-compliances.

As set out in section 5 of the Guidance our Compliance Classification Scheme records breaches of permit conditions and converts this to a score. The cumulative scores for permit non-compliances recorded over a calendar year enable us to place each site into one of six ‘compliance bands’ A to F. The following year’s subsistence charge is modified to reflect the compliance band, as follows:

Compliance Band	Impact on charge	Comment
A	Discount of 5% on baseline subsistence charge	Good compliance
B	No impact	
C	10% increase	
D	25% increase	
E	50% increase	

F	200% increase (3x baseline charge)	Poorest compliance

Sites with poor compliance cost more to regulate, so we propose to continue to apply the existing OPRA compliance bands and compliance multipliers that our waste and installations customers are familiar with.

When unplanned compliance activity also occurs at these sites (i.e. the exceptional events outlined in section 4.6.1) the additional cost incurred can significantly outweigh even the modified charges generated under Band F. For this reason we propose to apply both cost-recovery mechanisms.

Consultation question

26. Do you agree with our interim arrangements for compliance rating outlined above?

Yes

X No

Not applicable

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

The REA believes that there needs to be a higher reward for Band A or good compliance operators. The 5% suggested is not much of an incentive to promote good practice and given that regulatory intervention on these sites is negligible only small costs are incurred regulating such sites. A **25% discount** would be a much better incentive. Conversely, Band F operators should be hit harder if they are poorly performing and frequently in breach of their permit conditions.

The REA is also keen to stress the fact that there needs to be more consistency across officers scoring CAR forms and again, a much clearer framework for challenging inconsistencies in scoring and timeliness of CAR returns.

There are a number of certification or quality assurance schemes in operation which indicate improved process control and site management: examples are the Biofertiliser and Compost Certification Scheme aligned to specifications BSI PAS 110 and PAS100 and to the Anaerobic Digestate and Compost Quality Protocols. When a process is certified under these Schemes, this should be reflected in the cost the operator pays for the permit, either through the existing OPRA scheme or through an additional metric, since certification demonstrates a higher degree of process management and control.

4.9. EPR Regime and sector specific consultation questions

The following Consultation questions are on specific regime and sectors. We recommend that you read the guidance and the relevant charging tables before responding to the questions below.

4.9.1 Flood and Coastal Risk Management

The proposed permit categories and baseline charges for flood and coastal risk management can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.1 of the application charges table; annual compliance charges are found in Part 2.1 of the subsistence charges table.

There will be significant increases to application and subsistence charges. The current charge scheme introduced an interim flat rate application and subsistence charge that only covered costs for the simplest applications. The new charge scheme will better reflect the true costs of determining permits and monitoring compliance, and reduce reliance on taxpayer funding.

Our proposals include a basic pre-application service as part of handling applications for flood risk activity permits. Therefore routine applications will not incur any pre-application charges. However if the pre-application work requires an enhanced service this will be charged on a time and materials basis.

We also propose a four category model for compliance. Broadly speaking, the level of regulatory effort reflects the risk associated with the application, with more assessment/monitoring taking place for higher risk applications.

Consultation questions

27. Do you agree with our proposals for flood and coastal risk management permitting charges?

Yes

No

X **Not applicable**

If not, please explain why.

28. Please tell us if you have any comments in relation to our flood and coastal risk management proposals. In particular, do our proposals cover all activities you may undertake as an operator?

4.9.2 Radioactive Substances Regulation Nuclear Sites

We issue permits and ensure compliance of nuclear site operators who dispose of radioactive waste. The permits are subject to limits and conditions set to protect people and the environment from the potentially harmful effects of radiation.

We have reviewed our hourly rates to recover costs for work related to nuclear sites. The hourly rates have not changed for a number of years, and we no longer recover costs for our activities. We are proposing an increase to the nuclear specialist hourly rate from £213 to *£240.* The charge rate for the technical officer of £125 per hour will remain unchanged. Our level of service to customers will remain the same.

We are reviewing our salaries for nuclear specialists to ensure we are comparable with other employers and so can recruit and retain the staff we need.

Consultation question

29. Do you agree with the proposals outlined for Radioactive Substances Regulations Nuclear?

Yes

No

X **Not applicable**

If not, please explain why.

4.9.3 Radioactive Substances Regulation non-nuclear Sites

The proposed permit categories and baseline charges for the radioactive substances regulation - non-nuclear sites can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.2 of the application charges table; annual compliance charges are found in Part 2.2 of the subsistence charges table.

Increasing the charges will maintain our resources to make sure we can continue to regulate the security of radioactive sources while holding data on those sources in a secure IT environment. This is a benefit both to society and to the sector as misuse of a radioactive source would have severe consequences.

Consultation question

30. Do you agree with our revised permit categories for disposal of radioactive waste from unsealed radioactive sources?

Yes

No

X Not applicable

If not, please explain why.

4.9.4 Water Quality and Groundwater Discharges

The proposed permit categories and baseline charges for water quality and groundwater discharges can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.3 of the application charges table; annual compliance charges are found in Part 2.3 of the subsistence charges table.

The proposals represent a substantial simplification and modernisation of charging for water discharges which will be much better for charge payers. The previous system hasn't changed substantially since 1992.

Charge payers will pay a fair (higher) share of the work that is needed to underpin the on-going acceptability of the discharges and permits – particularly work on environmental monitoring and planning – previously funded by taxpayers. Some £7million of costs currently funded by central government must now be recovered from permit holders to ensure that we fully recover our costs from those we regulate.

The proposed charging system will replace the existing calculation in the Charges for Discharge (CfD) scheme introduced in 1992, and will generate charges for specific discharge types that reflect the cost of our regulatory effort. CfD is based on multiplying together factors relating to the receiving environment, the volume of the discharge, and the content of it, to arrive at a charge, then where appropriate applying various exceptions and reductions to discount that charge.

We have now identified eight different types of discharges, these are:

1. Sewage
2. Intermittent sewage
3. Trade effluent and non-sewage
4. Rainfall related
5. Aquaculture
6. Cooling water

7. Non-exempt thermal

8. Groundwater activities (liquid discharges and solid deposits).

These discharges have been split into charge categories based upon the nature, volume of discharge as well as typical regulatory activities we complete for a site. We have used this in developing the proposed charges to achieve full cost recovery of our application and annual compliance effort.

Broadly speaking the amount of work we do increases with the scale of an activity and what the discharge contains. The need for in depth assessments in some cases has been taken into account in the development of the new baseline subsistence charges

Those customers who are part of operator self-monitoring (OSM) will no longer receive a separate discount as occurred under CfD. Under our new scheme, OSM is included in the baseline charge.

The two existing application charges of £125 or £885 substantially under-recovered the costs of processing applications. We propose that these will be replaced by the new baseline application charges for each activity.

Variations will be charged as given in section 4.3.2, with the exception of domestic discharges of less than five cubic metres where the variation will remain as £125. Variations that require Event Duration Monitoring delivered under nationally negotiated AMP agreements for water and sewerage companies, these more straightforward variations will be charged at *£903*.

We do not propose to increase the application fee of £125, nor to charge an annual subsistence fee for discharges of sewage effluent where the maximum daily volume of discharge authorised by the permit is five cubic metres or less and the permit holder is a domestic householder or organisations and entities that operate for charitable purposes. Minimal charges will fall on householders. Further decisions can now be taken about the level of regulation and taxpayer funding devoted to these discharges.

For water and sewerage companies we have proposed to phase the AMP6 EDM permitting workload across AMP6 and AMP7 to smooth the cost of introducing charges for these variations and to reduce permitting workload pressures. Details are to be confirmed by separate agreement.

Consultation questions

31. Do you have any comments on our proposal to move from a charging scheme which considers the volume, chemical content and receiving water into which a discharge is made, to a simpler activity-based charging scheme?

32. Do you have any comments on the proposed approach to reflect the costs of Operator Self- Monitoring?

☐ Yes

☐ No

☐ x Not applicable

If not, please explain why.

33. For water and sewerage companies we have proposed to phase the AMP6 EDM permitting workload across AMP6 and AMP7 to smooth the cost of introducing charges for these variations and to reduce permitting workload pressures. Details are to be confirmed by separate agreement. Do you agree to the proposed approach?

Yes

No

X Not applicable

If not, please explain why.

34. Do you have any comments on the proposed approach to variation charges specifically relating to Water Discharge and Groundwater activity permits?

35. Do you have any other comments on the Water Discharge and Groundwater Activity proposal?

4.9.5 Installations: General

The regulation of installations under EPR covers a wide range of diverse sectors. In applying the common regulatory framework set out in section 3 we have been mindful of this diversity. The approach for each sector is set out below.

A common feature is that individual charge changes are highly variable, as we shift away from OPRA calculations to charges reflecting our regulatory activity; in future, sites that get the same regulatory scrutiny from us will pay the same charge – under OPRA their charges would have varied due to the interplay of different OPRA attributes

4.9.6 Installations: Chemicals Sector

The proposed permit categories and baseline charges for the chemicals sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.4 of the application charges table; annual compliance charges are found in Part 2.4 of the subsistence charges table.

We have not proposed any significant shift in the way we regulate this mature and generally high performing sector.

The approach we have adopted for this sector is to differentiate sites based on the process design and the level of additional support activities on site such as combustion plant and effluent treatment facilities.

The production of organic and inorganic chemicals has been split between:

- Continuous production
- Complex batch/semi-continuous production
- Simple batch production

Charges have also been adjusted dependent on whether the plant discharges to sewer or a watercourse via an onsite effluent treatment system, or if there are other site specific factors requiring additional regulatory effort such as an onsite incinerator, or multiple processes, or multiple large combustion plants.

Consultation question

36. Do you agree with our proposals for the installations: chemicals sector permit charges?

Yes

No

X Not applicable

If not, please explain why.

4.9.7 Installations: Refineries and Fuels Sector

The proposed permit categories and baseline charges for oil refineries and fuel sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.5 of the application charges table; annual compliance charges are found in Part 2.5 of the subsistence charges table.

Oil refineries and storage are highly complex processes and pose a significant hazard to communities and the environment; the impact of incidents or other poor operation can be very severe.

These businesses also present significant challenges in reducing their impact on air quality. A lot of work is needed to find solutions to mitigate this.

We will improve our approach to the regulation of refineries, fielding both a lead and support officer for each site to improve technical resilience and to allow us to respond promptly to priority issues.

Consultation question

37. Do you agree with our proposals for the installations: refineries and fuels sector permit charges?

Yes

No

X Not applicable

If not, please explain why.

4.9.8 Installations: Energy from Waste - incineration and co-incineration

The proposed permit categories and baseline charges for energy from waste, incineration and co-incineration can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.6 of the application charges table; annual compliance charges are found in Part 2.6 of the subsistence charges table.

This is a mature sector, with a well-established regulatory approach that we are not proposing to change. However, our charges do change as we shift from OPRA calculations to a more cost-reflective system of charging.

In particular, we propose to include the regulatory costs associated with commissioning new waste incinerators and co-incinerators within the baseline subsistence charge (this means that subsistence charges for new facilities will be higher compared to existing ones). We also propose to apply a fixed charge during the pre-construction period for waste incinerators and co-incinerators.

Consultation question

38. Do you agree with our proposals for the installations: Energy from waste sector permit charges?

Yes

X No

Not applicable

If not, please explain why.

Members have noted that the SROC proposals are a complete overhaul of the charging methodology for Energy from Waste sites. Given the bespoke nature of the new charges, the overall impact of these proposals are both site specific and difficult for industry to fully measure. It is appreciated that the EA did conduct some industry engagement prior to the consultation launch, however it remains the case that actual figures for the charges could not be considered by the industry until the consultation came out and, as such, there simply has not been enough time or transparency for the majority of developers to be able to fully compare the previous methodology to the charges outlined in the proposals. As such, it is difficult to state with confidence that the proposed charges are fair or proportional.

Furthermore, it would have been helpful if the internal modelling done by the Environment Agency, as indicated within the EA supporting PowerPoint presentations, had also been released to industry. This would have allowed the industry to understand the assumptions being used by the EA and help to make comparisons against existing sites. If the proposals are to be implemented, it would still be helpful to release this modelling, in order to further assist developers to understand the costs they shall be facing.

The difficulty of understanding the impacts of the proposals has also been exacerbated by the lack of clarity provided in regards to the definition of “successful commissioning” on energy from waste sites. Given that this definition will determine when ‘new’ and ‘existing’ charges will apply, developers have had to make assumptions in regards to this definition in order to estimate what ongoing permitting costs will be. We understand that EA has been working with industry to get this definition drafted; however, the lack of clarity during the consultation has not helped to provide a clear picture of how the proposals will impact developers.

While these issues make it difficult for us to comment directly on the proposals, there are a number of broader points which have also been raised and should be carefully considered by the EA when thinking about taking these proposals forward for Energy from Waste sites:

1) While it is fully recognised that the permitting of Energy from Waste sites is required and that that the EA’s administrative costs should be appropriately covered, it should also be considered how the impact of these costs affects the ability of energy from waste technologies to compete within the renewable energy market. With energy policy focused on technology neutrality, it is important that permitting costs, which cannot be expected to fall as deployment increases, do not disadvantage a technology that is helping to both manage waste and produce renewable energy. As such, charges should be considered in relation to the wider impacts it has on a technologies ability to compete for support mechanisms, such as the Contracts for Difference.

2) There are concerns with Energy from Waste Advanced Conversion Technologies (ACTs) projects that they may have to pay charges twice. Where an ACT project produces the syngas at one site and then the gas is transferred by pipe to a different site to be combusted, it is unclear within the current proposals whether both the sites will have to pay for two separate permits. This is especially pertinent where the site producing the syngas and site combusting the syngas is owned by separate companies. Given that both activities relate to the same project and the separate sites are clearly linked, there should only be one permit required. Further guidance providing clarity in relation to this situation should be provided.

3) There are further concerns that these proposals miss an opportunity to encourage the evolution of ACT plants into either larger capacity projects or the rollout of more localised projects, using previously permitted technology. It is understood that ACT projects present certain challenges to the EA in terms of being a nascent technology, however where it is the case that a developer has paid for and achieved an environmental permit for their technology at one site, this should be taken into consideration when the same technology is used to either scale up on a new site or be installed elsewhere as a number of localised projects. With the technology already having reached the permitted standards it is felt that new sites using the same technology should not have to go through as onerous a process, and at such cost, to receive the permit for a new site. This has two implications for the future of the industry, firstly that developers should not have to pay several times over in order to get to the stage of having the same capacity as more established energy from waste sites. Secondly, such a policy should reflect the overall energy policy direction that will see increasing numbers of smaller decentralised, flexible generation sites, located nearer to feedstock, with standardised modular systems being installed.

4.9.9 Installations: Food and Drink Sector

The proposed permit categories and baseline charges for the food and drink sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting

applications are in Part 1.7 of the application charges table; annual compliance charges are found in Part 2.7 of the subsistence charges table.

Overall, we do not expect much change from the current income levels and we do not propose any significant shift in the way we regulate this mature sector.

For this very diverse sector we have proposed a 'component approach' with additional components that can apply as well as the base level subsistence. These are needed to cover the additional activities on site that require additional regulatory effort by us, whilst avoiding the need to produce numerous additional charge activity references for these sectors. Please see the charges scheme subsistence tables for further details.

Some existing customers will see a financial benefit as a result of the review especially those previously paying more solely due to their location. Many sites will see a reduction in annual charges.

Consultation question

39. Do you agree with our proposals for the installations: food and drink sector permit charges?

Yes

No

X **Not applicable**

If not, please explain why.

4.9.10 Installations: Onshore Oil and Gas Sector

The proposed permit categories and baseline charges for the onshore oil and gas sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.8 of the application charges table; annual compliance charges are found in Part 2.8 of the subsistence charges table.

Regulation at most existing sites is unchanged and costs are now more reflective of regulatory effort.

Fracking activities will face higher costs, as we continue to support development of this new technology. In particular, Hydraulic Fracturing Plans (HFPs) will incur supplementary charges using time and materials charging. We will use an hourly rate to recover costs since the amount of work required on each HFP will vary. This will ensure that the amount paid by each operator with an HPF will be cost reflective. We will charge *£125* an hour to assess and monitor an HFP. The rate reflects the higher level of technical expertise of staff involved.

Consultation questions

40. Do you agree with our proposals for the installations: onshore oil and gas sector permit charges?

Yes

No

X **Not applicable**

If not, please explain why.

41. Do you agree with our proposal to introduce a time and materials charge for our regulatory work associated with Hydraulic Fracturing Plans?

Yes

No

X **Not applicable**

If not, please explain why and how we might otherwise cover the costs incurred in relation to this regulatory work.

4.9.11 Installations: Paper, Pulp and Textile Sector

The proposed permit categories and baseline charges for the paper, pulp and textile sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.9 of the application charges table; annual compliance charges are found in Part 2.9 of the subsistence charges table.

The sectors are mature, good performing and we are looking to maintain current levels of regulatory effort.

Individual charge changes are highly variable, as we shift away from current calculations to charges reflecting our regulatory activity. In future, sites that get the same regulatory scrutiny from us will pay the same charge – previously their charges would have varied due to the way we calculated charges based on attributes such as complexity and emissions.

For this very diverse sector we have proposed a 'component approach' with additional components that can apply as well as the base level subsistence. These are needed to cover the additional activities on site that require additional regulatory effort by us, whilst avoiding the need to produce numerous additional charge activity references for these sectors. Please see the charges scheme subsistence tables for further details.

Consultation question

42. Do you agree with our proposals for the installations: paper, pulp and textile sector permit charges?

Yes

No

X Not applicable

If not, please explain why.

4.9.12 Installations: Combustion and Power Sector

The proposed permit categories and baseline charges for the combustion and power sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.10 of the application charges table; annual compliance charges are found in Part 2.10 of the subsistence charges table.

Many existing customers will see a financial benefit as a result of the review, many sites will see a reduction in annual charges.

Medium combustion plants

The Environment Agency will be responsible for the regulation of the Medium Combustion Plant Directive (MCPD). We estimate up to 30,000 permits needing to be issued between 2018 and 2030. The first 50 – 200 permits for new MCPD sites will need to be issued before the end of 2018. Existing sites will need to be permitted by either 2025 (5-50 megawatt thermal - MWth) or 2030 for sites 1-5MWth.

We hope to use an on-line process for the vast majority of permits. There will be, however, some 5-10% of permits that will be more complex and bespoke in nature. These include diesel arrays and data centres.

To prepare we have included two types of bespoke permit categories, setting out application charges. Subsistence activity will be subject to time and material charging if necessary. We also propose to use the default standard permit charges for the majority of the permits. This will make sure that charges can be in place for the earliest applicants.

Consultation question

43. Do you agree with our proposals for the installations: combustion and power sector permit charges?

☐ Yes

☐ No

☐ Not applicable

If not, please explain why.

4.9.13 Installations: Mining Waste Sector

The proposed permit categories and baseline charges for the mining waste sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.11 of the application charges table; annual compliance charges are found in Part 2.11 of the subsistence charges table.

We are proposing no significant shift in the way we regulate sites in this sector.

Annual charges rise as we move to more accurately reflect the costs of our regulatory activities.

Consultation question

44. Do you agree with our proposals for the installations: mining waste sector permit charges?

Yes

No

X Not applicable

If not, please explain why.

4.9.14 Installations: Metals Sector

The proposed permit categories and baseline charges for the metals sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.12 of the application charges table; annual compliance charges are found in Part 2.12 of the subsistence charges table.

The new charges are a much more accurate reflection of the costs associated with regulating different sites within the sector; we do not propose any shift in the way we regulate this mature sector.

High numbers of smaller, low risk sites will see a reduction in subsistence charges – a reflection of the lower regulatory effort.

Some large, highly complex sites will see an increase in their subsistence charges – a reflection of the regulatory activity required to manage the high environmental risks posed at these sites.

45. Do you agree with our proposals for the installations: metals sector permit charges?
Yes

No

X Not applicable

If not, please explain why.

4.9.15 Installations: Cement and Lime Sector

The proposed permit categories and baseline charges for the cement and lime sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.13 of the application charges table; annual compliance charges are found in Part 2.13 of the subsistence charges table.

The subsistence charge increase is due to a more accurate reflection of regulatory costs, particularly recent additional regulatory effort brought about by the use of waste fuels at some sites; we do not propose any shift in the way we regulate this mature sector.

Consultation question

46. Do you agree with our proposals for the installations: cement and lime sector permit charges?

Yes

No

X Not applicable

If not, please explain why.

4.9.16 Installations: Intensive Farming Sector

The proposed permit categories and baseline charges for the intensive farming sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.14 of the application charges table; annual compliance charges are found in Part 2.14 of the subsistence charges table.

The annual charge for all sites reduces, reflecting recent efficiencies in our inspection framework; this remains under review.

Permit Application charges will rise. This is a reflection of the cost of carrying out the permitting activity. Undertaking a thorough permit application process enables us to provide a ‘lighter touch’ inspection frequency.

47. Do you agree with our proposals for the installations: intensive farming sector permit charges?

Yes

No

X Not applicable

If not, please explain why.

4.9.17 Waste: General

The regulation of waste sectors under EPR covers a wide range of activities. In applying the common regulatory framework set out in section 3 we have been mindful of this diversity. In particular we have kept in mind that different regulatory provisions such as the Industrial Emissions Directive and Landfill Directive may apply to different sub-sets of activities, these can create differences in our regulatory approach during permitting and compliance activities. The approach for each sector is set out below.

A common feature is that individual charge changes are highly variable, as we shift away from a mix of OPRA calculations and fixed charges, to charges reflecting our regulatory activity; in future, sites that get the same regulatory scrutiny from us will pay the same charge.

Currently adjacent waste operation sites only attract one charge although they may be covered by two permits. We will charge for each separate activity to reflect our costs in regulating those separate activities in the future. Operators will still have the discretion to consolidate the permits to then attract a single charge.

Waste sites that have both installation and waste activities covered under one permit currently attracts two separate charges as though they were separate sites. We intend to continue with this approach to charge separately for each activity so that we fully recover the regulatory costs.

4.9.18 Waste: Land spreading (mobile plant) Sector

The proposed permit categories and baseline charges for the land spreading of wastes using mobile plant can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.15 of the application charges table; annual compliance charges and deployment charges are found in Part 2.15 of the subsistence charges table.

Spreading waste to land can be beneficial as it reduces waste and it benefits the farming community by improving their land and reduces their costs.

It also poses significant risks and can have a significant impact on the environment.

Over the years, businesses have looked at more and more different types of waste material to use. It is important that we are satisfied what is good and what is bad. The level of assessment we have to do to decide this has increased.

Charges are increasing to reflect the extra effort necessary to effectively regulate the sector. As the potential environmental impacts are better understood we have to ensure a more thorough assessment to protect the land bank and ensure the right level of scrutiny. Improper use of waste can lead to long term, sometimes irreparable, damage.

48. Do you agree with our proposals for the waste: land spreading (mobile plant) sector permit charges?

Yes

X No

Not applicable

If not, please explain why.

The REA do not agree with the statements made about the sector in this section and consider the cost increases disproportionately high. There needs to be a **transparent** breakdown of the costs which must have been calculated to reach the figure suggested/deployment.

- There is a significant impact on fees in this proposal, which operators will have to pass on to their customers where and (if) they are able.
- The REA are worried that this level of fee increase incentivises illegal/non-compliant behaviour from smaller operators.

If these proposals are to proceed, operators would expect to see a **marked improvement** in the level of services offered by the EA. High fees should equate to high levels of service. Current service levels are erratic and have a direct financial impact on companies of all sizes.

Overall, this is a change of **£2.67million** in total from the current income levels or a **143% increase,** how can this be justified?

The REA consider the level of charge increase for deployments to be disproportionately high at £1,718 per deployment. There needs to be a breakdown of what makes up this fixed cost as it appears as if this section of the waste sector are carrying the costs for other regimes. There needs to be a **published service level agreement** with enhanced transparency for applicants and a clear process (how to complain and to who) for escalating any issues which need to be challenged.

For our sector this increase will result in a material rise in cost of land spreading in excess of 11% annually. This has been calculated using the number of deployments submitted annually, the volume spread annually and the published costs of spreading issued by National Association of Agricultural Contractors (NIAC)

Our sector is comprised solely of SMEs, some of them small fledgling companies. This significant increase will put these operators under pressure and, as a consequence, potentially **encourage non- compliant activity** by less scrupulous operators. In terms of the customer base there will also be the incentive to go with the cheaper options of less professional, non- compliant operators. This will result in the EA losing sight of the destinations of large volumes of waste materials with the potential for negative environmental consequences.

In terms of the extent and timing of the proposed increases there is very little time to notify and discuss with customers the impending change in pricing structure. There needs to be a longer lead in time, **April 1 2018 is too soon**. The REA suggest a three-year phased approach for introduction of changes of this magnitude.

As stated above, the proposed costs will leave members with no option but to pass on these additional charges to their "front end" Food & Beverage clients. This is likely to result in the reduced availability of valuable low-cost nutrient based bio fertiliser for the agricultural farmer clients. Taken with further price pressures in the farming industry, the lack of confidence because of the uncertainty of the impact of Brexit, the lack of supply of sludge to land, this will have a significant impact in the agricultural industry.
We are concerned that there is no impact assessment on the Food and Beverage industry and the Farming Community of the proposed cost increases with this consultation?
The REA would request that a full financial impact assessment (FIA) be made available to them.

Risk v's Cost issues as relates to land spreading permits

We fundamentally disagree with the statements associated with land spreading made in section 4.9.18 as relates to 'significant risks' and hence the justification to increase costs. We would appreciate being signposted to the evidence to substantiate this position?

Industry has developed over the years, environmental management systems, procedures and practices to keep risks of land spreading operations low. Operators have well trained technical and operational teams who are managed by experienced regional representatives across the UK. Regular audits of activities are carried out by responsible operators managing and learning from any issues which arise. Industry has invested significantly in high tech equipment and significant contingency storage to ensure effective and efficient land spreading for customers and to mitigate risks to the environment of this activity.

Also, the statement that 'over the years, businesses have looked at more and more different types of waste material to use' is not one we recognise as accurate as industry's waste stream portfolio has remained largely constant over the last 10 years. The Environment Agency seems to be using the argument that they are experiencing high costs associated with assessing novel waste streams to increase the fees for deployments and permits. However, in our opinion only a small number of novel land spreading waste streams have been assessed and, should these come through, the Environment Agency should use the proposed 'enhanced pre-application advice service' to recover their costs. The cost should not be allocated to the general deployment application fee.

Efficiency savings and improvements to service (deployments)

The current system of 'duly making' a deployment application prior to allocation to a Determining Officer is costly, inefficient and further encourages poor quality applications. We suggest that the application is sent straight to the Determining Officer who is best able to decide swiftly on the suitability of the application for determination, but much more importantly they will be able to assess whether further consultation is necessary and to initiate that consultation immediately which will cut down on bureaucracy.

Associated with the above comment we would suggest that to reduce the cost of assessing land spreading deployments that the system of re-deployment be adopted from the old 'para 7 exemptions' so that when a re-deployment is submitted with the same set of fields as previously approved then a lower fee is attracted. Similarly, where the same wastes are used in the same ratio as previously approved then a lower fee is payable. Currently each deployment is assessed as though it is a completely new application and a vast amount of work by the permitting officers is unnecessarily duplicated.

The complexity of agricultural deployments is very variable as is the ability/capability of Determining Officers across the regions. This variation in capability of officers is already

being experienced by those using the agricultural deployment process. We suggest that a **nucleus of experienced and able Determining Officers** is set up to train a small and effective team with the specific remit of assessing agricultural deployments. This should assist in the applicants experiencing value for money and an effective service.

In summary, if these proposals go ahead we would expect the following improvements as a minimum:

- Published Service Level Agreements with a clear timeline (no more than 25 working days) from receipt to issue of permit/deployment
- A published procedure for resolving disputes/disagreements and complaints. **Appoint an Ombudsman.**
- A team of well-trained, dedicated officers to deal with agricultural deployments
- Deployment to go straight to a Determining Officers not through an administrative phase
- Re-deployments to attract a lower fee and a tiered system of charges to be considered dependent on quality of the application
- Deployment fee not to be affected by the need to consider novel wastes (use Time and Materials approach)
- Deployment or re-deployment not to be put 'on hold' by Determining Officer as a result of not recognising a Local Wildlife Site – these are not in the public domain.
- When a Request for Information is made it has to be clear how long the deployment/permit will be delayed in relation to the 25 days
- More incentive (discounts) for good performers. (**see response to Q26**)
- An annual review with a 'lead' officer nominated to larger operators (not charged) to look at issues and improvements for both parties.

The Land spreading (mobile plant) Sector is having a sharp increase in charges imposed upon it as an industry. This is not welcome for the following reasons:

1. The sector creates a great deal of benefit from waste that would otherwise be lost from the chain of utility. The recycling of organic material, be it composts, digestate or other organic material is a well understood and beneficial activity for soils and agriculture. It **is low risk to the environment** and a vital cornerstone in re-establishing soil health (see recent references within the 25 year Environment Plan). To increase these charges significantly as suggested, will render **uneconomic** many recycling operations, mainly due to the low financial margins available for operators undertaking these activities. Materials may be diverted to less beneficial uses and be lost from the chain of utility or, in a worst case scenario, be recycled illegally.

2. The danger to the environment from these materials is much overstated. The evidence in the EA's "Pollution incidents 2015 evidence summary" does not indicate that there is a problem to be solved in the land application of these products. Evidence of "long term, sometimes irreparable, damage" is not illustrated in this report. Rather more, it appears from interpreting the data that containment and odour are the issues, not damage to soils. There is an array of instruments available to the regulator to control containment and odour breaches, an increase in fees is not going to solve either.

3. The current LPD1 application system is not suited to the purpose it is trying to achieve. Industry has long railed against the unnecessary level of detail required for each application, the unqualified interrogation of that detail and the unworkably long approval process. The restrictions on areas, cropping and timing are also inappropriate for agriculture. Recently the LPD1 process has become a covert method of re-defining NVZ regulations prior to any national review. Furthermore, the LPD1 process is so far removed from the fields it hopes to protect that it is doubtful it has actually prevented any negative environmental incidences. A system that is paper-based and office-administered is not very relevant to operations that are field-led.

4. The lack of an economically viable End of Waste panel has now consigned many of these materials to LPD1's without any chance of re-classifying them as products.

The solution

1. Risk assess materials with the positive intention to remove as many as possible that are low risk from the requirements of LPD1's. Industry can then report to the EA on a retrospective basis on what has been applied where and when (not dissimilarly to how Water Co's report on sewage sludge land applications). From the 2015 evidence, a great deal of LPD1's will be saved, saving the industry money to utilise in beneficial activities, and not having large sums of money spent on seemingly pointless bureaucracy.
2. Radically reduce the resource that the EA commit to LPD1's and re-invest a smaller figure on field officers to actually understand and assess what is going on in the ground.

It is a blunt tool in the face of national austerity to simply increase fees for a system that the industry anyway dislikes intensely. Far more productive would be to reduce bureaucracy, redeploy LPD1 headcount to more relevant field-vigilance roles and allow industry to prosper. We believe these tenets are all firmly enshrined in the EA's publicly stated aims and thus are hopeful for a positive and slightly more radical outcome than that which is currently proposed.

Promoting the Waste Hierarchy

The proposed increases are significant, in particular subsistence charges for mobile plant, and will make recycling of a large proportion of wastes that provide routine benefit to soils financially not viable. This does not reflect or promote the waste hierarchy and it will result in less recycling/recovery of wastes and by-products to land, possibly even **encourage rogue disposal outside of regulation.**

We understand that the EA need to recover some time and material costs associated with regulating land spreading operations however charges need to be relative to the tonnages that are applied rather than relate to a given area of land in a deployment. Many wastes that are routinely applied to land for significant agricultural and ecological benefit are spread at low and controlled application rates. This includes wastes with liming properties, significant nutrient status (N, P, K and micro nutrients) and organic matter which directly replace use and reliance of manufactured products. It will be these materials that will be most vulnerable to the proposed charges as costs per tonne will become too expensive. As an example the EA deployment charge for a lime-based waste applied at 2 t/ha over 50 ha under SR2010No4 automatically increases from £7.80 per tonne to £17.16 per tonne. **This is a 120% increase.**

Other situations where producers make small tonnages of wastes and by-products with a high fertiliser or soil conditioning value to soil will also be significantly impacted, to the detriment of their business and the land-based sector reliant on the materials. This could well force the closure of viable businesses or drive recycled materials into landfill.

One of our members reports that they have submitted 168 deployments in the last year, 148 of which were to support their existing contracts with waste producers and land owners. In total, they paid £144,122 EA fees in upfront costs which are a significant outlay before they can recover costs through delivering contracts. If the proposed changes to EA charging go ahead, they are looking at an annual increase in upfront costs in excess of £160k. This is more than double their current costs with the EA.

If fees were to be increased the REA would like to see a quicker turnaround of deployment applications. Fast tracking of certain applications to achieve a 2 week turnaround (this is needed in certain emergency situations or for “just in time” products) could then demand a higher fee cost.

Consultation and implementation time:

There is a very short time frame between the closure date for public comment for this consultation and the proposed implementation of changes (9 weeks). The REA and many members consider this to be a totally unacceptable approach by the EA. There is insufficient time to prepare and re-structure company finances to accommodate a **120% increase in fees** and existing contracts with honest and reputable waste producers are at high risk of collapse if this goes ahead as planned.

A significant driver behind these proposed changes seems to be reducing the reliance of the EA on government funding and aid from taxpayers. Why does this need to be reduced? The EA is not a business, it does not seek to make profit and a proportion of tax should be spent on regulating the waste sector. It is in the public interest to reduce disposal and potential causes of environmental pollution. All other government departments are funded in this way, so why are the EA trying to become financially self-sufficient? More focus should be directed towards waste crime rather than over-management and over-regulation of operators willingly operating under EPR.

4.9.19 Waste: Waste Transfer and Treatment Sector

The proposed permit categories and baseline charges for waste transfer and treatment can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.16 of the application charges table. For annual compliance charges, the waste transfer and treatment sector is broken down into four sub-sectors: hazardous waste; non-hazardous and inert waste; bio waste; and metal recycling. Charges relating to annual compliance charges for these sub-sectors are found in Part 2.16 of the subsistence charges table.

Consultation question

49. Do you agree with our proposals for the waste: waste transfer and treatment sector permit charges?

Yes

X **No**

Not applicable

If not, please explain why.

Our members note that Current permit application costs for the permits are around £1630. The proposed application baseline fee for these is now £2641. **This is an increase of 62%.** Costs of transfer applications are proposed to increase by even more - 158%. This is an unreasonable and unacceptable rise for businesses to take on, especially in a single instance. It is noted that the EA is a government department, not a business and the driver to reduce dependency on government funding from taxes is flawed. The REA believes that any changes in fee structure should be gradual, with a clear trajectory over a number of years, to help operators adapt and promote growth of business. If services that the EA rely on to operate were to increase by such percentages, it is likely that regulation would grind to a halt. It is not fair or realistic to expect businesses in the waste sector to accommodate these increases, especially as the extent of the increases proposed were not known until this consultation was published. **There is insufficient time for businesses to forecast for the 2018-2019 financial year.**

4.9.20 Waste: Landfill and Deposit for Recovery Sector

The proposed permit categories and baseline charges for the landfill and deposit for recovery sector can be found in the tables of charges in the schedule to the charging scheme. Charges relating to permitting applications are in Part 1.17 of the application charges table; annual compliance charges are found in Part 2.17 of the subsistence charges table.

We see significant rises in charges for the 'Landfill and deposit for Recovery' sector, particularly for closed landfill and some recovery activities, as we raise regulatory effort from unsustainably low levels to address risks of pollution and harm.

There are no application charges for closed landfills. We propose that variation and surrender charges for closed landfills will be based on the percentage of the application charge for a new facility of the same type. For example, the variation charge for a closed inert waste landfill will be based on a percentage of the application charge for a new inert waste landfill.

We propose to levy a fixed charge for high risk landfill site reviews in addition to annual subsistence charges. (This is outlined in detail in section 4.2.5 of the Guidance to Environmental Permitting (England) Charging Scheme 2018.)

Where an installation landfill ceases to accept waste for disposal, subsistence will be charged at the rate for a closed landfill from the point that we accept the site is definitively closed (see charge table, rows 2.17.1 – 3 and 2.17.7 – 11). For example, once we accept that an operational landfill for non-hazardous waste is definitely closed, we propose to charge subsistence under row 2.17. 9 or 2.17.10.

The regulatory effort we apply to gas utilisation plants (whether they fall above or below the threshold in the EPR, schedule 1, section 1.1) is the same. A fixed charge will apply for these sites (see 2.17.12 of the Charge Scheme).

Consultation question

50. Do you agree with our proposals for the waste: landfill and deposit for recovery sector permit charges?

☐ Yes

☐ x No

☐ Not applicable

If not, please explain why.

We have particular concerns that the SROC will have a critical impact on financial provisioning for closed landfills If the proposals are implemented as proposed, the additional nine figure costs arising from increased financial provision would be seriously detrimental to the sector and to the country as a whole, potentially leading to site abandonment, loss of bond market and potential public sector liability.

We therefore strongly urge the EA to delay implementation of increased subsistence fees for closed landfills, whilst industry and the EA work together to identify a proportionate risk based solution that does not bankrupt the landfill sector.

The Environment Agency figures suggest an approximate £5 million additional costs for landfill subsistence fees per year, with a significant proportion falling on closed landfills which are no longer generating any income. Financial provision normally has to cover a 60 year rolling period and must include compliance costs for that period. On this basis the sector may need to provide an additional nine-figure sum in financial provision for landfills across the sector.

If the proposals are implemented as proposed, the additional costs arising from increased financial provision would be seriously detrimental to the sector and to the country as a whole, potentially leading to site abandonment, loss of bond market and potential public sector liability.

4.9.21 Waste: T11 repairing or refurbishing waste electrical and electronic equipment (WEEE)

We currently charge £840 per 3 years for a T11 exemption, we are proposing to increase this to *£1,452* to fully cover compliance checks.

Consultation question

51. Do you agree with the above increase for a T11 exemption?

Yes

No

X **Not applicable**

If not, please explain why.

5. Other regulatory charging schemes

5.1. Regulatory framework

For other charging schemes/ regulatory regimes not under the EPR we have also:

- assessed our current regulatory system, how much resource we need and the contribution to the desired outcomes
- identified all the activities carried out to deliver the regulatory regime and the outputs produced by those activities
- explained the value of the desired activity in delivering our regulatory duties, our role and optimising outcomes
- explored any simplification opportunities available that could make our desired activity even more cost-beneficial
- tested the balance of desired activity to ensure optimum outcomes
- introduced charges for new services

Regimes where we propose to decrease certain charges are:

Water abstraction

Regimes where we propose an increase in certain charges are:

Control of Major Accidents and Hazards

EU Emissions Trading Scheme

Waste Electrical and Electronic Equipment (WEEE) Producer Responsibility

5.2. Water abstraction

5.2.1. Water Abstraction proposals for 2018/19

We have not reviewed the structure of our water abstraction charges scheme as part of this Strategic Review of Charges as the intention is that this will happen over the next few years as part of a wider reform of the abstraction licensing system. The future reform of the licensing system is described in section 7. Whilst this work continues, there are a couple of shorter term changes that we wish to make, which we present in two proposals here. These proposals are required to ensure that our charging scheme is up to date, correctly reflects our regulatory work, and enables us to manage any surplus or deficit balances on our accounts in accordance with HM Treasury's Managing Public Money guidance.

Reduction to the Thames regional charging area Standard Unit Charge (SUC)

Income from abstraction licences from our Thames regional charging area customers amounts to £17.2 million per year. As part of this review we propose to reduce this to better reflect our actual costs.

To reflect this reduction and to rebalance the account, we are proposing to reduce the Thames regional charging area SUC from £13.84 to *£11.48* from 1 April 2018, a reduction of 17%. The SUC is one of the factors that determines the Standard Charge part of our customer's total annual charge.

Consultation question

52. Do you agree with the proposal to reduce the Thames regional charging area Standard Unit Charge?

Yes

No

X Not applicable

If not, please explain why.

Removal of the River Alre as a Supported source in Schedule 1 to the Abstraction Charges Scheme

We propose to remove the two reaches of the River Alre which are defined in the charging scheme as supported sources. The reaches involved are:

- River Alre (northern) - from the upstream limit at grid reference SU 595 334, to a downstream limit at grid reference SU 590 334
- River Alre (southern) - from the upstream limit at grid reference SU 605 324, to a downstream limit at grid reference SU 573 324

These reaches of the River Alre no longer have their flow supported, due to the revocation of our abstraction licence for the transfer of the water, and a decommissioning of the support scheme in December 2015. We now need to redefine these two stretches as 'unsupported' in our charging scheme.

No current licence holders are affected by this proposal as the X3 supported source factor on these two stretches of river have been waived since the date of decommissioning of the scheme. Customers abstracting from these reaches in the future will no longer have this supported source multiplier applied to the Standard Charge part of their annual subsistence charge.

Consultation question

53. Do you agree with the proposal to remove the River Alre (northern and southern reaches) from the list of supported sources in the Abstraction charging scheme?

Yes

No

X Not applicable

If not, please explain why.

5.3. Control of Major Accidents and Hazards (COMAH)

The Health and Safety Executive (HSE) and Environment Agency are the Competent Authorities to enforce the COMAH Regulations in England. We have a statutory responsibility to provide regulatory oversight of high-hazard industries using or storing quantities of dangerous substances that fall into the scope of the COMAH Regulations. Businesses must take all necessary measures to prevent major accidents involving dangerous substances and limit the consequences to people and the environment should any major accidents occur.

The Environment Agency's role is to: assess safety reports and accident prevention policy; undertake inspections of COMAH establishments; and investigate, report on and enforce against major accidents. We have and continue to implement improvements to charge recovery through the COMAH Regime Assurance Group.

The system of cost recovery used by Competent Authorities in performing its COMAH statutory functions is based on the amount of time expended carrying out its functions with regard to that establishment on any given occasion or occasions and includes all relevant costs. This is charged by both the Environment Agency and the HSE on an hourly rate basis.

Charge Proposals

We have reviewed our hourly rates to recover our costs for work related to COMAH sites. The hourly rate has not changed for a number of years and no longer covers our full costs. Whilst we will be able to improve the efficiency of our activity, we still require an increase to the hourly rate used to move us closer to full cost recovery.

We propose to set a charge of *£161* per hour. This represents a step change in our COMAH income but is some way from full cost recovery.

We plan to further review this whilst we look to review/implement further efficiencies both internally and potentially across our partner Competent Authorities. We propose to look to do this after a
mid-point review of the current work from April 2020/21. With the annual review for COMAH charging, however, we may make an increase in 19/20 if we were in a position and
have agreement to do so.

External Emergency Plans

We also propose to introduce a new hourly rate charge to recover costs from our role to assess external emergency plans. Our ability to charge for this activity was introduced through Regulation
29 of the COMAH Regulations 2015.

External emergency plans are developed by and are the responsibility of local authorities. They rely on designated authorities such as the Environment Agency to test them. They are required to test the plans every three years. Where a local authority requests the support of a designated authority to test an external emergency plan, we must co-operate and assist them.

As a designated authority, we provide staff with appropriate expertise to ensure that the testing of the plan is robust and suitable to protect people and the environment should a real incident occur. We may also provide staff with appropriate expertise to support the development of the test.

We propose to introduce an hourly rate charge of *£84* to recover our costs for this work. We will charge the local authority for the agreed costs for our involvement in testing an emergency plan.

As with other COMAH work, we use an hourly rate to recover costs for time expended carrying out our role for individual local authorities. The staff we use to assess external emergency plans are incident management staff, who have a lower cost compared to COMAH technical officers and hence why the hourly rate proposed for external emergency plans is lower than for that of work on COMAH sites.

Consultation questions

54. Do you agree with the proposed increase in our hourly rate charged for Control of Major Accidents and Hazards (COMAH)?

X Yes

No

Not applicable

If not, please explain why.

Such events normally relate to gas/chemical incidents, which includes possibly gas explosions at an AD site. These are normally as a result of catastrophic failure with significant environmental pollution and as such we support the proposals

55. Do you agree with the proposed introduction of a new charge for work on external emergency plans?

Yes

No

Not applicable

If not, please explain why.

Would this charge be smeared across all waste activities or only those that fall under COMAH regs?. We believe it should only be levied against the latter.

5.4. European Union's Emissions Trading Scheme (EU ETS)

Background

The EU ETS is a cornerstone of European Union policy to meet Kyoto Protocol and future Paris Agreement commitments to reduce greenhouse gas emissions. The EU ETS also has a similarly significant role in helping the UK Government to meet carbon budgets set out under the Climate Change Act 2008.

We are responsible for regulating operators and aircraft operators, ensuring compliance and enforcement of the EU ETS in England. We also administer the EU ETS Registry (a database hosted by the European Commission where EU ETS allowances can be transferred and surrendered) for the whole of the UK.

The work is split into three broad areas:

- EU ETS installations – electricity generation and the main energy-intensive industries – power stations, refineries, iron and steel, cement and lime, paper, food and drink, glass, ceramics, engineering and the manufacture of vehicles
- EU ETS aviation – mainly commercial airlines but some private and business jets
- Registry – the registry used to trade and surrender allowances
- There are several types of registry accounts including:
    - operator accounts required as part of EU ETS participation

- trading accounts opened by financial institutions and some private individuals to trade carbon allowances - the opening of trading accounts is voluntary and is for the purpose of trading in carbon allowances

In the UK there are about 1,000 installations participating in the EU ETS of which about 740 are regulated by the Environment Agency. There are a further 140 aviation operators that are regulated by the Environment Agency.

The Environment Agency charges for determining permits and emission plans. These charges provide for:

- the opening of a registry account (required to trade and surrender allowances)
- annual subsistence for the maintenance of accounts
- additional events such as transfer, surrender or revocation of the permit, and project activities

Rationale for New Charges

The current charges reflect a scheme that was largely designed for the first phase of the scheme in 2005. This has been added to incrementally since then as policy and legislative changes have brought in new sectors, types of permit, a big reduction in the number of aircraft operators, a Union Registry, and increasingly sophisticated trading facilities. Our charges under this scheme have not been reviewed since 2011. However, the requirements of the scheme have changed and we are no longer recovering the cost of our work.

The permitting and subsistence charges were originally based on the polluter pays principle with the largest emitters paying the most and the smallest the least. Three bands of charges were established which aligned with EU ETS thresholds specified for monitoring and reporting requirements.

We propose to move from tiered subsistence charges for all our ETS customers to two flat charges for operators of installations and aircraft. This change reflects the automation of our delivery of the EU ETS since 2012 as well as changes to EU policy on aviation in 2013. Our automation has reduced the administrative effort we expend on our larger emitters. As a result, there is no significant difference in effort expended on customers regardless of their emissions.

We propose to remove the variation charge and include this in the subsistence charge. This will simplify the charging scheme and reduce the administrative burdens to customers.

We propose to increase charges in relation to the opening of registry accounts. Enhanced security checks for those opening an account and approving users have been introduced to the regulations to counter banking and money laundering. This has resulted in an increased effort for both account applications and new user determination, and as such we propose to increase these charges to reflect our increased costs.

Charges proposals

We propose to retain the structure of the existing scheme with the following changes:

- replace the current tiered subsistence charge with flat charges
- remove the aviation and installations variation charges
- remove redundant charges for non-emitters
- change to registry charges as set out below

All other charges will remain the same.

Annual subsistence charges

The new flat rate charge for operators of installations will be *£3,065.*

The new flat rate charge for aviation customers will be *£3,135*.

The charge for non-emitters will also be removed.

Registry charges

Opening a registry account

The charge for opening a registry person holding account or trading account is proposed to be increased from £190 to *£915*. The charge for opening a verifier account is proposed to be increased from £190 to *£500*. These are cost reflective.

Change of registry authorised representative

We propose to apply a charge of *£880* for a change of registry authorised representative. This will apply to all installation and aviation operators, verifiers and holders of person holding and trading accounts.

There is currently no charge for this work for operators. The charge for person holding and trading account holders is currently £55.

Annual registry subsistence charge

The cost of maintaining a registry person holding or trading account has reduced, so the annual subsistence charge is proposed to be reduced from £380 to *£255* per year. Again, this is cost reflective. This charge will also apply to those with former operator holding accounts

Consultation questions

56. Do you agree with the proposal to move from tiered charges to one flat rate annual subsistence charge for installations operators and one flat rate annual subsistence charge for aviation customers?

Yes

No

X **Not applicable**

If not, please explain why.

57. Do you agree with the proposal to amend the registry charges?

Yes

No

X **Not applicable**

If not, please explain why.

5.5. Waste Electrical and Electronic Equipment (WEEE)

Background

Regulating the WEEE system (which flows from the Waste Electrical and Electronic Equipment Regulations 2013) is funded directly by the businesses that operate within the system. We have identified that we do not receive sufficient WEEE income to fund our regulatory activity. We therefore need to adjust our WEEE charging scheme to enable us to achieve full cost recovery.

The WEEE system is built around three main customer groups (Producers, Compliance Scheme and treatment operators and exporters) working together to deliver the overall outcome of increased recovery and recycling of waste electrical products.

We regulate all customers in England, ensuring that: producers are correctly meeting their obligations; compliance schemes are approved to operate, are viable and able to meet their members' obligations; treatment operators and exporters are approved and monitored to ensure they issuing valid evidence of WEEE treatment, recovery and recycling. Our regulatory effort ensures obligations are being met and any non-compliance is addressed, maintaining a level playing field for all operators and helping ensure that the UK meets recycling targets.

Rationale for New Charges

It is critical that within the system we have sufficient treatment operators able to treat, recover and recycle WEEE and issue the 'evidence' to allow producers to meet their statutory obligations. It is also important that there is effective regulation of this part of the system to ensure it operates in a fair and compliant manner.

The proposed new charge will have the least impact on the operation of the WEEE system and the market dynamics between the three main industry groups and allow us to fully recover our regulatory costs.

Both the regulatory costs and the more significant recovery/recycling costs in the WEEE system are ultimately borne by Electrical and Electronic Equipment (EEE) producers, and we are proposing that this group will pay the bulk of costs as the main beneficiaries of our regulatory activity as we move to a full cost recovery position.

We have proposed only a modest increase to the charge for Approved Authorised Treatment Facilities (AATFs) and Approved Exporters (AEs), with a higher proportion of the under recovery of our costs being met through the revised producer registration charge. In addition, we have proposed a subsistence fee for compliance schemes to cover the costs associated with our regulatory activity with this customer group. Currently, compliance schemes do not pay directly towards the costs of regulating them.

Charges proposals

Producer Charges

We propose to introduce a single *£800* charge for all 'Large' EEE producers (that place more than 5T EEE on the market each year). This simplifies the information needed from producers and schemes at registration, compared to the existing position where producers must justify their eligibility for a specific charge band. The existing charge bands do not have any direct relationship to the amount of EEE placed on the market nor the regulatory effort required for compliance monitoring of an EEE producer. The proposed approach provides for a more even approach to all EEE producers who are required to register.

Charges for 'Small' producers (that place less than 5T EEE on the market each year) will remain at £30.

Producer Compliance Scheme Charges

We propose to introduce an annual subsistence charge of *£12,500* for compliance schemes.

Currently schemes only pass on a registration fee per member but do not pay directly for the core work needed to regulate a compliance scheme.

We will retain the current one-off scheme approval fee of £12,150.

AATF and AE charges

Charges for Large AATFs and AEs (that issue more than 400T of evidence each year) will increase from £2,570 to *£3,500*, and Small AATFs and AEs (that issue 400T or less of evidence each year) charges would increase from £500 to *£600*.

The charge payable by an exporter if they add an additional overseas export site to their approval will rise from £110 to *£150* for each request.

Regulatory change

Our charge proposals have been developed based on the number of EEE producers whose principal place of business is in England. All large producers have to be a member of a compliance

scheme and a compliance scheme can seek approval from any of the four UK environment agencies. As a result there is flexibility as to where a producer registration is made by virtue of being able to join any of the UK approved compliance schemes. There is therefore a risk that producers will migrate to compliance schemes who are approved by other agencies, and who have lower registration charges. If this occurred, it would undermine the approach we have adopted whereby producers pay a larger proportion of the overall Environment Agency costs for regulating the WEEE system.

In order to mitigate this, Defra have agreed to consult on introducing a regulatory amendment that would have the effect of requiring all large producers to pay the registration charge applicable to them, based on where their principal place of business is. Thus the proposal is that an English based producer who chooses to join a compliance scheme approved by one of the other agencies, would still be required to pay the Environment Agency registration charge. The reverse position would also apply, for example a Scottish based producer joining an Environment Agency approved compliance scheme, would be required to pay the prevailing Scottish Environmental Protection Agency (SEPA) EEE producer registration charge. The agencies would work with each other to facilitate the transfer of registration charges between them.

In considering any regulatory change a key outcome for Defra, will be to ensure that none of the agencies' cost recovery position is adversely impacted as a consequence.

This regulatory change would not remove the flexibility for a producer to join any UK approved compliance scheme.

Consultation questions

58. Do you agree with our proposed increases to large producer charges?

☐ Yes

☐ No

☐ Not applicable

If not, please explain why.

59. Do you agree with our proposed increases to AATF and AEs charges?

☐ Yes

☐ No

☐ Not applicable

If not, please explain why.

60. Do you agree with our proposal to introduce an annual subsistence charge for compliance schemes?

☐ Yes

☐ No

☐ Not applicable

If not, please explain why.

6. Charging for discretionary services

We have looked at a number of areas where we need or want to explore options to introduce new charges to help make sure that:

- we can provide Definition of Waste services
- we are recovering the appropriate level of income for chargeable activities or services we provide to customers
- there is a consistent approach to charging
- we understand where our time and money is going
- there is buy-in and support to our approach across industry, customers and government

Activities where we propose to charge for discretionary services

- EPR permitting: discretionary pre-application advice service (all regimes) - new charge (see section 4.3.1)
- Definition of waste services - new charge
- Planning advice - increased charge
- Marine Licensing - new charge

6.1. Definition of Waste services

The Definition of Waste (DoW) services support business by helping them to determine whether their material is:

- never a waste
- a waste
- a by-product, or
- no longer a waste (end of waste)

If a material is not waste, waste regulatory controls do not apply and the material can be put on the market as a product. This can lead to significant financial and other business benefits.

There is no legal requirement for customers to seek a DoW opinion from the Environment Agency. Businesses can choose to make their own assessment by using freely available definition of waste guidance and tools but many customers want the surety of our opinion on whether their material is a waste or not.

Providing formal DoW opinions is a discretionary service and previously we have not charged for it. It has been funded from Grant in Aid and costs over £400,000 per year to run (depending on the level of requests we receive and assess). With increasing resource and funding constraints, we could not maintain the resources to provide the services and have had to suspend them at present.

We usually have around 80 requests for DoW opinions per year. The materials vary from individual wastes from single sites to whole waste streams covered by DoW frameworks such as waste Quality Protocols.

We need to secure sustainable funding to recover the cost of providing the DoW services by introducing a fee. The charge will enable us to provide the discretionary DoW services and in many cases reduce the timescales for providing the opinion.

Without charging, we will not be able to provide DoW services.

Details of the proposed charge

If a customer would like our DoW opinion on their material, they will need to enter into a charging agreement with us at a set hourly rate of *£125.* The total fee will be calculated on the actual amount of hours spent assessing each submission.

Customers will pay an interim fee of *£750* on submission of a request for our DoW opinion, equivalent to 6 hours work. This is the minimum time required to complete an initial review of the information submitted and estimate the resources needed, plus activities such as administration and tracking.

The customer will then be provided with an estimate of cost of the further work required to complete the full technical and legal assessment and provide a formal opinion, calculated as the estimated number of hours required times the hourly rate. Customers can agree to continue with the assessment on that basis, or withdraw at that point without incurring further costs.

When a charging agreement between us and the customer is in place, including the expected number of hours, we will continue with the assessment and invoice the customer for the hours spent. This will either be done in one go or with a series of regular invoices if the work continues for a period of time.

We will charge for the service regardless of the outcome of the assessment.

Consultation questions

61. Have you used our Definition of Waste panel service?

☐ Yes

☐ No

If Yes, was our opinion that your material was:

☐ A waste (including where we were not able to make a decision due to insufficient information)

☐ Not a waste (including by-product or end of waste)

62. Do you use the waste quality protocols or other end of waste framework?

X Yes

No

If Yes, which?

The Quality protocols are used extensively in conjunction with Specifications BSI PAS 100 and PAS 110 and define the EoW position, so are integral to gaining an end of waste position.

63. Do you support our proposal to recover the cost of providing Definition of Waste services outlined in section 6.1?

X Yes

No

Not applicable

If not, please explain why.

The REA considers the DoW services to be an important service which needs to be introduced. This will be seen as a welcome opportunity for operators to progress projects

which have been in limbo since the DoW panel was suspended last year. The DoW is particularly important for materials for which Quality Protocols do not exist, or where one or more of the conditions set out in the relevant Protocols cannot be met. If the conditions are met, the Quality Protocol should continue to be the preferential route.

Although the cost suggested is expensive, the opportunity to remove materials from a 'waste' status is welcomed and this will assist in the support of the wider Circular Economy' debate.

64. Please tell us if you have any further comments on Definition of Waste Charging proposals.

This is a welcome service addition. Charges however need to be affordable and commensurate with the services being offered. Timing a key issue here to ensure that decisions can be taken in a timely manner so that operator seeking a decision are not kept waiting for months as the financial implications are significant and usually relate to large scale operations.

It is also suggested that before committing to payment of costs above the initial fee, an interim opinion by the EA should be sent to the applicant so an informed decision can be made as to whether to pursue at the hourly rate or withdraw.

We would also like to see **independent technical experts** being part of the decision making process on the end of waste panel.

6.2 Planning advice

We have a statutory planning role, both advising on local plans and in responding to consultations on individual planning applications.

Increasingly, our customers tell us that our advice is most valuable at the early stages of proposals, advising both strategically and at pre-application, to avoid unnecessary cost and delays later in the process. In order to maintain this service into the future, we need to recover our costs for doing so.

Our standard service, consists of two stages:

1. the preliminary opinion: a free service for all developments, irrespective of scale and complexity, funded through our grant-in-aid from Defra rather than charges income - this outlines the issues, relevant to our role and function that will need to be considered as part of the development proposal, and identifies the necessary information required to enable us to provide a substantive response to the subsequent planning application
2. a voluntary bespoke charging agreement where we can provide more detailed technical advice about the proposal: our charged advice is provided through a formal agreement made up of an offer letter, a programme of advice and standard terms and conditions - we charge an hourly rate to cover our costs in providing that advice, since each individual agreement will vary in the amount of time and resource required to provide our technical advice

Proposal

We propose to increase the hourly rate from £84 to *£100* to ensure that we continue to recover our full costs.

Since we first started using the £84 hourly rate, we now have a better understanding of the division of work within the grades of staff and our various business functions that contribute to this work. We have reviewed our activities and cost base for the people involved in delivering this work, and calculated that we should instead by charging *£100* per hour to recover our full costs.

We propose to continue to develop and market this service, offering detailed bespoke spatial planning advice at all key phases of development. This includes (but not exclusively) strategic advice to developers, Local Enterprise Partnerships, Local Nature Partnerships, Enterprise Zones and to those involved in the discretionary phases of the Local Plan process.

In all cases, our service will be voluntary; we will not impose a charged service on any developer.

Consultation questions

65. Do you agree with our proposed increase to the hourly rate charged for our bespoke spatial planning advice service?

X Yes

No

ot applicable

If not, please explain why.

This increase seems reasonable and affordable. However it raises the question why so many of the other costs increased so much more? Planning advice early on is essential to secure a good outcome for all parties.

66. Do you have any concerns that the proposal to increase the charge for our discretionary planning advice service might compromise our ability to carry out our statutory planning advice duties?

☐ Yes

☐ No

☐ Not applicable

If not, please explain why.

6.3 Marine licensing advice

We propose to recover the costs of our marine licencing advice in the same way we already recover our costs for other planning advice.

Marine licensing advice

We give advice about some activities that require a marine licence. For example, construction, dredging and disposal activities in our estuaries and along our coasts.

We offer advice about things such as:

- flood and coastal risk management
- pollution prevention
- impacts on water bodies, including water quality
- impacts on biodiversity and fisheries

Our advice can be given before or after a marine licence application is submitted. It can also be given after a marine licence has been granted.

This is the same as our planning advice. We advise about the same topics, at the same time and in the same way. We are required by government to recover the costs of this service just like we already do for planning advice.

Proposal

Our Charging for Planning Advice offers a free preliminary opinion and then offers the option of discretionary technical advice with a charge. We propose to take the same approach for marine licensing advice, charging the same hourly rate of *£100* for the service.

Preliminary opinion

This would outline issues for the project to consider and is a free service for all developments irrespective of scale and complexity. It would also identify the information we would need to see when consulted by the Marine Management Organisation about the marine licence application.

Discretionary service for more detailed advice

This detailed technical advice could include meetings and reviews of technical documentation and is a voluntary service - where we can provide more detailed technical advice about the proposal. This charged advice is provided through a formal agreement made up of an offer letter, a programme of advice and standard terms and conditions.

This two stage approach would allow us to recover our costs in a proportionate way. Many smaller projects and lower risk activities would get all the advice they need in the preliminary opinion. Larger, more complicated projects would be able to pay for more detailed technical advice.

All our advice would remain discretionary. There would be no obligation for people to seek our advice before submitting a marine licence application.

We propose to introduce a new hourly charge of *£100* based on our charge modelling. This charge will recover our costs of providing advice to developers looking to take forward developments in the marine area. The charge is designed to ensure that we fully recover our costs.

We are also working with other Defra bodies to review other aspects of our marine advice and additional proposals may be brought forward in future.

Consultation questions

67. In line with our planning advice service, do you agree with our proposal to introduce a discretionary hourly rate service for our marine licensing advice service?

Yes

No

X **Not applicable**

If not, please explain why.

7. Future developments

There are three future developments we would like to bring to your attention:

- Performance-based regulation - see section 7.1 below
- Reform of the abstraction regime and charging scheme - see section 7.2
- Review of Navigation charges - see section 7.3

7.1. Performance based regulation

Over the next few years, we will be engaging with our customers to develop and shape proposals which explore opportunities to change the way we regulate. These proposals are collectively known as Performance Based Regulation.

We hope to begin consulting on options relating to Performance Based Regulation in 2018, with continuing development over the next few years. At the end of that process it is our intention to consult on proposals for linking all or part of Performance Based Regulation to charges for EPR sites.

7.2. Forward Look for Abstraction Charges

The abstraction licensing system is being reformed. As part of this, abstraction and impoundment licences are proposed to be brought into the Environmental Permitting Regulations This will align abstraction licences with other environmental permits. Alongside the reform of the abstraction licensing system, we will also be reviewing abstraction charges in line with the aims of the Strategic Review of Charges and to align with the strategic framework being consulted on for current regimes in EPR.

In reviewing the abstraction charges scheme:

- We will ensure the cost of Water Resources management activities which allow all abstractors to operate in the water environment are fully, fairly and equitably recovered from all abstractors, by:
    - introducing categories of charges to recover the costs of baseline water resource management activities, for example planning, monitoring, assessing and reporting on the water availability within catchments
    - considering options to introduce subsistence charges to recover the costs associated with the service we provide for water transfer type activities and impoundments, which are currently exempt from subsistence charges

- We will review how the costs of our operational activities and specific services provided to support our regulatory role are recovered in a transparent and equitable way from those who benefit, by:
    - reviewing our approach to recovering the cost of the operational service we provide to specific groups of abstractors, for example the costs of managing, maintaining and operating our augmentation and transfer schemes; this may include ending the classification of some supported sources, modifying the extent of others and potentially seeking to classify new supported sources
    - exploring new options to better reflect the costs of our groundwater modelling service and the services we provide in catchments which help to define our policy where either levels of abstraction are unsustainable or where the hydrology is failing to support Good Ecological Status

- We will ensure the scheme can respond to cost variability within England, while ensuring stability for charge payers, by:

- proposing to move away from eight regional charge account areas to one national charge account and addressing how the variability in the level of water resource management activity, driven by geographical, political and demographic differences is reflected in charges. We will look at options for doing this ensuring that we provide abstractors with transparency and regulatory protection and assessment of their effects on the water environment, as well as their future sustainability
- working with Natural Resources Wales to review options for setting charges in the cross border catchments between England and Wales

- We will review application charges to ensure they fully recover the cost of the application and determination service, by:
  - amending application charges, including the cost of our pre-application service, to reflect the level of effort associated with determining different types of application
  - considering options to recover the costs associated with Groundwater Investigation Consents, as and when legislation allows

- We will ensure that the scheme is fit for the future under Abstraction Reform, by:
  - understanding how new licensing approaches alter the operational cost of water management and exploring options to recover the potential costs fairly and equitably from those who benefit
  - reviewing the future requirement to recover costs of compensation liabilities through our charges

The timetable for reforming the abstraction charges framework is still to be determined; timing will be aligned to complement the move of licensing into EPR. We will engage and develop our proposals in collaboration with our customers and will undertake a full consultation in the future.

Consultation question

68. Please tell us if you have any comments on our plans to review abstraction charges.

7.3. Navigation

7.3.1. Background

The Environment Agency is the second largest Navigation Authority in the UK, responsible for managing 1,000 km of inland waterways. It's our job to keep them open and safe for a variety of uses, but especially for boating.

In total, there are around 26,000 recreational and commercial boats kept or used on the waterways we manage. It's a legal requirement for these boats to register with us and we make a charge for this, so that those who benefit from the navigation services we provide contribute towards the significant costs of managing and maintaining the waterways.

The current costs of the services we provide far exceed the costs recovered (broadly 25%) from customer charges for the benefits they receive in each waterways area. If we maintain charges at the current level there will be a detrimental impact in the quality of maintenance and service we can offer.

We are required to conduct a review of our regulatory approach and charging schemes to make sure they are fair, transparent and that we move towards cost-reflective charging – that is, that the true cost of the services we provide for our customers' benefit is recovered through the boat registration charges they pay.

7.3.2. Forward look for Navigation charges

We plan to conduct a full review of Navigation charges with the aim of creating a 5-year charging plan for boat registration charges 2019-2023. We will:

- review how the costs of our Navigation operational activities and specific services provided across our waterways are recovered fairly and equitably from those who benefit by keeping or using a boat on them
- review the service offer across our waterways, understanding what services are important to local customers' needs and expectations and to what level they are prepared to pay for them, or see them reduce or stop

We plan to review the current boat registration charges scheme which we recognise is complicated, different for each waterway we manage, and has not been reviewed for many years. We will review and simplify our charges scheme, introducing consistency where it makes sense to do so, and making it easier for our customers to understand and our staff to apply.

We plan to engage and develop our proposals with our customers through this pre-consultation, face-to-face workshops in early 2018 and a full public consultation in spring/summer of 2018 prior to implementing any changes in January 2019.

Consultation questions

69. What factors do you think should determine how we calculate the boat registration charge?

Not applicable

70. We would appreciate your comments and feedback to help develop our proposals. What would you like to see included within a revised boat registration charges scheme?

Not applicable

71. Please rate the following elements of service based on how important they are to you, using the key below? You can choose the same number more than once.

(1 important /2 like to have /3 don't mind/4 could manage without / 5 don't want or need/6 unsure)

- Choose an item. Channel dredging
- Choose an item. Tree and vegetation clearance
- Choose an item. Assisted passage (staff to operate locks)
- Choose an item. Routine patrolling by staff on patrol launches
- Choose an item. Compliance and enforcement checks
- Choose an item. Provision of facilities (e.g moorings / water / refuse and sewage disposal)
- Other (please specify) Not applicable

72. Do you have any other comments on the above plans to review Navigation charges and the boat registration charges scheme?

Not applicable

73. Would you be interested in attending a workshop to help us shape our new proposals? If so, please provide your contact details here:

Not applicable

8. Responding to this consultation

8.1. Comments on specific issues

This consultation will start on 30 November 2017 and run until 26 January 2018

Consultation questions

74. Please give us any further comments on our proposals which have not been covered elsewhere in the questions, i.e. If none of the questions throughout the consultation have enabled you to raise further specific issues with these proposals please set them out here with any accompanying evidence

The impact of the proposals made within this consultation, if actioned, will be significant for REA members. Cost increases of this magnitude (up by 143% in some cases for deployments) cannot be assimilated by business with so little notice. Budgets have already been decided for next year so it is **unreasonable** for such significant increases to be imposed with so little notice. A more realistic time frame would be over 24-36 months, implemented in a step changed manner which would be more affordable to business.

There is also a concern that this level if increase will incentivise illegal/non-compliant behaviour by some operators undermining those that are paying the increased fees as they will be more price competitive.

There is no mention of improvements in the level of service provided by the EA or the suggestion of any punitive sanctions/measures on the EA for poor performance or failure to deliver on time. Operators are often working within limited 'working windows' particularly when applying materials to land, **and this sense of urgency** is not mirrored by the EA's response time, this needs to change and be addressed within this SRoC

Clear lines of responsibility, accountability and where to go to escalate issues within the EA need to be made clear in the service offering.

Comments on: Non-discretionary supplementary application charges 4.3.2

Odour Management Plans:
Additional charges for odour management plans are problematic. Operators risked high charges from unjustified odour complaints which the EA would be under pressure to investigate. It was also unclear on what grounds the EA could also call for a review of the plans, which would add costs. And the only appeal process was through the local area staff investigating the complaints. The bar for complaints should therefore be raised. In addition, the REA propose that a **cross industry review panel** should be set up to assess the complaints (a precedent exists for problematic waste).

Duly Made Submissions:
Often operators have to wait weeks or even months for an application to be 'Duly Made', this is a significant cost and slows the process down. Landspreading is a very time sensitive operation and there appears to be no penalty for the EA failing to deliver their service on time to applicants, these needs to be addressed as part of the review process.

The REA also support the following points made by some of our members in relation to this consultation:

There is a significant amount of information to read and digest before being able to respond to this consultation. We have a dedicated team of consultants who are paid as part of their role to read this information and respond accordingly. Most waste producers and operators do not have the capacity of staff, or technically trained people who can respond to this consultation. It is complex **and not user friendly** and requires referencing multiple documents for each of the 80 questions. This will not encourage responses and this should be considered when assessing the response rate.

The layout of the online consultation questions also makes it exceptionally difficult for group responses as individuals need to work through the entire 80 questions and supporting information to seek out areas of interest. This is time consuming and frustrating.

Ref suggested charges for Anaerobic Digestion:

Part 2.4 – Chemicals of the draft schedule: 2.4.9 Section 4.1 or 4.2 - Anaerobic digestion (designed to be fed with non-waste crops), proposed fee: £8,674

It is assumed that this is an error in the writing of this consultation, as this issue has never been raised by the regulator in the past. There is no other reference to this in the consultation document anywhere. Industry were never informed by the regulator at any stage that they intended to bring in permitting requirements for **AD treating non waste crops** (e.g. maize). **We anticipate this is a mistake** and should have not been included within the schedule. It is absolutely crucial that, if the Agency intends to bring in controls for these types of facilities, this is done in a transparent manner, with an appropriate period of stakeholder consultation and appropriate transitional arrangements. Please confirm that this is an error at the earliest opportunity.

Comments on Availability of Guidance Documentation

It has also been raised by members that since the EA website became part of .gov.uk website hundreds of regulatory guidance documents, giving operators certainty on technical regulatory requirements and compliance expectations have disappeared. The section on standard setting does not refer to the updating and publication of regulatory guidance notes, and if it is indeed the case that the technical guidance documents will not re-appear then this seems to be a missed opportunity which are for the benefit of both regulator and operator.

Economic impacts or barriers to entry questions

We would like to seek your views and analysis so that we can understand the impacts and benefits, as you consider them, of the proposals. This includes if you consider these proposals to have any significant economic impacts or perceive any barriers to market entry. If there are significant impacts, we would like to hear from you about any mechanisms you think could be used to mitigate these effects.

Evidence from REA member

This company operate two non-PAS100/PAS110 sites in the South West, site 1 an IVC,(9 deployments per annum) and site 2, AD (5 deployments per annum).So, with 14 total SR2010 No4 Landspreading deployments annually, their current spend with the EA is £10,920 + vat. If the registration fees increase from £780 per application to £1,718, their annual spend will be £24,052 + vat, so **£13,132 + vat more per annum** than current spend (this assumes that the EA applications do not incur any queries from the EA @ a cost of £530 + vat each!).

Additional Evidence:
Below we provide some analysis on the impact on these changes have on a number of sites operated by one of our anonymised SME members.

	Current charge	Proposed charge	The gap
IVC site	£ 2,490.00	£ 3,809.00	£ 1,319.00
IVC site	£ 2,490.00	£ 3,809.00	£ 1,319.00
OAW site	£ 2,490.00	£ 3,809.00	£ 1,319.00
OAW site	£ 2,490.00	£ 3,809.00	£ 1,319.00
OAW site	£ 2,490.00	£ 3,809.00	£ 1,319.00
AD site	£ 5,277.00	£ 11,019.00	£ 5,742.00
AD site	£ 5,555.00	£ 11,019.00	£ 5,464.00
AD site	£ 10,074.00	£ 11,019.00	£ 945.00
AD site	£ 5,277.00	£ 11,019.00	£ 5,742.00
AD site	£ 8,360.00	£ 11,019.00	£ 2,659.00
Deployments	£ 780.00	£ 1,718.00	x 32 approx
Total deployment costs	£ 24,960.00	£ 54,976.00	£ 30,016.00
Charge for mobile permit	£ -	£ 530.00	£ 530.00
Total	£ 72,733.00	£ 131,364.00	£ 57,693.00
A total of a very significant 81% uplift across the operations of this SME operator			

Ref deployment costs impact:
An REA member submitted 168 deployments in the last year, 148 of which were to support their existing contracts with waste producers and land owners. In total, they paid £144,122 EA fees in upfront costs which are a significant outlay before they can recover any costs through delivering contracts. If the proposed changes to EA charging go ahead, for this particular member, we are looking at an annual increase in upfront costs **in excess of £160k**. This is more than double their current costs with the EA and given the short notice period assumed would make this unachievable.

AD increase in proposed costs:
The REA believes the proposed 62% increase in new permit charges for activities related to **anaerobic digestion** of agricultural residues and crop feedstocks (SR2012 No.10, No.12, No.17) will discourage further deployment of this important technology that delivers multiple environmental benefits (low-carbon energy, reduction in GHG emissions, encouragement of better nutrient and soil management and protection of water resources). The 2.4-fold increase in the annual fee for on-farm AD plants will add significantly to the fixed costs of these smaller projects. Digestate storage has also been increased by 71% in this proposal.

The REA and other relevant trade associations have repeatedly asked Defra ministers to consider rewarding the positive environmental outcomes delivered by on-farm AD, in order to sustain the growth of this useful technology, consistent with the Government's Clean Growth Strategy. Government officials have previously expressed their preference for deployment of smaller-scale facilities over larger, yet the proposed increased charges will have quite the opposite effect, making large-scale AD more economic than small-scale. We disagree with the principle of making the same charges regardless of scale of installation, and we would question the basis for estimating the EA's costs. Our strong preference (as

noted on several points above in this response) is for any increased charges to be introduced progressively, to allow time for the sector to adjust.

75. We would be interested in any analysis you have that suggests our proposals will influence the market conditions in your sector and whether there will be an impact on future investment decisions and on new entrants to the sector?

Please provide full evidence you have to support your answer along with any possible mitigating actions

76. Do you have any analysis that suggests the charge increases will impact on SMEs in your sector?

If so, which companies are most likely to be affected and what do you think will be the consequences?

Please provide any evidence / data along with any mitigating options.

8.2. How to respond

You can view the consultation documents and questions online at: https://consult.environment-agency.gov.uk/engagement/environmentagency-charging-proposals-fromapril2018

Here, you can submit your response using our online tool which will enable you to manage your comments more effectively. It will also help us to gather and summarise responses quickly and accurately as well as reducing the costs of the consultation.

If you prefer to submit your response by email or letter, or if you would like to ask for a printed version of the document to be posted to you, please contact our National Customer Contact Centre on 03708 506 506 (Minicom, for the hard of hearing; 03702 422 549), Monday to Friday, 8am to 6pm, or email enquiries@environment-agency.gov.uk

If you would like to send your response by post, please send your completed response by 12th January 26th January (amended) 2018 to:

Environment Agency

Charge Proposals from April 2018

National Customer Contact Centre

PO Box 544

Bow Bridge Close

Bradmarsh Business Park

Templeborough

Rotherham

S60 1BY

8.3. About you

When we come to analyse the results of this consultation, it would help us to know if you are responding as an individual or on behalf of an organisation or group.

77. Please select from the following options:

Responding as an individual

X Responding on behalf of an organisation or group

Other

If you're responding on behalf of an organisation or group, please tell us who you are responding on behalf of and include its type e.g. business, environmental group.

The Renewable Energy Association (REA) was established in 2001 as a not-for-profit trade association, representing British renewable energy producers and promoting the use of renewable energy in the UK. REA helps our members build commercially and environmentally sustainable businesses whilst increasing the contribution of renewable energy to the UK's electricity, heat, transport and green gas needs.

Its membership also includes composters, following the merger of the Association for Organics Recycling (formerly the Composting Association) in 2013. The REA endeavours to achieve the right regulatory framework for renewables and organics waste recycling to deliver an increasing contribution to the UK's electricity, heat, recycling and transport needs.

78. If you are responding on behalf of an organisation are you a Small or Medium-sized Enterprise (SME)?

X Yes

No

79. Your email address

You will receive an acknowledgement email and we will notify you when the consultation response document has been published.

Email: jeremy@r-e-a.net

8.4. How we will use your information

We will use your information to help shape these charging proposals.

If you respond online and provide an email address, your response will be automatically acknowledged. We will not be publishing individual responses to the consultation. However, after the consultation has closed, we will publish a consultation response document on the gov.uk website and contact you to let you know when this is available. We will not respond individually to responses.

In accordance with the Freedom of Information Act 2000, we may be required to publish your response to this consultation, but will not include any personal information. If you have requested your response be kept confidential, you must tell us why.

80. Can we publish your response?

We will only publish parts of your response that do not contain any personal information.

X Yes

No

If, no, please tell us why below as we will need to understand this when responding to any Freedom of Information requests

8.5. Consultation principles

We are running this consultation in accordance with the guidance set out in the government's Consultation Principles.

If you have any queries of complaints about the way this consultation has been carried out, please contact:

Environment Agency

Charge Proposals from April 2018

National Customer Contact Centre

PO Box 544

Bow Bridge Close

Bradmarsh Business Park

Templeborough

Rotherham

S60 1BY

Email: enquiries@environment-agency.gov.uk

Would you like to find out more about us or about your environment?

Then call us on

03708 506 506 (Monday to Friday, 8am to 6pm)

email

enquiries@environment-agency.gov.uk

or visit our website

www.gov.uk/environment-agency

incident hotline 0800 807060 (24 hours)
floodline 0345 988 1188 (24 hours)

Find out about call charges (www.gov.uk/call-charges)

Environment first: Are you viewing this on screen? Please consider the environment and only print if absolutely necessary. If you are reading a paper copy, please don't forget to reuse and recycle if possible.

Lit code details to be inserted here