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## Charges Consultation 2010/11 Response document

Consultee responses to the 2010/11 Environmental Protection  
charging consultation

March 2010

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**CONSULTEES THAT RESPONDED**

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Anton Coaker	Lesley Acton
Association for Organics Recycling	MOD
Association of University Radiation Protection Officers	Mr J.W. and Mrs F.A. Hook
AWE PLC	Mrs. S. James
B.W. James	National Grid
BMRA	National Institute for Biological Standards & Control
Brightley Farms	NDA
British Glass	Newcastle University & Durham University
British Waterways	NFU Cymru
Broads Authority	NFU for Mr. N. Schofield
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C & J P Richardson	P.A.Lewis
C.S. Utley & Sons	Phillip Hughes.
C.T.Jones & Sons	Pode Hole Farm
Carillion	R. Gornall
Caulmert Ltd	R. Metcalfe, Manor House Farm
CBI Minerals Group	Rail Infrastructure Environmental Forum
Chemical Business Association	Richard Evans
Chemical Industries Association	Richard Harrison
Ciaran Mc Donnell	Royal Surrey County Hospital
Community Composting Network	RRPPS, University Hospital Birmingham
Corus Group	S. Jones
David Randall/Sarah Mitchell.	Scottish-Southern
Derbyshire Dales District Council	Sims Group
Devon County Council	South West Water
Devon Waste Management	Symondsbury Estate
DHL Aviation	T.Moseley, University of Sheffield
EEF	Thames Water
Enid Murray,	UCLH
Environmental Services Association	UK Petroleum Industry Association
F H Downes & Sons	United Utilities Water PLC
Farmers Union of Wales	University of Cambridge
Food Standards Agency	University of Plymouth
GWR Hole & Sons	University of York
Highways Term Maintenance Association	Welsh Water
Elfyn Llwyd MP	A Rowlands
J. Williams-Wynne & Sons	Victrex
J.W. Bostock	Water UK
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## 1 OVERALL CHARGE INCREASES

### 1.a Baseline increases to charges

#### 19 respondees

We welcome the proposed increase which is limited to 1% which is reasonable.

#### 1 respondee

We value the steps the Agency have taken to reduce their costs and support the Agency in these activities, however we wish to see a cost breakdown to determine where the proposed increases in charges occur. This would help us understand if this is sustainable and how the Agency will continue to deliver on its main responsibilities.

#### 2 respondees

On the proposed 1 % increase in baseline charges, although we are pleased that the Agency appears to be listening to the concerns of charge payers by limiting potential baseline increases but we would like some reassurance that charge payers will not be penalised in future years if the Agency seeks to recoup these funds.

#### 1 respondee

Fees are required to be based on full cost recovery and the actual costs of providing the service, so simply increasing/decreasing fees by a percentage may not provide a true representation of the actual costs of providing the service. It's normally ok to quote percentage increases in fees as long as these are simply representations of the actual cost increases. Similarly, its fine to use CPI/RPI as comparators - as EA appear to be doing here to show that fees have increased by less than RPI/CPI. EA state that by proposing a 1% increase, they are absorbing a significant number of additional cost pressures. Does this amount to a public subsidy? If so, Ministerial agreement is required. Is this a short/long term subsidy? Is there a plan to get back to full cost recovery?

#### 1 respondee

As a general increase this seems to be reasonable in the current economic climate. However, where new charges are being introduced the rise is obviously not 1%.

#### 1 respondee

This looks to be below the current rate of inflation, but particularly for NHS Trusts/Welsh Local Health Boards in relation to RS Regulation, there may be issues in finding the increased resource.

#### 2 respondees

No comment on b/line increases but do have concerns that these are not as transparent as they should be. We are also concerned by the targeted 3% efficiency saving as we would expect this to be higher in light of the investment being made by the EA in IT.

We do have concerns that baseline increases are not as transparent as they should be.

#### 1 respondee

Businesses in these difficult economic times are faced with lowering end user prices rather than being able to implement an increase.

#### 3 respondees

The 'proposed increase' (1% overall) is not relevant to our low risk sector (small-users of radioactive substances in Higher Education) as increases in cost resultant from the scheme will be an increase much greater than 1%. In our case we estimate >20%.

This is not a true measure of the increase...yes the baseline may increase by 1% but generally we will find ourselves in a new charging scheme resulting in far greater increases.

For universities, hospitals and research centres this is pure fiction. Most users in this sector will see increases of upwards of 22% in subsistence charges and some have reported increases of over 60% in some

1 respondee

We do not agree with this bearing in mind last years increases and that the economy continues to be in recession. The EA should focus on controlling costs and not increasing the burden on industry and commerce at this time.

4 respondee

Sheep-farmers cannot bear any charge increases at this time. Any increase is totally unacceptable and I fail to see how you can justify this increase. I consider any increase in costs for livestock or cereal producers very untimely in present circumstances.

I object strongly to any such charges, let alone increases. I am reliant on keeping sheep on much of the land I farm, ironically I am well aware that my livestock and management assist in the successful protection of a huge tract of peat plateau....I receive no recompense or recognition for this service. The bills you send make it just that bit harder to justify the toils and financial losses incurred and I would beg you to reconsider the charges you levy.

1 respondee

Previous consultations have provided substantial commentary on internal efficiency savings but no such commentary appears here. There is little explicit reference to any progress that has been made to secure and share efficiency savings associated with EPP. When the programme was first launched, substantial savings were anticipated. Whilst early expectations were subsequently scaled down, we understand that projected savings to be shared between the regulator and operators of regulated sites were still expected to be substantially in excess of £50m. Have these savings been delivered or are they at least on course to be delivered? If so, how have they been shared out? It seems that the only financial beneficiaries of EPP so far have been the operators of relatively small and simple operations whose processes can now be dealt with using standard permits.

5 respondees

At a time when all business are finding life difficult economically this is an added burden we could well do without. We do not agree with this bearing in mind last years increases and that the economy continues to be in recession. The EA should focus on controlling costs and not increasing the burden on industry and commerce at this time. We question why there needs to be any increase at present.

Simms would feel it appropriate that for the forthcoming financial year the agency does not increase fees and charges

1 respondee

The only, obvious increase, is that of people, either making jobs for each other, or themselves. So reduce the forms, reduce the paper-chase, and so reduce the personnel costs. The actual amount of time taken, to check the land for residue is the same. So the increase must be either wages or paper.

1 respondee

We appreciate that the Agency tries to keep baseline increases below inflation and that the outlook for 2010 is highly uncertain, however, in the context of Government policy to constrain public sector pay for the next two years and supposed efficiency savings made by the Agency, a 1% rise in baseline charges perhaps seems a little on the high side.

2 respondees

The actual cost increase to farmers will be considerably higher as the Environment Agency are constantly moving the regulatory goal posts and therefore increasing the cost of compliance. The Union believes that, as all businesses have to look at their core operating costs during a time of financial hardship, the Agency needs to fully consider its own operating costs before trying to justify a huge hike in costs under a banner of a 1% baseline increase. We would ask that the EA do not increase their Groundwater Charges to farmers during these difficult times.

1 respondee

In light of the current economic climate, the non ferrous sector is reluctant to agree to any rise in fees. Having surveyed our members, there has been a considerable downturn of business

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during the past 18 months, circa 25% down on last year. In addition some sites have closed down. It is not clear why an increase in fees is necessary when in theory, as a result of many companies closing in the UK, there will be fewer sites to be inspected and fewer inspectors required.

1 resposdee

Given the general pressure on cost reduction and salary freeze we believe the EA could offer a further reduction in the baseline cost for all its charges.

1 resposdee

Those businesses currently operating under a low risk waste position but are being moved to standard permits as a result of the exemption review will have considerable increase in costs.

1 resposdee

Many upland farmers make significant contribution to environmental protection through their agricultural and management practices. The notion that charges for licences to dispose of sheep dip should increase is anathema to me. The EA is funded by central government and I contribute through my taxes towards their activity and the services provided nationally...we become subject to further charges because of our activities and don't appear to get Best Value for the money we already pay. I therefore oppose any increase in overall charges. Some mechanism to reassess charges in the light of actual economic performance would be a more equitable solution.

1 resposdee

For small non nuclear site where the use of radioactive substances is very low any increase is an unacceptable financial burden. Subsistence fee is already large and we pay every year even though the RAS inspector only visits every other year. This is unfair practice and needs addressing.

1 resposdee

I object strongly to any such charges, let alone increases. I am reliant on keeping sheep on much of the land I farm, ironically I am well aware that my livestock and management assist in the successful protection of a huge tract of peat plateau....I receive no recompense or recognition for this service. The bills you send make it just that bit harder to justify the toils and financial losses incurred and I would beg you to reconsider the charges you levy.

1 resposdee

In reply to your recent letter regarding future proposed groundwater charges, I believe there is no point in us farmers objecting to any proposals you make as you'll not take one blind bit of notice anyway! Your subsistence charge has been rising by over £10 per year and seems to be never ending. It should be abolished altogether or failing that, halved to £76 per year.

1 resposdee

We are trying not to dip our ewes for environmental reasons, have not done so for 7 or 8 years, judged it necessary to pay annual fee in case we have an outbreak of sheep scab. £153 seems a great deal of money considering we have not actually discharged anything for all those years.

1 resposdee

Due to your new charges we will no longer be renewing our licence for disposing of sheep dip. We have not dipped sheep for the last 4 years so this is an unnecessary cost to us in the current economic climate.

1 resposdee

We feel the increase in charges is rather high so we will find an alternative method to dipping.

1 resposdee

I dip my sheep and then dispose of the dip on to my own land and pay the fee for the "privilege" of doing this only to see increased charges every year. Who was it who came up with the £75 variation charge?. As professional people you are working as novices. You can keep your charges.

**Agency Response**

***We acknowledge the support for the 1% increase and note the concerns. In the light of recent inflation forecasts we will proceed with this proposal.***

**2 ENVIRONMENTAL PERMITTING (EP) SCHEME****2.a Reduction in application charges for standard permits from £2,570 to £1,590**11 respondees

We welcome this proposed reduction to application charges.

1 respondee

It is good news that the cost appear to be brought more in line with the regulatory effort. In order to fully live up to the principle of bringing cost in line with environmental risk, the Agency should look to increase the range of low risk activities that can benefit from standard rules.

1 respondee

We welcome the proposed reduction. However we are concerned about the difference between charges for tier 2 standard rules and tier 3 bespoke application fee when the level of additional work involved in determining a bespoke application may not be significantly more than that of a standard rules permit. This appears to be the case for some waste activities that do not meet the criteria for standard rules based on for example the proximity to a designated site (SSSI etc) but result in permit conditions practically identical to these of the standard rules permit. We would like to see greater transparency of the costs involved in determining permit applications or variations.

1 respondee

We welcome the lower charges for standard rules permits, but regret that the number of standard permits is limited and that for us the criteria are too restrictive and therefore unworkable for us.

1 respondee

Good provided it applies to all industry sectors equally. However, we would also like to see an equivalent reduction in charges for variations.

1 respondee

Good news if you have a standard Rules permit. Only a few people with small sources will qualify for the Cat5 standard rules permit for sealed sources and there is no standard rules permit for unsealed sources no matter how low the environmental risk. Why not?

1 respondee

This charge reduces the cost burden on centralised composting sites processing up to 75,000tpa whereas the same charge to a decentralised on-farm site processing 500t at any one time is disproportionate and favours large centralised sites which carry a greater risk to the environment. The lower risk of small scale composting should carry a lower fee proportionate to the tonnage processed.

1 respondee

While the Union welcomes any reduction in the cost of applying for a standard permit, it is of the opinion that the application charge is still too high and does not reflect the impact these costs have on small businesses who infrequently discharge spent dip.

**Agency Response**

***We welcome the broad support for this proposal.***

**2.b Reduced application charge from £2,570 to £700 for waste mobile plant**10 respondees

Support this proposal

1 respondee

Agree, but SR2009No24 should be included in this charging band due to the temporary nature of lagoons created to dewater spoil.

1 resposdee

While we have no objection to this fee, this lack of objection is conditional providing that the cost remains a one-off fee. We object strongly if this were to become a regular (e.g.annual) fee.

***Agency Response***

***We welcome the broad support for this proposal.***

**2.c Reduced application charge from £2,880 to £2,570 for low impact installations**8 resposdees

We welcome this proposed reduction to application charges for low impact installations.

1 resposdee

We are in favour of a reduction, but think that the costs are still too high.

1 resposdee

Agree but consider the reduction appears relatively low. There seems to be no justification in the scale of reduction compared to the scale of risk or the scale of administration.

***Agency Response***

***We welcome the broad support for this proposal.***

**2.d Reduced charge for simple waste facilities from £1,010 to £950**8 resposdees

We welcome this proposed reduction to application charges for low impact installations charging for MWD permits we do not consider this to be an effective consultation exercise.

1 resposdee

Even with the proposed reduction, this charge is excessive.

***Agency Response***

***We welcome the broad support for this proposal.***

**2.e Surrender made by notification will be free of charge**11 resposdees

We welcome this proposal for free surrenders.

1 resposdee

Tier 2 RAS will be subject to a surrender charge of £530 - £2470

1 resposdee

it is not clear in the consultation documentation how this proposal differs from what has been included in previous charging schemes. The 2009/10 scheme also applies no charge for a surrender of a mobile plant permit made by notification as defined in the EP regulations. There is a need for clear guidance within the scheme to clarify these particular proposals. With the introduction of discharge consenting under EPR we expect a similar arrangement will be in place for the surrender of a discharge consent by notification to mirror existing arrangements. When this regime is brought in to the UCF we anticipate this will also be free of charge

1 resposdee

We are uncertain from the supplied information, if all 'surrenders' in our sector will in fact be free?

***Agency Response***

***We welcome the broad support for this proposal.***

**2.f Reduced charge from £3,500 to £1,500 where simple surrender process is applied**7 respondees

Support this proposal

1 respondee

We particularly welcome this proposal but it should be extended to more sites, particularly the lower risk sites within Tier 3 e.g. permitted dredging facilities.

1 respondee

We welcome the proposed reduction however find it difficult to comment on the proposal as the detail has not been provided on how and when the simple surrender process can be applied and whether this has the same criteria as the low risk surrender currently available for tier 3 sites under EPR. The consultation document refers to the H5 site condition report guidance but this does not provide an explicit definition of a low risk or simple surrender. Presumably this will be covered in future guidance as there is a need to provide clarity. Under the principle of better regulation we would also expect a simple surrender to apply to all tier 2 waste facilities subject to meeting certain defined criteria.

1 respondee

There does not seem to be any details on what will be involved in the new simple surrender process, which makes it difficult to comment.

1 respondee

We oppose this proposal believing that no charge should be applied to surrender a permit.

***Agency Response***

***We welcome the broad support for this proposal.***

**2.g Free surrender of standard permits with a short life, with no pro-rata of subsistence charges?**8 respondees

Support this proposal

1 respondee

While the Union agrees that the surrendering of a standard permit should be free of charge, it believes that any remaining subsistence charge should be refunded to the permit holder.

1 respondee

For RAS Cat5 standard permit surrender charge is £125

1 respondee

It appears reasonable to not expend administrative effort on repayment of pro-rata subsistence charges.

***Agency Response***

***We have made a change to the proposal such that a reduced surrender charge of £530 where the new basic surrender process applies with pro-rata adjustment of subsistence charges applying.***

**2.h Reduce application charge from £2,570 to £950 for inert mining waste permits?**1 respondee

We will accept that the fees proposed are significantly less than those currently in place and this is appreciated. As Aggregate Industries operates somewhere in the region of around 60 hard rock, limestone and sand and gravel quarries in the England and it being reasonable to assume that every site were to require a permit then the costs do significantly start to mount up. If every site simply were compliant and we only had to apply for a standard rules permit then we would be looking at an application figure in the region of £57,000 (based at the proposed £950.00 per permit.) Just to carry on operating our sites in the same manner as we do today

but now with an additional piece of paper from a regulatory body who has no professional competence in dealing with mines and quarries.

1 resposdee

ESA supports this proposal.

**2.i Reduce the variation charge from £1,910 to £950?**

1 resposdee

ESA supports this proposal.

1 resposdee

Whilst the reduction in cost is reasonable it still is considered to be expensive

**2.j Reduce the application charge from £2,880 to £2,570 for non-inert mining waste operations**

1 resposdee

We would strongly urge you to adopt four simple tables to cover ALL the fees payable for mining waste operations OPRA charge multiplier fees. The table on page 20 for mining waste operations needs to make it clear that these charges relate to Cat A and Hazardous mining waste facilities only. The charges for the transfer or part transfer of a Cat A or hazardous mining waste facility and for the annual subsistence on page 31 should be combined into one table.

1 resposdee

ESA supports this proposal.

**2.k Reduce the transfer charge for simple mining waste operations from £1,010 to £950**

1 resposdee

ESA supports this proposal.

**2.l Reduce the surrender charge from £3,500 to £1,500 for the new simple surrender process**

2 resposdee

We support this proposal.

1 resposdee

The consultation charges for the surrender of such a permit is also decidedly interesting due to the fact that there currently are no process in place or procedures to follow to surrender a Standard Rules Mining Waste Environmental Permit.

**2.m Increase the transfer charge for higher risk mining waste operations from £1,953 to £4,850**

1 resposdee

ESA supports the principle of risk-based regulation and agrees that the Agency's charges should more accurately reflect the degree of regulation required for individual sites. ESA believes that the Agency should be required to provide evidence to justify an increase of around 150%. Given the scale of the jump in the context of a severe recession, perhaps the Agency could provide operators with the option to defer or spread payments.

1 resposdee

The MPA wholly support the CBI Minerals Group response detailing our concerns about the Mining Waste Directive.

**2.n Increase the part-transfer charge for higher risk mining waste operations from £2,920 to £7,270**

1 resposdee

Charges should reflect the costs to the Agency of their regulatory activities with regard to extractive industries.

**Agency Response**

***We have deferred this proposal (2m and n) for 2010/11 and will review it again during 2010.***

**2.o Trigger for the variation charge to close a landfill should be when the Environment Agency are notified and agree**

1 resposdee

ESA supports this proposal.

1 resposdee

UUW would welcome clarity on how it has been recognised that the both parties are "agreed" if it is not through the Closure Notice process.

1 resposdee

We question the need for a variation charge to change the status of all sites from active to closed. A variation charge can only be justified if the change of status results in additional work for the EA; in the case of some sites (e.g. permitted dredging sites) very little, if any, work is required due to the status change. A change to the charging scheme is needed to reflect this.

1 resposdee

It is not clear what is meant by 'the variation charge to close a landfill'. Such a thing does not exist in the current scheme. Presumably it refers to the 'closure charge' as opposed to the trigger point for a landfill site being able to enter into post-closure subsistence charging. It is not clear whether the phrase 'ceased to accept waste' is intended to mean 'ceased accepting waste for disposal' (similar to the landfill closure notice requirements) or whether it also includes waste received for restoration. For example in the case of differential settlement, acceptance of additional restoration soils may be required long after waste disposal has ceased. Assuming that the intention of the proposal is for a closure charge to be payable when waste for disposal ceases as opposed to as a result of a closure notice, it would seem likely that a closure charge would be payable in advance of a closure report being submitted. What would be the justification for the Agency receiving a large sum of money before the closure report is submitted for assessment?

**Agency Response**

***This change is intended to reduce the complexity of the charging scheme. One of the main drivers for the change is not only to provide funding for us to review the report but also to vary the permit to remove unnecessary conditions and amend existing ones so that they are appropriate during the aftercare phase. This means that all closed sites have a consistent, better regulation style permit during the aftercare phase and that the annual subsistence charge excludes the waste to land attribute, thus reducing the subsistence charge. There are a range of variation charges so the charge will reflect the complexity of the site, rather than be fixed for all sites as previously. The operator can decide when to apply to vary, but the site will attract a higher subsistence charge until the variation***

**2.p Where a landfill operator applies to accept inert waste at a closed site, a variation may be made which would cost the equivalent of a full application, based upon the Opra profile, as for a new permit?**

1 resposdee

Seems sensible

1 resposdee

Similarly to the above, the limited information available makes it difficult to comment:

- If the intention of this is that this will also apply to where a closed landfill needs to receive some additional inert waste to finalise restoration on a site which has been subject to differential settlement, then the proposal seems wholly inappropriate and

unjustified.

- If the intention is for this to relate to situations where re-commencement of land filling is proposed, then the proposal seems more reasonable, provided that the Opra profile applicable will be an Opra profile for the new land filling activity as opposed to the Opra profile from the old landfill.

1 resposdee

As a consequence of the exemption review, a number of currently complex exemptions being used by Aggregate Industries, will be replaced by standard rules permits. Whilst we fully support their implementation the costs which will be incurred are still going to be relatively substantial. This doubling of cost to a business in a struggling market is frightening especially when one considers the fact that with regards to restoration we are legally required under our planning permissions. As without the restoration of our sites and then subsequent return to use of the land we would make any future applications for planning highly unlikely to be successful.

1 resposdee

We disagree this should be treated as a variation.

1 resposdee

We do not understand how, in such circumstances, a variation charge equivalent to a full application is justified.

1 resposdee

It is unclear why a "full application" should be necessary for inert waste, which presumably is for the restoration of the site. Given that the site has already been permitted for acceptance of wastes, and most of a more active nature, it seems as if the landfill operator will have to pay twice. This charge will act as a deterrent to actively managing or remediating the site or moving forward in surrender.

**Agency Response**

***This change is to ensure that all closed landfills sites are treated consistently. Currently, landfills for non-hazardous and hazardous waste must pay a full application charge to bring a closed site back into operation. This is to ensure we have sufficient resource to assess the application against the requirements of the Landfill Directive. The Directive also applies to landfills for inert waste, but the previous scheme did not provide sufficient income to do this. There is no intention that this charge should apply to 'restoration' or filling-in work that constitutes a recovery activity. It is intended to apply only to sites that propose to accept waste for disposal and closed before the Directive took effect, or did not obtain a Landfill Directive permit.***

**2.q Proposed charges for standard and non-standard facilities in tables 4 and 5 of the EP annex**

1 resposdee

We support the approach of setting subsistence charges for some of the activities treating agricultural land on a risk basis. We would like to see this applied to application and subsistence charges for all Table 4 and 5 activities.

1 resposdee

The principle of the small additional charge for the non-standard facilities seems a good idea and the additional cost for the non-standard element assessment seems proportionate to the additional risk being assessed. However, why has this principle not been extended to other standard rules?

1 resposdee

It is also unclear at the moment, what constitutes a site under the EP rules, as it is likely that the BA may have in any one year more than one location where FCL22 Disposal in Lagoons of Non-hazardous Dredging Sludges is an appropriate categorisation of the activity. In this regard, if the site for the BA was the whole of Norfolk and Suffolk, with notifiable individual locations registered, with one charge for the whole site, irrespective of the number of locations, then we

would be more welcoming. If the charges as set out were applicable per location, then this would be wholly unacceptable.

#### 1 resposdee

Page 30 of Annex A, Table 5, line (a) is applicable to our activities. In principle we have no objection to the proposed charges, there are however a number of points that demand further clarification for our lack of objection to remain;

1, The description of the risk activities will not change from those given in the draft deployment form SR2009 No 9-1-11 V0.4. At present all our activities fall into the low/medium risk categories, however if we were to find that our activities became 'high risk' due to a change of the description this would add a significant cost to our activities.

2, Clarification of the phrase 'A maximum of five waste types can be notified per deployment'. Does this refer to 2 or 4 or 6 digit EWC codes streams? Again we need to have clarification upon this to enable us to work out the final cost implications of the proposal.

#### 1 resposdee

We are awaiting your feedback to our response to your consultation on Standard Rules Consultation No 3, as it unclear how the EA intends to apply these rules to our sector. In particular your proposal for deployment form and mobile plants for land spreading and how it applies to our operations are currently not known. The proposal could increase the cost associated with it and act as a barrier to recovery activities. If Standard Rules Nr 14 and 15 are a replacement for existing paragraph 9 Exemption then the proposed cost to our operations is about 300%.

#### 1 resposdee

We have concerns over the proposed level of charges for these facilities resulting from the Exemption Review; they are significantly higher than was anticipated from the information provided during the consultation process. We also find the approach to setting charges for these facilities to be somewhat illogical, the fee structure doesn't appear to properly reflect the differing scales and risks associated with these activities.

#### 1 resposdee

The proposed charges for those standard permits which have resulted from the waste exemptions review are far too high and will result in less 'waste' material being used in construction and less on-site processing of site-won material. Considering that the current exemption charge of £575 sometimes only just allows the use of a 'waste' rather than virgin material to be financially viable, the proposed cost of at least £4940 (for SR2009no14, which is replacing a Paragraph 19 exemption) is not feasible.

#### 1 resposdee

The move from regulation via a system of notifiable exemptions to a new system of regulation via Standard Permits and the accompanying fee structure represents a huge change for many operators.

The NFU particularly has strong concerns on how the proposed charges will impact upon those businesses in the agricultural sector – especially those who have diversified into associated business activities such as on-farm composting, those businesses considering developing on-farm systems for anaerobic digestion of farm inputs and those who integrate 'waste management activities' such as the land-spreading of beneficial organic materials (e.g. compost, digestates) as part of their agricultural production system. We note that our colleagues in the Association for Organics Recycling (AFOR), which is the UK's main organisation representing businesses in the composting and biological treatment industries, also share our deep concerns.

#### 1 resposdee

The first thing to comment on under this section is that the questions posed are unhelpful in that they only refer to reductions in cost. There are no questions that recognise the fact that the charges are a huge increase from £0 to £1,590 in the first year, plus costs and time for competency training, resulting from the Exemption Review. In the whole consultation document

there is only one short three line paragraph on p.7 acknowledging the fact that these are new charges, and no questions in this response form about the introduction and scale of these charges. CCN requests a waiver of the fees for not-for-profit organisations who find themselves permitted rather than exempt.

During the consultation with members of CCN there was unanimous feedback on the negative impacts of the new costs, we've not had one positive response. Another issue with the cost is that they are out of all proportion for small scale producers. A simple calculation shows that the cost of regulation is grossly disproportionate for small scale composters.

#### 2 respondees

The majority of these on-farm outfits are thought to operate with a waste management exemption (Exemption Paragraph 12). Provisional results from a recent AFOR/WRAP study looking specifically at the on-farm composting sector found that 81 out of a total of 104 on-farm sites surveyed in England and Wales were operating with an exemption.

The current Paragraph 12 Exemption for composting is free of charge. While we recognise that operators have benefited from this position for several years, we are concerned that these operators will now have to move from a position of free of charge exemption to a Standard Permit with proposed charges of £1,590 application with £760 subsistence (SR2009no19). We understand that the free of charge position can no longer continue. Having anticipated the move towards Environmental Permitting, we expected charges to be introduced. However we were lead to believe in good faith by the Agency that charges would be broadly similar to the equivalent notifiable exemptions (i.e. Within the region of £575 application, £435 renewal/subsistence). We are deeply concerned at how such high permit charges, together with all the other costs associated with a standard permit will impact upon the viability of this sector. We fear that the industry will simply not be able to sustain the transition to such an increased charge band.

The NFU fully understands the need of the regulator to assess the risk of certain individual waste streams that may be of concern and that indeed there will be costs associated with this process. Yet we would like to see more transparency and explanation to justify this considerable increase. The NFU's concern is that such high fees will simply make the process of land-spreading of beneficial material no longer economically viable for many farmers and that this significant cost barrier will actually inadvertently discourage the beneficial practice of returning organic matter to farm soils. Discouraging the recycling of organic matter to agricultural soils runs completely contrary to government objectives.

Perversely, it would seem that on one hand government policies are encouraging the recycling of waste materials; yet on the other hand these proposed regulatory costs create a huge barrier to the recycling of organic waste materials to agricultural soils. The recycling of organic materials and the improvement of soil condition and structure is something that the regulatory framework should encourage.

We echo the same concerns with regards to the proposed charges for Standard Permits covering activities related to anaerobic digestion (AD). We feel it is essential that the regulatory framework does not inadvertently act as a barrier to the development of AD at the smaller, on-farm scale. This is something that many farmers are now exploring and something that government policy is trying to facilitate. We feel the costs are set at a high level that will only discourage the development of on-farm AD

#### 1 resposdee

We acknowledge the need for the EA to recover costs but have concerns that the level of charges for these activities may discourage activities that result in environmental benefit (regulatory blocker). We are also concerned about the lack of transparency in how these charges have been calculated.

#### 1 resposdee

Table 4 and 5 would infer that there is a requirement to pay an annual subsistence fee for the use of the wastes. It is not clear whether this fee applies to the active lifetime of the project or in perpetuity. Neither is it clear what a "medium" or "high" risk deployment will be, or over what

time frame a “deployment” may take place. Spreading of sewage to land can be an annual event and is subject to the Sewage Sludge in Agriculture Regulations. This may need to be considered separately.

#### 1 resposdee

Devon County Council has serious concerns about the introduction of the need for permits and therefore charges for previously exempt Para 12 composting activities. These changes are not considered to be risk-based or to encourage recovery activities. In the first instance with regard to on farm composting it is estimated that these changes will cost our contractor and therefore the county council up to £100,000 (consisting of new application charges, new subsistence charges and new land spreading charges). The issue is that 45,000 tonnes of compost from householders’ organic waste collections are dealt with at a large number of farms on a very sustainable basis but if the new regime comes into place in terms of standard permits being required and charges applied these farm operations will become unviable. They are critical in terms of sustainability, the proximity principle and in providing an economic activity in rural Devon.

#### 1 resposdee

The proposed charges result in an unfair and disproportionate burden on the smaller, local operator as compared to larger centralised sites. This will discourage the local use of organic waste on agricultural land and encourage the haulage and centralised composting of waste, which in turn will lead to increased road transport, increased infrastructure, and higher costs for farmers who wish to use compost on their land rather than chemical fertilisers.

#### 2 resposdees

The proposed charges are far too high and will result in less ‘waste’ material being used in construction and less on-site processing of site-won material. Considering that the current exemption charge of £575 sometimes only just allows the use of a ‘waste’ rather than virgin material to be financially viable, the proposed cost of at least £4940 (for SR2009no14, which is replacing a Paragraph 19 exemption) is not feasible.

#### 1 resposdee

The AfOR understands the need of the Government and EA aim to ensure that sites are regulated according to their potential risk. We also believe that fair competition should exist and that a such that smaller sites that are currently operating under an exemption are not allowed to operate to lower environmental standards than larger permitted sites. The cost disparity between the two types of operation currently leads to anticompetitive practices. It is important that any new scheme does not allow this to continue to happen. However the charges that have been proposed are significantly higher than expected and may have a devastating impact to the on-farm composting businesses and to some of the community sites. Under the new low tier standard permit, a small composting operator (e.g. processing 1,500 tonnes per annum) will be facing an average cost over the first two years of 79p/tonne as opposed to a cost of only 7 p/tonne faced by a composting operator processing 30,000 tonnes per annum and operating under a large scale standard permit. AfOR asks the Government and the Agency to conduct a formal financial impact assessment on the on-farm and community sector in relation to the new charges and standard permits.

There is a significant concern that the step from no payment currently under a paragraph 12 exemption for smaller operators to a permitted regime and associated application fee of £ 1,590 and subsistence fee of £790 is too steep. Under a permitted regime, these sites will in addition, incur compliance costs such as the provision of improved infrastructure such as hard standing, leachate control and the requirement for a site to be managed by an operator with a Certificate of Technical Competence. This would mean that these operators may in some instances be unable to bear the additional cost and will no longer be able to operate.

The Association proposes that these fees should better reflect the level of risk posed by these activities. Providing that input materials are processed to typical composting process timescales (e.g. 6 – 8 weeks), the volumes of material handled at any one time from exempt sites is limited, and therefore, the derived risks should be limited. These sites often have to hire external equipment and will wait until they have sufficient fresh material stocked on site before shredding it, or sufficient compost stockpiled before screening it, in order to make such

operations more cost effective. This means that operations such as shredding and screening, which are considered the main causes of issues like odours and bioaerosols, are likely to be carried out at a low frequency. This should be seen as a benefit in respect to minimising environmental pollution. Therefore, the total emissions arising from these activities over a defined period of time should be relatively limited. Even if they have their own equipment, as they handle little material at any one time, the duration of any odours or emissions originated from such operations is very short. Therefore, again the risk associated with those activities for human receptors should be low.

1 respondee

In our view the system of exemptions for PLA is not, simpler, risk-based, i.e. matching regulatory effort to the risk posed by an activity or encouraging recovery activities

1 respondee

The baseline increase appears benign for permits that are already in place. However with the removal of notifiable exemptions and replacement with the Standard Mobile Spreading Permit there is potential for substantial cost increases. Digestate from anaerobic digestion plants is largely returned to land for agricultural benefit. At present this is done by Paragraph 7 notifiable exemptions but will be replaced with mobile Standard Permits from April 2010. The cost of the permit is in fact a new charge to this sector of the industry albeit a one off cost.

We would ask that the substantial increases relating to spreading are re-considered and lower deployment renewal fees introduced.

**Agency Response**

***We note the concerns of respondees. These charges are a direct consequence of the Exemption Review and the activities deemed to be of such a nature as to require a permit. We have taken numerous steps to soften the impact such as increasing the thresholds and delaying implementation until the final year of phasing.***

**2.r Amendment to the financial provision arrangements**

1 respondee

ESA believes that any change to the type of financial instrument/security used to provide provisioning should at most incur a minimal charge. With the presence of appropriate guidance, this should not be a complex matter.

1 respondee

The Union strongly opposes the proposed amendments to the financial provision arrangements as they will lead to unnecessary and overly excessive charges for minor amendments.

1 respondee

According to the relevant section of EP application form (Part A) this proposal appears to apply only to landfills, CAT A mining waste facilities and mining waste facilities for Haz waste. If this is the case then we have no comments on the proposal. However, if this is not the case and it does apply to other activities in EPR then we do not support this proposal. We request that the distinction is made explicit in the guidance and reiterate that this has not been made clear in the consultation document.

**Agency Response**

***If an operator uses our existing mechanisms, which we understand and where we already have template agreements, that is a simple matter and we would normally apply an admin change for no charge. However, we need to cost recover for considering these new mechanisms that take time to agree and draw up new agreements for. The proposed change to the wording of the guidance was to cover this and allow us to levy an appropriate variation charge, dependant upon how much work we do. We expect new and revised mechanisms to become more common in the current economic climate.***

**2.s Complexity band for surface treating metals and plastic materials (2.3 part A (1)(a))**1 respondee

This proposal is welcomed.

**2.t Proposal to charge for pre-application advice for standard permits after the first hour?**1 respondee

BMRA supports, in principle, the proposal that only one hour of pre-application advice will be provided free of charge to operators applying for a standard rules permit. However, we request details on how much (per hour) the Agency proposes to charge operators for additional advice.

1 respondee

This is accepted.

1 respondee

seems a reasonable proposal if the first hour doesn't start until the advisor is on site. Telephone advice and office based advice should be charged after the first 30 minutes.

1 respondee

This is not unreasonable

1 respondee

While this may be adequate in many cases, applicants should be clearly informed at the start of the process that advice is limited and the use of this allotted time should be transparent to the applicant.

1 respondee

This could result in lower quality applications being received by the Environment Agency. If this approach is adopted then it would be sensible to analyse the data to determine what percentage of standard permits use more than one hour and revise the number of free hours accordingly. The overall objective must be to minimise environmental risk and where free pre-application advice supports this, it should be encouraged. Small operators often pose the most significant risks and therefore need support to get it right.

1 respondee

It may take longer than an hour to determine whether a standard permit can be applied to the activity and for the EA officer to assure himself of this. It seems particularly challenging given that more than one EA officer may attend the meeting. We might suggest a minimum of 2 hours, which may consist of two meetings an hour long.

1 respondee

When this is compared to the 15 hours which is currently available then this feels to be a very backwards approach.

1 respondee

We have failed to find reference to this in the consultation and no indicator of the proposed charges. Whilst we recognise that the agency has to recover its costs and is proposing to reduce application charges we would resist the introduction of charges for pre-application advice.

1 respondee

This seems somewhat harsh considering that a new regime is in the process of being introduced. We suggest that this proposal is shelved until the revised exemptions and standard rules permits are properly introduced and both operators and the EA have gained experience of them in operation.

1 respondee

Those Standard Permits which are moving across from waste exemptions should be exempt from this, as there is likely to be confusion and 'teething problems' associated with these, at

least for the first year after they are introduced.

1 resposdee

This approach is considered unreasonable for instances where advice/clarification is required as a result the lack of EA guidance. Otherwise considered acceptable if the application charge is reduced proportionately to reflect this change.

1 resposdee

One free hour does not seem particularly generous.

1 resposdee

We believe that as the competent authority, the Environment Agency should provide adequate advice to interpret what are becoming ever more complex rules. Charging for advice does not meet this objective and so we are not in favour of the 1-hour rule.

2 resposdees

Those Standard Permits which are moving across from waste exemptions should be exempt from this, as there is likely to be confusion and 'teething problems' associated with these, at least for the first year after they are introduced.

1 resposdee

We have concerns over the application of this proposal especially given that the consultation document does not detail the likely charge to be imposed after the first hour or how this should be calculated. There is a need for transparency and additionally we would not want this proposal to set a precedent for pre application advice other than for tier 2 or tier 3 facilities. We also refer to our earlier comments regarding the complicated nature of the charging scheme. Under these circumstances there is a risk that the first hour of advice may be spent just deciphering the charging implications of an application.

1 resposdee

The Union totally opposes this proposal, believing that if the Environment Agency is to encourage uptake of permits, any request for advice has to be provided free of charge regardless of the length of time this requires. It has long been recognised that a low proportion of Welsh farmers use a computer regularly and the FUW therefore believes that those farmers who do not have access will be unnecessarily and unfairly

2 resposdees

We strongly disagree with the Agency proposals to charge for pre-application advice for standard environmental permits after the first hour. Allowing producers to access 15 hours of free advice eases the application process for both the producer and the Agency. Given the current backlogs and difficulties the Agency is experiencing in determining permits within a 4 month period, we would argue that this is being proposed at exactly the wrong time and we would strongly urge the Agency to re-consider.

***Agency Response***

***We note the responses to this proposal. Standard permits should be straightforward to apply for and therefore 1 hour's advice should be sufficient. The reduced application charges are dependent upon minimal pre-application advice being required. We are sympathetic to those operators affected by the Exemption Review and needing to apply for permits for the first time and will relax this arrangement in those circumstances.***

**2u Introduce Compliance Band F with the associated 300% impact upon the base subsistence charge**

1 resposdee

We welcome the introduction of applying OPRA compliance Band F, and the associated maximum of 300% upon subsistence charges, for those sites that have a particularly poor compliance score. However, we feel that care must be taken to achieve a balance that does not deter such operators from being permitted.

1 resposdee  
CBA agrees

2 resposdees

We are pleased and welcome the delay in the introduction of compliance ratings for IPPC pig and poultry charges until April 2011 however our concern has always been that producers have enough information about how the Agency intends to allocate compliance scores to determine future charges well in advance of any assessments or inspections taking place. More needs to be undertaken to ensure that this takes place.

1 resposdee

In principle this seems reasonable. Addition of a carrot to support the stick of Band F might help facilitate improvement in the performance of poor performers.

1 resposdee

agree in principle though it is imperative that EO's inspect and report proportionately and consistently between areas.

1 resposdee

Assuming the new band is introduced fairly and does only target the worst offenders, this is accepted.

1 resposdee

UUW welcome the additional costs for those operators who are not meeting good practice. However we would also welcome an acknowledgement that the OPRA profile reflects the "complexity" and "location" of the activity. Neither of these is changeable for most permitted activities and the ability to "improve" these scores is therefore not an option. UUW acknowledge that they can impact on the requirements for compliance (sensitivity /protect the environment) however wonder whether there is merit in including these elements or whether the weighting of these elements is correct in calculating the compliance rating. It needs to be clear that improved effort on "compliance" and management to address the F band will bring the necessary upgrades. The ability to reach A band should be available to everyone regardless of their complexity or location.

1 resposdee

This is not unreasonable provided the criteria is clear and not subjective

1 resposdee

This feels like a way to encourage operators to comply in conjunction with their permits.

1 resposdee

The Union is concerned that, under the proposals outlined in last year's consultation, once Compliance Band F is introduced in 2011, farmers will see significant increases in their annual subsistence charges for only minor breaches in their authorisations.

1 resposdee

(EPR misc) EEF are concerned that the current charging regime discriminates against operators of complex installations. the action of combining individual permits has had the perverse incentive of increasing these installations' complexity score and as a result its annual charges. It is imperative that compliance-adjusted charging should therefore take some account of complexity. The consultation does allude to "...a mechanism to cap or taper the impact of this proposal to keep charges in line with cost recovery..." however, it provides no information on what the mechanism look like. The inability of the Environment Agency to map out its thinking on the workings of such an important mechanism is a major failing and one which should be addressed immediately.

Members operating large complex installations also cite clear inconsistencies between Agency inspectors in applying the compliance classification scheme. Such inconsistency can have financial and reputational consequences. The Agency must do more to ensure a consistent approach is adopted by its inspectors nationally and that where inconsistencies are identified

they are resolved swiftly.

The Agency must also ensure that charging measures are fairly and equitably applied across all businesses. The reduced charges described in the paper apply only to small operations with, for example, standard permits. Where charges are recovered the Agency must ensure that they are a true reflection of the costs incurred by the regulator. To overcome this issue we recommend that charges are fully itemised and presented in a clear, transparent and standard format to the operator.

#### 1 respondee

we are disappointed that measure have not been taken to properly apply OPRA principles to incentivise the operator and apply the principles of reward and penalty consistently across all sectors and activities.

This issue is highlighted by the total lack of incentive for good performance at tier 2 facilities. There is also a lack of clarity in the consultation document regarding the level of the moderator to be applied to the charge calculation to limit the total amount that can be raised via Band F

#### 1 respondee

ESA's concerns with proposals to introduce a new compliance band F, as articulated in its response to last year's consultation, remain. ESA believes that the distribution of incentives and the differences in charges between different bands is skewed too heavily towards the lowest band and would like to see confirming evidence that this is consistent with the additional regulatory effort required for such facilities. The small reward in England and Wales for moving from band B to band A is woefully insufficient to incentivise the significant effort required in many cases to make the transition to the top band. ESA also remains extremely concerned by the lack of an independent appeals procedure for challenging Opra scoring and would question whether the Agency's continued refusal to establish an appropriate means of challenging independently is consistent with the Hampton principles for better regulation.

#### 1 respondee

There is increasing concern at complex sites with many stacks and outfalls that the increased impact of compliance rating on subsistence charges as set out in the consultation of Sept 2008 Annex C is leading to unfair penalisation of large and complex sites. The compliance banding score should include a factor to reflect the site complexity, e.g. the OPRA complexity factor, so that complex installations with many outfalls and stacks should have proportionately similar tolerance to a simple site.

#### 1 respondee

We voiced serious concerns in response to the proposal in the consultation on 2009/10 charges to introduce a 300% multiplier for sites falling into the lowest compliance band (a proposed new Band F). The introduction was ultimately deferred by one year. Nothing has happened since to change our strong opposition to the proposal.

Last year we suggested a refinement of the proposed compliance adjustment mechanism. It might be possible to calculate a simple ratio between CCS and complexity and to use this to provide the basis for a fairer and more targeted charging adjustment mechanism. We also suggested introducing some form of capping arrangement to more accurately reflect the increased regulatory activity that is liable to be deployed in respect of those sites falling within the lowest compliance bands.

In light of the above, we are encouraged to note within this consultation a passing reference to a plan to introduce "...a mechanism to cap or taper the impact of this proposal to keep charges in line with cost recovery." Unfortunately, there is no indication of what such a mechanism might look like. We can only assume that the details of the mechanism have not yet been developed. Given the financial affect that any such mechanism could have on the overall charges for Corus sites, it is deeply unsatisfactory that no opportunity has been provided within the consultation to comment upon any clear proposal.

**Agency Response**

*We note the responses to this proposal. We are pleased that the numbers of sites and installations falling into Band F has decreased significantly in 2009. We need to ensure that the additional charge raised is in line with the additional regulatory effort required in 2010/11 and we will introduce an abatement to reduce the increase where the charge exceeds this level. Also, in the event of a significantly improved performance in the first half of 2010 such that the projected compliance score is below 100 points then we will reduce the second half year charge so that it equates to Band E (150%) and refund any resulting overpayment.*

**3 PROPOSED CHANGES TO GROUNDWATER CHARGES****3.a Migrate groundwater charges into the Unified Charging Framework, together with the associated charges?**1 respondee

We understand the reasoning and hope that it will result in simplification and long term reduced charges.

1 respondee

Our members have also accepted the proposed technical changes described and the plan to extend the implementation of the Unified Charging Framework by bringing Radioactive Substances and Ground Water into the framework.

1 respondee

We are in principle in favour of a harmonised framework for Environmental Protection charging provided it is risk-based.

1 respondee

The only thing we can understand, is you are "increasing the charges from £124 to £390 which more accurately reflects the costs associated with this work." The only work you do for us is to send out the bill! That paragraph contradicts itself and we don't know what you are saying. You are going to make it too expensive to dip our sheep and we are 'consulting' on what we need to do in 2010.

1 respondee

The proposal sounds reasonable.

1 respondee

It is right and proper for the groundwater regime to be part of the Unified Charging Framework.

1 respondee

Your computer generates a bill for £153 in a matter of seconds which I am obliged to pay for the privilege of correctness. For your input in to this bill you are more highly paid than a top class barrister.

1 respondee

We support the proposal to migrate GW charges in to UCF. However we feel there needs to be a greater degree of clarity to distinguish between activities involving sheep dip, pesticide washings and solid waste and other effluents discharged to ground to remain under CfD charging scheme

1 respondee

fine if it makes it easier and hopefully cheaper to administer, but you don't say that. concern that you'll be moving a specific agricultural industry charge into an all encompassing charging regime, where a "cover-all" approach may not be in the best interest of permit-holders. Currently, if there is a query, we can speak to someone who has an understanding of agriculture, what we are talking about, and can give us an answer straight away. I would want that still to be the case under the new regime.

1 resposdee

Paying a re-start fee for our permit of £390 would be most unwelcome. Can you consider a more modest charge to re-activate? I don't imagine we are the only farmers currently paying for a permit as an insurance policy in case of a scab infestation

1 resposdee

The Union is concerned that migration of groundwater charges to the Unified Charging Framework will inevitably increase the cost of compliance and place further financial burden on those farmers who are already complying with their authorisations.

2 resposdees

The vast majority of groundwater authorisations relate to agricultural activities, principally the disposal of spent sheep dip and to a lesser extent the disposal of agricultural pesticide wastes. When the industry was consulted on the proposed extension of the Environmental Permitting Regulations (EPR) to include groundwater authorisations, NFU opposed this, inter alia, on the grounds that the government's own Impact assessment (IA) showed that there was no business case. Since the principal rationale underlying the EPR is the benefit to business, and agriculture is virtually the sole business sector affected, this objection was fundamental.

The extension of the EPR to include groundwater authorisations has been accompanied by the introduction of a new standard permit for the disposal of sheep dip which has been enzyme-treated to reduce its toxicity. The proposed annual charge for such a permit of £75 is lower than for the permits which were available previously (£143), and which will continue to be available (£152).

1 resposdee

I am aware of the proposals to increase the cost of application charge for small volume liquid discharges, e.g. for sheep dips, from £124 to £390. In the current economic climate surrounding agriculture I think this increase is phenomenal and totally without any real factual or economic basis. I do hope you will reconsider and look forward to hearing from you.

1 resposdee

I as an NFU member do not approve of your new charges as in my experience steeper charges will follow. This year with the bad weather conditions we did not carry out a winter dip. Are you in a position to refund me of my monies paid to yourselves? The answer obviously will be no. There are people who have stopped paying your charges but still dip and dispose of the contents. Surely against the law! The higher your charges rise e.g. from £129 & £390 is unacceptable with the note of inflation in mind. Why should the farmer have to pay whatever is set upon them. We have to take the ups and downs in our stride, we can't dictate the prizes, it's the open market we have to face. I hope you will change your minds and act realistically in this matter. I was brought up with honesty is the best policy but in today's age that has changed to dishonesty being the best policy and most people getting away with it and honest people paying through their noses.

**Agency Response**

***We note the comments received. The key message is that for existing permit holders the increase in subsistence charges is 1%. The application charge for a bespoke permit will increase to £390 as this is more reflective of our costs in processing this type of application.***

**3.b Introduce a new standard permit for disposing of enzyme-treated sheep dip with the associated charges?**

1 resposdee

The NFU has argued for more than a decade that the Agency should encourage farmers to treat spent sheep dip to reduce its toxicity. It has therefore welcomed the intention to introduce a standard permit for de-toxified dip which is less costly for farmers and therefore encourages them to adopt this environmentally-friendly measure. The Agency seems to have considered that there is a business case for the change on the basis of the lower level of annual charge for the standard permit. Unfortunately, this does not take account of the cost of the enzyme which a farmer must purchase in order to meet the conditions of the new standard permit. The cost is

not yet known for certain as the only enzyme product which qualifies is not currently on the market. Indications are that it is likely to cost £25-30 per sachet (sufficient to treat 500 litres of dip). Thus, for a farmer requiring only a single sachet per year, there may be a significant saving (of the order of £50) but for farmers requiring more than one sachet there is likely to be only a small saving or the cost may even be greater for the more environmentally responsible approach which all parties wish to encourage. It is our considered view that many if not most farmers who dip sheep will require more than one sachet per annum and accordingly it is our view that the Agency's commitment to generate a business case through the level of charges has not been met.

The NFU insists that the Agency should honour its commitment to set the charges at a level which provides a robust business case - it induced the industry to agree to the inclusion of groundwater authorisations within the EPR by the promise it made and which was endorsed by the chief officers of the two organisations. One way of giving effect to this would be to offer a rebate of the proposed charge to farmers to offset the cost of the enzyme, either on an average basis, or individually according to the number of sachets purchased/used, or we would be happy to discuss alternatives.

1 resposdee

We are shocked that this practice is still allowed at all.

1 resposdee

I appreciate the intro of a cheaper charge for disposal of enzyme-treated sheep dip, I can't see any reason why the volume should be limited to 5 cu m/yr when untreated is limited to 50 cu m/yr. You have reduced the volume by 80% and the charge by 50% AND we have to add enzymes to it. not practical in terms of max volume allowed, you should be doing more to encourage the use of enzyme treatment.

Secondly, you still make no allowance for farmers like ourselves, who have never disposed of sheep dip in the life-time of this permit. That should surely be encouraged by perhaps only charging if a discharge is made, with just a small annual fee of say £20 to cover admin if no discharge.

We only maintain our permit as insurance against the possibility of a disease outbreak in our sheep. So far that insurance has probably cost us over £900 Currently the permit system is making a lot of money for you – approx. 600,000 permits @ £153/yr. That should be justified.

1 resposdee

charges should not be levied where volume of dip disposed is less than 3 cubic metres annually. This would allow small operators opportunity to use dips without financial penalty. where small flocks are kept this levy is an unacceptable amount to pay per animal especially where costs in relation to Electronic Identification of sheep (EID) are being introduced...cost of keeping sheep is now rising such that some may cease to keep sheep at all. In the uplands this would have a deleterious effect on the landscape and national indicators of biodiversity and habitat would reduce.

1 resposdee

We need a definition of enzyme-treated dip before we can comment properly. It is difficult to see how a "variation" charge of any amount let alone £75 can be justified. Charging these amounts for sending one invoice a year & occasional inspections seems extortionate.

1 resposdee

The FUW opposes the introduction of a standard permit for the disposal of enzyme-treated sheep dip. The Union considers that these proposals will substantially increase the cost burden on farmers, who are already complying with all relevant legislation and authorisations, whilst also increasing the regulatory requirements despite Governments commitment to reduce red tape and bureaucracy on the industry.

1 resposdee

This enzyme seems to be great product answer to your and our problems. Let's make it easy for farmers to use this product it good for the environment and farmers. Open the doors and remove the barriers and let common sense prevail. Dipping sheep seems to be the only way of controlling sheep scab in sheep, which is endemic in Welsh flocks. On welfare grounds we want this to happen. I have the licence to dip sheep and dispose of what left on a set field on my own farm so lets make it easy and economical for us farmers to use.

1 resposdee

I have just been reading your proposed groundwater charges and I have always wanted to ask the Environment Agency how can you charge us so much? We buy the sheep dip and it is a very expensive product. We dip the sheep and we discharge the sheep dip on our own fields. As far as I can see nearly all the costs are on the farmer.

1 resposdee

We discharge sheep dip on to a specific area of our land and pay a fee for this. I understand from your letter that you intend to charge for changing from our current environmental licence to a permit a fee of £75. I hope this is not correct and think that changes in administration should be absorbed by the agency.

1 resposdee

If our permit requires a £75 migration charge plus £77 annual charge and small volume charge of £153 we would not renew it.

1 resposdee

Very good news for sheep farmers. Yes we will be very happy to use the enzyme after dipping sheep. Making sheep dip safe to dispose of is very important to the environment.

1 resposdee

I think the introduction of a new standard permit is a good idea although again I think the charges seem expensive.

1 resposdee

I deem that the Agency's new proposals are not only going to affect adversely those farmers who are already in possession of disposal licences, but also that the substantial rise in payment for new applicants is wholly unreasonable. I feel that asking those who have a current licence for £75, and who perhaps intend to change to the enzyme-aided means of disposal, is not only unfair, but also counterproductive to the environment's benefit.

My main worry about the proposals is that it's all a negative step in the battle to eliminate sheep scab and ticks from the Welsh flocks. At the moment, dipping's the only effective treatment for ticks. Good husbandry is founded on steps which avoid and reduce problems, and that to the benefit of animals. I believe conscientiously that your proposals are a step towards undermining that principle. I beg you to reconsider!

**Agency Response**

***We note the comments received. It is unlikely that the standard permit will be available immediately as there are some technical difficulties leading to further testing of the product and delays in its availability.***

**3.c Apply Tier 3 Opra-based charges to large solid disposals**1 resposdee

The proposal sounds reasonable.

**Agency Response**

***We have modified this proposal so that large solid disposals will be subject to Tier 2 charges.***

## 4 RADIOACTIVE SUBSTANCE CHARGES

### 4.a Migrate RSR into the Unified Charging Framework, together with the associated charges

#### 1 respondee

Our members have also accepted the proposed technical changes described and the plan to extend the implementation of the Unified Charging Framework by bringing Radioactive Substances and Ground Water into the framework.

#### 1 respondee

In principle we favour a harmonised framework and we support the Agency decision not to introduce compliance-based charges for radioactive substances at this stage. These charges should only be introduced once the second phase of the Environmental Permitting Regime (EPP2) comes into force.

#### 1 respondee

The proposal sounds reasonable.

#### 1 respondee

The new charges as explained in the matrix tables will lead to an increase in charges for the more complex users in the non-nuclear sector, of which HPA is one. The stated objective of a fairer spread of charging between the more complex and the less complex users has merit. I believe that the increases of about 20% for annual subsistence charges for HPA at several of its sites are acceptable. The approach taken to banding users of different complexity appears fairly simple and it is not clear to me that there can be any better alternative. The "7 rooms" threshold for open source users may cause some operational issues of interpretation

#### 1 respondee

Reasonable and Acceptable. However, small users using low levels of radioactivity for research purposes or diagnostic tests will be the losers. In addition small users in Hospitals who currently use Exemption Orders (e.g. Hospitals Exemption Order), will be required to apply for registration if the proposed changes to reduce non-Techneium-99m radionuclides is implemented by the end of 2010.

#### 1 respondee

Our members have also accepted the proposed technical changes described and the plan to extend the implementation of the Unified Charging Framework by bringing Radioactive Substances and Ground Water into the framework.

#### 1 respondee

In principle we favour a harmonised framework and we support the Agency decision not to introduce compliance-based charges for radioactive substances at this stage. These charges should only be introduced once the second phase of the Environmental Permitting Regime (EPP2) comes into force.

#### 1 respondee

The proposal sounds reasonable

#### 1 respondee

seems sensible although the introduction of surrender charges seems to be a means of increasing the overall charges for RSR. These costs were previously absorbed through the subsistence and application charges. We believe the surrender costs should continue to be borne by the application fees and not incurred separately.

#### 1 respondee

No objections. The proposal will have minimal impact on our Operations.

#### 1 respondee

may be some clarification required from the Industry, particularly Non-Nuclear Sectors, as currently for RSR charges different. It's been mooted FSA may be able to recover cost from Non-Nuclear Sector, from a practical point of view, we're not convinced operators in this sector

care for more charges. nothing in Annex A to clarify what charges are for RSR – might be risky to assume operators, regulated under RSR, would know what the charges are after the EPRs come into force. feedback from Thames RPA's Meetings is that the subsistence matrix in Table 1, Annex C might be a little difficult to follow, from what we understand it is designed not just to reflect HASS, but also, "Sources of Similar Risk"

#### 1 respondee

At the Small Users Liaison Group meeting on 18 Nov chaired by Bob Russ (EA), the EA agreed to form a small subgroup with the Association of University Radiation Protection Officers (AURPO) to make new proposals for the charging scheme. It would be inappropriate to comment until the new proposal is produced.

#### 1 respondee

How will storage and disposal of Naturally Occurring Radioactive Materials (NORM) be dealt with? Is the consultation only dealing with sources?

#### 2 respondees

Some combines (particular models of Massey Ferguson) have yield flow meters containing low level radioactive sources. We understand that there are approximately 280 authorisations for combines with yield meters that are covered by the Radioactive Substances Act Regulation. The implications of the changes in the charges are that the proposed annual fee for 2010-2011 is £300 (£282 in 2009/2010).

We note that the level of increases proposed by the Agency for these sources is in the region of some 6 %. Given that the baseline increase for other Agency charges is in 1 % and the consultation paper does not explain, in detail, the reasons for this increase, we seek further reasoned clarity about the justification for the 6 % increase.

We have had discussions with the Agency for a number of years about ways in which to reduce the annual subsistence fee – proposed to go up to £300 in 2010/11. Our concern is that £300 is a substantial sum, given that in addition to Agency inspections, checks are carried out each year on the sealed source by a machinery dealer and that checks are also carried out by the Health and Safety Executive (HSE).

On the proposals to increase the annual fee for those with combine yield flow meters (particular models of Massey Ferguson) containing low level radioactive sources to £300, we still believe that cost savings could be made for both agriculture and the Agency if a more integrated approach to inspections and enforcement were to be adopted, through better information sharing between the Agency and the HSE.

#### 1 respondee

until recently the subsistence fee was justified as RAS inspector visited annually. Now he visits every other year the charge should be reduced accordingly.

#### 1 respondee

There is a lack of clarity on the definition of permit risk level H. 7 rooms of what? No consideration of mobile PET (F18) companies appears to have been made. It is not clear where sites with mobile closed and other closed source permits stand. Some veterinary practice may fall under EO's – if this does not take effect in 2010 charges for one particular vet practice (Tc99m scintigraphy using low activities and a gamma probe) appears disproportionate. The charges in Tables 1 and 4 do not appear to combine in a consistent manner. If a site has a HASS permit and a general open and authorisation (D and G risk) - table 1 suggests a charge of £3330. Table 4 suggests charges of 1450+1450 i.e. £2900.

#### 1 respondee

your ea Opra guidance (which is not part of the charging consultation as far as I can make out) is quite clear on the 7 rooms, the piece below is taken from the guidance on the EA website, if Opra & charging merge how will 2 systems operate unless the Opra rules are then changed, if the 7 rooms is to go as a consequence of the charging consultation.

1 resposdee

Comments as above – it seems to us that ‘low impact’ low risk small users such as Universities are very unreasonably financially penalised by the proposals as they stand. We anticipate that application fees for our ‘low impact’ radioactive authorisations for our sites will rise from £2061 currently to £3650 due to each ‘Site’ having more than seven locations– hardly a reduction in charge! This ‘high risk’ categorisation because work is carried out in > 7 rooms is not relevant to the work of most small users of radioactivity - deemed ‘high risk’ simply because of number of rooms they use, rather than ‘actual ‘risk’ posed by the limited activities of radioactive substances actually used.

The ‘High Risk’ formula based on number of rooms, with very small uses of radioactive substances, is not a genuine risk based approach, it would appear to be an attempt to recover inspection costs, on the dubious basis that all such small-use rooms have to be visited!

1 resposdee

RAS: feel there is a need for greater transparency in derivation of costs and important that decision re targeting of agency resources are transparent to operators. We are keen to discuss with EA recovery of costs associated with NDA engagement

1 resposdee

The scheme devised to do this has been ill thought out. It does not follow the basic principles of Environmental Permitting in that it is not risk based or proportionate. It is in fact even worse because it could misinform the public and give the impression that a lot of low risk work carried out in universities, research centres and hospitals was ‘high risk’.

The proposals for migrating RSR to the Unified Charging Framework should therefore be postponed until a proper risk assessment is undertaken and a risk-based proportionate system is put forward that can be justified and command some respect from the user community.

Basing a charging scheme on the number of rooms used without thought to what a room is (anything from a toilet to a whole factory floor?) and without reference to the scale of activities within the rooms is unacceptable.

1 resposdee

This proposal has eliminated the background of good science and quantitative reasoning behind radiation/environmental protection legislation. The well-established principles of risk and proportionality seem to have been bypassed to produce a simplistic scheme that is devoid of a supporting logical/scientific basis. A scheme that proposes ‘the number of rooms’ on a premise as a yardstick of risk and complexity has patently not been assessed by anyone who understands the complexities of the work. If this is being introduced to recover costs from RSA, that should be stated unequivocally.

I disagree with your definition of risk and complexity. Complexity and the 7 room threshold yardstick? What evidence has been produced to substantiate this? Complexity alone cannot be a yardstick of risk: you may have a complex operation but if it is effectively managed and controlled [and can demonstrate this to the regulator] then a low risk banding may be considered appropriate. The majority of the staff here at NIBSC who use radioactivity do so in small amounts over a number of laboratories spread throughout the Institute. Some techniques are complex, but are carefully documented with quality controlled, safety managed, risk assessed methodology. There is less risk from this than had they been concentrated in a smaller area, working in close proximity to each other, possibly creating more risk from contamination of staff, samples & overcrowding!

What is perhaps most worrying about these proposals is their potential for misunderstanding and misinterpretation in the public/non-scientific domain. The fact that they are not founded on good science or can only serve to further cloud the already murky issue of public perception and understanding of radiological risks. Will a substantive consultation process be held on this issue?

The university sector [represented by Trevor Moseley] has produced a proposed alternative OPRA charge banding mechanism for both sealed sources and non-sealed work that does try

to use established methodology [ACPO Security Guidance A/D values, Annual Disposal Limits/Reporting Threshold Criteria etc] to provide underpinning rigour. As a member of PIRSDG I would like to strongly encourage the EA to discard its existing proposals and work along these lines to produce a charging scheme that is fair, proportional, transparent and based on some sort of scientific logic.

#### 1 respondee

My building has more than 7 (9 small) labs working with Radioisotopes which makes this a "High Risk" site. Despite the fact that my compliance has been very good (no notices or issues for my tenure of 6 years) and that my environmental impact is negligible. Take a separate facility that has 6 labs, lot's of workers, more workers, more activity possibly a higher environmental impact and less control then they pay less. I get one visit per year from the EA that will cover HASS and open source (lasts about 2-3 hours at the most) where is the justification for the expense in relation to other higher risk facilities. Use of the words "High Risk" is wholly inappropriate for our open source use as it is for our HASS. Calling things high risk based solely on the activity present could send a very misleading image to the general public. A blood irradiator containing a HASS source is a very low risk piece of kit. When it comes to open source work since when has complexity had anything to do with the number of labs used? EPP is supposed to be proportionate and risk based yet there is no logic or science behind the EA's risk assessments and they are not based upon any potential outcomes. It is more a case of - we need to charge a bit more for this one so we will call

#### 1 respondee

Can you please explain exactly what the '7 rooms' criteria in band H for open sources refers to? If it refers to the use of any radionuclide, then virtually every university and research institution in the country will be classed as band H for open sources...At the simplest level, if we were working with a total of just under 1GBq Tritium in seven labs, we would be classed as band H (so-called 'High Risk'). It would be nothing of the sort – under 1GBq would not require notification to HSE under IRR99, would be BRT under the PI scheme so HSE and EA would regard the risk and discharges as trivial, respectively. Clearly, 'Risk' is being seriously misused in this context and should not be used as a quantifier. If such a classification scheme was in the public domain, then it is certainly going to very seriously 'misinform' the general public as to the actual 'risks' associated with much of our work. It is certainly only going to exacerbate the 'Public Perception' issues which we struggle with every day.

I would guess that you are trying to cover the resources expended in regulatory visits to organisations who have their radiation work spread over a number of rooms (complexity). However, this can not – and should not - be correlated with 'Risk'. The proposed scheme also flies in the face of a very useful meeting that a number of us had with the EA in Birmingham several years ago. The outcome of which was general agreement on risk-proportional regulatory effort – meeting an agreed RS management standard was one proposal discussed at some length. Basically, if an organisation (no matter how complex, irrespective of quantities used) could demonstrate an effective and robust RS management system, then regulatory effort (frequency/depth of inspections) would be reduced – with a corresponding reduction in regulatory costs = reduction in subsistence charges. This is a true risk-based scheme – the one currently proposed is no such thing. What rubs salt into the wound is the 'average 1%' increase cited in the preamble. For the largest institute that I support, the proposed scheme would mean an increase in subsistence charge from £1,718 to £3,330 – an increase of 94%

#### 1 respondee

The University of York fundamentally disagrees with the proposed charging scheme; it is neither risk based nor proportionate. Under the proposed charging scheme, the University's work with open sources is classed as high risk because the work is carried out in more than seven rooms. Basing the on source permit type H (high risk) on the number of rooms is not acceptable and does not represent the actual level of risk associated with the work.

Under the proposed charging scheme, The University of York's annual subsistence charge for 2010/2011 will see an increase of 17% which is not consistent with the proposed baseline increase of 1%.

1 respondee

The current proposed charging scheme is not risk based or proportionate and it does not follow the general scheme for OPRA. The proposals should be withdrawn.

In the non-nuclear RSR OPRA scheme it is described as 'Tier 2 OPRA'. Tier 2 OPRA is described in the main scheme as being for low – medium risk activities but the RSR scheme talks about some activities being 'high risk'. The description of low risk activities as 'high risk' in this charging scheme is most disturbing and could be very confusing for the general public and create entirely the wrong impression.

In the Environmental Permitting Core Guidance (Draft May 2009 clause 1.10) the Secretary of State expects regulators to apply the regulations in proportion to the environmental risk. The non-nuclear RSR OPRA does not seriously address the question of radiation risk or environmental risk. The Agency appear to have fitted their permitting bands to the existing licensing structure rather than creating permitting bands based on risk assessments and then restructuring the licences accordingly. The Agency has just looked at what it does at present with regards to regulatory effort for different types of licence rather than using this opportunity to assess the risk of different activities and readdress the regulatory effort proportionately. This linking of regulatory effort to environmental risk, a core objective of EPR, has therefore not been addressed. I will look first at sealed sources to see how the 'tier 2 OPRA' could have been better applied.

Use of Sealed Sources - The scheme has created 4 bands into which existing sealed source registrations have been fitted. These have been described as ranging from 'very low risk' to 'high risk'. The bands should be more accurately described as from very low activity to high activity. It does not take much activity to get into the current top band so that the top band is extremely wide and the bands below are very narrow. Because the HASS rating is based upon a fraction of a transport category (A1/100) whereas the CAT 5 rating is based upon IAEA Source Categorisation some serious anomalies are created.

For example if we consider Sr-90. A/D limit for standard permit for Cat 5 is 0.01 and this equates to 10GBq for Sr-90. One might think therefore that this would be described as a 'very low risk source' (OPRA band

1). However, the HASS threshold for Sr-90 is 3GBq, so a 3GBq Sr-90 source is described as a 'high risk source' (OPRA band 4). Where is the logic in this? Where is the proportionality? A low activity Sr-90 source is caught up in the HASS categorisation yet according to the IAEA categorisation of sources is not a dangerous source. Having a licence with this source on it results in the highest charge band, but the same charge band would be applied to someone who had a 2000TBq Co-60 irradiator. Proportionality?

It would make much more sense to band sealed sources using the IAEA Source Categorisation model that is used for source security. This is proportional and is already well established. All premises already know which band they fall within. There would be five bands as follows:

Band A	A/D	<0.01 , Security Group A (equivalent to existing Cat 5)
Band B	A/D	0.01- 1, Security Group B
Band C	A/D	1-10, Security Group C
Band D	A/D	10-1000, Security Group C
Band E	A/D	>1000, Security Group D

Aggregation of A/D values for all the sources on a site should be undertaken to establish the A/D value that is used for fitting into the above model (this is the same system that is used in determining the security grouping under the NaCTSO Guide).

Use of Unsealed Sources - The scheme suggested has created 4 bands with arbitrary dividing lines between the bands which bear no relation to the environmental or radiation risk posed by the radionuclides being used or disposed of. Once again these have been described as ranging from 'very low risk' to 'high risk'. The bands should be more accurately described as from very low activity to high activity. It does not take much activity to get into the top band so that the top

band is extremely wide and the bands below are very narrow Many users will therefore fall under the 'high risk' category for activities that will have minimal risk.

For example If you considered an establishment that just used tritium in a dozen labs and the activity on the premises was less than 1GBq in total it would be exempt from notification under IRR99 and it would be exempt from PI reporting or be BRT. So the HSE acknowledge that the risk is trivial and less than a nominal 10uSv/y and the BRT levels of discharges mean that the EA acknowledge that the disposals are trivial and less than 1uSv/y. However under the charging scheme this is a 'high risk activity ' carried out on a highly complex site and warrants a band H permit. This is clearly ridiculous, is not remotely risk based and should fail any test of proportionality.

#### ***Agency Response***

***We note the comments received. We have been working with the University sector and jointly developed an agreed, modified approach.***

#### **4.b New application charge based on time and materials for high volume, very low level radioactive waste**

##### 3 respondees

We fully support a risk-based approach./ Reasonable / Seems fair to charge for the resource used providing the fees a reasonable.

##### 1 respondee

For Nuclear Licensed Sector, Inspector's Time and Materials form part of the recoverable fees (from which we recover some of our costs). Currently, HV VLLW not a disposal pathway permitted for the Non-Licensed Sector. We've been consulted recently on a few landfill permits that have applied to receive HV VLLW Decommissioning Wastes from the Nuclear Sector on whom this change may impact.

##### 1 respondee

We disagree with this approach as it appears to distinguish VLLW as very much more hazardous than chemical contaminants. This will push up the cost of this disposal route which is not the intention of the change in policy. Perhaps an additional complexity charge to the OPRA scheme is required and a landfill could have an integrated EPR/RSA permit.

##### 1 respondee

Low level radioactive waste is a problem waiting for a solution. Charging regimes that discourage organisations from developing solutions for disposal of NORM are not desirable.

##### 1 respondee

Fair enough .Why only 2 questions on this section? Why the surrender charge for users if they have done all the work and provided evidence that the site is free from environmental contamination? Sometimes this can be very straightforward if very short half-life radionuclides have been used as decay can deal with everything very effectively. A site visit would then not be necessary. If an institution had a good compliance record then a good clearance report should be all that is required.

#### ***Agency Response***

***We welcome the support for this proposal and note the adverse comments.***

#### **5 PROPOSED TECHNICAL CHANGES TO EU ETS**

##### **5.a Introduce a new charge for Aviator Operators in line with the current suite of charges in place for ETS**

##### 1 respondee

This seems to make sense

1 respoondee

However it would be desirable to have a charging system for permits that rewards companies for making environmental improvements.

1 respoondee

That subsistence charges for EUETS seem out of proportion to the work required and should take into account the considerable financial income of government in sale and auction of allowances for the same

1 respoondee

Page 4 and Invitation to Consultees section (Page 11) there should be a reference to formal approval being requested from DECC as well as Defra.

References to the EA commencing regulation of the Aviation sector should be 17 September 2009 in both the main document and the EU ETS Annex.

The EA proposal to increase charges by 1.0% percent (below inflation but in recognition of the current economic climate) notes that efficiency savings will need to be made in order to make this workable. We need the EAs assurance that their ability to robustly regulate the EU ETS will not be adversely affected by what appears to be a reduction in charging income in real terms.

We also need EA assurance that they will have sufficient funding to cover the additional responsibilities we intend to hand to them.

On the IT front we need assurance that they will have sufficient funding for the IT that underpins the EU ETS, in particular ET SWAP. This needs to be in place in 2010 to start operation in 2011. This is particularly important given the extension of the EU ETS to include aviation. There will need to be further operational IT development to prepare for Phase III of the EU ETS. The reference to "Aviators" in the EU ETS Annex should be replace with "Aviation Operators".

It would be helpful if the tables in the EU ETS Annex could be accompanied by some explanatory text. For example it might be helpful if the various charging bands were explained. It might also be helpful if there was some explanation of what the various charges are for. For example, should there be a description of what "subsistence" covers? It should be made clear that the table of charges is just for core ETS – Aviation charges are not noted here.

***Agency Response:***

*DECC will be part of the write-round to Ministers but final say will come from Defra September was the start of the window (set in the first set of regulations) when operators had to submit applications for emission plans. [The charges referred to in our con doc relate to the start of subsistence activities but now this is delayed until SI2 is in force which will probably be in July 2010]*

*The ETSWAP project is currently progressing for a delivery in 2011. There are no funding concerns at the moment although final costs are not yet fixed.*

*The bands could state the emissions that they relate to as well as just "A, B and C" for clarity.*