



Consultation on our charges from 2015

September 2014

We are the Environment Agency. We protect and improve the environment and make it **a better place** for people and wildlife.

We operate at the place where environmental change has its greatest impact on people's lives. We reduce the risks to people and properties from flooding; make sure there is enough water for people and wildlife; protect and improve air, land and water quality and apply the environmental standards within which industry can operate.

Acting to reduce climate change and helping people and wildlife adapt to its consequences are at the heart of all that we do.

We cannot do this alone. We work closely with a wide range of partners including government, business, local authorities, other agencies, civil society groups and the communities we serve.

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Executive summary

The Environment Agency has powers under legislation to recover the costs of some of its activities. Under these powers people and organisations that require an environmental permit pay for the cost of the service, rather than it being funded from general taxation.

We continue to be aware of the potential impact our charges have on those we regulate and business as a whole. We have not changed the level of our charges for many of our regimes in recent years. We were able to achieve this through a rigorous and sustained efficiency programme. Substantial savings were made by reducing our support service costs while preserving our front line services. Over this period we maintained high standards of service and delivered improvements such as issuing most permits within 13 weeks.

We introduced a suite of changes in 2014 including baseline charge increases, in line with inflation, for Environmental Permitting Regulation (EPR) Installations and Waste facilities. This increase was necessary to counter deficit balances on these regimes in accordance with our agreement with H M Treasury.

We have reviewed current and future cost pressures and projected expenditure and we are again proposing no increase in charges for many of our schemes for 2015/16.

However, for EPR Installations, Waste facilities and Radioactive Substances Regulation (non nuclear) we need to increase our base charges to ensure we are adequately addressing deficits within those regimes and fully recovering our costs.

We are proposing some specific changes to address long term poor performing EPR Waste facilities and Installations. These sites require more intensive regulatory oversight to address the chronic issues that exist and to address increased environmental risk. To recover our costs in these cases we propose to increase the compliance charge factor where sites have been in Compliance Bands D, E or F for more than two consecutive years.

When a site gets a new permit, we seek to work with the operator to ensure that they operate well and understand the requirements of their permit. We are proposing to introduce a new permit commencement charge to reflect the additional costs we meet of undertaking this work over the first 12 months of a new permit being in place.

We have also proposed a limited number of technical changes for the EPR scheme, and these are set out in this consultation document.

We also propose a specific change to one of our abstraction charges to address reservoir operating costs.

Our efficiency programme over the past few years combined with our approach of not increasing baseline charges for most regimes has resulted in a 6% reduction in our charges in real terms across all our charging schemes. We have only proposed charge increases where we are failing to recover our costs fully.

1 Introduction

We are required by government to recover the costs of our main regulatory services from the businesses we regulate. Those who are required to have a permit pay for the cost of the service, rather than this being funded from general taxation.

In preparing this consultation we have taken into account a range of factors including:

- Ongoing cost pressures
- Our programme of efficiency savings
- Government's focus on sustainable growth
- Our ongoing aim to provide stability in charge levels
- How we implement changes in legislation and where appropriate how we align our charges to these changes
- Our need to recover costs taking one year with another

We continue to be aware of the potential impact our charges have on those we regulate and business as a whole. We have reviewed our charges against the need to deliver our regulatory duties and have sought to minimise the increases to charges over the last four years. Over this period we maintained a high standard of service and delivered improvements such as issuing most permits within 13 weeks.

We forecast our regime income ahead for up to three years. If we are projecting any positive or negative balances by the end of this period, then we must address those balances over that three year period as required by HM Treasury.

We have reviewed current and future cost pressures and projected expenditure and are proposing no increase in charges for most of our schemes for 2015/16.

However, for some of our regimes we do need to amend the charges. The proposed changes which we are consulting on are:

- 2% increases for our EPR Installations, EPR Waste facilities and EPR Radioactive Substances Regulation (non nuclear) charges
- Increasing the compliance band adjustment for those Waste facilities and Installations that continue to be in compliance Bands D, E and F for more than two years.
- Introducing a permit commencement charge to recover the additional costs we incur in the 12 month period immediately following the issuing of a new permit. This will apply to EPR Installations and Waste facilities. The new charge will be an additional 40% of the annual charge for the permit.
- Some minor technical changes to the EPR scheme
- Amendments to the Opra scheme, including what is included in assessing operator compliance, and how Opra defines certain activities and their associated charging bands.
- An increase in the abstraction charge for the Northumbria account of 8% to address costs associated with the Kielder reservoir operating agreement for 2015/16 and each of the following two years.

More information on our proposed baseline increases are set out in Section 2.

The limited changes to our Abstraction charges are outlined in Section 3.

Further details on our proposed technical changes are given in Section 4 with changes to Opra outlined in section 5. We have also provided a glossary of terms to clarify some of the terminology used.

The consultation is in line with the government's consultation principles and will run for eight weeks. Your responses play an important part in informing our submission to the Secretary of State for approval.

We welcome your comments.

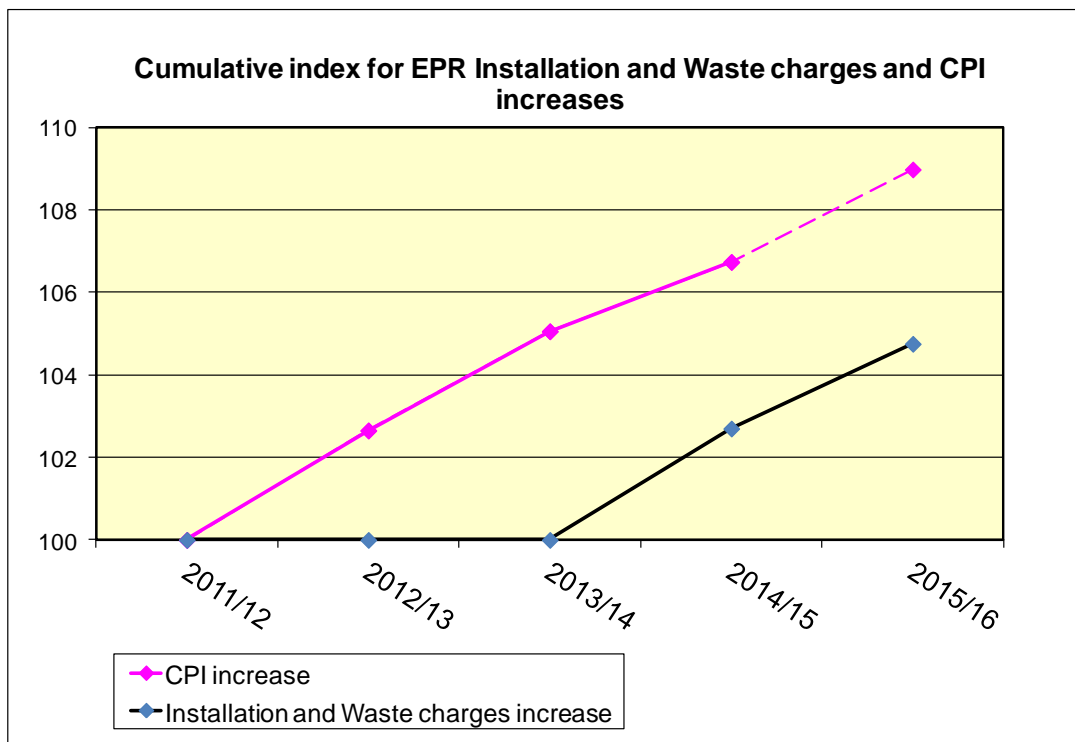
2 Limited changes to baseline charges

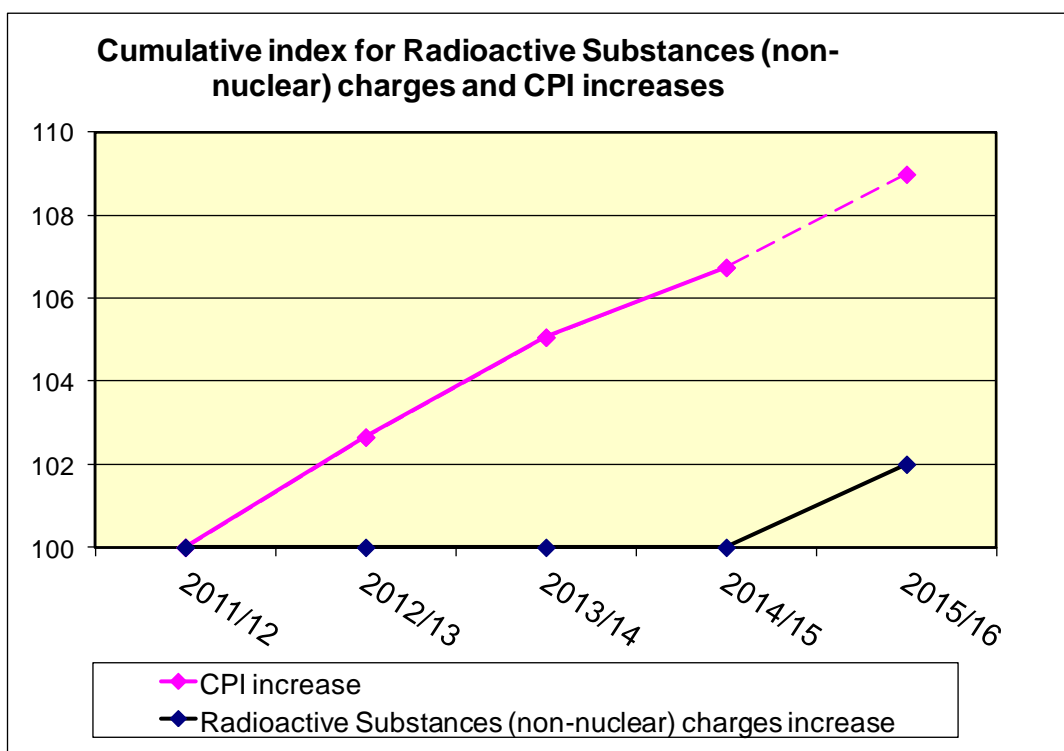
This consultation sets out our proposals for changes to our charges from April 2015.

We have sought to give stability and predictability to charge payers by setting charges over longer periods. We have reviewed current and future cost pressures and projected expenditure and are proposing no increase in charges for 2015/16 for the following:

- Environmental Permitting Regulations (EPR) - charges for Water Discharge Facilities (including Groundwater)
- Waste Exemptions
- International Waste Shipments
- Waste Carriers and Brokers
- Producer Responsibility – Batteries and Waste Electrical and Electronic Equipment
- EU Emissions Trading System (EU ETS)
- Carbon Reduction Commitment (CRC) Energy Efficiency Scheme
- Climate Change Agreements

However, for three regimes within our Environmental Protection scheme: EPR Installations, EPR Waste Facilities and EPR Radioactive Substances Regulation (non nuclear), we propose to introduce an increase in our base charges of 2%. These proposed increases are to enable us to meet the requirements of the HM Treasury on managing our income balances. The following graphs show the cumulative change to these charges over the period of 2011/12 to 2015/16 compared to the Consumer Price Index (CPI) over the same period.





These graphs show the proposed increases for EPR Installations, Waste facilities and non-nuclear Radioactive Substances Regulation (RSR) still allow for a real cost saving when compared with increases in CPI over the period of 2011/12 to 2015/16. This is more than 4% for EPR Installations and Waste facilities and almost 7% for RSR non-nuclear.

When these proposed increases together with the required abstraction increase for Northumbria are combined with all of our other charges which are not increasing, the overall real cost saving is more than 6%. The impact of these proposed increases is of the order of 1% of the total income covered by this consultation.

Question 1: Do you support our proposal to increase baseline charges for EPR Waste Facilities, EPR Installations and EPR Radioactive Substances Regulation by 2%?

3 Abstraction Charges

For the majority of abstraction licence holders we will continue to hold our Standard Unit Charges (SUC) at their present level, absorbing cost pressures.

However, we are required by contract to fund an annual return on investment based on the retail price index in the operating agreement we have with Northumbrian Water for Kielder Reservoir. Because the total costs of the agreement represent the overwhelming majority of our costs in our Northumbrian charging region, there is limited scope to offset them and charges will have to increase.

The increases are due to external cost pressures outside of our control. The Kielder Operating Agreement is subject to a contract with Northumbria Water. Cumulative charge increases over the three years to 2018 are required to cover these.

We are therefore proposing an increase of 8% in the annual charges for our Northumbria abstraction account, each year for three years.

Question 2: Do you support our proposal to increase the standard unit charge (SUC) for the Northumbria regional account to meet the cost of the Kielder reservoir operating agreement?

Abstraction charges also attract a surcharge called the Environment Improvement Unit Charge (EIUC). This covers the cost of compensating licence holders whose permits need to be modified because they are unsustainable in terms of the quantity of water that is abstracted.

We propose an increase in the EIUC for non-water companies in those regions where additional compensation funding is required, as detailed in Annex A.

The EIUC collection has ceased in respect of water companies due to a change brought about by the Water Act 2014.

Question 3: Do you support our proposal to continue to raise EIUC funding from non-water companies as necessary to enable us to continue to address unsustainable abstraction?

The details of the revised SUC and EIUC charges are provided in Annex A.

4 Technical changes to the Environmental Permitting (EP) Scheme (Installations, Waste Facilities and Water Quality)

We propose the following changes to the Environmental Permitting (EP) Charging Scheme for 2015/16:

4.1 Poor performing Waste facilities and Installations

An assessment of EPR Waste facilities and Installations in Bands D, E or F for compliance has shown that the level of effort required to improve their performance can outstrip the income collected for that purpose. This occurs where we have operators, who are remaining in Band D, E or F for a number of years, and we have to apply further measures and interventions and utilise national resources and expertise to ensure improvement occurs.

A significant number of these operators are remaining in these compliance bands for periods exceeding two years. For these persistent poor performers we are proposing introducing a second tier of compliance charge multipliers. This change will provide the additional income required to fund our further regulatory effort at these consistently poor performing sites. Poor performing sites are often bad neighbours to the surrounding community.

This second tier of multipliers will come into effect after a site has been scored as Band D, E or F for two consecutive years. The second tier multiplier will continue to be applied until the site moves to compliance band A, B, or C. The proposed adjustment values are shown in the table below.

Table 1: Proposed multipliers for poor performing Installation and Waste facilities

Compliance Band	Compliance Band Multiplier	
	Current value for sites in Band D, E and F	Proposed value for sites that have been in Bands D, E and F for two full years
D	125%	200%
E	150%	300%
F	300%	500%

There is currently a mechanism to enable a mid-year review of performance for Band F sites, with discretion to reduce the multiplier for the remainder of the year. We intend to remove this review process and utilise the new approach outlined above.

Question 4: Do you support our proposal to change our approach for Band D, E and F performing companies, and specifically to recover our costs through the introduction of a second tier of compliance charge multipliers for long term poor performing sites?

4.2 Permit Commencement Charge

We are proposing to change our approach to ensure that all newly permitted EPR Waste facilities and EPR Installations are operating well from initial operation and that these sites are very clear about the standards of operation they will need to maintain to ensure compliance. We are proposing to provide additional scrutiny, both to ensure that the management system is fit for purpose and also that it continues to be implemented properly during day to day operations on the site.

The intention is that by putting this additional effort in early, fewer sites will become poor performing sites. The aim of this extra charge is to resource work to prevent problems in the longer term.

The new permit commencement charge will apply to all newly issued EPR Waste facility and Installation permits. The proposed charge, which will be applied once following the issue of the permit, will be calculated at 40% of the full annual subsistence charge for that permit and will be payable in addition to the subsistence charge.

Question 5: Do you support the introduction of this permit commencement charge to enable us to provide a higher level of initial scrutiny to new EPR Waste facilities and Installations?

4.3 Water Quality

To bring Water Quality charges more in line with other parts of the EP Charging Scheme we are proposing the following amendments.

For other parts of the EPR regime where a variation to a permit is initiated by the Environment Agency, the appropriate variation charges apply to the operator. We propose to extend this approach to the Water Quality aspect of the regime.

Before submitting an application for a water quality permit the operator may wish to seek our advice on their potential application. This is termed pre-application advice. In other parts of the EPR regime we provide an initial period of free advice and then we apply a charge (of £125/hour) to provide further advice beyond this period. We propose to extend this approach to include the pre-application advice for Water Quality permits.

The period of free advice will be 1 hour for standard permits and 15 hours for bespoke permits in line with the other parts of the EPR regime. After this the same hourly rate charge will apply to Water Quality pre-application advice.

Question 6: Do you support the move to align the approaches for Water Quality with the rest of the EPR regime?

5 Changes to the Opra Scheme

We are proposing the following amendments to the Opra scheme:

5.1 Regulation 60 Notices

The EP regulations require the supply of information under a Regulation 60 notice. The failure to supply this information results in us deploying resources to ensure that companies provide this information. We propose to include the response to Regulation 60 notices as part of the assessment of operator compliance under the Opra scheme. This means that failure to provide the information without good cause will impact the compliance score of an operator.

Question 7: Do you support the inclusion of the Regulation 60 notice as part of the operator compliance assessment under the Opra Scheme?

5.2 The distillation of waste solvent and oil

We are proposing to change the Part A (1) reference used for distillation of waste solvent and oil. This will clarify the complexity code, as these were previously listed under physio-chemical treatment of waste. The proposal is to add a Band B sub-division for regeneration or re-refining by distillation to the following Activity Schedule Reference codes in the Installation Opra complexity table:

5.3A(1)(a)(v) Solvent reclamation or regeneration, and

5.3A(1)(a)(x) Oil re-refining or other uses of oil

Question 8: Do you support the revision to the Activity Schedule Reference codes in the Opra Installation table to include the Band B classification for solvent reclamation or regeneration and oil re-refining or other uses of oil?

5.3 Refining gas thresholds

To reflect different scales of refining gas we are proposing to introduce a production threshold to differentiate between commercial scale gas refineries and smaller producers and waste and food and drink operators upgrading biogas to bio-methane. This will enable us to reflect the appropriate regulatory effort and the relative risks for these activities. The proposal is to split gas refining under part A(1) 1.2 into two production thresholds.

Therefore, in Installation Opra complexity:

Band D would be retained for those with the capacity to refine greater than 10kt/year.

Band B would be introduced for those with between 1kt and 10kt/yr refining capacity.

Question 9: Do you support the changes to the production scale and associated complexity bands under the Opra Scheme?

5.4 Industrial Emissions Directive chapter IV exempt incinerators

The definition of incineration and co-incineration as amended by the Industrial Emissions Directive (IED) has previously been incorporated within the EPR. These changes have also been incorporated within our Opra scheme. However there are some incineration activities that are exempt from certain provisions of the Chapter IV of the IED. These activities need to be clearly differentiated from those that must comply with the additional requirements of Chapter IV of the IED. To achieve this we propose to introduce a new Opra Band C under Part A(1) 5.1 for any incineration activity that is exempt from Chapter IV.

Question 10: Do you support the introduction of the Band C for exempt incinerators under the Opra Scheme?

Section 6 highlights further planned work on incineration and co-incineration.

6 Forward look

The following items do not form part of our formal proposals but are mentioned in this consultation for awareness.

We propose to review the Opra based charges for incineration and co-incinerators falling under chapter IV (Waste Incineration) of the Industrial Emissions Directive (IED). Following this review we will propose a unified Opra band arrangement for all incineration and co-incineration facilities. Following consultation, a final decision is planned to be implemented in April 2016.

Pending the outcome of the review we will honour the commitment on charges given under IED implementation that we will not increase charges where activities were re-classified but with no additional regulatory effort required. This only applies to permitted facilities existing on 7 January 2013, i.e. prior to IED. New co-incinerators permitted after that date would pay the same as incinerators.

The commencement of the Water Act 2014 this year means that water companies are now not eligible for compensation where we amend their licence to address unsustainable abstraction. Therefore, the Environmental Improvement Unit Charge (EIUC) will no longer be collected from water companies. The EIUC for non water companies remains in place, and we will continue to review all options to ensure the financial requirements and liabilities relating to unsustainable abstraction can be funded. We are also aware of possible future cost pressures in relation to the Water Framework Directive and associated improvements where funding options such as EIUC will need to be considered.

We are planning to review the European Union Emissions Trading System (EU ETS), the Carbon Reduction and Energy Efficiency Scheme (CRC) and Climate Change Agreements (CCA). This review will take account of our experiences operating these regimes and the impacts of regulatory changes. The review will harmonise and simplify our schemes where possible, while also addressing the need to ensure we continue to recover the costs of regulation.

We are facing significantly increased levels of activity resulting from environmental incidents from a range of regulated and unregulated sites. We are exploring options for introducing a funding mechanism that would enable us to respond effectively and pay for this work.

The aim will be to provide financial security to cover the costs of our interventions across a range of incident, compliance and enforcement situations. We are considering options for this and how any mechanism would work in practice, the level of funding required and whether any restrictions would be necessary. We are also looking at how we could work in partnership with independent industry representatives on this.

7 Invitation to consultees

We welcome comments from consultees on the proposals outlined in sections 2 to 5. Your comments, and our responses, will form part of our formal submission to Defra for approval.

Please respond to the consultation no later than **20 November 2014**.

8 Responding to this consultation

8.1 How to respond

You can view both the consultation documents and questions online at <https://consult.environment-agency.gov.uk/portal/ho/finance/2015/charges> and submit your response. We would prefer you to respond online as it will help us to manage your response more effectively.

But if you'd prefer to submit your response by email or letter please send your completed response form by the closing date to Alan Day at eacharges_consultations@environment-agency.gov.uk or post it to;

Alan Day
Head of Charges
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Horizon House
Deanery Road
Bristol BS1 5AH

To request a hard copy of the consultation documents and/or response form, please contact us on 03708 506 506 (Monday - Friday, 8am - 6pm).

8.2 Publishing our consultation results

We will publish our full response to the consultation by March 2015. It will include summary comments and queries we received in the responses and will outline our recommendations which will take these into account. The report will be on our website and circulated to all consultees and other interested parties.

8.3 How we will use your information

Throughout the consultation we will look to make all comments (excluding personal information) publicly available on the Environment Agency website. This includes comments received online, by email, post and by fax, unless you have specifically requested that we keep your response confidential. We will not publish names of individuals who respond, but we will publish the name of the organisation for those responses made on behalf of organisations.

If you respond online or provide us with an email address, we will acknowledge your response. After the consultation has closed we will publish a summary of the responses on our website. We will contact you to let you know when this is available. We will also notify you of any forthcoming consultations unless you tell us otherwise.

In accordance with the Freedom of Information Act 2000, we may be required to publish your response to this consultation, but will not include any personal information. If you have requested your response to be kept confidential, we may still be required to provide a summary of it.

8.4 Consultation principles

We are running this consultation in accordance with the guidance set out in the [government's consultation principles](https://www.gov.uk/government/publications/consultation-principles-guidance)¹.

If you have any questions or complaints about the way this consultation has been carried out, please contact

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¹ <https://www.gov.uk/government/publications/consultation-principles-guidance>

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