



**Cyfoeth
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**Natural
Resources**
Wales

Consultation on Materials Facilities Charges 2014 Summary of Consultation Responses

Rev No

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1. INTRODUCTION

Natural Resources Wales has powers under legislation to recover the costs of some of its services. Under these powers, people and organisations that require an environmental permit or specific services pay for the cost of the service, rather than it being funded from general taxation.

We consulted on charging for the monitoring of certain Materials Facilities following a recent amendment to the Environmental Permitting (England and Wales)(Amendment) Regulations 2014.

We used the National Resources Wales web page to run the public consultation which in line with the government's revised consultation principles ran for 8 weeks from 9 April to 3 June 2014. Throughout the consultation period the consultation document and response form were available on our website. These pages are available to view at:

We also e-mailed interested parties to notify them about the link to the document and the closing date together with all the available information on the web via government websites and the WRAP website. The web page indicated to consultees to submit their comments by e-mail or in writing.

We received a total of 4 responses; a list of respondents is available in Appendix 1.

Our proposals

At the time of vesting in April 2013, Natural Resources Wales took the decision to continue to charge in line with the Environment Agency's charging scheme for most of its work in regulating businesses in Wales until March 2015.

For 2014/15 our consultation on charges was based solely on the need to introduce new fees and charges to cover the additional work required to implement Schedule 9A of The Environmental Permitting (England and Wales) (Amendment) Regulations 2014 covering additional regulations for material facilities.

The regulations affect approximately 30 existing waste permit holders in Wales. Operators are required to sample, record and report on a quarterly basis by electronic methods. The role of Natural Resources Wales is to conduct inspections to assess the robustness of an operators reporting process.

The charge proposed in this consultation, is to cover the expected regulatory costs of a planned annual inspection, an unplanned annual inspection and to take any follow up action with operators who need help with compliance. This is in line with the requirements of the regulations. The charge also funds management of operators' reported data.

Details of our proposals are given in **Section 2**. Details of the responses received are given in **Appendix 1**, together with a summary of our comments. Our comments to responses to our proposed addition to the EP Charging Scheme are given in **Appendix 2**.

2. Environment Protection Charges

The introduction of new regulatory requirements for materials facilities in Schedule 9A of The Environmental Permitting (England and Wales) (Amendment) Regulations 2014 requires us to deliver a significantly different type of regulation for these facilities from the normal environmental regulation focussing on prevention of local environmental damage.

The new requirements are for us to replace the external third party audit of the accuracy of the data on materials quality, originally proposed by government in their consultation paper published in January 2013, **Environmental Permitting Consultation on draft Materials Recovery Facility (MRF) Regulations for insertion into Environmental Permitting (England and Wales) (Amendment) Regulations 2013** available from the .gov website, through our regulatory activity. It was felt by the waste industry in their response to the government consultation paper that the audit should be provided by the regulator instead of a third party. It was recognised by government and the waste industry trade body that this would be a significant additional piece of work for the regulator and, in principle, supported the proposition that we would raise an additional charge within the fees and charges scheme for material facilities as defined in these regulations.

The charges are built on the basis of the time required to deliver the necessary analysis of the data provided by the operator in data returns required by these regulations and audit of the data including the data held by the operator that is summarised in their quarterly return. This activity would be provided through additional visits to the MF facilities focussing on the data supplied in the waste returns on the materials quality reported for input mixed materials and exported separated materials streams, and the sampling and materials composition analysis methods and systems installed by the facility operators. This regulatory activity is designed to specifically meet the requirements for validation of the data supplied to the regulator which will be made publically available.

We will monitor closely our income versus expenditure on a regime by regime basis, using efficiency savings to offset costs pressures where possible.

Questions in consultation paper.

Question 1: Do you feel that you have enough information to understand whether you qualify under this new requirement?

Question 2: Do you support our proposal to recover our regulatory costs by charging applicable facilities at £2,065?

Question 3: When business has had a chance to embed the reporting arrangements, would you support more targeted inspections and charges in future?

Question 4: Would you support integration of future charges for MF regulations within a wider charging scheme for Environmental Permitting?

We would consult on any such changes.

Summary of Proposed Changes

The additional Material Facility charge would be levied annually at a rate of £2,065 per annum. It has been set at a level to recover our regulatory costs which we expect to include:

- One pre-arranged inspection
- One unannounced inspection per year for each site as a minimum

The visits would check operator systems for sampling, measuring and recording material quality for waste inputs and outputs to ensure reported data is representative. We have also made a provision for managing operators' reported data.

We would also expect to carry out further visits to those sites that we consider non-compliant.

This proposal received 2 negative and 2 supportive responses.

3. NEXT STEPS

Responses to this consultation are integral to the submission to government for approval of our addition to the charging schemes for 2014-15. If approved our charging schemes and guidance will be published on our website and will take effect from 1 October 2014. In the first year of charging, invoices will be issued during October 2014, relating to the period ending 31 March 2015. The charge will be at a reduced rate (£1,035) to reflect the regulations coming into effect half way through the year. From April 2015, we will charge at the full annual rate applicable, currently proposed to be £2,065. Welsh Government will need to review the responses to this consultation.

Appendix 1

SUMMARY OF RESPONSES TO OUR PROPOSALS

We wished to ensure that as far as possible all parties likely to be affected were aware of our proposals, we therefore in addition to our normal arrangements of alerting key stakeholders of the launch of the consultation we undertook targeted mail shots to around 35 permit holders that we thought might be affected by this proposal.

We received 4 responses in total, 2 from facility operators, 1 from a Wales sustainability organisation and 1 from the Wales branch of the waste and resources professional institution. It would be fair to note that the responses were broadly split 50:50 between supportive and negative.

ANALYSIS OF RESPONSES TO NATURAL RESOURCES WALES MATERIALS FACILITIES CHARGES PROPOSALS 2014

Responses	Positive	Don't know	Not applicable	Negative
Question 1	3			1
Question 2	2			2
Question 3	2	1		1
Question 4	2			2

ANALYSIS OF RESPONSES TO THE CHARGING QUESTION.

	Positive	Negative	%
Principle and level of charges	2	2	50%

The results were equivocal with a 50:50 split in the responses but we do need to have this additional regulatory requirement funded in some way either through fees and charges or grant in aid.

LISTING OF CONSULTEES WHO RESPONDED TO THE NATURAL RESOURCES WALES MATERIALS FACILITIES CHARGES 2014 CONSULTATION.

Organisation	Understanding	Charges	increased targeted inspections	integration into wider EP charging scheme
C B Environmental Ltd	✓	✓	✓	✓
Sustainable Wales	✓	✓	✓	✓
Potters Waste Management	✓	✓	✓	✓
CIWM Cymru Wales Centre	✓	✓	✓	✓

Appendix 2

NATURAL RESOURCES WALES COMMENTS ON RESPONSES TO OUR PROPOSED CHANGES TO THE ENVIRONMENTAL PERMITTING (EP) CHARGING SCHEME

Of the responses to **question 1** only one of the respondents felt that there had been insufficient information to understand whether they qualify under this new requirement and had needed to check the regulations and guidance published by government to fully understand the regulatory requirements. Two responses pointed out that the text boxes appeared incomplete. The latter problem had been caused by an administrative issue and we will ensure that the diagram is published in its complete form on our web page on these regulations in due course.

Question 2 regarding the introduction of a new subsistence charge to be applied to material facilities as defined in the regulations. The level of the fee was controversial; however two respondents were supportive of the principle of the charges. Two respondents felt that there should be variation in the charges according to the size of site and numbers of input and output waste flows requiring sampling at sites. We examined this as a potential option for constructing the charge base but concluded that the variation in regulatory effort required between the small facilities and the larger facilities as defined by waste input quantities in Wales would not result in significantly different costs. The key factor would be the number of suppliers as well as the quantity and range of output types or grades, this information could potentially change during the year providing lack of budgetary clarity both for us and the regulated community, and was therefore not used as the basis for charging. There were also questions raised on the basis of the charge levied, this is based on an expected time requirement of 21 hours per year for the material facilities which would provide funding to cover two visits per year, including time for preparation for visit including data check prior to visit and travel time. The charges did not cover additional time required for compliance problems at sites.

Other comments were in terms of the size of the charge, and a lack of understanding of the basis of the charges operators currently pay and that they did not think there was any operational benefit to them in paying the fee. One respondent did not think we took any action following the receipt of the current quarterly waste returns and didn't think there would be any difference in the approach with the new regulations. It was also suggested that the costs should be recouped from the existing fees and charges rather than levy an additional charge. However, the existing fees cover the costs of the basic environmental regulation at current permitted facilities and does not provide for sufficient officer time to be available to audit the detail of the composition of inputs to or outputs from this type of facility, currently detailed examination of composition of waste only occurs in relation to adherence to waste acceptance criteria permit conditions at facilities accepting hazardous waste. One respondent referred to the fact that operators would have to bear the NRW charges as well as the additional cost of sampling, measuring and recording systems to put in place at their facility, but this does not take account of the fact that the regulations as consulted on included the requirement for these facilities to obtain an independent audit of their sampling methods and results and provide that to the regulator alongside the data return which would probably cost more than the proposed NRW charge.

There was also a request that we should review these charges after about two years to address any revisions that could be made, this will be done as part of the normal charges review process.

Question 3 addressed whether would support business more targeted inspections and charges in future when they had embedded the new reporting arrangements. Responses to this question were varied with some support for providing further charges for non-compliant sites reflecting the additional regulatory effort required. Whereas others felt that as commercial operators they sell their products to end users, if the customer does not like the product they will not pay or not come back again, however this misses the point of providing assurance to the end user that the product would meet their needs in terms of quality which is the purpose of the regulations.

The potential incorporation of the additional charges for MF facilities wider charging scheme for Environmental Permitting was addressed in **question 4**; this again resulted in a range of feedback. Two respondents were positive about this and two negative due to either a fundamental disagreement with the need for the additional charge or lack of understanding of the basis of their existing charges.



**Cyfoeth
Naturiol**
Cymru
**Natural
Resources**
Wales

Published by:
Natural Resources Wales
Cambria House
29 Newport Road
Cardiff
CF24 0TP

0300 065 3000 (Mon-Fri, 8am - 6pm)

enquiries@naturalresourceswales.gov.uk
www.naturalresourceswales.gov.uk

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