Summary of responses to the consultation on revised waste exemptions from environmental permitting

April 2009
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Part One – Responses to proposals

1 Introduction

1.1.1 Defra, the Welsh Assembly Government and the Environment Agency undertook a consultation on revised waste exemptions from environmental permitting during 2008.

1.1.2 The aim of the review was to provide a more risk based and proportionate approach to the regulation of waste recovery and disposal operations, complementing the new environmental permitting regime.

1.1.3 A consultation was launched on 31st July 2008 and ran until 23rd October 2008 and included the consultation document, a Partial Impact Assessment and draft regulations. The consultation and relevant documents were published on the Defra and WAG websites.

1.1.4 Electronic notification of the consultation launch was sent to over 2,500 interested stakeholders. Almost 10,000 leaflets were sent out to operators of registered exemptions to draw attention to the consultation and a joint project press release was issued.

1.1.5 A series of 11 stakeholder workshops were held around England and Wales in September and October 2008. The aim of the workshops was to provide delegates with an overview of the background to the review and an outline of the proposals and to encourage discussion and debate on the proposals set out in the consultation paper. The purpose of this was to help inform subsequent responses to the consultation.

1.1.6 The consultation paper sought views on 13 questions and, on the proposed exemptions in the draft regulations.

1.1.7 A total of 285 unique responses were received from a broad cross section of stakeholders. The stakeholders included public bodies (both national and local government, and other Government bodies); a wide range of businesses (small, medium and large); trade associations across many business areas; the third sector; and individuals. The response rate from each group is detailed in Section 2. This broad response is seen as a reflection of the wide ranging impact that the proposed changes have.

1.1.8 Part One of this report summarises the responses made during the consultation to each of the 13 proposals detailed in the consultation document, together with comments which specifically related to the Partial Impact Assessment (pIA) that accompanied the consultation paper. This is discussed in more detail in Section 3.

1.1.9 Part Two of this report summaries the responses to the individual proposed exemptions. The response rate from each group to the individual exemptions can be found in Section 5.
1.1.10 Responses are available for viewing in the Defra library for 6 months after the closing date of the consultation at:

Defra Information Resource Centre, Lower Ground Floor, Ergon House, 17 Smith Square, London SW1P 3JR (Tel: 020 7238 6575, email: defra.library@defra.gsi.gov.uk).

Notes on the Presentation of Findings

1.1.11 This report is a presentation of the key issues highlighted by the different groups who responded to the consultation. Certain notes of caution must be highlighted when the reader is attempting to draw conclusions on each issue.

1.1.12 By their nature, consultations of any kind tend to draw out those groups or individuals who have particularly strong feelings about one, or a number of, issues, or (for example in the case of some larger companies) those who have time available to dedicate to providing input into Government thinking. It is therefore possible, indeed likely, that the cross section of responses is not entirely representative of all thinking on the matters considered.

1.1.13 Furthermore, and crucially when collating responses, trade associations are responding on behalf of the members they represent. It may be that some trade associations have specifically canvassed members to gain their views on the issues presented. Indeed this seems to be the case from a number of the responses received, whilst it is not clear whether others have followed this approach. In any case, one response from a trade association is likely to represent the views of more than one, perhaps many more than one, single organisation, but if one treats this response as one does any other, then such a response might not be given the weighting it might deserve.

1.1.14 In collating the responses it was found that the wording between a small number of responses was identical, or very similar, such as to imply that there has been some rallying of individuals or organisations. Whilst each response has been collated on its own merit, it can be that such activities can skew responses one way or another. In a similar vein, one respondent simply stated that “nothing should be changed”. This has been included as a response to each of the proposals. However, such responses can also act to skew responses to proposals that have been thought through on an individual level.

1.1.15 For these reasons, and in light of best practice when analysing consultation responses in this manner, we have steered away from providing concrete and seemingly accurate statistics showing whether a proposal is supported or otherwise. This presents the report in a more qualitative manner, thus allowing the key messages conveyed through the consultation to be distilled without suggesting that the consultation delivers, through numbers of respondents taking one or other view, results which could be potentially misleading.

1.1.16 Three respondents submitted two identical (or very near identical) responses. These have been treated as three individual responses rather than six.

1.1.17 Finally, it is worth mentioning that many of the responses identified that a specific proposal was supported or not, but did not go into further detail as to their rationale for the position held. Whilst useful, this does not necessarily help Government to address key issues of concern.
1.1.18 Each respondent was also coded according to which of the following broad groups they came from:

- **Public Bodies** – includes local and national Government bodies and Government delivery agents (excluding the Environment Agency, WAG and Defra).
- **Businesses and Trade Associations** – these two groups represent the private sector.
- **Individuals, the Community and the Third Sector** - covers all not for profit organisations and individuals. It also includes schools, some of whom use the exemption system for composting operations. It was felt that in this context, schools better fit this group rather than the public bodies group.

1.1.19 For a number of the issues explored in the consultation, it was expected that many of the respondents within a group would have similar motives and experiences and it is therefore easier to examine the diversity of opinion in the group rather than examining all of the responses together. It is also helpful to be able to distinguish between groups when formulating opinions and conclusions to the responses made.

1.1.20 No detail as to the size of each organisation was obtained so the opinions of the small business sector cannot be obtained.

1.1.21 Each section of the report also comments on the responses received from Wales. It is important to note that these responses have not been deducted from the general discussion that accompanies each proposal. This allows the overall picture in response to each proposal to be drawn, whilst highlighting specific issues that may be of specific interest to the Welsh Assembly Government.

### About this document

1.1.22 This document is organised into sections relating to each question asked in the discussion paper and, in Part Two, sections relating to individual exemptions that attracted comments.

1.1.23 This document does not attempt to repeat the background information given in the consultation document and only provides a limited amount of context for each topic.

1.1.24 For each topic this document:
- summarises the possible ways forward set out in the discussion paper;
- states the question asked in the consultation document; and
- summarises the responses to the question

1.1.25 Please note that where European Waste Catalogue (EWC) codes have been referred to by respondents, these will be amended to refer to the 6 digit code as specified in the List of Wastes (England) Regulations 2005 and List of Wastes (Wales) Regulations 2005, abbreviated to LOW.

1.1.26 The Government response to these questions will be published separately to this summary of responses.
2 Summary of Responses

2.1.1 285 responses were received to the consultation, thus there is a maximum of 285 responses to any given proposal. There were, however, a small number of respondents who failed to direct a response at any of the stated proposals, instead focussing their response on specific exemptions (see Summary of Responses Part 2).

2.1.2 Table 1 shows the number of responses received from each group. Almost 70% of responses were received from the Business and Trade Association groups.

Table 1: Total Responses by Group

<table>
<thead>
<tr>
<th>Group</th>
<th>Number of respondents</th>
<th>Percentage share of response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business</td>
<td>131</td>
<td>46%</td>
</tr>
<tr>
<td>Trade Association</td>
<td>60</td>
<td>21%</td>
</tr>
<tr>
<td>Government or Government Delivery Body</td>
<td>8</td>
<td>3%</td>
</tr>
<tr>
<td>Local Authority</td>
<td>13</td>
<td>5%</td>
</tr>
<tr>
<td>Individual</td>
<td>33</td>
<td>12%</td>
</tr>
<tr>
<td>Community and Third Sector</td>
<td>40</td>
<td>14%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>285</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

2.1.3 Figure 1 demonstrates both the number of respondents and the overall response rate for each proposal. As can be seen, proposal six (charging) received the highest response rate (54%) with the share of responses from the community, third sector and individuals being highest for this proposal. Proposal three (mushroom composting) received the lowest response rate (8.0%). For a numerical breakdown of responses by group for each proposal, please see 0.

Figure 1: Responses Received and Response Rate to Each Proposal
3 Proposals

As already stated, in total, 13 general proposals for change were presented to consultees in addition to specific proposals for individual exemptions. The responses to each of the general proposals and the pIA are discussed separately below. Specific quotes from the responses are used on occasion to emphasise a point and these are denoted by the use of *italics* in quotation marks.

3.1 Proposal 1 – To embody the principles and criteria used in the formulation of these proposals in Government Guidance for future reviews

Who Responded?
3.1.1 Of the 285 responses to the consultation received, 70 responded to this proposal, almost half of whom were from the business sector, and almost a third were from trade associations (over 80% combined). One response was received by the Welsh Assembly Government (WAG).

How they Responded
3.1.2 The overwhelming majority of respondents were in favour of the broad principles of the proposal, in particular, the emphasis placed on the risk-based approach being taken. A number of specific comments were made relating to the use of LOW\(^1\) codes and these are discussed for each group.

Public Bodies
3.1.3 Five responses were received from public bodies (23% of all respondents in this group), with four responses welcoming the consistent risk-based approach, and the other expressing concerns about the proposals in general. The concerns included a desire from the Highways Agency to see:

“the regulations and regulators allowing provision of exemptions that can apply across more than one site”.

3.1.4 The respondent also reflected a desire to see future changes being applied consistently, and proposals for further new exemptions to be considered carefully. Further information was requested with regards to how risk was to be assessed, and how risk and ‘other’ factors were to be weighted in order to reach the decisions made.

Businesses & Trade Associations
3.1.5 Businesses and trade associations made up the majority of the respondents. In total, 30% of total respondents from this group responded to proposal one. There was general support for the overall principles of the proposals – in particular there was support for the risk-based approach being proposed. A number of responses commented on the need for this approach to be reflected in guidance which should be clear and unambiguous, being developed in a transparent manner, and allowing for future amendments as required. One respondent suggested that the guidance should be statutory and should set out what is required of both the

\(^1\) LOW code – a waste as specified by the 6 digit code in List of Wastes (England) Regulations 2005 and List of Wastes (Wales) Regulations 2005 which transpose the European Waste Catalogue (EWC) into UK legislation.
regulator(s) and regulated. A number of responses requested that the term ‘regular review’ should be clarified with three respondents suggesting a review every 5 years.

3.1.6 The usefulness in taking the risk based approach to future reviews came through reasonably strongly, being cited by a number of businesses and trade bodies. In particular RWE stated:

“The principles and criteria used when reviewing exemptions need to be consistent and transparent. The risk assessment described within 3.1.4 and 3.1.5 of the consultation document is a thorough process which can be consistently applied to a wide variety of different waste activities. It also provides a clear decision making process which will be visible to waste operators. It is sensible therefore to include this process within government guidance to be utilised at future reviews.”

3.1.7 This view was supported by AMEC who...

“...agree that this method provides a clear baseline from which to undertake future reviews. Agree that transparency is appropriate and that the approach taken is sensible. A risk based approach is fair and proportionate if supported by clear methodology that is robust, clear and consistent.”

3.1.8 The need for better/clear evidence (and a reduction in the use of “subjective assessment”) in determining exemptions, and their relative risk, was cited on a number of occasions, for example by the British Aggregates Association and Severn Trent Water.

3.1.9 In relation to Section 3.1.1 of the consultation one respondent recommended that a step be added to determine whether what is being produced by an operator is in fact ‘waste’. It is viewed by the respondent that this will save time and effort by industry where there is current ambiguity.

3.1.10 A small number of respondents commented upon Section 3.1.5 of the consultation (consideration of other factors). There was broad support for the proposals in this section of the consultation with one respondent suggesting that these ‘other factors’ should also be clear and transparent.

3.1.11 13 responses specifically mentioned the use of LOW codes in a general context. Whilst there was broad (but not unanimous) support for the use of LOW codes, a number of concerns were also raised. These concerns ranged from the fact that LOW codes should not be used at all (two respondents), to the completeness of LOW codes allowed under each exemption; in some cases it was claimed that specific LOW codes were missing from specific exemptions, in other cases spurious ones had been included. Suggestions for change included providing LOW codes in the guidance only (with the legislation providing descriptions of the waste) to allow flexibility and rewording or simplifying the terminology that accompanies the code. Requests regarding specific LOW codes are not discussed in this report.

3.1.12 Two respondents referred to the confusion between using the LOW codes and the ‘list of wastes’ with a recommendation that one or the other is chosen.
Individuals, Community and Third Sector
3.1.13 In total, 11% of the total respondents from this group responded to proposal one. There was a mixed response from the individuals, community and third sector responses with a small number of responses being against changes, and the majority of responses being in favour of the principles and the simpler exemptions (in particular for composting). One proponent of the changes, from the community composting sector, writes:

“to have a clear and simple position will help us to plan our next project”.

3.1.14 Two respondents, including the Gloucestershire Wildlife Trust, suggested that some activities present ‘no’ risk and that this is not reflected within the flow chart in the consultation document. The feeling by these respondents is that the absence of risk implies no need for regulation.

Responses Received by the Welsh Assembly Government
3.1.15 The single respondent in this category disagreed with the proposal as they did not consider the approach sufficiently risk based.
3.2 Proposal 2 – Removal of exemption for the storage of waste associated with Part B activities

Who Responded?
3.2.1 Of the 48 responses received to this question, 83% were from the business and trade body group, with a further 10% coming from the public sector. As might be expected with such a question, very few responses were received from individuals, community groups and the third sector. No responses were received by the WAG for this proposal.

How they Responded
3.2.2 Around three quarters of those who responded to this question were generally in favour of the proposals, although a number of these were cautious in their agreement, expressing some concerns. Among businesses and trade associations in particular, a number of concerns were raised in relation to how the change would work in practice, and in particular with regard to mobile crushers and how they would be regulated across local authority boundaries. The stance of the respondent was unclear in around one in ten responses, with remaining responses being against the proposals as presented.

Public Bodies
3.2.3 Of the public bodies that responded to this issue (a response rate of 18% for this group), none were against the proposals, although the position of one respondent was unclear. There was, therefore, general support for the proposals.

3.2.4 LARAC also raised the issue of fees charged to operators. They state:

“Installations already operating under a combined Part B and Waste Activities permit have been subject to an additional application fee of £294 (as well as the additional £95 on the annual subsistence charge). Installations operating under a Part B only permit have not been subject to this additional fee. As these installations will now move to a combined part B and Waste Activities permit, LARAC wishes to see an application fee imposed on these installations relating to the new Waste Activities part of the permit, comparable to the £294 that has been charged at application stage of those already operating under a combined permit.”

No further clarification was provided.

Businesses & Trade Associations
3.2.5 There were 41 responses from this group to proposal two representing a response rate of 21%. Of the business and trade associations responding to this question, around three quarters were in favour of the proposals, with over 10% being against. Most of those in favour of the proposals made no further comment.

3.2.6 A number of respondents raised concerns about the position as it pertains to mobile crushers. Concerns included the fact that the permitting process for mobile crushing is not clearly set out. Questions were also raised about the ability of EHOs to be able to regulate at different locations, where different locations have differing storage capacities and different administering authorities. Raymond Brown (a civil engineering firm) stated:
“there are conflicts in the proposals that allows mobile crushers to move around while waste storage in linked to a specific site. Consider the case where the owner of the waste is different from the crusher operator?”

3.2.7 The British Aggregates Association support the inclusion of waste storage within the standard permit for static plant, but not for mobile plant, where it may, under the proposals, be monitored by the local authority beyond their administrative boundary. This view was supported by other respondents.

3.2.8 One trade association objected to the suggestion that the change being suggested should lead to increased application/subsistence costs for industry. Perhaps unsurprisingly, this is the opposite view to that expressed by LARAC – see above. Countering the view expressed by the trade association, the UK Environmental Law Association stated that this move will place additional burdens on local authorities which will require additional resources and that if limits on quantities and types of waste are to be retained with the permit then it “might be better to allow the exemptions to continue”.

3.2.9 A further view expressed was that a single regulator should be applied beyond what is being proposed, to include all storage, processes and use under one regulator. It was not clear to which process this applied and so may not be relevant in the context of this question.

3.2.10 One supporter of the proposals stated that the time available to obtain the permits should be comparable with EA permits and exemption timescales.

3.2.11 Finally, the BRE stated:

“Although it makes sense to bring together regulatory requirements, it is very unclear as to how this would operate in practice, threshold levels between exemption and permitting and the costs involved if the latter is required. For example: would an environmental permit be needed to carry out ‘non-trivial’ crushing as part of a demolition contract, albeit an activity that takes place over a few days or weeks. If so, who has to get the permit – the demolition contractor, main contractor, client/landowner or crusher operator (if different from the demolition contractor)? Would it need to be for each site the crusher operates on or does it apply to the mobile equipment, thus negating the need to get a permit for each site it operates on?”

This respondent suggested that any guidance should set out a number of examples to avoid confusion.

Individuals, Community and Third Sector

3.2.12 Only three responses were received from this group (4% of all respondents from this group). One respondent saying that the proposals should not be altered (although this was a general response and not specific to this proposal), the other two being supportive, but subject to caveats. One community group want to see:

“revised PG [planning guidance] notes to cover the requirements for waste storage”
3.2.13 The other stated:

“Whilst we see the logic in such activities being covered as a part B process, such operations should also be able of being incorporated in an Environmental Permit, such that demolition and construction site works can be regulated in one regime or the other, as opposed to having an EP permit plus a Part B process”.
3.3 Proposal 3 – To change the regulation of on-farm producers of mushroom compost from the Environment Agency to Local Authority regulation through a Part B environmental permit

Who Responded?
3.3.1 Only 23 responses were received in total to this question (8% of total responses), of which 70% were from business and trade associations, with 17% (4 responses) coming from public bodies, including 3 responses from local authorities. One response was received by the WAG.

How they Responded
3.3.2 Overall there was broad support for the move to a single regulator in this area, with around two thirds of responses being in favour of the changes. The key issues are discussed below.

Public Bodies
3.3.3 Of the four responses (18% of public bodies) received in this category all were in favour of the proposals. However LARAC stated that whilst it agreed that the regulation should move to local authorities, a Part B permit should not be required – they suggest that this would “incur unnecessary costs and would therefore not be in the public interest”. WRAP, who agreed with the proposals, stated that local authorities should be properly resourced to undertake this additional task.

Businesses & Trade Associations
3.3.4 In total there were 16 respondents to this proposal, 8% of the total respondents in this group. There were mixed views presented by this group, although overall, there was broad support for the changes being proposed.

3.3.5 Of those responses that offered comments / concerns the main issues raised are presented here.

3.3.6 The NFU and NFU Wales presented similar responses in that they could see the logic of the move to a single regulator, but had strong concerns about the regulatory burden and costs that obtaining and maintaining a Part B permit would imply for the agricultural sector. They stressed that costs should be kept to a minimum where any change is applied. Furthermore the NFU stated that October 2010 is insufficient time to allow those affected by the change to make suitable arrangements. The NFU argues that the agricultural sector should have until 2012 which is consistent with the requirement for exemptions on agricultural premises to be re-registered.

3.3.7 The concerns relating to resource and cost implications for industry were reflected in a third response which was made by UK Environmental Law Association, who questioned the nature of this change.

3.3.8 Other concerns expressed related to the disparity between the regulation of composting for mushroom composting, and the regulation of other composting activities. Further clarification was sought as to the need to have a lesser form of control and regulation for mushroom composting, and why it should be treated differently in relation to risk, impact and emissions.
Finally, there was a call for a 500 tonne (averaged over a three month period) minimum threshold for small scale on farm composting, above which the regulations would apply. This came from BPEX, who also questioned whether the use of gypsum in mushroom casing should be classed as a waste management operation.

Individuals, Community and Third Sector
3.3.10 Of the three responses from this group (4% of all in the group), one was in favour of the proposal, another said that the current system should not be altered (this was the generic response made by this respondent in relation to all proposals), whilst the position of the third respondent was unclear. No substantive comments on the proposal were made, although one respondent from the Community Composting Network requested confirmation that the activity of growing mushrooms would not be regulated.

Responses Received by the Welsh Assembly Government
3.3.11 It was unclear whether the single respondent received by WAG on this proposal supported or rejected the proposal. The respondent saw merit in having the regulation of mushroom compost production subject to a single regulatory regime, but was concerned that the costs were too high for obtaining and holding a permit.
3.4 Proposal 4 – To provide an exemption for Local Authorities to register crushing, grinding or size reduction operations where they consider the activity too trivial for a Part B permit Environmental Permit

Who Responded?
3.4.1 In total, there were 47 respondents to proposal four; this represented around 15% of all respondents. The majority of respondents represented businesses and trade associations and originated from the construction sector. There were no responses received by WAG for this proposal.

3.4.2 How they responded
3.4.3 The majority of respondents supported the introduction of the exemption but had some concerns with the details (or lack thereof) within the proposal. Many respondents were unclear on the definition of the word ‘trivial’ used in the consultation, and therefore felt unable to state whether they were in favour of, or opposed to, the proposal.

Public Bodies
3.4.4 There were six responses from representatives from public bodies (27% of all responses received from this group), with the general consensus of opinion supporting the proposal. However, there were a number of queries regarding the proposal.

3.4.5 A number of respondents (including LARAC and the Highways Agency) questioned the definition of ‘trivial’; with some respondents (including Somerset County Council) requesting that it should be clearly defined in the guidance. One respondent requested clarification on whether the proposed exemption was intended to cover the storage of material on a site before a crusher is brought in.

Businesses and Trade Associations
3.4.6 In total, 39 respondents from business and trade associations responded, which was 20% of respondents from this group. The overall consensus from this group was to support the proposal. However, as with respondents from other groups, there were a number of respondents who supported the proposal but raised concerns with the way the proposal was specified.

3.4.7 The respondents who supported the proposal welcomed the use of exemptions for low risk activities. There were, however, a significant number of respondents who echoed the concerns of public bodies in requesting that clear guidance should be produced, including a definition of what was meant by the term ‘trivial’. One typical response (from Tarmac Recycling) stated:

“It is difficult to comment until the guidance on triviality has been published. A major thrust of this review process is to restrict the activities of unscrupulous operators. Is it not the case that such operators will simply register a trivial activity on the basis that the likelihood of being caught is remote, thereby removing the level playing field we are all striving to achieve?"

Individuals and the Community and Third Sector
3.4.8 There were two respondents from these groups (3% of all from this group), with neither supporting the proposal.
3.5 Proposal 5 – To introduce three-yearly registration periods

Who Responded?
3.5.1 Perhaps unsurprisingly, this question prompted a large response rate, with over 100 responses. Of these responses three quarters were from the businesses and trade associations with around 15% being from individuals and the community sector. The fewest responses were from public bodies. Two responses were received by WAG for this proposal.

How they responded
3.5.2 This issue raised a very mixed response across the groups. Whilst overall, just under two thirds of the respondents were broadly in favour of the proposals, over a third were against the proposals as they stand, and some trade associations stated that their members included those with views that were both for and against the three year registration period. Those who were against had a number of concerns. The key concerns related to:

- Resource and cost implications of having to re-register (linked with charging).
- Government reneging on previous commitments made in the agricultural sector.
- Whether 3 years is the appropriate time frame (see discussion below), with some arguing for shorter periods or longer periods.

3.5.3 Whilst this seems to be a high proportion of responses against the proposals, many responses were not against re-registration per se, but wanted to see different time periods for this re-registration. Interestingly there was a split between those who wanted a shorter timeframe and those wanting a longer period. Those wanting longer periods generally reflected resource implications, and linking with other schemes (Forestry Commission registration scheme was cited). The justification for shorter periods generally related to improved regulatory control and the fact that many exempt operations are only undertaken for short periods of time. All bar two of the variations requested were from businesses or trade associations. Table 2 summarises the responses where specific reference was made to a different re-registration period.

3.5.4 It is perhaps worth re-emphasising here the fact that these figures should be treated with caution. Some individual responses were clearly written by the same person/group and others are written by trade associations on behalf of their members. However, it is still instructive to see the differences in the views as presented. As can be seen, and notwithstanding the comments regarding one response potentially representing many individuals, there is a fairly even split between those who would favour a shorter time period and those who would like a longer time period.

3.5.5 Other key issues are discussed in the individual group paragraphs below.
Table 2: Time Frame for Re-Registration

<table>
<thead>
<tr>
<th>Registration Period Requested (Year)</th>
<th>Business/ Trade Association</th>
<th>Public Body</th>
<th>Individual/ Community Sector</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>5</td>
<td>4</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Longer than 3 but unspecified</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mixed*</td>
<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*The ‘mixed’ category was from trade associations whose members had expressed opposing views as to the length of registration period needed.

Public Bodies

3.5.6 As stated, the public bodies presented the fewest responses to this issue, although 32% of this group responded to this question. Of those that did respond, there was a majority in favour of the proposals for a three year re-registration period.

3.5.7 LARAC suggested that reminders should be issued before the end of the three year period to ensure that no operator falls foul of de-registration due to an administrative error on their part. This was also highlighted by the Highways Agency. The Highways Agency also suggested that shorter registration periods should be considered for operations unlikely to last the 3 year period.

3.5.8 Interestingly, the Broads authority stated that one of the advantages of the three yearly registration (aside from being able to review waste activities at re-registration time) was that, as a planning authority, the change would give greater legal clarity when dealing with breaches of planning permission and/or changes in land use by third parties within the Authority’s executive area.

3.5.9 One concern was raised about resourcing and enforcing the change, particularly where operators register for one level of activity, and then expand operations beyond the threshold for permitting.

3.5.10 A further suggestion was that the registration process should be linked to the Site Waste Management Plan process where appropriate so that registration was linked to the early stages of site planning.

Businesses & Trade Associations

3.5.11 A mixed response to the proposal was also received from businesses and trade associations. A total of 77 responses were received from this group – 40% of respondents from this group.

3.5.12 As with the Public Bodies, the need for reminders to be sent out when renewals are due was highlighted on a number of occasions. On this point, the ESA and Veolia sought clarification as to whether renewal notices would be issued, or
whether the re-registration process would be automatic. If not automatic, clarity on the period of grace given to operators was requested (the hazardous waste regime 30 day period of grace was cited as being reasonable).

3.5.13 The issue regarding the period for registration is covered in Section 3.5.3 above. It is worth stating here, however, that a number of responses from those who preferred an annual registration period linked their arguments to the timeframe required for hazardous waste registrations. The Waste Recycling Group suggested that:

“all exemptions registered should be, as far as possible, registered with the same expiry date. This may result in some registrations being extended... in the first new year of registration. This will facilitate block renewal registrations to take place with efficiency benefits for both the Exemption Undertaker and the Regulator”.

3.5.14 A number of comments were raised by this group regarding the public register (therefore linking with proposal 10) in relation to re-registration. Comments included:

- The re-registration period and public register will help organisations to fulfil their duty of care requirements. This was expressed in a number of cases and two responses suggested that a website where registrations could be interrogated would be particularly useful for this purpose.
- That the public register will not be up to date if three year registration is required (as opposed to an annual registration). One suggestion on this was that forms should include an expected operation end date. This would help to inform inspection regimes and improve transparency.
- It will be important to keep the public register up to date for this to be useful.
- Will there be one public register or three (one for each of Defra, the Environment Agency and Local Authorities)? The view was expressed that there should be one register for all exemptions.

3.5.15 Linked to the charging issue, a number of comments were raised about the length of time of an operation is active under an exemption. For example an operator may register an activity as exempt and this then covers the operator for three years; however the operation may only continue for a few months. This issue was raised by Wastefile UK, Ringway Group, Osbourne and Costain among others. It was requested that some consideration be given to applying lower registration charges for these types of operation.

3.5.16 Another issue raised (by BPEX), linked to charging, is that re-registration where there are no changes to the activity should be made even simpler, and free to operators.

3.5.17 A number of respondents from the agricultural sector were particularly angry in their response to the proposed requirement for re-registration (with fee), suggesting that this represented a U-turn on the part of Government. The NFU write:

“The proposal for three yearly registration makes a mockery out of the claims made between 2006-2007, which the farming community accepted in good faith, that registration would be ‘one-off and’ ‘lasts for life’. The
proposed fee of £50 every three years (i.e. Approx £16 per farm per year) may not seem like a huge amount to pay. Yet collectively this results in over £4 million taken out of the farming industry every three years… There is a huge sense of betrayal felt by the farming community over this.”

3.5.18 Similarly the National Pig Association write:

“Your proposal in this consultation to introduce three yearly registration periods, with a £50 charge for the registration of all registerable exemptions brings in to question the value of government commitments first made 8 years ago… and frequently reiterated. Producers that registered sites two years ago “for life”, free of charge are now faced with paying £50 for each site every 3 years. They will rightly feel government has completely reneged on its promises. They will feel they have been conned into registering their sites so that government could reward them 2 years down the road by moving the goal posts and trapping them into a costly re-registration framework.”

3.5.19 One farmer was concerned that the proposals would lead to increased illegal activity among the industry:

“…the introduction of one off exemptions for certain farm operations which are necessary for day to day operation was fair enough, but to have to renew an exemption, with a fee every three years is only going to introduce another trip hazard for farmers to fall into. You will only make farmers perform illegal operations in ignorance by removing their exemptions on time expiry. It will also create more unnecessary work load which you will obviously charge for, but the farmer will have to absorb”.

3.5.20 Other members of the business sector who were against the proposals expressed the view that the change would pose an unnecessary burden on operations which are, by nature, low risk. This was highlighted in particular by the representative of Lloyds Pharmacy which operates 1,600 individual premises. Whilst acknowledging that they would benefit from the revised WFD definition of collection, whereupon the storage of waste medicines at a collection point would not require registration of an exemption, additional burdens would be imposed by the proposals if each premises would have to be registered every three years for the denaturing of controlled drugs under exemption T27. This, they argue, will impose a potentially significant additional cost to them which is disproportionate to the environmental risk.

3.5.21 Indirectly linked to the proposal to stop open-ended exemptions, clarity was sought on what happens when an additional operation is required under the same exemption paragraph within the three years– could they both be covered by the same registration? An example given was an initial paragraph 11 exemption to wash, etc, waste plastic. If the operator then wanted to add steel/aluminium can baling, would this require two exemption applications (and thus fees) or would the initial paragraph 11 application cover all activities whether carried out or not? This is clearly an issue that could be addressed in any guidance issued.
Individuals, Community and Third Sector

3.5.22 A total of 17 responses were received from this group, giving a group response rate of 23%. The key concern expressed by this group was that voluntary organisations, charities and schools should not have to either register or re-register an exemption (with associated payments). This view was expressed in a number of forms by around half of the respondents in this group, and one respondent suggested that such organisations would simply not go to the effort of registering.

3.5.23 Of those that either supported the proposal or had some concerns (but were not directly against the proposal), a number expressed the need for the registration process to be very simple.

3.5.24 The need for reminders to be sent by the Environment Agency was again highlighted as with the public and business sectors.

3.5.25 Two respondents questioned the rationale for both registration in the first place and re-registration.

Responses Received by the Welsh Assembly Government

3.5.26 Of the two responses received by WAG, one supported the proposal and one opposed the proposal. Representing the farming industry and opposing the proposal, one respondent noted that:

“a three yearly re-registration of exemptions is totally unnecessary for the overwhelming majority of farmers”.

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3.6 Proposal 6 – To introduce a charge for the registration of all registerable exemptions

Who Responded?
3.6.1 In total, there were 153 respondents to proposal six (54% of all respondents). Proposal six received the largest response of all the proposals in the consultation.

3.6.2 In contrast to responses to the other proposals, there was a broadly equal split in the number of replies between public bodies, business, trade associations, the community/third sector and individuals. Many of the respondents only responded to proposal six. A significant proportion of the responses to proposal six were from the composting, agricultural and construction sectors. Four responses were received by WAG for this proposal.

How they responded
3.6.3 Unlike most other proposals, the vast majority of respondents to proposal six did not agree with the proposal. The proposal received a significant number of responses that expressed significant aversion to the implementation of a charge – particularly those respondents representing not-for-profit organisations, schools and the agricultural sector. In many cases, respondents failed to give reasoning to their opposition to the proposal.

3.6.4 The responses received to proposal six were markedly different to those received to other proposals. Many suggested that the introduction of a fee for registration would be to the detriment of the environment as many of the activities currently in operation which work to the benefit of the environment (e.g. community composting activities) would be forced to stop, or would not start in the first place.

Public Bodies
3.6.5 13 responses were received from this group (59% of all respondents from this group). Responses from public bodies were broadly balanced, with support and opposition to the proposal present in equal measure.

3.6.6 Of those that supported the proposal, a number of respondents stated their support, but gave no further details behind their reasoning. A number of respondents tentatively backed the proposal, recognising the need for the Environment Agency to recoup its costs through charging, but they raised concerns about the impact charges could have on the third sector, and questioned whether a turnover threshold should be set.

3.6.7 One typical respondent who was concerned with the proposal, The Local Authority Recycling Advisory Committee (LARAC) outlined its concerns with the introduction of the charge:

“LARAC is concerned about the effect of the introduction of charges on charitable organisations and community organisations, including community composting projects. Charges may pose a barrier to the “Third Sector Capacity Building Programme” recently announced by WRAP. LARAC is also concerned about the site-based charging system, in particular about the effect on charitable and community organisations wishing to add more sites subsequent to the original registration”
It then added:

“It would welcome proposals for a system whereby such organisations can apply to have their fees waived (a turnover threshold could be set).”

3.6.8 Other respondents in this group who directly opposed the proposal raised similar concerns. Some opposed the proposal because they believed that the proposal could have a “detrimental effect” on recycling efforts, especially from not-for-profit organisations and schools.

**Businesses and Trade Associations**

3.6.9 A total of 86 responses were received from the Business and Trade Associations group, 45% of all respondents. As with the Public Bodies, there was an evenly balanced response from respondents in these groups. Around half supported proposal six and half opposed it.

3.6.10 Larger businesses and trade associations tended to support the proposal with a common assertion that the permitting system should not be used to cross-subsidise the exemption system. The British Aggregates Association responded:

“The proposal to introduce a charge for the registration of all registerable exemptions is supported. It is acknowledged that exemptions will in the future only be provided for low risk activities and as such the charges should be proportionate and minimal for good operators and particularly SMEs. The management of the exemptions that are provided should not be subsidised by the charges for Permits but be self financing and sustainable. In this respect the proposed review of charges (Para 3.6.13) is also welcomed.”

3.6.11 Similarly, Smith and Stone stated:

“Exemptions should not be subsidised by permits but be self financing and sustainable.”

3.6.12 The Quarry Products Association (and supported by Veolia and the UK Environmental Law Association among others) goes further and states that the proposed charge is not enough to allow enforcement of the regime:

“The QPA agrees that a fee should be introduced and that the fee should be sufficient to allow the Environment Agency to visit every exempt site three times per year. The proposed fee is currently insufficient to enforce exempt sites through site visits. Fees should be sufficient to provide monitoring and enforcement proportionate to the risk presented by the activity.”

3.6.13 On a slightly different note, the CIWM state that some of their members suggest that the charges are too low and should be proportionate to the risks posed by the operation.
3.6.14 One respondent stated that the fee should be comparable for registering as a Hazardous Waste Producer\(^2\), whilst another respondent was concerned that the charges are low now, but might have the potential to be scaled up in the future.

3.6.15 Respondents who rejected the proposal outright cited a perceived lack of enforcement currently being undertaken, and expressed the view that charging might force those persons that have not registered for exemptions further ‘underground’. Some respondents stated that in the current financial climate, efforts should be made to reduce the cost to industry without any detriment to the environment, rather than introduce a new charge.

3.6.16 A significant number of respondents from the agricultural sector opposed the introduction of the charge. Respondents noted that the introduction of a charge would reverse a previous commitment Government made to the agricultural industry when introducing exemptions for this group. Many respondents stated that the reputation of Defra and the Environment Agency would be damaged by the introduction of charges. For example, the NFU responded:

“To change to a three year registration period chargeable at £50 and increasing every three years will not only break a promise, it will lower the reputation of Defra and the EA and their staff and encourage farmers not to register their waste exemptions in droves.”

**Individuals and the Community and Third Sector**

3.6.17 The overwhelming response from these groups was to reject proposal six. Almost unanimous opposition for the proposal was received, with only two respondents supporting the proposal from the 54 responses received from these groups (74% of all respondents from this group). Of those who mentioned specific activities, the vast majority of comments related to community composting (including composting at schools); the only other activity was in relation to paint re-use who stated that the imposition of a cost will hamper efforts to divert waste from disposal and provide a resource for those in need.

3.6.18 As stated, many respondents from these groups were members of community compost groups and schools. Respondents highlighted the disparity in Government policy, whereby on one hand, they are being encouraged to recycle, and on the other hand, with this proposal, the Government wishes to impose new charges on the activities which they seek to promote. One respondent stated:

“I have recently heard of the proposal to charge schools and charities an exemption fee of £50 if they wish to have a compost heap. I understand the need to control the collection and disposal of waste and can accept that industrial scale composting operations require control. However, to charge schools for the privilege of educating children in caring for the environment seems ludicrous and, I am sure, contrary to information from other sections of government.”

3.6.19 Some respondents feared that much of the composting that currently takes place will no longer occur if a charge is imposed, particularly in the community sector as they would be unable to raise funds for the charge. To adhere to a more coherent

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\(^2\) Currently £18 per year for an online application  
approach, some respondents requested that rather than imposing a charge, they should be financially rewarded for their activities. Respondents also drew attention to the potential loss of the educational benefits that composting in schools currently offers. One responded stated:

“We cannot express strongly enough the impact that the introduction of a charge for charities and not-for-profit organisations will have, however even further the impact this would have on the number of schools composting. There are various Government supported projects that are encouraging schools to grow their own and make children see the connection between what they grow and what they eat, and compost is an essential ingredient to help the growing process. Yet DEFRA’s suggestion of charging a £50 registration fee would be a disincentive to start or potentially continue composting. Schools often operate this type of activity on a seriously stretched budget, and if the charge was introduced, this would be a reason not to even start composting. As CCN have stated “introducing a charge for a no-risk to very low risk activity seems to go against the ‘polluter pays’ principle, as there is no pollution or environmental risk to pay for.”

3.6.20 Another response noted:

“We are an extremely small school, with an extremely small budget. Every last penny is used to support children’s learning. I would be very reluctant to use £50 of their budget to cover the cost of registering our compost making activities.”

3.6.21 The two respondents from this group who supported the proposal approached it from different standpoints. One respondent stated that they:

“Support it [the charge]; however, the charges are inadequate”

3.6.22 Whist conversely, the second argued:

“The rationale for the charge is clear and, if spread over three years, represents a small amount in all but a few cases. A lower cost for electronic registration is also welcome.”

Responses Received by the Welsh Assembly Government

3.6.23 Of the four responses received by WAG on proposal six, three strongly opposed the proposal and the position of the fourth was unclear. One respondent wrote regarding the scale of fees and what the fees are used for:

“The consultation paper suggests a cost of £50/site. There is no explanation of the way in which costs have been calculated, or justification for the calculation, particularly in view of the fact that the re-registration of exemptions is unlikely to take more than 40-45 seconds by phone! As farmers have noted in the past, costs, once introduced, steadily increase, usually at rates above inflation, i.e. Groundwater Authorisation charges. Most farmers resent the fact that their money is not used to cover the costs generated by their application, but in fact is used to fund generic Environment Agency work. This effectively means that farmers who comply with regulations are inherently low risk, but the money raised through ‘cost retrieval’ funds the policing of high risk non-compliant operators. This
situation is totally at odds with the ‘polluter pays’ principle and should be urgently addressed prior to any consideration of laying additional costs on an industry which cannot pass these increased costs to the consumer as is the case with other industries.”
3.7 Proposal 7 – Not to introduce a general record-keeping requirement for exempt operations

Who Responded?
3.7.1 Proposal seven received a total of 77 responses (27% of all respondents). A strong response was received from the construction and waste management sectors, with a high number of respondents also coming from the agricultural sector. The majority of responses to proposal seven were received from businesses and trade associations. Two responses were received by WAG.

How they Responded
3.7.2 The vast majority of respondents supported the details outlined in proposal seven (nearly 70%). Support was received from a variety of organisations and individuals and was not limited to a particular sector in the economy.

Public Bodies
3.7.3 Five responses were received for this proposal, which was 23% of respondents from this group. All respondents were in broad agreement with the proposal, though a number of respondents raised minor concerns.

3.7.4 Some respondents feared that the proposal might encourage illegal activity, whereby without records there could be a possibility that operators exceed the conditions for exempt activities. However, despite these concerns, respondents generally agreed that the removal of administrative burdens was seen as a higher priority and justified the introduction of the proposal.

Businesses and Trade Associations
3.7.5 A total of 64 responses (34% of respondents from this group) were received from businesses and trade associations with the majority of representatives agreeing with the proposal. One typical response received from Water UK stated:

“We welcome this proposal – as stated other relevant legislation can be used for data collation purposes.”

3.7.6 There were a small number of respondents who disagreed with the details in proposal seven, as they believed that the protection of the environment might be hindered by not requiring record keeping. This came out clearly from the scrap metal sector. The British Metal Recycling Association stated:

“BMRA does not support the proposal to “not introduce a general record-keeping requirement for exempt operators”. Records should be required to be maintained partly to assist compliance with the waste limit conditions (the main area of an exemption that operators are likely to abuse) and the Duty of Care will continue to apply to these facilities anyway. Nevertheless, BMRA believes it is important that streamlining of record-keeping is kept under review.”

3.7.7 A number of respondents claimed that without record-keeping, the regulator’s role would be increasingly difficult and that as a result, the aim of protection of the environment could be compromised. Some questioned how the Environment Agency would be able to regulate the regime without accurate records. The Chartered Institution for Waste Management (CIWM) noted:
“A lack of data and information have been the issues that have caused difficulties in understanding where waste is being treated or processed. Now that many of the notifiable exemptions are to be permits with a requirement for data returns, this will address the imbalance to a large extent. CIWM understands the reasoning behind the proposal is to reduce the administrative burden but this is a missed opportunity to at least collect basic data on types and quantities of materials being used, treated or processed.”

Individuals and the Community and Third Sector
3.7.8 Eight responses (11% of respondents from this group) were received from individuals and the community/ third sector. There was widespread support for the proposal. A small number of respondents noted that record keeping can be very inconsistent (particularly in the community sector) and serves little benefit.

Responses Received by the Welsh Assembly Government
3.7.9 In the responses received by WAG, one respondent supported the proposal stating that too many records are needed to be kept already. The position of the other respondent was unclear - they noted the usefulness of keeping some records, but did not express an opposition to the proposal.
3.8 Proposal 8 – Not to introduce a statutory appeals mechanism for the regulators’ failure to register an exempt waste operation

Who Responded?
3.8.1 A total of 65 responses were received for proposal eight, amounting to just over 22% of all respondents. The majority of responses were received from the business and trade associations groups (55). A smaller response was received from other groups.

3.8.2 Examining the specific sectors of the economy, the majority of responses were received from the construction sector. One response was received by WAG.

How they responded
3.8.3 Over half of all respondents opposed the introduction of proposal eight. The proposal was not very well supported, with less than a third of all respondents supporting the proposal. Many were unsure of what alternative mechanism might replace the appeals system.

3.8.4 It appears from some of the respondents that there may be confusion over this proposal. A number of comments refer to the ‘removal’ of the right to appeal (for including Encia, the Retail Motor Industry Federation and SIMS group UK). This is a point which may require further clarification, since the current exemption system offers no appeal mechanism.

Public Bodies
3.8.5 Only five responses were received from public bodies – this equated to 23% of all respondents from this group. It is fair to say that there was a considerable degree of uncertainty surrounding the proposal, with a number of respondents requesting further information on the proposal. The Highways Agency raised the issue of using an alternative route to an appeals mechanism:

“We are concerned that this proposal runs contrary to the aims of minimising bureaucracy in proportion to the relevant risk. While it is clear that many more complex and therefore contentious decisions will be covered by permitting and mechanisms inbuilt there, the proposed routes for contesting the handling of registration for exempt operations seem disproportionately lengthy and complex.”

3.8.6 The Broads Authority raised a specific example where the proposal may cause problems:

“The potential for lack of consistency when interpreting whether dredged sediment contains too much of any particular hazardous substance causes concern for future exemption applications. Lack of clear thresholds at which concentrations of hazardous substances become a real environmental risk means the ability to define the waste accurately is difficult. The inability to appeal at the exemption application stage means that many truly low-risk activities (albeit with low concentrations of hazardous substances identified) will be forced through the more costly and administratively burdensome permitting route.”

3.8.7 By contrast, one respondent stated that the route through the Ombudsman would be sufficient.
Businesses and Trade Associations

3.8.8 55 responses were received from this group, giving a response rate from this group of 28%. The majority of respondents opposed the details outlined in proposal eight, with a number of respondents specifically stating that they were in favour of an appeals process.

3.8.9 In the responses, many respondents stated that an appeals system should be implemented, in line with the majority of responses to the previous consultation. There was a view expressed by some responses that this proposal was being forced through. Wastefile UK responded by saying:

“We are concerned that, despite the majority response to the previous consultation being in favour of some type of appeals mechanism, you have still proposed that these regulations should not include any mechanism for appeal.”

3.8.10 Some respondents elaborated further by explaining the benefits of the appeal system. Arguments were made that the appeal system helped improve both the regulator’s and business’ understanding of individual proposals as many details of the proposal would be examined in the appeals process.

3.8.11 Some responses suggested that the regulator was not perfect, and mistakes could be made. Respondents argued that the system should accommodate these mistakes and not penalise operators where these occur by removing the right to appeal through an appeal process.

3.8.12 Other respondents stated that the costs of implementing an appeals system for the Environment Agency were overstated, and that it was unlikely that the cost would be too great. Further exploring the issue of cost, Biffa responded:

“We are disappointed that there is no statutory appeals mechanism for failure by the regulator to register an exempt waste operation. The use of complaints to the parliamentary ombudsmen or judicial review is disproportionate and expensive but clearly remains as an ultimate route for complaint. In the absence of a statutory appeal mechanism the full complaints procedure must be clearly described in the guidance notes and on application forms or on-line portals and not hidden away in an obscure corner of the Environment Agency web site.”

Individuals and the Community and Third Sector

3.8.13 Five responses were received from this group (7% of all respondents from this group). Opinion was split with roughly half supporting, and half opposing, the proposal.

3.8.14 One of the respondents who supported the proposal did so on the basis of an expectation that other safeguards would be put in place alongside the proposal. However, no indication of what these safeguards might be was provided.

Responses Received by the Welsh Assembly Government

3.8.15 The single response received by WAG was opposed to the proposal as they felt the Environment Agency would be judge and jury in its own case.
3.9 Proposal 9 – To introduce a three year transitional period from October 2009 to 1st October 2012

Who Responded?
3.9.1 A total of 66 responses were received for proposal nine. Responses tended to originate mostly from businesses and trade associations (55 responses in total). Examining the specific industry types, the majority of respondents originated from the construction sector. Two responses were received by the Welsh Assembly Government.

How they responded
3.9.2 In general, the vast majority of respondents were in agreement with details outlined in proposal nine.

Public Bodies
3.9.3 A total of five responses (23%) were received from this group, with almost all respondents supporting the proposal. One respondent, The Highways Agency, highlighted the importance of the transitional period:

“The introduction of a transitional period is vital in ensuring that the construction industry is allowed time to effectively introduce the changes brought about by the Regulations. A large number of activities that currently benefit from exemptions are likely to require permits and we would look to the Regulators to demonstrate that the process and structural changes required on their part can be sufficiently funded and embedded within the three year window proposed.”

Businesses and Trade Associations
3.9.4 54 responses were received (29% response rate) from this group. The majority of respondents supported proposal nine with the view that the proposal seemed sensible and achievable. Many respondents simply backed the proposal without adding further comment. Businesses were generally happy that the 3 year timeframe gave businesses enough time to adjust to the new regime.

3.9.5 In some instances, where respondents were inclined to agree with the proposal, they added the caveat that they would only do so if more information on specific exemptions was provided in the future. Some trade associations expanded on this further by suggesting that the competent authority could consult with the various associations in order to develop guidance in their specific area during the timeframe. The United Kingdom Renderers’ Association stated:

“We welcome the proposal to introduce a transitional period. We would seek active dialogue with the Environment Agency and Defra on developing specific guidance for moving landsprading activities into standard permits.”

3.9.6 A small number of respondents who opposed the proposal did so on the grounds that the transitional period might be too long, and has the potential to further complicate the revisions to the exemptions.

Individuals and the Community and Third Sector
3.9.7 Six respondents (8% response rate) representing individual interests and the community and third sector replied to proposal nine. There was divided opinion
for the proposal. Some respondents backed the proposal in principle, but some raised concern that the transitional period was shorter for community composting resulting in the sector being treated unfairly. Other respondents opposed the introduction of the proposal as they thought the time period was too long. In some instances, respondents felt that the details outlined in the consultation were confusing and required further elaboration.

Responses Received by the Welsh Assembly Government

3.9.8 From the two responses received by the Welsh Assembly Government on this proposal, one supported the proposal and one opposed the proposal. In stating their opposition to the proposal, NFU Wales stated:

“We hope they are not but if these proposals are implemented, the agriculture sector will need time to adjust to the changes and therefore this transitional period will be necessary. However we are concerned that some ‘low risk positions’ will disappear in 2009 and the activity may not be covered under an exemption or permit. Operators who are relying on low-risk positions will need more time to adjust and make alternative arrangements to continue with their activity. We feel that certain low-risk positions should therefore also be extended to 2012.”
3.10 Proposal 10 – To provide an enhanced public register of exempt waste operations

Who Responded?
3.10.1 In total, there were 66 respondents to proposal 10. The majority of responses were received from businesses and trade associations, and of these, the majority were from organisations involved in the construction and waste management sectors. No responses were received by the Welsh Assembly Government.

How they responded
3.10.2 A large majority of respondents (nearly 90%) expressed support for proposal ten. Only a small number of respondents (7) were either opposed to the proposal, or it was unclear from the response whether they were supportive or not.

Public Bodies
3.10.3 In total there were five responses received from public bodies (23% of respondents from this group), all of which supported the proposal. Some of the respondents pointed to the current lack of reliable and publicly available data, a situation which they hoped the proposal would help rectify.

3.10.4 The proposal was welcomed by all respondents from this group and was seen by some respondents as a useful tool which could be used for their own analysis. One respondent recommended that the database should link up, if at all possible, with site waste management planning regulatory requirements (where appropriate).

Businesses and Trade Associations
3.10.5 56 responses were received from businesses and trade associations. Overall, respondents strongly welcomed proposal 10. Many businesses commented that an online register would make it easy for waste producers to check exemption or permit details quickly and reliably. One respondent noted:

“We fully support any enhancement to the public register for exempt waste operations. We believe that it is essential that a simple mechanism is in place to allow a waste producer to check both exemption and permit details quickly and reliably, through a suitable web based interface.”

3.10.6 Some respondents stated that the register could be used by operators to examine whether their competitors had the relevant permits or exemptions. As a result, it could be used as an enforcement tool. In many cases, this was accompanied by the caveat that the respondent assumed the database would be updated regularly.

3.10.7 One trade association, supported by other businesses (see proposal 5), highlighted the need for the register to be available in a format which can be accessed by businesses that are unable to access the internet (those in rural areas for example).

3.10.8 Very few negative remarks were received regarding proposal 10, however, one respondent questioned whether there was a need for public register since, by definition, the environmental risk of the exempt activities is classed as low.
3.10.9 This issue also links back to proposal five (re-registration) and the reader is referred back to Section 0 for more information.

**Individuals and the Community and Third Sector**

3.10.10 Five responses were received from this group (7% of this group's respondents), with the majority of respondents backing the proposal. Some respondents backed the proposal but added the view that public perception of exempt activities is an important factor to consider in designing the register, as waste can be seen by some members of the community as having a negative impact. The register did therefore have the potential to highlight these ‘negative’ impacts. One respondent also highlighted slight concern in the register's impact on the potential for increased fly tipping at exempt sites if the details of the site were to be published.
3.11 Proposal 11 – To provide revised environmental permitting guidance on exempt waste operations

Who Responded?
3.11.1 A total of 74 responses were received for proposal 11. As with responses to several other proposals, respondents were mainly from the business and trade association group. The majority of respondents were from the construction and waste management industries. There were no responses received on this proposal by WAG.

How they responded
3.11.2 Proposal 11 received almost total unanimous support from all respondents (over 90% supported the proposal). Support was expressed across all groups. Many respondents made a number of suggestions surrounding the role of the guidance and welcomed the opportunity to assist in its development.

Public Bodies
3.11.3 Seven responses were received from representatives in this group (giving a 32% response rate), with almost all the respondents supporting the proposal. A clear message emerging from respondents was that the production of clear Guidance that was easier to understand would be strongly encouraged and welcomed by all persons who were involved in the industry. In addition, it was added that clear and well thought out guidance is essential for the success of all of the proposed changes.

3.11.4 Examining individual responses, some respondents suggested the guidance should include examples of real life situations, so it could be more easily understood by operators. Accordingly, it was also suggested by some that discussions with operators likely to be affected by the guidance should take place before its preparation. One respondent suggested that tailored guidance for those sectors most affected by the changes should be produced alongside generic guidance, in order for it to be more clearly understood.

Businesses and Trade Associations
3.11.5 The opinion from this group was very similar to the public bodies. In total there were 63 responses from representatives in these groups (33% of all respondents from this group). A large number of the responses included suggestions as to how the guidance should look and feel.

3.11.6 A number of respondents stated that current existing guidance can be very hard to find on regulators’ websites, and they can sometimes find themselves stuck in ‘loops’, whereby guidance links back to a page they had viewed previously. One respondent suggested that new guidance should be made easy to find on the relevant websites.

3.11.7 Echoing respondents representing public bodies, some respondents requested that case studies or specific industry examples should be used in the guidance, so as to enhance clarity. Respondents generally agreed that clear and succinct guidance will be critical to the successful implementation of the new exemptions scheme.
3.11.8 Many respondents stated that an important requirement from businesses was for guidance to be made available in a timely fashion. Some respondents suggested that, if possible, guidance should be in place prior to the start of the transitional period, therefore enhancing prospects for a successful transitional period. Respondents felt that the sooner guidance could be made available, the quicker businesses could adapt to the proposed changes.

3.11.9 Considering what was to be included in the guidance, some respondents requested that clear definitions should be contained in the guidance, therefore ensuring clarity. An example of this, was received from the Confederation of Paper Industries who stated:

“We still support this proposal but must raise the point that clear definitions must be contained in the guidance for any contentious language. The terms “inside a building (S2)” and “outdoors (T4)” are not clearly defined and could lead to interpretation issues. If interpreted as meaning all material had to be stored in a constructed, roofed building then this would have a devastating impact on the UK paper recovery and recycling industry with no clear evidence of environmental or health gains.”

3.11.10 There were also requests for guidance to be able to cross reference the old and the new systems in order to easily highlight the changes made to the system. A number of respondents also appealed for the guidance on exemptions to be linked directly to specific Environmental Permitting guidance.

3.11.11 In determining who provided the guidance, one respondent requested that policy guidance should come directly from Government, and regulatory and technical guidance should come from the regulator.

**Individuals and the Community and Third Sector**

3.11.12 Four responses (5% response rate) were received from this group, with the majority of respondents agreeing with the details in proposal 11. Respondents echoed similar remarks to those expressed in the other groups.
3.12 Proposal 12 – To include the principles for a regular review of exemptions in the environmental permitting guidance

Who Responded?
3.12.1 A total of 70 responses were received for proposal 12 (just under a quarter of all respondents). The majority of respondents comprised representatives from businesses and trade associations. The majority of respondents were from the construction and waste management sectors. One response was received by WAG in relation to this proposal.

How they responded
3.12.2 The majority of respondents supported proposal 12. Many respondents included helpful suggestions within their responses. A significant number of respondents also offered to make resources available for the proposed exemption review panel.

Public Bodies
3.12.3 Of the five respondents to this proposal (23% of the total from this group), there was almost total unanimous support. A number of respondents expressed the opinion that the waste management industry is evolving and it is likely that new issues will arise, resulting in new guidance needing to be written in the future.

3.12.4 The topic of the exemption review panel also triggered a number of responses. Although welcomed by the respondents, a small number had reservations that the proposals for regular review did not seem comprehensive enough to ensure that operators will be fully engaged with it.

Businesses and Trade Associations
3.12.5 Of the 61 respondents (32% of the total for this group), the majority of businesses and trade associations supported the details in proposal 12.

3.12.6 Many of the respondents believed that a regular review of exemptions would allow stakeholders to feedback comments and suggestions into the system, thereby improving the system. Respondents saw this process as essential in creating a ‘fit for purpose’ exemption system. However, despite supporting the proposal, there were a small number of respondents who were concerned that too frequent updating of the exemptions could create a degree of confusion within the industry.

3.12.7 Considering the formation of the review panel, a number of respondents welcomed the proposal, but requested that a significant voice for business was placed on the panel – a similar view to that expressed by some public bodies.

3.12.8 A few respondents feared that the panel might be too slow to react to the industry’s requirements. The respondents stated that given the length of time needed to amend legislation, they requested whether the panel would be able to establish interim position statements on low-risk activities.

3.12.9 Clarity was required by a small number of respondents on the particular details of the proposal. Some respondents were confused by comments made at a workshop in London by Defra and EA officials. Respondents recalled that it was stated at the workshop that there would be no fixed timetable for the review and
that the review process would be flexible; this is a statement which appears to contradict proposal 12. One respondent noted:

“We have been advised that reviews would take place as and when appropriate, according to the number of proposals received and any changes in directives, as a strict timetable would not prove cost or time effective.”

3.12.10 Those respondents who raised the issue requested clarification on the matter.

3.12.11 The response from South West Water advised that:

“for the system to succeed a standard mechanism for registering a proposal should be provided and dates when reviews are to take place widely published”.

3.12.12 A small number of respondents were concerned that the review process would increase the legislative control of existing exemptions/permits rather than relaxing the control which may also be appropriate.

Individuals and the Community and Third Sector
3.12.13 Four responses were received from respondents in this group (5% of the total for this group). The views from this group were similar to those received from the other groups.

Responses Received by the Welsh Assembly Government
3.12.14 The single respondent who replied to the Welsh Assembly Government supported the proposal provided the environmental permit conditions were reasonable and consistent.
3.13 Proposal 13 – To provide an additional transitional period for operators of registered exemptions who newly need an environmental permit to demonstrate technical competence in the environmental permitting guidance

Who Responded?
3.13.1 In total there were 63 respondents to proposal 13 (marginally over 20% of all respondents). Businesses and trade associations formed the majority of respondents. Two responses were received by WAG.

How they responded
3.13.2 The majority of respondents (over two thirds) were in support of proposal 13. There were a number of respondents who were unsure or undecided on their stance as they required more information on the particular details of the proposal.

Public Bodies
3.13.3 There were four respondents to proposal 13 (18% of responses from this group), with a small number of concerns raised surrounding technical competence. One respondent requested more clarity on a timeframe for the development of new schemes for the demonstration of operator competence. The respondent then stated:

“Those higher risk activities currently register[ed] under a notifiable exemption that will be required to apply for a permit, are to do so by October 2010 at the earliest. The length of the transitional period to demonstrate operator competence should be set from the date of availability of the schemes”

3.13.4 Another respondent requested that examples of technical competence, or the minimum requirements, should be stipulated within guidance documents.

Businesses and Trade Associations
3.13.5 A total of 53 responses were received from representatives from these groups (28% of the total received from this group). The views were divided on the proposal, with a number of questions being raised repeatedly by a significant number of respondents.

3.13.6 Of those who supported the proposal, many simply stated their support but did not allude to any further reasoning behind their view. Some respondents supported proposal 13 in general, but required that the timeframe should be extended from 12 months to 18 months to allow enough time for qualification.

3.13.7 A number of respondents commented that no operator competence scheme had been approved and awaited to hear further details on the schemes before commenting further.

3.13.8 Some respondents did not agree with the need for technical competency requirements. They felt that it was the most onerous and complicated part of the

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3 The situation has since changed following the approval of the CIWM/WAMITAB scheme on the 22\textsuperscript{nd} December 2008.

http://www.defra.gov.uk/environment/epp/guidance.htm#operator
proposed changes and might lead to some activities ceasing as a result of the level of bureaucracy involved. Smaller sites, which would not be able to go to the expense of employing a 'technically competent' person, might be discouraged from trading.

3.13.9 It was also noted by a number of respondents that the Scottish Government has announced its intention to consult on the removal of technical competence requirements altogether. Some respondents anticipated that a dialogue between the UK Governments would ensue to create a 'level playing field'.

3.13.10 Approaching the proposal from another angle, there were a number of respondents who were concerned that the proposal raises the possibility of a permitted site being managed by an operator who is not technically competent. One respondent noted that:

“The use of a permitted waste operation, without any technically competent person, being used as the training ground for an operator undermines the risk based approach being adopted in the new scheme”

Individuals and the Community and Third Sector
3.13.11 A total of six responses were received from respondents in this group (8% from the total received from this group). Responses typically reflected those made by businesses and trade associations.

Responses received by the Welsh Assembly Government
3.13.12 From the two responses received, one supported and one opposed the proposal. The respondent who did not support the proposal requested more information:

“I have particular concerns regarding competency. For major highways and civil engineering companies, will every site manager fall within these new requirements?”
3.14 Partial Impact Assessment

3.14.1 There were a small number of responses regarding details in the pIA. Those respondents who did make comment on the pIA highlighted a number of areas where changes could be made.

3.14.2 Questioning the overall content of the impact assessment, one respondent requested that a breakdown of the benefits should be made clearer and that the costs to obtain planning permission should be acknowledged in the impact assessment. The same respondent also disagreed that a 5% move to Standard Permits was proportionate. Another respondent, commenting on the pIA, stated that the impact assessment:

“‘glosses over’ the issue of permit maintenance cost”.

3.14.3 When considering issues surrounding technical competence, a number of respondents stated that the cost of achieving and acquiring technical competence is currently unknown and should be considered in the impact assessment when the details and data becomes readily available. One respondent stated that one issue that is not considered in the impact assessment was waste acceptance procedures training. The respondent stated that:

“…this is not the time and money involved in putting the site manager through training to obtain his COTC, but training for all operational staff in general.”

3.14.4 The same respondent also noted that the impact assessment failed to include staff retention costs, which is the increase in salary required to retain staff who obtain a COTC. The respondent stated that retention costs will vary according to the location of the operation, but will average around £3,000.

3.14.5 Considering the costs for hiring consultants, a number of respondents believed that the figures used in the impact assessment (table 5 annex 3) were too low.

3.14.6 A particular concern was raised by the Confederation of Paper Industries (CPI) surrounding paper industry engagement with the pIA process. The CPI made representations for Defra to consult with them on details within the pIA.
3.15 Guidance

3.15.1 In responding to the general proposals already discussed, a number of respondents made specific reference to what they would like to see in relation to any published guidance. Whist the specifics are detailed below, what came out most strongly was for the guidance to be clear, easy to understand and delivered in a timely manner.

3.15.2 The list provided below is not necessarily an exhaustive list of all comments referring to guidance, rather a list of key points that were highlighted when looking at the general proposals:

- Definitions to be covered should include ‘place of production’, ‘treatment ancillary to the storage of waste’, ‘inside a building (S2)’ and ‘outdoors (T4)’.
- The guidance should make clear that the wastes in question must meet the narrower waste description in addition to the LOW code to benefit from the exemption.
- The guidance should set out the method for utilizing the permits for mobile crushing and screening – will it be through the current ‘deployment notifications’?
- Several comments were made that the guidance should include further detail on the definition of ‘trivial’ in relation to crushing activities.
- The guidance should cover how the EA propose to manage the situations where an environmental permit is held for a certain waste operation on a site but where there is also a need to register exemptions for other activities on the same site within the boundary of that permit?
- In relation to appeals, CIWM state that if no statutory appeals mechanism is in place then the Environment Agency Complaints and Commendations procedure should be highlighted in the guidance.
- The use of case studies and sector specific guidance was raised on a number of occasions.
- The guidance should link to other requirements such as the Duty of Care.
- Guidance should include details of the risk based approach and actual risk assessment process used.
- The old and new regimes should be cross referenced. The table included within the consultation document was praised by a number of respondents and it was requested that this be taken forward into guidance.
- Guidance should include sample forms and details of the specific requirements/process to obtaining an exemption.
- The guidance should set out the roles and expectations of the regulator/s as well as the regulated.
- Guidance should include where to go for more advice.
- Guidance should include detailed information regarding technical competence.
4 Concluding Comments

4.1.1 The proposals have elicited quite different types of response across the groups. Strength of opinion was greatest (perhaps unsurprisingly) on proposals five and six, and weakest in relation to proposal three.

4.1.2 In considering the response rates to each proposal it can be seen that for the community and third sector group the response rate was typically less than 10% with the exceptions of proposals five and six which elicited an elevated response rate of 23% and 74% respectively.

4.1.3 For public bodies, the response rate typically ranged between 18% and 32% for each proposal, the exception being in relation to proposal six where the response rate jumped to 59%.

4.1.4 The business and trade body sector presented a more varied picture, but again the highest response rate was highest for proposal 6 (45%) and lowest for proposal 3 (8%).

4.1.5 Whilst overall, there is broad support for most of the proposals; two proposals - proposals six and eight - did not receive overall support. These proposals, together with proposal five (where a perceived reversal of position from a previous commitment is proposed) are the most contentious and require most consideration by Government.

4.1.6 The agricultural sector has shown extremely strong feelings about both proposals five and six, stating that they are “nothing more than Government going back on this firm prime ministerial commitment”.

4.1.7 Strong feelings about re-registration and charging was also expressed by those involved in community composting (including schools), who see that the proposals will hamper efforts to increase composting and will result in many current activities closing.

4.1.8 The other proposal that was unsupported overall was proposal eight in relation to the appeals system. Although no appeal system currently exists for the exemption regime, the general consensus was that an appeal system would be beneficial.

4.1.9 There were a number of respondents who discussed specific concerns and issues in their responses which were wider than the remit of the proposals. For example, strong feelings relating to the definition of waste and overall risk based approach being taken were received by representatives from the paper recycling and the ink cartridge recycling industries. The Government may wish to consider the wider issues raised by these respondents.

4.1.10 The Government acknowledges that there are controversial issues raised in this consultation. There will be a need for any changes that are made to be supported by clear unambiguous guidance, and in some cases, more direct support to those affected.

4.1.11 The Government’s response to this summary will be published in the near future as a separate document.
Part Two – Summary of Technical Responses

5 Summary of Responses

5.1.1 Of the 285 responses received on the consultation, 170 respondents (59%) commented on the individual exemptions specified in the draft regulations. Fifteen per cent of these were from Individuals, community and the third sector, 7% of these were from public bodies and 78% were from businesses and trade associations.

5.2 Table 3: Total Responses by Group

<table>
<thead>
<tr>
<th>Group</th>
<th>Number of respondents</th>
<th>Percentage share of response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business</td>
<td>93</td>
<td>55%</td>
</tr>
<tr>
<td>Trade Association</td>
<td>41</td>
<td>24%</td>
</tr>
<tr>
<td>Government or Government Delivery Body</td>
<td>8</td>
<td>5%</td>
</tr>
<tr>
<td>Local Authority</td>
<td>6</td>
<td>3.5%</td>
</tr>
<tr>
<td>Individual</td>
<td>4</td>
<td>2%</td>
</tr>
<tr>
<td>Community and Third Sector</td>
<td>18</td>
<td>10.5%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>170</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

5.3

5.3.1 The table in Annex B - Breakdown of Responses to individual exemptions details the number of responses received for each proposed exemption from each sector, and the number received from those submitted to WAG.

5.3.2 The table below demonstrates the volume of responses to these exemptions out of the total number of responses (170) commenting on individual exemptions.

Table 2: Exemptions receiving highest number of comments

<table>
<thead>
<tr>
<th>Proposed exemption reference</th>
<th>Current exemption reference</th>
<th>Percentage of respondents commenting on individual exemptions (out of 170)</th>
</tr>
</thead>
<tbody>
<tr>
<td>U1 Use of waste in construction</td>
<td>19</td>
<td>31 %</td>
</tr>
<tr>
<td>U11 Treatment of agricultural land</td>
<td>7</td>
<td>30 %</td>
</tr>
<tr>
<td>U12 Treatment of non-agricultural land</td>
<td>9</td>
<td>29.5 %</td>
</tr>
<tr>
<td>U9 Direct and beneficial use of waste</td>
<td>15</td>
<td>23.5 %</td>
</tr>
<tr>
<td>T5 Screening and blending of waste</td>
<td>13</td>
<td>23.5 %</td>
</tr>
<tr>
<td>T23 Aerobic composting</td>
<td>12</td>
<td>22 %</td>
</tr>
</tbody>
</table>

5.3.3 Individual sectors within the “business” generic grouping are referred to within this document as a means of identifying those interested / effected sectors.
6 Exemptions excluded from summary

6.1.1 No specific comments were received on the following exemptions or comments were restricted to LOW codes or ambiguities which have been noted.

U4 Use of waste in the construction of entertainment or educational installations

U8 Use of sewage to clean a contained gravel bed

T1 Cleaning, washing, spraying or coating relevant waste

T2 Recovery of textiles

T3 Treatment of waste metals and metal alloys by heating for the purposes of removing grease etc

T12 Manual treatment of waste

T13 Bulking up waste feed

T17 Crushing waste discharge lamps

T22 Treatment of animal by-product waste at a collection centre

T28 Treatment of non-hazardous pesticide waste waters for disposal

T29 Recovery of silver

T30 Recovery of monopropylene glycol from aircraft antifreeze fluids

T31 Treatment of waste in a biobed

D3 Deposit of waste from a portable sanitary convenience

D5 Depositing samples of waste for the purposes of testing or analysing them

D8 Incorporating ash into soil
7 Summary of responses

The following sections summarise the main comments received about individual proposed exemptions and are set out in the order they appear in the draft regulations under the Chapter headings of use, treatment disposal and storage. In addition to the main comments, specific comments or proposals on the waste types and the relevant List of Waste Codes were made in respect of many exemptions and these have been noted and will be reflected in the revised exemptions where appropriate.

In formulating the proposed draft regulations the Government used a number of principles and other criteria (which are set out in full in the consultation document) to determine the risk posed by an activity and help determine the threshold below which it should be regulated under an exemption and above which it should be regulated via an environmental permit.

8 Chapter 1 - Use of Waste

8.1 U1 Use of waste in construction work

8.1.1 Fifty three respondents provided comment on this exemption, of which 58% were from the business sector and the majority of these from the construction industry (43% of the total responses to this exemption) and the rest primarily from industries undertaking or involved in construction activities.

8.1.2 Forty four of those who responded to this exemption commented on the proposed threshold. Thirty eight of these (73%) stated that the threshold was too low in terms of tonnage and five of these stated that the storage period was too short. Two respondents welcomed the restriction proposed by the exemption and one commented that it would have been useful to see the standard permit prior to responding but that the threshold was acceptable. Most respondents saw the need for greater enforcement to ensure against abuse of the system.

8.1.3 The reasons given by those against the proposed thresholds included: they would reduce the use of recycled aggregate in construction projects; they would lead to an increase in these materials going to landfill; concerns over landfill tax; administrative burden on short term construction projects requiring larger quantities of waste; the correlation between this exemption and the link with Site Waste Management Plan.

Responses received by the Welsh Assembly Government

8.1.4 One response was received by WAG on this exemption from Wales Environment Trust (WET) who commented that the threshold proposed was a morning’s work at a construction site.

8.2 U2 Use of baled end-of-life tyres in construction work

8.2.1 Eighteen respondents provided comment on this exemption, with 55% of these from businesses and 22% from trade associations. Almost all (83%) of respondents to this exemption were from the construction industry and various tyre industry bodies.

8.2.2 Eleven respondents (60%) provided comment on the proposed thresholds in the exemption. All of these responses stated that the threshold was too low and
recommended an increase in the storage limit to between 1000 and 3000 bales. There were also two comments proposing an increase of storage time from 1 month to 6 months.

8.2.3 There was a general welcome for the inclusion of the PAS108 standard in the exemption. However, there were concerns put forward by 11 respondents (60%) regarding the restriction that the exemption would not apply to uses of tyre bales below ground and reference to the aquatic environment.

8.3 U3 Use of waste in the construction of tracks, paths, bridleways or car parks

8.3.1 Twenty five respondents provided comment on this exemption, of which 68% were from businesses and 24% from trade associations. Almost half of the responses (48%) were from the construction industry and 28% from the water industry.

8.3.2 Five respondents commented on the thresholds proposed in this exemption, with 3 specifically stating that the proposed 500 tonnes limit was too little. One specific proposal was put forward to raise this threshold to 5000 tonnes.

8.3.3 There was some confusion in the response as to the interaction between the exemption in U1 -Use of waste in Construction, and this exemption and whether construction waste included in U1 could be used in the construction of tracks and car parks. A number of waste types were also proposed for inclusion and also some expansion in the types of places where this exemption would be applicable, for example horse ménages.

Responses received by the Welsh Assembly Government

8.3.4 One response was received by WAG to this exemption and proposed the inclusion of an additional waste stream.

8.4 U5 Burning of waste as a fuel in a small appliance

8.4.1 Three respondents provided comment on this exemption. Two stated that they did not believe that this exemption was required and that it should be a non-Waste Framework Directive exemption so would not be required to be registered, with reference being made to the perceived requirement for anyone burning wood in a stove would be required to register an exemption.

8.4.2 Another response proposed extra LOW codes to allow the burning of wood on waste transfer stations for heating.

8.5 U6 Use of waste derived biodiesel as a fuel in a motor vehicle and storage at a relevant site

8.5.1 Five respondents provided comment on this exemption. Two respondents stated that there should be no exemption either due to case law regarding definition of waste or that it would lead to low standards of treatment in the production of biodiesel. A further two respondents commented on the threshold, with one stating that it was plenty for the community recycling sector and another stating it was insufficient for the running of agricultural vehicles. There was also a request to include a reference to bunding, as specified in the Storage of Control of Pollution (Oil Storage) (England) Regulations 2001.
8.6 U7 Use of sludge for the purposes of re-seeding a waste water treatment plant
8.6.1 Six respondents from the water industry (businesses or trade associations) provided comment on this exemption. A number of additional waste types and increases to the threshold were proposed.

8.7 U9 Direct and beneficial use of waste for a specified purpose
8.7.1 Forty respondents provided comment on this exemption, with the majority coming from businesses (60%) and trade associations (25%). A quarter of these responses were from the construction sector, five (13.5%) from the agricultural sector (primarily trade associations) and five (13.5%) from the water industry.

8.7.2 The agricultural sector comments related specifically to two areas of the proposed exemption: the use of tyres on silage clamps and the use of waste as animal bedding. The thresholds proposed for both of these activities were stated as being too low and an increase was suggested that would be more applicable to the industry. A number of additional waste types were also proposed for use as animal bedding.

8.7.3 The construction industry queried the definition of “road stone” used in the exemption but otherwise made no comments apart from support for the restriction of the exemption.

8.7.4 The water industry commented on the storage of waste chemicals and commented that the low volume would not be economically viable and suggested increased threshold levels and additional waste streams.

Responses received by the Welsh Assembly Government
8.7.5 The three responses received by WAG to this exemption came primarily from the agricultural industry, Cadwyn Cymru Link Wales Ltd and Farmers’ Union of Wales (FUW) and discussed various waste streams for inclusion

8.8 U10 Use of waste to manufacture finished goods
8.8.1 Twelve respondents provided comment on this exemption only from the business (75%) and trade associations (25%) from a range of different sectors.

8.8.2 Concern was expressed by the paper industry regarding the restriction of storage to “within a building” or “within a container”. An alternative definition of container was suggested to allow for secure containment within a fenced and bunded area in bales.

8.8.3 There was also concern that a number of waste protocols, including for waste ash, have not yet been published therefore the restriction of tonnage would prevent the recycling of these materials into construction materials where they remain waste.

8.9 U11 Spreading waste on agricultural land to confer agricultural benefit
8.9.1 Fifty two respondents provided comment on this exemption, with over three quarters from the business group (48%) and trade associations (28%), with the majority of these being from the agricultural (16%) and water industry / drainage
(24%) sectors. Eighteen % of the responses were from the organics recycling and community recycling sectors.

8.9.2 The agricultural sector requested that the storage limit be increased from 200 tonnes to allow farmers to store during closed periods and to wait for the correct crop requirements. It was also proposed that the thresholds should be increased with restrictions in relation to Nitrate Vulnerable Zone and Codes of Good Agricultural Practice (COGAP) recommendations rather than specified in the legislation.

8.9.3 Concern was expressed that the landspreading of milk was limited to 50 litres per hectare diluted, although this has subsequently been noted to be an error in transcription and is 50 cubic metres per hectare. It was also queried why farmyard manure was included within the exemption when it is not considered to be a waste.

8.9.4 The drainage sector expressed concern about the restriction in the sources of drainage material allowed to be spread and also the volumes proposed in the exemption. They believed the proposals would further restrict the ability of operating authorities (Environment Agency, Local Authorities and Internal Drainage Boards (IDBs)) to ensure waterways and flood attenuation assets are fit for purpose, thus increasing the risk of flooding, which would seem contrary to the Government’s direction of reducing flood risk and not causing harm to health and the environment.

8.9.5 A number of waste types, the majority of which are currently covered by the paragraph 7 treatment of land exemption under Environmental Permitting (England and Wales) Regulations 2007, were proposed for inclusion under this exemption. A query was also raised whether the compost produced at permitted sites would be allowed to be spread under this exemption as well as that produced at exempt composting sites.

8.9.6 There was some confusion regarding the difference between proposed exemptions U11 Spreading waste on agricultural land to confer agricultural benefit and U12 Spreading waste on [non-agricultural] land to improve soil structure or add nutrients or biomass, and in particular the distance restrictions from watercourses and boreholes being applied differently between the two.

Responses received by the Welsh Assembly Government

8.9.7 Two responses were received by WAG in response to this exemption. Farmers’ Union of Wales (FUW) queried the inclusion of farmyard manure as a waste stream and the volume of milk to be spread.

8.10 U12 Spreading waste on land to improve soil structure or add nutrients

8.10.1 Fifty respondents provided comment on this exemption, of which over half (56%) were from businesses and 24% from trade associations. Twelve % of the

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4 Closed period – as imposed by an action plan under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998 (as amended).
5 Distances as recommended by the Defra Protecting our Water, Soil and Air: A Code of Good Agricultural Practice for farmers, growers and land managers (the ‘CoGAP’)
http://defra.gov.uk/farm/environment/cogap/index.htm
responses were from the agricultural sector, 24% from the water industry and drainage sectors and 10% from the organics recycling and community recycling sectors.

8.10.2 A large number of the responses were of a similar nature to that expressed for U11 Spreading of waste on agricultural land to confer agricultural benefit with regards to the thresholds for spreading, storage limits and waste types.

Responses received by the Welsh Assembly Government
8.10.3 The same two respondents who commented on U11 commented on this exemption regarding the same issues.

8.11 U13 Spreading waste on land for the purpose of mulching
8.11.1 Ten respondents provided comment on this exemption. Of these 5 (50%) were from the community recycling and organics recycling sector.

8.11.2 There was some confusion with regards to whether leaf mould would be included under this exemption and various additional LOW codes were provided to ensure all suitable waste streams could be used under the exemption. A number of additional waste streams and some additional restrictions were proposed.
9 Chapter 2 - Treatment of Waste

9.1 T4 Preparatory treatments (baling, sorting, shredding etc)
9.1.1 Eight respondents provided comment on this exemption, from a range of different sectors. There was some concern expressed that the acceptance of mixed waste was excluded from this exemption (for example mixed cans and paper). The paper industry, Confederation of Paper Industries (CPI) and the Independent Waste Paper Processers Association (IWPPA), voiced strong opposition to the difference in thresholds for treatment of paper and cardboard outside and inside.

9.2 T5 Screening and blending of waste
9.2.1 Forty respondents provided comment on this exemption. Over 65% of these were from businesses and 25% from trade associations. Of all the responses to this exemption, 50% were from the construction industry and 35% from other industries involved in construction including the water industry.

9.2.2 Twenty six respondents (65%) commented on the thresholds proposed, all of whom stated that the threshold was too low and would have a detrimental impact on the recycling industry. Various proposed limits were made varying between 5000 tonnes and 100,000 tonnes, with one response proposing a restriction in time to 28 days to promote short term recycling projects rather than fixed sites.

9.3 T6 Treatment of waste plant matter by chipping, shredding, cutting or pulverising
9.3.1 Twenty one respondents provided comment on this exemption, with 50% from businesses and 22% from trade associations. These respondents were from various sources, including the construction sector, waste management companies and members of the public.

9.3.2 Seven of these comments were with regards to the proposed limits on the exemption. It was interesting that 5 of these (from businesses and trade associations) were against the restriction in tonnage in a 7 day period, in comparison to the current regulations and believed it would restrict economic business, whilst 2 (from individuals) were against the extent of the proposed limits and believed that the dust and noise at these levels would be too high.

9.3.3 There were nine responses relating to the use of this exemption for the chipping of wood on sites as part of clearance and the subsequent deposit. These comments specifically were in relation to the proposed charges and the perceived requirement to register each site.

9.4 T7 Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size
9.4.1 Seventeen respondents provided comment on this exemption, the vast majority of which were from businesses (70%). Indeed, 76% of the total comments received on this exemption were from the construction sector.

9.4.2 Ten respondents commented on the thresholds proposed for this exemption. Most of these commented that the low limit set in the exemption, coupled with the low storage limit and the low use limit proposed in U1 Use of Waste in construction, would not be feasible in most situations and that most crushers
would fall outside of this exemption and require an environmental permit from the Local Authority.

9.4.3 There was some confusion on the definition of “trivial” and the link between this exemption and the Part B permit under the Environmental Permitting (England & Wales) Regulations 2007.

9.5 Mechanical treatment of end-of-life tyres

9.5.1 Eleven respondents provided comment on this exemption, all of which were from businesses and trade associations. Ten of these (91%) were from the tyre industry, including the Tyre Recovery Association and the tyre baling industry.

9.5.2 Seventy two per cent of the respondents commented that the threshold was too restrictive for stimulating re-use and recycling and were concerned that the units proposed in the exemption were based on only car tyre tonnages and not truck tyre – which form the majority of the retread market in particular. There was also some concern regarding the definition of various descriptors used e.g. crumb, shred.

9.5.3 The use of the PAS108 standard in the exemption was welcomed.

9.6 Recovery of scrap metal

9.6.1 Seven respondents provided comment on this exemption. Four of these were from the metal recycling sectors, including the main trade associations British Metal Recycling Association (BMRA) and Motor Vehicle Dismantlers Association (MVDA).

9.6.2 These respondents were against the reduced thresholds proposed in the exemption and that the current requirements for infrastructure and record keeping were sufficient and should be retained. They stated the failure of the Environment Agency to carry out the initial inspections of the sites to ensure total compliance with the infrastructure requirements in the current paragraph 45 exemption as the reason for high levels of illegal activity, and that the Environment Agency should enforce current legislation and inspect more rather than moving the recovery of scrap metal to a standard permit. One of the respondents, Sims Group, stated that the storage volumes should be increased from the current exempt levels, taking into account location and waste types etc.

9.6.3 Two respondents were in support of the restrictions proposed by the exemption, with the Association of Chief Police Officers (ACPO) supporting the total removal of an exemption for this waste operation. The other support came from an individual citing the impacts from scrap metal recovery in terms of noise and that distances from sensitive receptors should be stipulated.

9.7 Sorting mixed waste

9.7.1 Ten respondents provided comment on this exemption with no one particular group or sector commenting, although two responses came from both the community recycling sector and Local Authorities.

9.7.2 There was some concern from the community recycling sector that the 10 tonnes threshold per week was too low for many community recycling sites and that this should be increased to a similar level as those proposed in T4 Preparatory treatments for single stream recyclables. Five responses requested that mixed
recyclables, for example from kerbside collection, should be included in the exemption to enable the sorting of those waste streams listed from each other.

9.7.3 The Local Authorities both cited the benefits of collected mixed kerbside containers for recycling to protect the quality of these recyclables from paper and cardboard. They also requested that storage of mixed recyclables was included under S2 Storage in a secure place.

9.7.4 There was confusion regarding this exemption and its interaction with the non-Waste Framework Directive exemptions proposed in Schedule 3A, with particular reference from the construction sector to the segregation of recyclables on construction sites.

Responses received by the Welsh Assembly Government

9.7.5 Responses were made by Denbighshire County Council and Cylch with regards to the threshold proposed in this exemption being too low.

9.8 T11 Repair or refurbishment of WEEE

9.8.1 One respondent provided comment on this exemption and stated that there should be a de-minimus on this exemption to allow very small scale recycling sites not to have to pay for registration.

9.9 T14 Crushing and emptying waste oil filters

9.9.1 Two respondents provided comment on this exemption. One respondent requested that the LOW codes were restricted only to that relating to oil filters. The other respondent was against the exemption as they did not “see any value in requiring servicing workshops with crushers to register for exemptions because there is no net negative environmental impact of using the crusher only a positive one”.

9.10 T15 Crushing empty waste aerosol cans

9.10.1 Five respondents provided comment on this exemption, with 4 responses received from businesses and also a response from the Highways Agency. There was concern expressed that the proposed threshold in the exemption was too low for large projects and that this should be increased. Respondents within the construction industry requested the threshold be doubled and that restrictions on where treatment takes place be removed.

9.11 T16 Treatment of waste toner cartridges by sorting, dismantling, cleaning or refilling

9.11.1 Nine respondents provided comment on this exemption. Eight of these responses came from the toner cartridge recycling sector, three of which submitted full responses whilst five supported those comments submitted by UK Cartridge Remanufacturers Association.

9.11.2 All of these respondents questioned the definition of toner cartridges as waste and requested an increase in the threshold from 5000 units to 50,000 units at any one time in order to properly reflect collection operations in the marketplace.

9.12 T18 Dewatering using flocculants

9.12.1 Five respondents provided comment on this exemption, four from the construction sector. There was confusion about whether the unit of measurement was
supposed to be cubic metres. The construction sector requested further evidence gathering to ensure that the proposed limit was set at a reasonable level to allow treatment of brown water from construction sites.

9.13 T19 Physical treatment of waste oil to produce biodiesel
9.13.1 Four respondents provided comment on this exemption. The responses were similar to those provided for the use of biodiesel (U6) and one respondent stated that the materials proposed are thermally and oxidatively unstable both in storage and in use and that no exemption should be provided. Glycerol was proposed as an additional waste stream to be considered.

9.14 T20 Treatment of waste at a water treatment works
9.14.1 Eight respondents from the water industry provided comment on this exemption. During the consultation it was noted that the transcription of measure units was incorrect and that the unit should be cubic metres not litres. Water UK requested an increase in volume to 100,000 cubic metres. Concern was also expressed about the inclusion of a condition relating to sealed drainage.

9.15 T21 Treatment of waste at a sewage works
9.15.1 Seven respondents, including six from the water industry and the Highways Agency, provided comment on this exemption. During the consultation it was noted that the transcription of measure units was incorrect and that the unit should be cubic metres not litres. Clarification was requested on whether storage was to be included under this exemption.

9.16 T23 Aerobic composting and associated prior treatment
9.16.1 Thirty four respondents provided comment on this exemption. Over a quarter of these were from the community recycling sector, including the Community Composting Network. Four were received from the organics recycling sector and 5 from the agricultural sector.

9.16.2 Twenty six respondents commented on the proposed thresholds, of which thirteen, primarily those involved in larger scale and on-farm composting, were completely against the proposals. Ten respondents, including the Community Composting Network (CCN) and Association for Organics Recycling (AFOR), believed that the thresholds proposed were too low and suggested increased tonnages of between 100 and 200 tonnes to promote community recycling and six proposed an increase in the tonnage of kitchen/catering waste up to 50 tonnes.

9.16.3 Three respondents, including WRAP, were for the proposed exemption and believed that the limit values reflected the size and scale of the truly small scale community based activities.

Responses received by the Welsh Assembly Government
9.16.4 One respondent requested that an additional waste type was considered for inclusion.

9.17 T24 Anaerobic digestion and burning of resultant biogas
9.17.1 Eighteen respondents provided comment on this exemption, of which 50% were from businesses and 29% from trade associations. Of these 29% were from the agricultural sector, 35% from the water industry and a response was also received from the Association for Organics Recycling (AFOR).
9.17.2 The agricultural sector stated that the total quantity of waste treated or stored within the proposed exemption was too low and would not encourage the use of anaerobic digestion (AD) on farms nor would it be commercially viable. They also stated that no account of energy crops was made in the calculations on the size of the plant. The National Farmers’ Union (NFU) and British Pig Executive (BPEX) also criticised the inclusion of manures and slurries as waste. The Country Land and Business Association (CLA) also suggested that on-farm AD should be separated from other AD plants.

9.17.3 The water industry proposed that this exemption should be split into two separate exemptions, one for AD and the other for utilising the biogas. This would allow water companies with an already permitted anaerobic treatment facility would be able to use an exemption for the burning of their resultant biogas. They suggested that it is disproportionate that the agricultural sector would be able to utilise biogas up to a net rated thermal input of 1.5MW under exemption, but water companies require a standard permit above 0.4MW for biogas from sewage sludge. Alternately they suggested that sewage sludge be included within the exemption.

9.17.4 The AFOR proposed that the storage limits were applied to all AD plants, not just those accepting agricultural waste.

9.18 T25 Treatment of kitchen waste in a wormery
9.18.1 Six respondents provided comment on this exemption, with four of these from the community and third sector, including the Community Composting Network (CCN).

9.18.2 Concern was expressed by two respondents from the community recycling sector regarding the definition of “stable sanitised vermicompost” and how this will need to be proved. The sector also expressed concern over the lack of a de-minimus for this exemption for small home-scale wormeries used in offices and other non-home environments. They believed that the requirement for registering an exemption would discourage businesses from recovering their waste. Other respondents commented that the threshold was too low as it would prevent larger office developments from using a wormery as it would only provide enough for the equivalent of around 30 homes.

9.19 T26 Treatment of sheep dip for disposal
9.19.1 Only the National Farmers’ Union (NFU) provided comment on this exemption and stated that while an exemption is welcome, the exemption in itself serves little incentive as there still remains the requirement for groundwater discharge authorisation. If anybody is to make use of this exemption, government must reduce the fee for discharging the resulting solution otherwise no operators will be incentivised to make use of this exemption.

9.20 T27 Sorting and de-naturing of non-hazardous medicines and drugs for disposal
9.20.1 Two respondents from the pharmaceutical sector, Lloyds Pharmacy and the Pharmaceutical Services Negotiating Committee (representing a number of trade associations) provided comment on this exemption. Concern was expressed that while pharmacies would no longer need to register for the storage of returned medicines they would now need to register this exemption instead. It was requested that hazardous waste be included within this exemption to allow the
sorting of hazardous and non-hazardous medicines. There was also a request to increase the threshold to 5 cubic metres and an error was noted in a waste description.
10 Chapter 3 – Disposal of Waste

10.1 D1 Deposit of waste from dredging of inland waters
10.1.1 Thirteen respondents provided comment on this exemption, of which 42% were government delivery bodies such as British Waterways and the Broads Authority, and the rest from business (25%) and trade associations (33%). These were primarily from the drainage sector and water industry.

10.1.2 Five respondents, all from the drainage sector, commented on the proposed thresholds stating that the reduction would restrict dredging operations or would require more frequent dredging for maintenance of the river system. There was also concern that if this limit were adopted, uneconomic repeated dredging operations in successive years would need to be carried out, or transporting spoil long distances to deposit it under a permit or alternative exemption would be required.

10.1.3 There was also concern that the exemption is restricted to deposit on the banks of the waters from which the waste was dredged, as opposed to the current exemption which allows the deposit on other banks for agricultural or ecological improvement. It was commented that there did not appear to be any treatment such as dewatering included within the exemption.

10.2 D2 Deposit of waste from a railway sanitary convenience or sink
10.2.1 Two respondents provided comment on this exemption. Concerns were expressed regarding health risks, particularly at terminus stations, and noted that they did not believe that proposed regulatory changes in the form of charges or re-registration alone will be sufficient to radically improve the way the railway industry manages this serious issue.

10.3 D4 Deposit of agricultural waste consisting of plant tissue
10.3.1 One respondent provided comment on this exemption with regards to rotting down of watercress. However, there was a certain amount of confusion, noted above, with regards to the correlation between this exemption and T23 Aerobic composting of waste.

10.4 D6 Disposal by incineration
10.4.1 Two respondents, the Wood Protection Association and British Pig Executive (BPEX), provided comment on this exemption. There appeared to be some confusion between this exemption and U5 Burning of waste as a fuel in a small appliance. However, concern was expressed by BPEX that the use of small incinerators for the disposal of animal carcasses is already regulated by Animal Health and should not be included under waste legislation to avoid multiple registrations.

10.5 D7 Burning waste in the open
10.5.1 Seven respondents provided comment on this exemption, with almost all of these from businesses (42%) and trade associations (57%). Over half of the responses were from the agricultural sector, including the National Farmers’ Union (NFU) and Farmers’ Union of Wales (FUW). The main concern expressed was in relation to the storage prior to burning being restricted to 1 month. It was
requested that longer storage should be provided to enable the drying out of woody waste and also to comply with other agro-environmental schemes.

10.5.2 The agricultural sector proposed that the burning of tomato haulm be included within this exemption and that there was allowance for the burning of animal bedding for disease control.

Responses received by the Welsh Assembly Government

10.5.3 The Farmers’ Union of Wales (FUW) expressed some concern that the requirements proposed in this exemption may conflict with agri-environmental agreements, for example storage of hedge trimmings to promote biodiversity at certain times of years, and requested an increased storage time.
11 Chapter 4 – Storage of Waste

11.1 S1 Storage of waste in secure containers
11.1.1 Three respondents provided comment on this exemption. There was some clarification requested on whether a tank needed to be double-skinned and bunded. A number of additional waste streams were proposed. One respondent commented that the threshold was too low but did not suggest an alternative threshold.

11.2 S2 Storage of waste in a secure place
11.2.1 Twenty two respondents provided comment on this exemption from most of the sectors who responded to the consultation, although over half (56%) of the comments came from businesses. There was some confusion in the responses between when this exemption would be required and when another exemption or a non-Waste Framework Directive exemption would be applicable.

11.2.2 A significant proportion of the responses to this exemption related to the thresholds for tonnage and specified storage requirements and a variety of comments were received on the storage and handling requirements for various waste streams. The metal recycling sector and the Independent Battery Distributors Association (IBDA) specifically commented on the types and volumes of batteries permitted to be stored under this exemption. An increase was suggested to enable economic transport of batteries.

11.2.3 Sims Group queried the volume of scrap metal proposed to be permitted at docks with no height restrictions in contrast to those imposed by T9 Recovery of Scrap Metal, and indeed whether this storage should be under T9 Recovery of Scrap Metal.

11.2.4 There was strong concern from the paper industry regarding the proposed reduced capacity for storage of paper and cardboard outside proposed in the exemption. It was stated that the regulatory impacts of the proposals, storage inside a building, are likely to be similar to those proposed changes in 2005, if not higher, and stall waste paper recovery and recycling in the UK.

Responses received by the Welsh Assembly Government
11.2.5 Responses to this exemption were sent by Denbighshire County Council and Cylch and were connected to their comments on T12 Sorting of mixed wastes. Both respondents requested that storage provision was made for storing mixed wastes.

11.3 S3 Storage of sludge and waste from sewage cleaning
11.3.1 Six respondents from the water industry provided comment on this exemption. All respondents believed that this waste operation should and is covered by the Sludge (Use in Agriculture) Regulations 1989.
12 Schedule 3A - Non-WFD exemptions

12.1.1 In total 17 respondents commented on non-WFD exemptions proposed in Schedule 3A to the draft regulations, of which almost all were in relation to paragraph 2 and 3 and over half were from businesses (58%).

12.1.2 The majority expressed concern about the proposed exclusion of establishments or undertakings receiving payment for collecting the waste or which collect waste as its main business activity from the new exemption. This is coupled with the restriction of paragraph 2 non-WFD exemption to a site controlled by the producer.

12.1.3 The waste management industry stated that the current paragraph 50 exemption “is currently used extensively by the logistics side of the waste industry to manage its day to day use of waste containers. The scenario which concerns us in particular is the temporary storage of waste in containers (such as skips), pending disposal or recovery of the waste elsewhere. This temporary storage usually takes place when disposal sites are closed at short notice (e.g. landfills when it is windy).”

12.1.4 A query was raised in relation to why temporary storage of asbestos was not permitted under paragraph 2 Temporary storage of waste on a site controlled by the producer and paragraph 3 Temporary storage at a collection point.

12.1.5 The removal of quantity limits in non-WFD paragraph 1 Temporary storage at the place of production was welcomed.

12.1.6 There was some confusion about when a non-WFD exemption would be applicable and requests for clear guidance on “treatment ancillary to collection” to ensure that the exemptions are applied effectively. This confusion also extended to whether receiving payment for collecting the waste would apply to charities and schools etc.
13 Concluding Comments

13.1.1 The comments made on the proposed exemptions in the draft regulations primarily came from the business and trade association sectors (79% of the total comments made on the individual exemptions).

13.1.2 The majority of comments expressed were from interested businesses directly affected by the proposed exemptions and in particular from the sectors where the proposals would lead to the greatest numbers of operations requiring a permit. These sectors were primarily the metal recycling, construction and wood recycling sectors and they called for the retention of, or the development of, a more wide-ranging exemption.

13.1.3 A large proportion of businesses and trade associations from the construction sector commented on U1 Use of waste in construction and T5 Screening and blending of waste. These two proposed exemptions represented significant restrictions in threshold from the current exemptions, for example the paragraph 19 exemption currently permits unlimited volumes of waste whilst U1 Use of waste in construction proposes 500 tonnes over 3 years. Whilst there was limited call for the retention of the current exemptions from this sector, there was strong calls for the proposed threshold to be increased.

13.1.4 Similarly, the proposed U11 Treatment of agricultural land has been restricted both in thresholds and waste types compared to the current paragraph 7 exemption and a significant number of responses were received from those businesses involved in treatment of land for agricultural benefit, either from producing or actual spreading, requesting waste streams for consideration.

13.1.5 The greatest response from the community and third sector to the individual exemptions was in relation to the proposed T23 Aerobic composting.

13.1.6 The majority of the comments made by respondents on the individual exemptions were in relation to proposed thresholds being too low and that this would impede recycling and prevent the Government from achieving landfill diversion targets.

13.1.7 In considering the final form of the exemptions it will be necessary to strike the appropriate balance between the aim of encouraging genuine recovery and regulating in accordance with the risk-based principles adopted for the review and preventing abuses.

13.1.8 The Government’s response to this summary will be published in the near future as a separate document.
### Annex A - Breakdown of Responses to proposals

**Table 4: Responses Received by Defra**

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Table 5: Responses Received by the Welsh Assembly Government (WAG)

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## 14 Annex B - Breakdown of Responses to individual exemptions

Responses submitted to WAG are noted in brackets next to the sector and are separated in the final column. These figures are included in the Total Column.

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<td>Use of waste in the construction of entertainment or educational installations</td>
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<td>Burning of waste as a fuel in a small appliance</td>
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<td>Use of waste derived biodiesel as a fuel in a motor vehicle and storage at a relevant site</td>
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<td>Use of sludge for the purposes of re-seeding a waste water treatment plant</td>
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<td>Use of sewage to clean a contained gravel bed</td>
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<td>Direct and beneficial use of waste for a specified purpose</td>
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<td>Use of waste to manufacture finished goods</td>
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<td>Spreading waste on land for the purpose of mulching</td>
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<td>Cleaning, washing, spraying or coating relevant waste</td>
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<td>Preparatory treatments (baling, sorting, shredding etc)</td>
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<td>Screening and blending of waste</td>
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<td>Treatment of waste plant matter by chipping, shredding, cutting or pulverising</td>
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<td>Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size</td>
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<td>Recovery of scrap metal</td>
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<td>Manual treatment of waste</td>
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<td>Crushing empty waste aerosol cans</td>
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<td>Treatment of waste toner cartridges by sorting, dismantling, cleaning or refilling</td>
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<td>Dewatering using flocculants</td>
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<td>Physical treatment of waste oil to produce biodiesel</td>
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<td>Treatment of waste at a water treatment works</td>
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<td>Treatment of animal by-product waste at a collection centre</td>
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<td>Anaerobic digestion and burning of resultant biogas</td>
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<td>Treatment of non-hazardous pesticide waste waters for disposal</td>
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<td>Recovery of silver</td>
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<td>Recovery of monopropylene glycol from aircraft antifreeze fluids</td>
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<td>Deposit of waste from dredging of inland waters</td>
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<td>Disposal by incineration</td>
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<td>Burning waste in the open</td>
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<td>Incorporating ash into soil</td>
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<td>Storage of waste in secure containers</td>
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<td>Storage of waste in a secure place</td>
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Annex C – List of Respondents

In addition to this list, 47 responses were received from individuals

- Ahlstrom
- Airedale Computers
- Aldwark Area Parish Council
- AMCO
- AMEC
- AMEC Earth & Environmental (UK) Ltd
- ANDigestion
- Anglian Water
- Anglo Environmental Ltd
- Apollo Group
- Applied Film Industries Company PLC
- Associated British Ports (ABP)
- Association for Organics Recycling (AFOR)
- Association of Charity Shops
- Association of Chief Police Officers (ACPO)
- Association of Drainage Authorities (ADA)
- Association of Electricity Producers (AEP)
- Ballast Phoenix
- BAM Construct UK Ltd
- Barhale Construction PLC
- Beadlam Grange
- Bedford Group of Drainage Boards
- Better Regulation Executive (BRE)
- Biffa
- Biological Treatment SIG CIWM
- Black Sluice IDB
- Black-Ram Recycling Ltd
- Bovis Lend Lease Ltd
- Braken Down Shredders and Composters
- British Aggregates Association (BAA)
- British Ceramic Confederation
- British Coatings Federation
- British Contract Furnishing & Design Association
- British Glass
- British Metal Recyclers Association (BMRA)
- British Pig Executive (BPEX)
- British Waterways
- Broads Authority
- Cambridgeshire and Peterborough Pollution Group, Huntingdonshire District Council
- Cambridgeshire County Council
- Carillion
- Carpet Recycling Uk
- Celtic Aggregate Recycling ltd
- Cemex
- Central Association of Agricultural Valuers (CAAV)
- Chartered Institution of Wastes Management (CIWM)
- Chartered Institution of Water And Environmental Management (CIWEM)
- Chas B Pugh (Walsall)Ltd
- Chudleigh Roters Community Composting
- City of London Law Society
- Civil Engineering Contractors Association
- Clancy Docwra
- Community Composting Network (CCN)
- Community Recycling Network UK
- Community RePaint
- Compost Works
- Composting in Stroud District
- Confederation of Forest Industries
- Confederation of Paper Industries (CPI)
- ConocoPhillips
- Constructing Excellence (Membership)
- Construction Confederation
- Costain
- Country Land and Business Association (CLA)
- CPRE North East London Group
- Crumb Rubber Ltd
- Cumberwell Park Golf Course
- Cwm Harry Land Trust
- Day Group
- Dean & Dyball Construction
- Dean Community Compost
- Delta DEPolymerization Ltd
- Devon Community Composting Network
- Digits Ltd
- Dispersed Composting Network
- DMH Stallard
- e4environment
- East Riding of Yorkshire Council
- EcoSci - Glendale Services
- Encia
- Energy Power Resources Ltd
- Entec
- Envar
- Environmental Industries Commision (EIC)
- Environmental Services Association (ESA)
- Epsom-Ewell
- Eyebrook Wild Bird Feeds
- Federation of Burial and Cremation Authorities
- Federation of Petroleum Suppliers
- Federation of Planing Contractors
- Food and Drink Federation
- Friends of Basildon Golf Course
- Friends of Bullwell Park
- Friends of the Earth
- Garden Organic Ryton
- Gloucestershire Wildlife Trust
- GP Planning Ltd
- Graham Churchill Plant
- Graphite Resources
- Green Cartridges
- Green Group
- Green Lane Allotments Association
- Greenfinch Ltd
- Greensource Solutions
- Hague Plant Ltd
- Helius Energy PLC
- Highway Term Maintenance Association
- Highways Agency
- Home Counties Golf & Leisure
- Horticultural Development Company (HDC)
- HR Wallingford Ltd
- Independent Battery Distributors Association (IBDA)
- Independent Waste Paper Processors Association (IWPPA)
- Institution of Civil Engineers
- J & A Middleton Landscape Design & Maintenance
Kemble Farms Ltd
Kensham Farms
Kier Group Construction Division
Kimberly-Clark Europe
Lafarge Uk Aggregates
Land Network International Ltd
Laser Friend
Lasertech Uk Ltd
Lloyds Pharmacy
Local Authorities Coordinators of Regulatory Services (LACORS)
Local Authority Recycling Advisory Committee (LARAC)
London Community Recycling Network
Lympton Compost
Lynx Euro-Management (Wigan) Ltd

M J Carter Associates Ltd
Martin Coulthard
May Gurney Ltd
Mid Devon Community Recycling
Middle Level Commissioners - Flood Defence & Navigation Authority
Morgan Est PLC
Motor Vehicle Dismantlers Association (MVDA)
MWH

National Farmers Union (NFU)
National Pig Association (NPA)
National Society of Allotment and Leisure Gardeners (NSALG)
Network Rail
Newlife Paints Ltd
Norfolk Environmental Protection Group
Northern Disposal Services
Northern Tyre Recycling UK Ltd

Nulife Glass Ltd
Oakwood Group
Office of Rail Regulation (ORR)
Orthene
Osbourne
Otter Rotters Ltd

Pharmaceutical Services Negotiating Committee
Places for People Ltd
Planning Officers Society
Pressing Solutions
Pryor & Rickett Silviculture

Quarry Products Association
Quickthorne Tree Care

R Four Ltd
Raymond Brown Group
Reclaim (I.T.) Ltd
Recycling Industries Alliance
Renewable Energy Association
Retail Motor Industry Federation
Retread Manufacturers Association (RMA)
Richmond Borough Council
Ringway Group
Road Haulage Association
Rotters Community Composting
RSK Environmental Health & Safety Ltd
Rural Arisings
RWE npower
Ryedale District Council

Scottish Environmental Protection Agency (SEPA)
SE Davies & Son Ltd
Severn Trent
Shaw Wood Farm
• Sims Group UK Ltd
• Smith & Sones (Bletchington) Ltd
• Society of Motor Manufacturers and Traders Ltd
• Somerset County Council
• South West Water
• Southern Water
• Surrey County Council
• Swisher

• T W Brown and Son
• Tarmac Recycling
• Tatsfield Community Compost Group
• Terra Eco Systems (Veolia Water Outsourcing Ltd)
• Textile Recycling Association
• Thames Water
• The IDB Alliance
• Theydon Bois Action Group
• Thomas & Fontaine Ltd
• Trade Effluent Services
• Transport Research Laboratory
• Trent International
• Tyre Recovery Association (TRA)

• UK Cartridge Remanufacturers Association (UKCRA)
• UK Cleaning Products Industry Association
• UK Environmental Law Association (UKELA)
• UK Renderers Association (UKRA)
• Unipart
• United Utilities
• University of Southampton - School of Ocean and Earth Sciences
• Veolia Environmental services
• Vertal Ltd
• Vinci PLC
• Viridor

• Warthmore Community Permaculture Project
• Waste & Resources Action Programme (WRAP)
• Waste Recycling Group
• Wastefile UK
• Water UK
• Wheal Jane
• Willett & Son (Bristol)
• Wood Protection Association
• Wood Recyclers Association
• Woodmansterne Conservation Volunteers
• Worcestershire County Council
• Wormtech Ltd
• WRAG Waste and Recycling Action Group
• WyeCycle

• Yorkshire Water

Responses to Welsh Assembly Government

• Blacksmith’s Garage
• Cadwyn Cymru Link Wales Ltd
• Civil Engineering Contractors Association Wales
• Costain
• Cylch
• Denbighshire County Council
• Farmers Union Wales (FUW)
• National Farmers Union Wales (NFU Wales)
• Wales Environment Trust (WET)