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## Proposed Environment Agency Charges for 2010-2011

The National Farmers' Union (NFU) welcomes the opportunity to comment on the Environment Agency's consultation on its proposed charges for the period 2010-2011. The NFU represents some 55,000 farm businesses in England and Wales involving an estimated 155,000 farmers, managers and partners in the business. Our members are involved in many activities covered by the Agency's regulatory regimes and many will be affected by the Agency's proposals.

### Points of principle

We have very strong concerns about the Environment Agency's proposed charge increases which will mean substantial changes and price increases for many farmers and growers at a time when, like any industry, they can ill afford them.

Our most significant concerns are with the Agency's proposals to introduce new charges for standard permits that were previously notifiable exemptions and the proposals to amend the groundwater authorisation charges.

- There is a fear that small-scale, commercial on-farm composting units will not be able to sustain the increase in charges and that these could ultimately drive them out of business. Charges for spreading beneficial materials, such as compost, could amount to thousands of pounds for some farmers. This goes completely against government policies which are supposed to be encouraging the addition of organic matter to farm soils.
- We are also concerned about the higher charges for on-farm Anaerobic Digestion plants despite the government assurances that it is keen to encourage farmers to use on-farm inputs to reduce emissions and produce green, clean energy.
- We are also deeply concerned that the proposed charges for the new groundwater authorisation, which recognises the environmental benefit of treating sheep dip, but does not reflect the Agency's commitment to provide a worthwhile financial incentive to farmers and could discourage farmers from treating their dip in this way.

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.

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.

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.

On changes to the abstraction charges, our main concerns rest with the intention to propose a 10 % maximum increase in the Standard Unit Charge and Environmental Improvement Unit Charge (EIUC). The EIUC element is theoretically raised to compensate abstractors disadvantaged by licence variation or cessation to allow for the protection of important habitats but the Agency has provided very little data to justify the charges. Greater transparency is needed before we can accept the changes to the charges being proposed.

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. We have raised this issue several times before and in our latest correspondence with the Agency we understand that although better information sharing and efficiencies could be achieved, the Agency believes that this would not result in a reduction to the charge. If efficiencies are made, we strongly believe that these should be acknowledged by the Agency and passed back to operators.

Further detail on each of our points of principle is set out below.

### **1 % increase in baseline charges**

In these difficult times any increase in charges is not well-received. Despite reports of 'green shoots' of recovery emerging in the economy, we are very aware of a number of potential economic uncertainties for agricultural businesses in the near future, including the impact of long-term lending policies by banks but also the resulting impact on food manufacturers and possible changes to demand.

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 then seeks to recoup these funds. We would expect the Agency to look to its own costs savings and efficiency measures limit future charge increases.

Greater transparency is needed in how the Agency derives its charges but it must also be more transparent about the opportunities that it has explored in its efforts to reduce its costs before passing these onto its charge payers.

### **Environmental Permitting charging scheme**

#### Proposed charges for standard permits

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.

The WRAP/AFOR 2007/2008 survey on the State of Composting and Biological Treatment in the UK showed on-farm enterprises to represent around 30% of composting sites across the UK. The data shows that collectively, on-farm sites dealt with over 10% of the overall organic waste processed each year. Around 20% of composting companies surveyed considered their main business activity to be agricultural activities. In the same survey conducted in 2005/2006, a third of sites were described as "Farm Sites" while a large proportion of 'Dedicated Composting Sites' were actually located on farms but were classified by their operators as "Dedicated Composting Sites" because they operated independently of the farm business.

These figures highlight how the farm sector is crucial to the processing of society's biodegradable waste. Although the on-farm composting sector is mostly composed of small and numerous sites, they play an important role in those rural and semi-rural districts to which they are particularly suited.

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 led 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.

Typically, an on farm composting site which is limited to 500 tonnes at any one time is likely to be able to process two to three batches of material per year (1000 – 1,500 tonnes per annum). The proposed charges will mean such operators will be facing an average cost over the first two years of 79p/tonne as opposed to a site which is able to process up to 30,000 tonnes per year yet incurs a cost of 7p/tonne.

As this example illustrates, the charges proposed here together with the other associated permit costs (infrastructure investment, technical competence costs) will mean the majority of these smaller on-farm sites will become uneconomical to operate and many will likely be driven out of business. Any fees should better reflect the level of risk posed by the activities which should surely be more closely linked to the tonnages involved.

A fact that sadly tends to be overlooked is how such smaller, local farm operations can make a crucial contribution to a sustainable rural economy. On-farm composting units provide recycling facilities close to the source of the waste. The use of compost on that same farm supports the "proximity principle" – saving on energy usage and transport costs and thereby minimising carbon emissions as the resulting compost does not have to be trucked long distances to its place of use. In recent years, smaller farm businesses have struggled to achieve sufficient income from traditional commodity production, and on-farm composting has become a viable diversification option for some farms. Indeed, in certain cases it has proved to be an economic lifeline – bringing in vital additional revenue, helping to utilise otherwise redundant farm labour and substituting for artificial fertilisers and inputs. For all these reasons the

sector needs to be encouraged and supported, not driven out of business by excessive regulatory costs.

We have similar concerns about the impact of the proposed charges on the ability of those same on-farm sites to spread the resultant compost on their farmland and the effect the charges will have on the beneficial practice of spreading organic materials to land in general.

Data from the WRAP/AFOR Market Study of the UK Organics Recycling Industry 2007/2008 clearly showed that agriculture and horticulture was the main market sector for compost with almost 1.3 million tonnes supplied to the sector that year. Agriculture is the largest growth sector for the composting industry, having more than doubled over the past five years.

Up till now, a good number of these farming businesses have been able to spread organic materials to land under notifiable exemptions such as the Paragraph 7 exemption for land-spreading. While we have always considered the fees associated with this exemption to be high they have nevertheless been pitched at a level which still makes it economically viable and worthwhile to carry out (Application Fee: £575, Annual Renewal Fee: £434). It is proposed that the charges for the equivalent standard permit that will replace the Paragraph 7 exemption (SR2009no9) will be £700 application together with a subsistence fee for 'deployment' which could range from £400 - £760. This means for instance that a farmer spreading compost twice in a year will have to pay fees of over £1500 of spreading fees compared to a Paragraph 7 renewal fee of £434 per year.

If we look at the scenario of a farmer operating a small scale on-farm composting site and holding one Paragraph 7 exemption for spreading the resultant compost, this would mean costs would rise from £434 annually to £3,810 for the first year and £1,520 annually thereafter. This represents a huge increase upon the current fees.

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:

When consulting on its most recent Soil Strategy for England, Defra clearly stated "recycling to land and decomposition in the soil represents the best practical environmental option in most circumstances for many organic materials as it effectively closes the carbon loop, returning organic matter to soil from which it was derived" and that its soil policies should "ensure there is clear encouragement to recycle organic materials, such as composts, to land at application rates and times that deliver improvements in soil quality and agricultural sustainability";

As part of the cross compliance requirements in the government's Single Payment Scheme farmers must maintain their land in "Good Agricultural and Environmental Condition (GAEC)" and draw up "Soil Protection Reviews" so that problems such as soil erosion are addressed. Cross compliance guidance states "Preventing soil eroding from fields and maintaining soil organic matter and a good structure are central to your responsibility for meeting the soil standards of GAEC". The Soil Protection Review actively encourages farmers to "Apply farmyard manure or other bulky organic manures such as green waste compost";

The Government's own Waste Resources Action Programme (WRAP) has been funded to the tune of around £70million per year to develop markets for organic materials such as digestates and composts.

For example, a small-scale on-farm site might produce around 600 tonnes of compost a year. At current fertiliser prices this might equate to a nutrient value of around £4,000 - £5,000. Yet if one considers the proposed permit fees together with the associated analysis tests, costs of preparing a

FACTS-certified agricultural benefit statement together with the compost spreading costs, it would seem that it might be better for the farm to buy in artificial nutrients instead.

The NFU fully supports the concept of the BSI PAS100 Standard for compost and has been closely involved in the development of the corresponding Quality Protocol that effectively removes the 'waste' status of PAS100 compost. Yet it must be recognised that the costs of becoming accredited to PAS100 do not make business sense for those composting relatively small tonnages purely for use only on their own land. There must therefore be a viable alternative for the sizeable proportion of organic material which will not be accredited to PAS100 standard. We feel that the proposed charges are such a radical departure from those associated with the current Paragraph 7 exemption that there is a risk it will not leave any economically viable route for the use of non-Pas100 accredited compost material.

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.

One way to begin developing more proportionate costs could be to explore the opportunity for 'consolidated permits'. For instance, where several individual permits cover a sequence of associated activities we feel that it would be logical, simpler and more cost-efficient – both in terms of assessment and regulatory costs and operator costs – to look at developing an additional option for consolidated permits. For example, many on-farm composters spreading the resulting finished compost at the same site of production will need to hold both standard permit SR2009No19 (Composting) and SR2009No9 (Land-spreading). While we understand the permits are very different from each other and cover different activities there could be cost and admin savings from integrated assessment, processing and inspection. The Agency should also explore the possibility of charging a reduced fee for landspreading for cases of multiple notifications made on the same date and in the same vicinity (i.e. one single farming holding). This could reduce regulatory costs which could be passed back to the operator through reduced permit fees.

In summary, waste and its management are important issues. We must encourage recycling and recovery of waste where appropriate through providing sufficient financial incentive. However some of the costs proposed in this consultation may have the perverse environmental impact of sending more waste material to landfill since for many businesses this may be an easier and more cost-effective option than applying for an environmental permit.

Before implementing any changes, the NFU requests that Defra and the Agency commission a full financial impact assessment investigating the costs and likely effects that the introduction of the new standard permits and associated fees would have on smaller-scale operators – particularly the on-farm sector.

We feel these proposals do not reflect the Agency's commitment to light touch regulation and to encourage low carbon technologies. The EPP Programme is being loudly and proudly proclaimed as an exemplar of modern thinking, better regulation. Modern regulation should enable good environmental outcomes not hamper them. Unfortunately, in this case, we cannot help feel that these proposals do just that.

### **IPPC charges for pig and poultry units**

## **The voice of British farming**

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We are pleased and welcome the delay in the introduction of compliance ratings to charges until April 2011. Our concern has always been that producers need as much information as possible about how the Agency intends to allocate compliance scores to determine future charges well in advance of any assessments or inspections taking place. What is critical is that the Agency shares with us any data on the range of compliance scores so far, but also any information on how it intends to inform producers in advance of the implementation of any new compliance rating scheme. As the new inspection year begins in early January, this information needs to be shared with the industry as soon as possible.

The industry and the Agency has been in discussions for a number of years about the role of assurance schemes and whether there is a potential for these schemes to help reduce the costs of the subsistence fee. We understand that initial pilot work investigating this potential is still being evaluated by the Agency, but as the potential for the pig and poultry sectors to gain financially from the introduction of a new scheme is significant our preference is for the Agency to press ahead with plans to progress discussions on the potential benefits. The initial work on scoping the potential of assurance schemes to play a role was initiated in December 2006 with the intention that, if workable, the scheme would be in place by April 2008. Given the timetable is already delayed, clear plans and a direction for this work are urgently needed.

We strongly disagree with the Agency proposals to charge for pre-application advice for standard permits after the first hour. Our understanding is that the Agency provides some 15 hours of free pre-application advice (and the costs of providing this service is included within the current application fees). Allowing producers to access this advice should ease 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. If the Agency does withdraw this service it should review and subsequently reduce the application fee costs for producers.

## **Charges for Groundwater discharges**

### Background

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.

During summer 2009 the NFU was approached jointly by the Agency and Defra with an invitation to withdraw its opposition to the inclusion of Groundwater Authorisations in EPR. The invitation was based on the acceptance by the Agency and Defra of the NFU's analysis that there had indeed been no business case for inclusion of groundwater authorisations - as the position stood at the time of the original consultation - but that changes to the charges for groundwater authorisations would create a situation where a business case for the move would be created. Following high level contacts and reassurances between the Chief Executives of the NFU and Agency, the NFU did withdraw its objection on the basis that the charging would be such as to create the business case for the move which had previously been absent.

### The proposed charges

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).

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.

As well as failing to deliver the Agency's commitment to the farming community, the current proposed charges are seriously unimaginative and create perverse incentives. The structure and level of the charges provide increasingly less incentive and potentially increasing financial penalties for farmers using greater quantities of sheep dip, and most incentive for those using least. This is the opposite of a desirable and rational approach to encouraging environmental protection.

We also strongly oppose the introduction of a charge for migration from a current permit to a standard one. This is to put an obstacle in the way in which all parties wish to encourage farmers to go, and to reduce or eliminate the business case for making the change. We also consider that there should be no obstacle, such as a charge, for migrating from a standard permit to a bespoke one. Farmers must be free to move back to a conventional permit in the event that enzymes become unavailable or the cost is escalated unreasonably by the sole supplier. It will be a discouragement for farmers from moving to a standard permit in the first place if they cannot easily move back to the conventional one.

The Agency must be very conscious of the pricing power it is handing to the sole supplier of the enzyme product in creating a permit around a single product. We would wish to discuss with the Agency the steps it intends to take to protect users of its standard permit from exploitation.

### Conclusion

The current proposals are likely to discourage the uptake of the new permit by the most significant sheep farmers. They are poorly structured, provide perverse incentives and most seriously fail to honour the commitment made by the Agency to the farming community to introduce charges which ensure there is a business case for the uptake of the new permit under the Environmental Permitting Regulations. We urge the Agency to engage constructively with the industry to support rather than penalise its efforts to encourage environmental protection.

### **Abstraction charges**

Our main concerns rest with the Environmental Improvement Unit Charge (EIUC). These increases are theoretically raised to compensate abstractors disadvantage by licence variation or cessation to allow for the protection of important habitats. Our view has always been that costs associated with the protection and improvement of nationally and internationally important environmental assets should be recovered from the public purse, and not from abstractors through charges. We support the conservation and enhancement of the environment but we do not believe that it is fair or justified to recover the costs of enhancing the environment from abstractors.

We understand, from recent discussions with the Agency, that the intention to propose a 10 % maximum increase in the Standard Unit Charge and EIUC. The EIUC element is theoretically raised to compensate abstractors disadvantaged by licence variation or cessation to allow for the protection of important habitats but the Agency has provided very little data to justify the charges. Greater transparency is needed before we can accept the changes to the charges being proposed. Further, the review of consents – the mechanism by which some licences may be adversely affected thereby requiring compensation – is still not complete. It follows that the estimate of how much charge must be raised to pay for this exercise must have a huge margin of error and that we believe that it is unfair to financially penalize all abstractors based on guesswork about the size of funds that will need to be raised. We fear that costs will fall disproportionately on small businesses.

Although we are pleased that the Agency appears to be listening to the concerns of charge payers in limiting potential baseline increases but we would like some reassurance that abstractors will not be penalised in future years if the Agency then seeks to recoup these funds. We would expect the Agency to look to its own costs savings and efficiency measures limit future charge increases. The Agency has presumably saved costs centralized its licensing service to abstractors. We believe that these cost savings should be passed onto farmers.

### **Radioactive Substances (Act) Regulation charges**

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).

We have always thought that real 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. We have raised this issue several times before and in our latest correspondence with the Agency we understand that although better information sharing and efficiencies could be achieved, the Agency believes that this would not result in a reduction to the charge. If efficiencies are made, we believe that these should be acknowledged by the Agency and passed back to operators.

### **Additional points**

Advertising costs. We have some additional points to make on advertising charges. A number of producers have raised concerns about the cost of this with us. We understand that a £500 charge is levied to producers where the Agency must advertise a permit application before making a determination. We request greater transparency on how this £500 cost is derived. This is more than many would expect to pay.

A template advert – agreed between the Agency and industry – would be useful and may help minimise the costs of advertising. In our experience it is size of the advert that contributes to the costs and really should only require the minimum amount of information to be included.

Further potential to reduce the costs for operators. As well as offering the facility to make split payments or payments by installments, we believe that the Agency should also look to offering discounts for full up-front payments of annual charges.