

Environment Protection Authority

Review of the EPA's licence fee system

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Abbreviations

BOD	biochemical oxygen demand
CPI	consumer price index
EC	electrical conductivity
EIP	environment improvement program
EMF	environment management fee
EP Act	Environment Protection Act 1993
EP Regulations	Environment Protection Regulations 2009
EPA	South Australian Environment Protection Authority
FMF	flat minimum fee
IWG	implementation working group for the NPI
LFS	licence fee system
NPI	National Pollutant Inventory
REF	resource efficiency fee
TSS	total suspended solids
WPA	water protection area

Summary

The Environment Protection Authority (EPA) introduced a new licence fee system on 1 July 2008. At this time, it committed to reviewing the system one year after implementation.

The review began in August 2009 and consisted of an internal analysis of the system and a survey of interested stakeholders, including all licensees, asking for their feedback on the system. The response rate for this survey was 20%.

This report outlines the findings of the review and lists issues that the EPA considers may require further action or investigation.

The issues raised in this report will be provided to the government for review and are split into two categories:

- urgent issues which focus on clarifying the LFS or amending the LFS to account for situations not covered when LFS was developed
- issues which will provide useful input into subsequent broader reviews of the LFS. For example, reviewing the thresholds used within LFS for consistency with the thresholds used in Schedule 1 of the *Environment Protection Act 1993*.

The urgent issues are:

- The prescribed environmental measure for wineries and distilleries implies that the only way to reduce the salt load and meet the criteria for a fee reduction is by treating their wastewater. Cleaner production techniques to reduce the amount of salt entering the wastewater system or reducing the volume of wastewater produced are also viable techniques but are currently not recognised.
- It is not clear in the EP Regulations that the fee units applicable to sewage treatment plants in a water protection area which is not the Mount Lofty Water Protection Area is the same as the fee for sewage treatment plants not in a water protection area.
- It is not clear in the EP Regulations that the fee applicable for composting facilities that are operating but not receiving waste is equivalent as if they were receiving waste.
- The EP Regulations currently indicate that if no environment management fee applies, no flat minimum fee is applicable. Hence the EPA is not reimbursed for its costs associated with issuing a licence for dredging and earthworks drainage activities if they do not operate during the year.
- The EP Regulations does not set a fee for the situation where a site is not operating but wishes to maintain their licence to enable them to begin operating again at a later date.
- The inclusion of the resource efficiency fee in the discount for accredited licences is not consistent with the polluter pays principle as the resource efficiency fee is designed to be a financial incentive for reducing emissions. If a licensee can halve this fee by becoming accredited, the incentive to reduce emissions is significantly reduced. The inclusion of the flat minimum fee in the discount for accredited licences is not consistent with the user pays principle as the administrative work covered by this fee needs to be completed by for all licences including those accredited.

1 Introduction

On 1 July 2008, the EPA implemented a new licence fee system (LFS) which changed the way that fees for licences under the *Environment Protection Act 1993* (EP Act) were determined. To ensure that the distribution of fees is as fair and equitable as possible, the LFS was rigorously developed¹ and is based on the principles of user pays (the cost of the EPA's regulatory effort for each industry sector) and polluter pays (fees charged on loads of emitted pollutants).

The EPA committed to reviewing LFS after its first year of operation and the findings of the review are featured in this report.

1.1 Why the system was changed

The previous system was an amalgamation of systems under various acts that were repealed on commencement of the EP Act. Under this system fees were primarily based on indicators of economic activity, rather than on environmental impact and gave little incentive to improved environmental performance. This penalised businesses that were able to lift production without increasing emissions of pollutants. While about 20% of licence fees were load based for discharges to the marine environment, there was no similar system for discharges of pollutants to freshwater, land or the atmosphere.

Based on this, the government decided that the use of load-based licensing (where licence fees are based on the amount and types of pollutants discharged to the environment) should be extended.

In addition, the EPA's experience as an environmental regulator since the commencement of the EP Act had shown that although some activities cost more time and effort than others, this was not fully reflected in the fee structure. It was decided that fees needed to fairly reflect the regulatory effort required by the EPA, so that business activities that require more effort to regulate should pay appropriate fees, rather than this cost being spread across other businesses.

1.2 Objectives of LFS

The EPA's aims for LFS were:

- to recover EPA costs for environmental management of licensees in an efficient and equitable manner
- to provide an economic incentive to reduce pollution consistent with the polluter pays principle.

The EPA's licensing revenue recovers the cost of running the licensing system. LFS redistributed the fees amongst licensees in a more equitable way that better reflected the EPA's regulatory effort and pollutant emissions by licensees.

1.3 How does LFS work?

The LFS is legislated in the Environment Protection Regulations 2009 (EP Regulations)².

The licence fee is the sum of the following three components:

¹ The EPA undertook an extensive consultation process for the development of LFS including consultation with the Reference Group as well as two stages of public consultation (Nov–Dec 2004 and May–Jun 2006). It made changes to the draft fee structure to address the issues raised during the consultations

The Reference Group consisted of representatives from Business SA, Engineering Employers Association of South Australia, SA Chamber of Mines and Energy, SA Water, SA Wine Industry Association, SA Farmers Federation, energy sector in the Port River region, Department of Trade and Economic Development, Northern Industry Environmental Forum, Waste Management Association, Local Government Association and the Environmental Defenders Office (representing the community).

² <www.legislation.sa.gov.au/LZ/C/R/ENVIRONMENT%20PROTECTION%20REGULATIONS%202009.aspx>

- A **flat minimum fee** (FMF) is the user pays component, covering the basic licence administration work common to all licences.
- An **environment management fee** (EMF) is the user pays component, reflecting the regulatory effort required for managing a specific activity:
 - the fee is based on the activity that incurs the highest fee of all prescribed activities carried out on a site
 - waste transport, dredging and earthworks drainage, if applicable, are an additional charge.
- Two types of **resource efficiency fees** (REF) which are the polluter pays components, and applied once certain emission thresholds are exceeded:
 - load-based fees for emissions of specified pollutants from the licensed site to air or water
 - the water reuse factor for discharge of fresh water to the marine environment.

There are a number of ways to reduce a licence fee:

- Accredited licence: The EPA offers accredited licences to reward best practice environmental management. A reduced licence fee is available for holders of an accredited licence.
- Specified environmental measures and improving environmental performance: The LFS includes mechanisms for fee reductions by making environmental improvements such as treating wastewater to a defined standard or reusing wastewater instead of discharging to the environment.
- Reduce emissions: For licensees who pay a REF, this fee can be lowered or even eliminated by reducing pollutant emissions. (Note: the FMF and EMF would still apply). In addition, for some prescribed activities, reducing emissions can also result in a reduced EMF. Details of the activities for which this applies can be found in the EPA Guideline, *Schedule of environment management fees* (2010)³.

1.4 Purpose of the review

In the 2008–09 financial year, over 2,000 licences were transferred to LFS. During this first year the EPA received only a small number of complaints (approximately 50) about the LFS. This suggests the underlying principles and structure of the LFS are reasonable. However, we recognise there may be opportunities to further refine and improve the fee system.

The principles on which LFS is based are considered sound and not included in the scope of the review.

The objects of the review are to:

- provide opportunity for stakeholders to provide comment on their concerns with the LFS
- determine possible refinements to the LFS while keeping in mind the LFS objectives of being based on the user pays and polluter pays principles, and being reflective of the EPA's regulatory effort.

1.5 Contents and outcomes of the review

The review included both an internal assessment of the LFS and a survey of interested stakeholders. A copy of the survey questions is provided in Appendix 1.

The survey results are provided in Section 2 with discussion of specific comments in Section 3. Responses are also provided to comments received that were not directly related to LFS. The outcomes of the internal assessment are discussed in Section 4. The EPA will highlight two issues: higher priority Type 1 issues and Type 2 issues to provide useful input into subsequent broader reviews.

³ <www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_mgt_fees.pdf>

2 The survey

In consultation with key industry associations, the EPA determined that an online survey was the best mechanism for requesting feedback on LFS from licensees. Licensees were informed of the survey via letters and newsletters from the EPA, industry associations and the survey host which emailed the link

The survey was divided into three sections:

- Information about the respondent—questions about the respondent designed to assist the EPA understand the information provided
- The licence fee system—questions to provide the EPA with an understanding of how much the respondent knows about the licence fee system
- The future of the system—questions to provide respondents with the opportunity to have their say on areas of the licence fee system they think are not fair or could be improved.

2.1 Summary of respondents

Of the 2,000 stakeholders invited to respond to the survey, responses were received from 592. However 109 of these were blank and 83 had only Section 1 completed. Only 328 had completed all three sections of the survey, and those who completed Sections 1 and 2 were included in the total 400 responses analysed. This gave a response rate of 20%.

The respondents included licensees (88%), industry associations (3.5%) and other sectors (8.5%) such as consultants.

The licensees were from a wide range of activities (Figure 1) and represented both small and large business (see Figure 2).

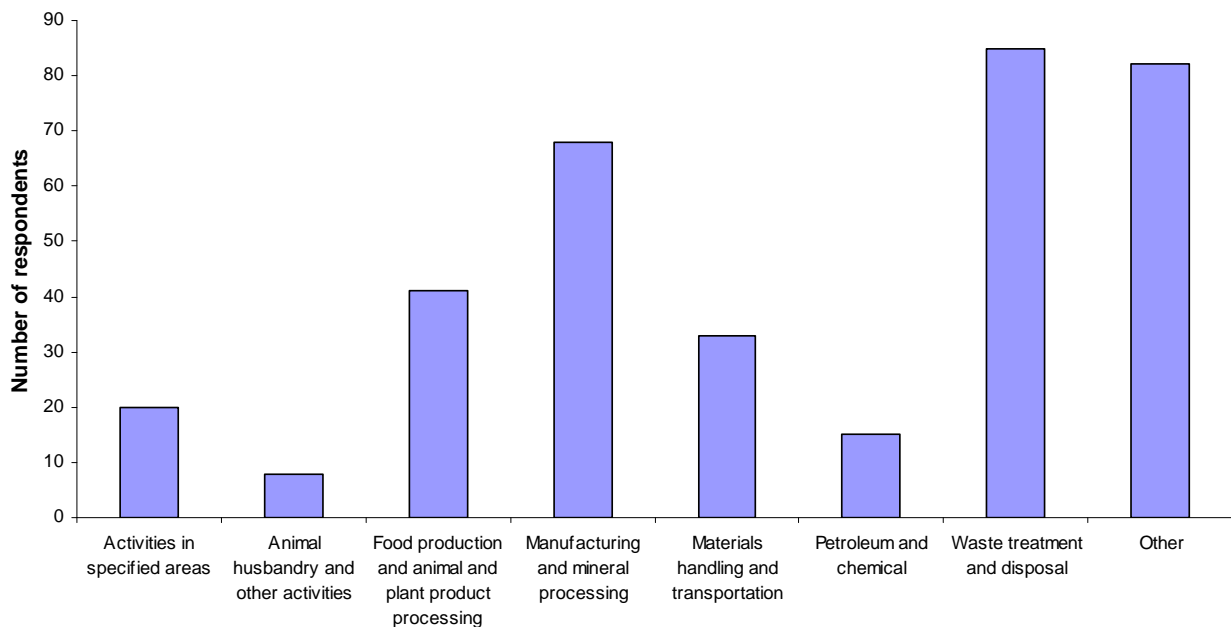


Figure 1 Licensee respondents by activity

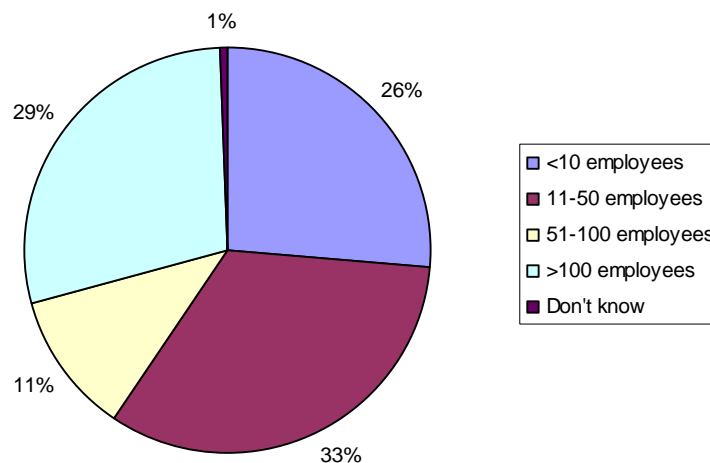


Figure 2 Licensee respondents by number of employees

A total of 77% of licensee respondents had been licensed for six or more years and 49% were based in Metropolitan Adelaide. The majority of licensee respondents (70%) had experienced a fee increase with the introduction of LFS.

2.2 Understanding of the fee system

Some 57% of respondents indicated understanding of the LFS. The three most common reasons for not understanding were: 'LFS has not been fully explained to you', 'you have not been involved in the LFS process' and 'you do not handle invoices'. About 60% of respondents who indicated that LFS had not been explained also ticked either not handling invoices or they had not been involved with the LFS process.

In addition 52% of respondents indicated understanding of how their fee was calculated.

Despite the higher response rate from licensees who experienced an increase in fees, more respondents indicated the system was fair or very fair (33%) than indicated it was not very fair or not at all fair (22%). The remaining 45% marked 'Neutral/Don't know'.

When comparing the previous licensing system to LFS, over half of respondents (58%) marked 'Neutral/Don't know'. The remaining respondents were evenly split between indicating that LFS was easier to understand and fairer than the previous system, and that it was more confusing and less fair than the previous system.

Furthermore, 45% of respondents indicated no knowledge of any options for reducing their licence fee or making fee payment easier (through reducing emissions, accredited licence, meeting prescribed environmental measures or paying by instalments).

3 Details of survey submissions

The submissions received and the responses are split into the three categories of the survey, general comments on LFS and any additional comments received not directly related to the LFS. Please note that comments have been rephrased to combine similar issues, protect the anonymity of respondents, to provide context to the comment or to simplify the comment.

A discussion of each comment received is provided with issues highlighted. When considering the comments, the EPA also had regard to:

- the licence fees cover the costs associated with the operating the licensing system, and any changes would need to be based on a recalibration of the model to redistribute the fees based on regulatory effort. Any reductions in one area would result in increases in other areas
- the review of prescribed activities environmental significant listed in Schedule 1 of the EP Act is currently underway and may impact on licence fees
- ensuring the system does not become so complex such that licensees would not understand it.

3.1 Comparison of fees between activities

3.1.1 Fee levels within activities

Comment: There is a need for fee levels within activities that currently have a single fee irrespective of emissions, wastewater generation, details of activity occurring, facility size or production, or additional fee levels within activities that only have two or three fee levels. Fees should be comparable to the impact on the environment of the individual operation and not the generic activity.

This comment was specifically made for wood processing works (section 3.2.1), abrasive blasting (section 3.2.2), hot mix asphalt preparation (section 3.2.3), surface coating (section 3.2.4), incineration works [cremation] (section 3.2.6), composting works (section 3.2.14), produce processing works (section 3.2.16), bulk shipping facilities (section 3.2.19), railway operations (section 3.2.20), agricultural crop products (section 3.2.21) and earthworks drainage (section 3.2.23).

Discussion: A single fee level for an activity's EMF was allocated when the EPA expected little variation in regulatory effort required between licences within the activity. For other activities, the nature and diversity of licences means that the regulatory effort is likely to vary substantially between licences within an activity group, resulting in the application of different fee levels for different licences.

There may be scope for the addition of fee levels within activities that do not have fee levels or only have two or three fee levels. However, this would require further assessment to determine the best mechanism for splitting the fees for each activity. In addition, the current licence fees cover the EPA's costs associated with operating the licensing system with specific fees based on the regulatory effort associated with that activity. Any changes would need to be based on a reassessment and redistribution of the fees based on the regulatory effort. The inclusion of fee levels within an activity could result in the redistribution of fees within that activity (ie fees for some within the sector increase while the fees for others decrease depending on the reassessment of regulatory effort) or the redistribution of fees across activities (ie if the fees are lowered for one activity, this needs to be balanced by an increase in fees somewhere else).

In any consideration of introducing fee levels, the EPA will focus on environmental risk and not facility size. Size does not always reflect environmental risk or regulatory effort. For example, the environmental risk posed by small operations is not always less than that posed by larger ones depending upon the actual

activities occurring on site including environmental management systems and cleaner production techniques.

Issue 1 There are currently a number of activities that do not have any fee levels or only have two or three fee levels compared to some activities which have many fee levels and this is perceived as an inequity.

3.1.2 Wastewater producing activities

Comment: Wineries or distilleries are paying higher fees in comparison with other wastewater producing activities such as abattoirs, slaughterhouses or poultry processing works. The regulatory effort should be reviewed.

Discussion: Fee levels for different types of activities were derived by looking at the resources likely to be required over the long term for the EPA to manage them. Reviewing the regulatory effort is discussed in section 3.5.5.

3.2 Fees of a specific activity

3.2.1 Wood preservation works [activity 1(6)]

Comment: The fee is too high and needs review. A system based on size of business and/or turnover would be more equitable.

Environmental risk posed by small operations is less than that posed by larger ones.

Discussion: Wood preservation works is an activity of environmental significance and as such is required to have an EPA licence. The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector. The environmental risks associated with wood preservation works include impacts to air quality and potential groundwater contamination.

The activity of wood preservation works has three fee levels ranging from 8 to 50 fee units. The variations in the fee relate to significant differences in regulatory effort and hazard within this sector. The use of lower risk preservatives results in a lower fee as does having appropriate containment and monitoring measures. These fee levels reflect the varying effort required by the EPA to regulate these different cases. Reviewing the EMF is discussed in section 3.5.5.

Business size does not always reflect environmental risk or regulatory effort. The environmental risk posed by small operations is not always less than that posed by larger ones depending upon the actual activities occurring on site including environmental management systems and cleaner production techniques.

Comment: Despite a decrease in waste emissions, the EPA licence fee has significantly increased

Discussion: The fees for wood preservation works are related to environmental risk and regulatory effort, and not to waste emissions. Changes in fees with the introduction of LFS are discussed in section 3.5.2.

3.2.2 Abrasive blasting [activity 2(1)]

Comment: The fee for this activity is too high. There are costs associated with complying with EPA guidelines and there is little environmental risk.

Discussion: Abrasive blasting is an activity of environmental significance and as such is required to have an EPA licence. The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that the EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector. The environmental risks associated with abrasive blasting relate to air quality (dust), waste management and noise.

Abrasive blasting activities have two fee levels of two and three fee units. This is one of the lower fee levels applicable to all activities. The higher fee level applies to mobile works which have a higher environmental risk and more regulatory effort than non-mobile works. Reviewing the EMF is discussed in section 3.5.5.

Comment: A scaled approach based on environmental performance is needed for this activity.

Discussion: The inclusion of additional fee levels (ie a scaled approach) within activities is discussed in section 3.1.1.

Comment: Fees should be performance based. If you achieve a good result you should be rewarded.

Discussion: Rewarding good environmental performance is discussed in section 3.5.3.

3.2.3 Hot mix asphalt preparation [activity 2(2)]

Comment: A scaled system is needed for this activity. The fee should be based on the actual, rather than the potential activity. As the activity is contract driven, there is variation in the intensity of the activity from year to year.

Discussion: The inclusion of additional fee levels (ie a scaled approach) within activities is discussed in section 3.1.1.

3.2.4 Surface coating [activity 2(12)]

Comment: Under the previous system the fees increased in small increments for different activities but with LFS the differences are too extreme. Fees should be tailored to specific industry situations rather than generic.

Discussion: There are five fee levels for surface coating based on type of works and zinc emissions (for hot dip galvanizing) ranging from 3 to 12 fee units. Although each licensee is individual, fees in the new system were set based on modelling of activities rather than individual sites. This was done to ensure the LFS would not become too complex if it were based on specific industry situations. Type of works and zinc emissions were used as the indicators for differences in regulatory effort for similar sites. The inclusion of additional fee levels (ie scaled approach based on more specific details) within activities is discussed in section 3.1.1.

3.2.4.1 Metal finishing [activity 2(12)(a)]

Comment: Despite a decrease in production, the EPA licence fee has significantly increased

Discussion: The licence fees are related to environmental risk and regulatory effort and not to production levels. Changes in fees with the introduction of LFS are discussed in section 3.5.2.

Comment: An anodising plant and small powder coat line shouldn't be in the same group as electroplators. There is minimal risk from wastewater as it all goes to sewer.

Discussion: Metal finishing currently has a single fee level for its EMF. This was allocated as the EPA expected little variation in regulatory effort required between licences within the activity. The inclusion of additional fee levels (ie scaled approach based on more specific details) within activities is discussed in section 3.1.1.

Comment: The fee is too high.

Discussion: The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector. The environmental risk associated with metal finishing relates to waste management.

Metal finishing has a flat fee of 8 fee units. This fee level was developed to reflect the relative resources required for licensing compared to other activities, with specific consideration given to the other surface coating activities. Reviewing the EMF is discussed in section 3.5.5.

3.2.4.2 Hot dip galvanising [activity 2(12)(b)]

Comment: Fees should be comparable to the impact on the environment of the individual operation and not the generic activity. Fees should be based on facility size or environmental risk with reduction options if harm is reduced.

Discussion: This activity already has a scaled approach based on zinc emissions to air as the relevant mechanism for environmental risk. Reducing the zinc emissions can result in a decreased fee. Although each licensee is individual, fees in the new system were set based on modelling of activities rather than individual sites. This was done to ensure the LFS would not become too complex if it were based on specific industry situations.

3.2.4.3 Spray painting and powder coating [activity 2(12)(c)]

Comment: Despite a decrease in production, the EPA licence fee has significantly increased

Discussion: The licence fees are related to environmental risk and regulatory effort and not to production levels. The average fee for this activity remained relatively similar to that before the LFS. Changes in fees with the introduction of LFS are discussed in section 3.5.2.

3.2.5 Metallurgical works [activity 2(8)]

Comment: Companies should not have a high annual fee if they are spending significant amounts of money on environmental staff and improvement projects.

Discussion: Compliance with licence conditions is the responsibility of the licensee and is not related to licence fees. Rewarding good environmental performance beyond compliance is discussed in section 3.5.3.

3.2.6 Incineration works [activity 3(1)]

Comment: A scaled system is needed with fees based about the amount or potential for environmental emissions or through the number of cremations.

Discussion: Incineration works (cremation) currently has a flat fee of 2 fee units. This is one of the lower fees applicable through the LFS. The inclusion of additional fee levels within activities is discussed in section 3.1.1.

3.2.7 Sewage treatment works or septic tank effluent disposal schemes [activity 3(2)]

Comment: Fees should be aligned with environmental risk. No environmental risks occur when reclaimed water is reused provided it is carried out within best practice guidelines.

Discussion: The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector. The environmental risks associated with sewage treatment plants relate to wastewater quality, waste management and odour.

3.2.8 Waste or recycling depot [activity 3(3)]

Comment: There are too many fee levels.

There are not enough fee levels.

Discussion: The majority of fee levels and sub-categories within the activity waste or recycling depot are currently being used. The only ones not being used are the two largest categories for 'disposal of liquid waste' and categories under 'winery wastewater'. The levels provide a difference in fees based on the environmental risk associated with the activity and the regulatory effort needed to manage the licences and will remain.

Comment: How do fees compare between landfilling and transfer station activities with and without recycling?

Discussion: The LFS does not distinguish between facilities that have or do not have recycling. The fee comparison between landfills and transfer stations can be found in the EPA Guideline: Schedule of environment management fees⁴. There is a financial incentive to recycle which comes from a reduction in the waste levy as less waste is disposed.

3.2.8.1 Solid waste for on-site disposal

Comment: Fee should be lower in rural areas given the added costs associated with transportation for recycling and there are few incentives to recycle.

Discussion: The system reflects the user pays and polluter pays principles. For solid waste disposal, the type and quantity of waste received are indicative of the regulatory effort/environmental risk. The environmental risk of this waste does not significantly change based on the location of the receiving facility.

Comment: Fees could be reduced once the number of landfill sites is reduced to 1 or none as of 1 July 2010 and sites become merely transfer stations, reducing the potential for groundwater pollution.

Discussion: The LFS already provides for a difference in fees between landfills and transfer stations. Details can be found in the EPA Guideline: Schedule of environment management fees⁴.

3.2.8.2 Waste for resource recovery or transfer

Comment: When more material is recycled, there is less waste to be disposed of and the recycling industries fees should be inversely proportional to the amount they recycle—the more they recycle the lower the fees. Fees based on volume of material recovered are a disincentive to recycle more. Waste processing is helping to eliminate pollution and should not pay a licence fee. There should be discounts for recyclers of prescribed wastes whose operations eliminate or significantly reduce prescribed wastes going to land fill or emissions

Fees should be a flat fee rather than increasing with increasing volume and that this fee should be a low fee to recognise the minimal amount of environmental harm done by recycling as well as the contribution made to the environment.

Fee for this activity is too high.

Discussion: The EPA supports reuse and recycling of waste but only when it is safe and sustainable to do so. Recycling is an activity of environmental significance. There are environmental risks associated with this including dust, noise, odour, wastewater management and litter. In general, the more waste processed by a recycling facility, the higher the environmental risk and the more regulatory effort required by the EPA. The recycling of waste does receive a financial incentive through a reduction in the waste levy.

Reviewing the EMF is discussed in section 3.5.5.

Comment: Fees should be aligned with environmental risk. No environmental risks occur when recycling is carried out provided the resource recovery is carried out within best practice guidelines

Discussion: The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental

⁴ <www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_mgt_fees.pdf>

hazard posed by each sector. The environmental risks associated with recycling and transfer relate to dust, noise, odour, wastewater management and litter.

Comment: Transfer stations do not generate the waste, they only pick it up, press it into bales and move it on for recycling and should not have to pay a fee.

Discussion: Transfer stations are not licensed for the generation of waste. Transfer stations are included in Schedule 1 of the EP Act as an activity of environmental significance and are required to have an EPA licence. The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector. The environmental risks associated with a transfer station relate to waste management, litter, dust and noise.

Comment: Companies who actively prove they are reducing their level of waste and increasing their recycling should be rewarded.

Discussion: Rewarding good environmental performance is discussed in section 3.5.3. The recycling of waste does receive a financial incentive through a reduction in the waste levy.

3.2.8.3 Winery wastewater treatment plant

Comment: There should be additional incentive for beneficial recycling such as the production of recycled water to reduce use of other water sources instead of just dumping the recycled water on a woodlot.

Discussion: Rewarding good environmental performance is discussed in section 3.5.3.

3.2.9 Activities producing listed waste [activity 3(4)]

Comment: Despite a decrease in production, no extra waste produced, no incident or accident, the EPA licence fee is significantly increased.

Discussion: The licence fees are related to environmental risk and regulatory effort and not to production levels. Compliance with licence conditions (ie no incident or accident) is the responsibility of the licensee and is not related to licence fees. Changes in fees with the introduction of LFS are discussed in section 3.5.2.

Comment: It is strange to pay a licence fee on top of the other fees for waste management associated with recycling.

Discussion: The licence fee relates to the activity of producing listed wastes. A listed waste producer is required to have an EPA licence, in accordance with Schedule 1 of the EP Act. A licence imposes obligations on waste producers to ensure safe management, reporting and disposal of hazardous wastes. Based on the cost recovery principle, licences have associated licence fees.

3.2.10 Waste transport business [activities 3(5) and 3(6)]

Comment: LFS is too expensive for waste transporters.

Discussion: Waste transporters have two fee levels of 0.3 and 0.9 fee units per vehicle, which is one of the lowest applicable fees in the LFS. Through LFS, the licence fees for waste transporters generally decreased from the previous system. This indicates that LFS was favourable for waste transporters.

Comment: Why are fees charged for both the transport and disposal of waste?

Discussion: Both the transport and disposal of waste are considered as activities of environmental significance. They both pose different environmental risks and both aspects require an EPA licence. Every licence has an associated licence fee.

Comment: Transporters do not generate any waste nor produce any emissions. They are not 'user' or 'polluter', have no environmental risk and should get a large discount or should not pay a fee.

The fee is too high for asbestos transportation and results in some companies not registering as they know that if they get caught, will only get a slap on the wrist and EPA will not fine them.

Discussion: Although waste transporters do not generate the waste, they are listed in Schedule 1 of the EP Act as an activity of environmental significance and are required to hold an EPA licence. Every licence has an associated licence fee. Waste transporters play a key role in waste management and due to the nature of the waste, there are environmental risks associated with its transport including the risks of spills and waste being delivered to an unsuitable destination.

These risks are particularly valid for asbestos transportation. In the circumstance that the EPA becomes aware of companies transporting waste without a licence, it will take appropriate regulatory action in accordance with our Compliance and Enforcement Statement and the document *Compliance and enforcement: Regulatory options and tools*.⁵

Comment: There should not be a high difference in fees between Category A transporters (septic tanks) and Category B transporters (fat traps/separators).

Discussion: Category A transporters have a maximum fee level of 0.9 fee units per vehicle and Category B transporters have a maximum fee level of 0.3 fee units. The lower fee level was set to reflect the minimum resources likely to be required given the inherent risk of the activity. The higher fee level was then set based on the increased resources required to manage that activity. Reviewing the EMF is discussed in section 3.5.5.

Comment: The fee system should reflect the size of the operator and the location. In particular, the fee should be lower for small operators who are doing an environmental service by removing effluent or desludging fat separators.

Discussion: The LFS already has a scaled mechanism in place as transporters pay a fee per vehicle which means the more vehicles, the greater the environmental risk and regulatory effort, resulting in higher fees.

Comment: We only use vehicles sporadically and should have a basic licence, only paying when the registered vehicles are actually used.

Discussion: Schedule 1 of the EP Act lists the transportation of waste as an activity of environmental significance irrespective of how often it occurs. Waste transporters are required to hold an EPA licence which has an associated licence fee.

Comment: We should be able to register as a company, and pay a fee for a certain number of vehicles rather than dedicated vehicles. Register the whole fleet but only with a certain number of vehicles to be used on any one day.

Discussion: This option would require significantly more regulatory effort on behalf of the EPA to ensure that companies are only using the number of vehicles specified in one day. Based on the user pays principle, this would mean a significant increase in cost per vehicle. In addition, registering specific vehicles enables cross checking with waste transport certificates to ensure only licensed vehicles are transporting waste.

⁵ <[www.epa.sa.gov.au/what we do/compliance and enforcement statement](http://www.epa.sa.gov.au/what_we_do/compliance_and_enforcement_statement)>

3.2.11 Discharge of stormwater [activity 4(2)]

Comment: The review of schedule 1 is considering removing this activity from the schedule and should not be charged a fee.

Discussion: The review of Schedule 1 of the EP Act is ongoing and changes to the fees will be examined through this process. However, while the activity remains on the Schedule, a licence is required to conduct this activity. This requires regulatory effort and the fee still applies.

3.2.12 Saleyards [activity 5(3)]

Comment: As the scaled fee levels for this activity relate to wastewater discharge, which includes stormwater, larger facilities which can afford to have stormwater collection and diversion to produce less effluent can be paying less than a small facility. The fee levels should be based on stock throughput.

Discussion: Size does not always represent environmental impact or regulatory effort. For example, the environmental risk posed by small operations is not always less than that posed by larger ones depending upon the actual activities occurring on site including environmental management systems and cleaner production techniques.

Reviewing the EMF is discussed in section 3.5.5.

3.2.13 Piggeries [activity 5(4)]

Comment: The fee is too high.

Discussion: The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector. The environmental risks associated with piggeries relate to waste management, wastewater management and odour.

Piggeries have five fee levels ranging from 2 to 12 fee units. The lowest fee unit was set to reflect the minimum resources likely to be required given the inherent risk of the activity. Reviewing the EMF is discussed in section 3.5.5.

3.2.14 Composting works [activity 6(3)]

Comment: The fee is too high, particularly for a site not operating due to drought.

Discussion: The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector. The environmental risks associated with composting relates to wastewater management and odour.

Composting works have nine fee levels ranging from 2 to 12 fee units. The variations in the fee relate to significant differences in regulatory effort and hazard within this sector. The use of lower risk input waste streams results in a lower fee as does having appropriate groundwater protection measures. These fee levels reflect the varying effort required by the EPA to regulate these different cases.

Reviewing the EMF is discussed in section 3.5.5. The fees for non-operating sites are discussed in section 4.1.7.

Comment: A scaled system based on size of activity is needed. In particular considering that only the larger facilities have the capacity to implement the prescribed environmental measure.

Discussion: The licence fees are related to environmental risk and regulatory effort and not to production levels. Changes in fees with the introduction of LFS are discussed in section 3.1.1.

3.2.15 Fish processing works [activity 6(4)]

Comment: Processors who take fish waste and recycle it should not be charged a fee as they are eliminating a waste stream.

Discussion: As discussed in section 3.2.8, recycling is an activity of environmental significance and has environmental risks associated with it. The environmental risks associated with composting relates to wastewater management and odour. As such, this activity is required to have an EPA licence. Every licence has an associated licence fee. The financial incentive to recycle comes from a reduction in the waste levy.

3.2.16 Produce processing works [activity 6(6)]

Comment: Organisations that continue to reduce emissions, increase efficiencies and improve environmental performance should be rewarded when calculating fees rather than being penalised by the inclusion of other group members who are not contributing to the environmental sustainability of the industry or group.

Discussion: The inclusion of additional fee levels within activities is discussed in section 3.1.1.

Rewarding good environmental performance is discussed in section 3.5.3.

3.2.16.1 Deep fat frying, roasting or drying [activity 6(6)(a)]

Comment: A scaled system is needed based on the activities occurring on sites. Currently fees are the same for coffee roasting and deep fat frying despite differences in their environmental impact, emission levels and usage rather than capacity.

Discussion: Deep fat frying, roasting or drying has a flat fee of 4 fee units. A single fee level for an activity's EMF was allocated when the EPA expected little variation in regulatory effort required between licences within the activity. The inclusion of additional fee levels within activities is discussed in section 3.1.1.

Comment: If a company takes steps to be environmentally responsible and reduce or minimise emissions, this should be taken into account for their fees.

Discussion: Rewarding good environmental performance is discussed in section 3.5.3.

3.2.17 Rendering or fat extraction works [activity 6(7)]

Comment: Fee is too high.

Discussion: The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector. The environmental risk associated with rendering or fat extraction works relate to air quality, odour, waste management and wastewater management.

Rendering or fat extraction works have three fee levels ranging from 12 to 20 fee units. The variations in the fee relate to significant differences in regulatory effort and hazard within this sector. The production of less wastewater results in a lower fee as does treating the wastewater to a specified quality. These fee levels reflect the varying effort required by the EPA to regulate these different cases. Reviewing the EMF is discussed in section 3.5.5.

3.2.18 Wineries or distilleries [activity 6(11)]

Comment: The steps between the fee levels for this activity are too large and more levels are needed in particular for smaller producers of wastewater. Small wastewater generators should not pay the same as a generator that creates 10 times more wastewater. Fee should be \$x for 0–5ML effluent, \$2x for 5–10ML and continue up in price.

The fee is too high and there are not enough levels.

Discussion: Wineries or distilleries have fee levels ranging from 3 to 50 fee units. The fee levels for this activity were established based on an assessment of the regulatory effort associated with wineries operating at the time. The EPA believes there are sufficient levels however this activity is being considered by a review of Schedule 1 of the EP Act and changes to the fees will be revised through this process. Reviewing the EMF is discussed in section 3.5.5.

Comment: Fees need to cover the EPA costs associated with the activity and should be based on environmental risk with transparency from the EPA on how this is to be deployed.

Discussion: The LFS is based on the principles of user pays and polluter pays. Details on the development of the LFS including the basis for determining the fee levels for each activity can be found in the *Discussion Paper: Draft licence fee structure for public consultation*⁶ (May 2006) and the *Consultancy report: A proposed licence fee system for South Australia* (May 2006)⁷. Changes made after consultation are outlined in *Changes made to Environment Protection Authority licence fee structure to address issues raised in public consultation, May–June 2006, as well as issues raised by the Reference Group* (November 2007)⁸.

Comment: Concern for facilities that discharge to sewer pay less than those who have spent money on infrastructure to treat wastewater.

Discussion: The LFS bases fees on environmental risk and regulatory effort. Both these factors are lower if the wastewater is discharged to sewer and results in a lower fee.

Comment: It appears that there is a failure to reward those companies who have invested in projects of environmental sustainability, eg land remediation, biodiversity, etc through the instrument of licence fees.

Discussion: Rewarding good environmental performance is discussed in section 3.5.3.

3.2.19 Bulk shipping facilities [activity 7(1)]

Comment: Fee is the same no matter what the level of activity. Previously the fee was based on the volume of material handled. While the fee calculation is now simpler it does not take into account the different levels in activity.

Discussion: The licence fees are related to environmental risk and regulatory effort and not to volume of material handled. The inclusion of additional fee levels within activities is discussed in section 3.1.1.

Comment: Despite no changes in the volume of material handled, the EPA licence fee has significantly increased.

⁶ <www.epa.sa.gov.au/xstd_files/Licensing/Public%20Consultation/lfs_discussion.pdf>

⁷ <www.epa.sa.gov.au/xstd_files/Licensing/Public%20Consultation/lf_report.pdf>

⁸ <www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_changes.pdf>

Discussion: The licence fees are related to environmental risk and regulatory effort and not to production levels. The average fee for this activity decreased by 30% with the introduction of LFS. Changes in fees with the introduction of LFS are discussed in section 3.5.2.

3.2.20 Railway operations [activity 7(2)]

Comment: A scaled system is needed based on level of operations. The six categories of the old system reflected this and the different environmental and community impacts.

Discussion: The inclusion of additional fee levels within activities is discussed in section 3.1.1.

3.2.21 Crushing, grinding or milling works [activity 7(3)]

3.2.21.1 Agricultural crop products [activity 7(3)(b)]

Comment: Despite a decrease in waste emissions and an improvement in environmental performance, the EPA licence fee is significantly increased.

Discussion: The average fee for agricultural crop products increased by 6% with the introduction of LFS. Changes in fees with the introduction of LFS are discussed in section 3.5.2.

Comment: The licence fees for this activity do not allow for differences in environmental performance, emissions or efficiencies resulting in companies who are improving their performance being penalised by other facilities within their sector who are not focused on environmental sustainability.

The fee is too high for seed processors. Seed cleaning does not create an environmental risk and dust emissions are minimal. Should not be put in the same class as other milling and need separate fee levels

Discussion: This activity already contains four fee levels ranging from 3 to 12 fee units. The different fees are dependent on the type of material processed, the wastewater management and if the facility is mobile or not. The inclusion of additional fee levels within activities is discussed in section 3.1.1.

3.2.22 Dredging [activity 7(4)]

Comment: Want to maintain licence in case it was required but did not want to pay an annual fee to keep it.

Discussion: The fees for non-operating sites are discussed in section 4.1.7.

3.2.23 Earthworks drainage [activity 7(6)]

Comment: Fee should not be set with no distinction based on the water quantity or quality. A scaled approach is needed.

Discussion: This activity has a flat fee of 0.25 fee units per day on which earthworks drainage occurs. This is one of the lowest fees applicable through the LFS. The inclusion of additional fee levels within activities is discussed in section 3.1.1.

3.2.24 Fuel burning [activity 8(2)]

Comment: The fees for fuel burning are too high.

The fees for electricity generation using waste landfill gas are too high. EPA should demonstrate the risk posed by this type of activity.

Discussion: The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector. The risks associated with fuel burning relate to air quality.

Fuel burning has fee levels ranging from 1 to 80 fee units. The variations in the fee relate to significant differences in regulatory effort and hazard within this sector. Reducing emissions of nitrogen oxides or changing the fuel source can result in a lower fee. These fee levels reflect the varying effort required by the EPA to regulate these different cases. Reviewing the EMF is discussed in section 3.5.5.

3.2.25 Motor racing or testing venues [activity 8(5)]

Comment: The fee for this activity is too high as the activity is not an environmental risk and needs individual consideration as the facility only operates for 15 to 20 meetings within 6.5 months of the year.

Discussion: Motor racing or testing venues have a flat fee of 3 fee units. Reviewing the EMF is discussed in section 3.5.5. In addition, this activity is specifically being considered by a review of Schedule 1 of the EP Act and changes to the fees will be revised through this process. However, while the activity remains on the schedule, venues must hold an EPA licence and as this requires regulatory effort, the fee still applies.

3.2.26 Discharges to marine or inland waters [activity 8(7)]

Comment: EMF should not apply to a research facility which is not contributing any significant environmental risk in its intake and discharge of sea water.

Discussion: The water returned to the ocean does not have the same composition as the water extracted as it contains chemicals associated with the analysis process. The exact composition is unknown and thus is an environmental risk.

The system is based on user pays and this does not include industry subsidising research organisations.

3.3 Criteria for discounts

3.3.1 Information on criteria for discounts

Comment: Would like information on the criteria for discounts, specifically for the following sectors:

- abrasive blasting
- bulk shipping facilities
- chemical storage and warehousing
- composting works
- concrete batching works
- crushing, grinding or milling
- fish processing
- piggeries
- produce processing works
- surface coating works (hot dip galvanising)
- wineries or distilleries.

Discussion: The criteria for discounts are outlined in the EPA Guideline, Schedule of environment management fees⁹ which reflects the legislation¹⁰.

Composting works have differing fee levels based on type of waste received and distance to groundwater. In addition they have a prescribed environmental measure where if they have a system to prevent the contamination of groundwater, they are eligible for a reduction in their fee.

Fish processors can reduce their fee by discharging to land or sewer rather than marine or inland waters.

Piggeries can reduce their fee if they decrease their nitrogen emissions to air.

Surface coating works (hot dip galvanising) receive a discount if they reduce their zinc emissions to air.

Wineries and distilleries receive a discount if they discharge all of their wastewater to sewer or another off-site wastewater treatment plant. In addition, wineries and distilleries have a prescribed environmental measure where if they treat their wastewater to a particular quality, they are eligible for a reduction in their fees (refer also section 3.4.4).

There are currently no discounts available for abrasive blasting, bulk shipping facilities, chemical storage and warehousing, concrete batching works, crushing, grinding or milling or produce processing works.

There may be scope for the addition of criteria for discounts for other activities however this requires further assessment. The inclusion of additional criteria for discounts would need to result in the redistribution of fees within that activity or across activities based on the regulatory effort.

Issue 2 There are currently a number of activities that do not have any ability to decrease licence fees while some activities have multiple options and this is perceived as an inequity.

3.3.2 Need for additional discounts

Comment: A licensee should be able to reduce their fee to zero, for example if they met environmental targets.

Discussion: The EPA does encourage and reward holders of EPA licences for following best practice environmental management standards through accredited licences. Accredited licence-holders are rewarded with discounted licence fees (50%) and less prescriptive licence conditions. Licensees who pay a REF, have the ability to reduce this portion to zero by reducing their emissions. In addition, for some prescribed activities, reducing emissions can also result in a reduced EMF. Details of the activities for which this applies can be found in the EPA Guideline, Schedule of environment management fees¹¹

3.3.3 Reminders relating to discounts

Comment: A reminder with the yearly invoice on possible fee reductions would provide an opportunity to licensees to reassess and commit funds.

Discussion: The current new licence application, licence renewal and annual return forms all include the information relating to fee reduction options. These need to be completed prior to issuing the invoice and should be used by licensees to reassess the activities occurring on their site.

⁹ <www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_mgt_fees.pdf>

¹⁰ Schedule 1 of the *Environment Protection Regulations 2009*.

¹¹ <www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_mgt_fees.pdf>

3.3.4 Waste or recycling depot [activity 3(3)]

Comment: Despite meeting discount criteria for compliant leachate and landfill gas management system, we are not getting discount due to another, not mentioned perceived non-compliance.

Discussion: Fee reductions relate to meeting the prescribed environmental measure for that activity. Non-compliance is not a factor.

A facility will only meet the prescribed environmental measure for waste or recycling depots (waste depot for solid waste) if the entire site has a leachate and landfill gas management system that complies with the guidelines *Environmental management of landfill facilities (municipal solid waste and commercial industrial general waste)*¹². The entire site includes those landfill cells closed prior to 1 July 2008.

3.3.5 Piggeries [activity 5(4)]

Comment: The previous fee system included discount mechanisms if a site had an environmental management plan or certain management criteria. These discounts appear to have been removed.

Discussion: The inclusion of additional discounts is discussed in section 3.3.1.

3.3.6 Wineries and distilleries [activity 6(11)]

Comment: The mechanism for moving down a fee level within this activity relates simply to the volume of wastewater produced and fails to consider if the wastewater discharged is being used for irrigation purposes, reducing the load burden on existing water resources. The fee should consider the volume of wastewater reused and the costs associated with the management processes in place to control the activity.

Discussion: Wineries and distilleries also have a prescribed environmental measure which provides a mechanism for reducing their licence fee. Rewarding good environmental performance is discussed in section 3.5.3.

Comment: EMF should provide a discount for sites that do not discharge wastewater but store it for fire-fighting purposes.

Discussion: The discount currently available applies to the disposal of winery wastewater to sewer or other off-site wastewater treatment plant. These remove the risk associated with the on-site storage and/or treatment of winery wastewater. Storing the wastewater for fire-fighting purposes does not remove the risk from the site.

Comment: EMF should consider stormwater mixing with wastewater to make it fit for purpose (ie not dilution). This should be recognised as reuse.

Dilution should be included as it is an effective and legitimate tool for wastewater management.

Discussion: The EPA considers that dilution as the combination of materials for the purpose of reducing contamination levels. It is not a suitable waste management approach and is not supported by the EPA.

However, mixing by combining of two or more specific components may be appropriate if it is first demonstrated that the wastewater is suitable. Therefore supplementing irrigation water may involve mixing, for example for the purpose of improved application or to reduce the potential for creating salinity problems.

¹² <www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_mgt_fees.pdf>

3.4 Prescribed environmental measure

3.4.1 More information on prescribed environmental measures

Comment: Would like information on prescribed environmental measures, specifically for the following sectors:

- concrete batching works
- marinas and boating facilities

Discussion: The prescribed environmental measures are outlined in the EPA Guideline: Schedule of environment management fees¹³ which reflects the legislation.¹⁴

There are currently no prescribed environmental measures for concrete batching works or marinas and boating facilities.

There may be scope for the addition of prescribed environmental measures for other activities however this requires further assessment. In addition, the current licence fees cover the EPA's costs associated with the operating the licensing system with specific fees based on the regulatory effort associated with that activity. The inclusion of prescribed environmental measures would result in the redistribution of fees within that activity or across activities based on the regulatory effort.

Issue 3 There are currently a number of activities that do not have a prescribed environmental measure which is perceived as an inequity.

3.4.2 Wood preservation works [activity 1(6)]

Comment: Facilities are not taking up the discount mechanism and simply paying the higher fee (is not working as an incentive for improved environmental performance). Although this has been an incentive in some cases.

Discussion: Analysis of the fees following the first year of implementation indicates that seven out of 10 licensees have implemented the procedures required for the prescribed environmental measure. The EPA believes the incentive for improved environmental performance is working.

3.4.3 Sewage treatment works [activity 3(2)]

Comment: Need clarification on what 'sustainable irrigation' means.

Discussion: The prescribed environmental measure for sewage treatment works or effluent disposal schemes applies if the activity involves the 'sustainable reuse' of the wastewater. Sustainable reuse could be in the form of sustainable irrigation. The EPA will determine whether a licensee's irrigation practices meet the requirements for a fee discount. The assessment will consider factors such as if the licensee has a fully implemented irrigation management plan or monitoring program, if the irrigation scheme is well managed and maintained, there no evidence of environmental harm and irrigation rates are appropriate.

Comment: There should be a mechanism to cater for partial reuse or where there is no reuse and the scheme relies on total evaporation. Discount for reuse only apply on 100% reuse and does not encourage reuse.

¹³ <www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_mgt_fees.pdf>

¹⁴ Schedule 1 of the *Environment Protection Regulations 2009*.

Discussion: Following consultation, the prescribed environmental measure was expanded to include disposal to an evaporation lagoon, or other sustainable reuse acceptable to the EPA.

While the EPA encourages any reuse, it would like to keep simplified, objective factors for setting licence fees and believes the inclusion of a discount for 100% reuse encourages licensees to aim towards full reuse.

3.4.4 Wineries and distilleries [activity 6(11)]

Comment: Discount criteria are not achievable with regard to EC, specifically:

- it is not clear what the 50% EC reduction is measured against
- EC treatment is expensive
- criteria does not give credit for cleaner production methods or limiting salt into the wastewater stream at the source
- the current focus on reducing water use which has a negative impact on this figure
- a preferable measurement would be reduction in COD per tonne processed, or if salt is the issue, it should be measured in total output per tonne processed.

Suggest could focus on management of wastewater and salt through the process rather than focus on the back end.

Basing the discount on improvements in the quality of recycled wastewater is unfair with respect to those establishments that already have a well-developed wastewater treatment system and have little opportunity to reduce their licence fee as their recycled water is already of relatively 'good' quality.

Discussion: The EPA recognises that the prescribed environmental measure is not clear in relation to the 50% EC reduction criteria.

Issue 4 The prescribed environmental measure for wineries and distilleries implies that the only way to reduce the salt load and meet the criteria for a fee reduction is by treating their wastewater. Cleaner production techniques to reduce the amount of salt entering the wastewater system or reducing the volume of wastewater produced are also viable techniques but are currently not recognised.

Comment: Would like a suggestion of where to measure the starting BOD and TSS to enable proof of lowering these substances or an indication of initial concentrations.

Discussion: The prescribed environmental measure does not required the demonstration of a decrease in BOD or TSS. Providing the final wastewater meets the specified concentrations this is sufficient proof.

Comment: The criteria should be on the basis of achieving an environmentally sound outcome rather than strictly on a set of wastewater criteria. Consideration should be given to financially rewarding the beneficial use of the water.

Discussion: Rewarding good environmental performance is discussed in section 3.5.3.

Comment: The discount should be an incremental approach. This would encourage people to think about improving water quality if they can get some early wins.

Discussion: While the EPA encourages all treatments, it would like to keep simplified, objective factors for setting licence fees and believes the inclusion of a single discount mechanism is sufficient.

Comment: The cost of treating the wastewater far outweighs the discount in fees.

Discussion: While the initial cost of installing a wastewater treatment system may exceed the discount in fees for a single year, the fee discount will continue to apply in future years, providing an ongoing benefit.

3.5 Other comments

3.5.1 Licence fee system development and implementation

Comment: How was the LFS developed? Would like information on the fee structure and how to calculate fees.

Discussion: Details on the development of the licence fee system including the basis for determining the fee levels for each activity can be found in the *Discussion Paper: Draft licence fee structure for public consultation* (May 2006)¹⁵ and the *Consultancy report: A proposed licence fee system for South Australia* (May 2006)¹⁶. Changes made after consultation are outlined in *Changes made to Environment Protection Authority licence fee structure to address issues raised in public consultation, May–June 2006, as well as issues raised by the Reference Group* (November 2007)¹⁷.

Comment: The LFS should have been phased in rather than implemented in a single year.

Discussion: Prior to the introduction of LFS, fees were increased over a four-year period to achieve full cost recovery for operating the licensing system. The LFS then changed how the fees were calculated and distributed between activities. It was considered too complex to phase in the new calculation methods associated with LFS, as this would have required assessment against both the previous and new fee schedules. However, in response to comments received and to enable the EPA and licensees to prepare, the introduction of LFS, was delayed by 12 months from 2007–08 to 2008–09.

Comment: What was the basis for assessing wood preservation works as attracting 50 fee units?

Discussion: Details on this are included in the papers mentioned above. The number of EMF units for licensed activities were determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector.

Comment: At introduction there should have been greater communication with licence-holders as the actual fee change was not apparent until the first invoice received.

Discussion: The EPA acknowledges that many licensees were not fully aware of the impacts of the LFS on their fees. However, the development of the LFS included two rounds of public consultation in 2004 and 2006 with a discussion paper sent to all licensees and relevant industry associations. In March 2007 and again in November 2007, the EPA wrote to all licensees explaining the LFS and offering to estimate the new licence fee. Only a small number of licensees accepted the offer of estimation of their new fee.

Comment: Credit should be given for work planned and in progress to reduce emissions.

Discussion: Invoices are issued on an annual basis. However if a licensee meets the criteria for discount or a prescribed environmental measure during the year, it may be eligible for a pro rata fee refund for the months where it meets the requirements.

¹⁵ <www.epa.sa.gov.au/xstd_files/Licensing/Public%20Consultation/lfs_discussion.pdf>

¹⁶ <www.epa.sa.gov.au/xstd_files/Licensing/Public%20Consultation/lf_report.pdf>

¹⁷ <www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_changes.pdf>

3.5.2 Decrease in emissions or productivity yet increase in fee

Comment: Why was there an increase in fee despite a decrease in emissions or productivity with no incidents or accidents?

This issue was specifically raised for wood preservation works (section 3.2.1), surface coating (section 3.2.4), activities producing listed waste (section 3.2.9), bulk shipping facilities (section 3.2.19) and agricultural crop products (section 3.2.21).

Discussion: The introduction of LFS redistributed the fees among licensees in a more equitable way which better reflected the EPA's regulatory effort and pollutant emissions by licensees. As a result, some licence fees increased while others decreased. An increase in fees indicates that under the previous system the sector was being subsidised by another activity.

3.5.3 Relate fees to environmental performance

Comment: Fees should decrease with improved environmental performance with financial rewards for companies who:

- comply with licence conditions
- have invested in environmental staff or environmental sustainability projects (from sections 3.2.5 and 3.2.18)
- achieve good results (from section 3.2.2)
- have reduced emissions or waste outputs (from sections 3.2.8.2 and 3.2.16)
- have increased recycling (from section 3.2.8.2)
- reuse wastewater in a beneficial way (from sections 3.2.8.3 and 3.4.4)
- have not been visited by EPA in past year.

If EPA has had cause to take action against the licensee, then this should result in a fee increase.

Discussion: Compliance with licence conditions is a legal requirement and not a factor in determining licence fees. However, the EPA does encourage and reward holders of EPA licences for following best practice environmental management standards through accredited licences. Accredited licences are available to all licensees. In addition to requirements outlined on the EPA website¹⁸, a licensee's environmental management system would need to be externally accredited, ie ISO14001 standard or equivalent. Accredited licence-holders are rewarded with discounted licence fees (50%) and less prescriptive licence conditions.

Licensees are rewarded for reducing emissions by moving to a lower fee level, and licenses that pay a REF have the ability to reduce this portion of their fee to zero by reducing their emissions. In addition, for some prescribed activities, reducing emissions can also result in a reduced EMF. Details of the activities for which this applies can be found in the EPA Guideline, Schedule of environment management fees¹⁹.

¹⁸ <www.epa.sa.gov.au/licensees/general_licences/accredited_licence>

¹⁹ <www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_mgt_fees.pdf>

Increased recycling is supported by the EPA and the financial incentive to recycle comes from a reduction in the waste levy.

There is a water reuse fee which applies if low salinity water is discharged to the marine environment. Licensees that pay this fee have the ability to reduce this portion of their fee to zero by reducing their emissions.

EPA inspections are only a small part of the model for determining regulatory effort and environmental risk, and are not considered to be a suitable tool for determining a licence fee. The EPA has a risk-based compliance program which includes a campaign program for intense scrutiny of particular industry sectors on a rolling basis. The inclusion of increasing and decreasing fees in line with the increased/decreased attention would result in a complex and confusing system and is not preferred.

Comment: Fees should consider the nature of the business and the technological restrictions that can impede the businesses' ability to achieve certain standards.

Discussion: The EPA considers the principles of ecologically sustainable development when taking measures to protect, restore and enhance the environment such as through licence conditions or developing guidelines.

The discount mechanisms within the LFS relate to improved environmental performance, have been developed specific to a particular activity and are considered to be realistic and achievable.

Comment: User pays system is biased. Rural communities licence fees have tripled yet no proof provided of any environmental issues. This is a means by which the EPA becomes self funded at any cost.

Discussion: Schedule 1 of the EP Act lists activities that pose a potential environmental risk. These activities are required to be licensed and have a licence fee associated with that licence. The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that EPA puts into each activity type and level. This was strongly influenced by the environmental hazard posed by each sector.

The EPA did consider the sensitivity of locations and added a weighting in those circumstances such as higher fees for facilities within watershed protection areas or weightings for the emission of key pollutants in particular airsheds.

Comment: Fees should be charged relating to the products at the end of their life—disposal and the environmental risk posed by that activity.

Discussion: The EPA supports product stewardship however this is not included in the LFS principles.

3.5.4 Resource efficiency fee

Comment: Fees for air emissions are too high, ie the load-based fee is substantially higher for volatile organic compounds (VOCs) than in Victoria.

Discussion: The pollutant load-based fees and the water reuse factor under the heading 'Resource Efficiency Fees' (REF) were included as pollution and waste are signs that resources have been used incompletely or inefficiently. The EPA wanted to draw greater attention to this and the ecologically sustainable development objectives of the EP Act in the LFS. Reducing emissions will lower the REF.

Victoria has a flat load-based fee applicable to VOC emissions. South Australia has a scaled system with the middle fee being comparable to that of Victoria. The EPA believes that the scaled approach allows for variation in the fee based on where the emission will have a larger impact. In addition, the zone weighting

for metropolitan Adelaide was re-evaluated and lowered from 2 to 1.5 following consultation on the draft schedule.

Comment: The split between fees should be realigned towards environmental risk considerations.

Discussion: The split between REF and EMF was consulted upon during development of the LFS. The final selection of 40% REF and 60% EMF was made taking the following into account:

- fees per activity group, and fees for small and large licences were compared for 35% and 40% REF
- many submissions from the consultation requested an increase in the REF, to provide a larger incentive for reduction of pollutants in line with the polluter pays principle. Some submissions requested a decrease, to reduce their potential licence fees
- government policy, including a decision to increase the extent of load-based licensing
- the polluter pays principle.

Comment: The REF component should be reduced in line with the amount of effort the EPA is required to coordinate.

Discussion: The LFS as a whole relates to the principles of user pays or the EPA's regulatory effort. However, the intention of the REF is to provide an incentive or signal to licensees with significant loads of pollutants that contribute to key environmental problems in South Australia to reduce their emissions.

Comment: There should be a fee cap on the REF component to ensure that bulk of the state's fee recovery is not assigned to a single licence.

Discussion: The draft LFS included a fee cap however this was removed based on comments received during consultation. These comments focused on the point that having a fee cap contradicted the aim of using the REF to act as an incentive to reduce pollution emissions. While some licensees attract higher fees due to high pollutant emissions, the bulk of the EPA's licence fee revenue is not paid by a single licensee. Licensees who have high fees due to high pollutant emissions are able to reduce those fees by reducing pollutant emissions.

Comment: If the air:water differential remained as 78%:22% this is too great and should be 65%:35%.

Discussion: The weightings for pollutants are based on the impact of those pollutants and the same weighting scale was used for air and water pollutants. Through the development of LFS, a 50:50 split of air:water was investigated but this required a three-fold increase in weightings for pollutants to water. The Reference Group²⁰ advised at the time that there was no justification for weighting pollutants to water higher than pollutants to air.

However, post consultation, a 'freshwater reuse factor' was included within the system. This resulted in an actual split of 64%:36% air:water for the first year of implementation.

Comment: An appeal process to independent experts (eg consultants) if site-specific calculations for emissions to use in place of NPI data are rejected by EPA's own assessment is needed.

²⁰ The Reference Group consisted of representatives from Business SA, Engineering Employers Association of South Australia, SA Chamber of Mines and Energy, SA Water, SA Wine Industry Association, SA Farmers Federation, energy sector in the Port River region, Department of Trade and Economic Development, Northern Industry Environmental Forum, Waste Management Association, Local Government Association and the Environmental Defenders Office (representing the community).

Discussion: The process for reviewing emission calculation methods is to refer this to the local NPI (National Pollutant Inventory) team. If necessary, they will refer it to the IWG (implementation working group), a national body for the NPI, which approves industry emissions calculation methods and new emission factors.

Comment: The 4-times 'red' Whyalla dust weighting on top of the existing 10-times weighting should be removed. Suggest a standard fee for particulates/dusts across the state as there are too many types. Differing treatments of dust types are not balanced and should be reviewed.

Discussion: The weighting for particulates in the Mount Gambier and Whyalla airsheds were included due to the potential health problems and infrastructure from red dust in Whyalla and elevate particulate levels in Mount Gambier. Particulates in Whyalla from licensed sources are mainly iron rich particulates which have been shown to have more significant effects than particulates on their own.

The inclusion of this weighting provides an incentive for reducing red dust in Whyalla and particulates in Mount Gambier.

Comment: The bulk of some fees is from the REF which is based on fugitive emissions and difficult to control.

Discussion: During the development of LFS, the EPA discussed the inclusion of fugitive emissions with the Reference Group. The group recommended fugitive emissions be included as in many cases (such as fuel storage), fugitive emissions are the biggest environmental issue.

Comment: Would like assurance that all waste depots are assessed equally for the resource efficiency fee. Where does the data come from to calculate the fee?

Discussion: Unless another prescribed activity is conducted on the site, waste depots do not trigger the emission threshold for the REF to apply.

The REF applies to key pollutants discharged from a licensed site to the environment (air and water). Data for this fee is sourced from the NPI. The NPI reporting process allows for multiple calculation methods including direct monitoring and approved site-specific emission estimation factors. The EPA undertakes an emissions validation process, which includes desktop audits, of all data received prior to its use for calculating licence fees.

3.5.4.1 Use of NPI data

Comment: Concern over the possibility for variation in the calculation of NPI data between licensees and the suggestion that the assessment method needed to be consistent, and as to whether facilities were reporting their emissions correctly. Disagree with using NPI data for fugitive dust emissions.

Discussion: NPI reporting allows multiple methods including direct monitoring and approved site-specific emission estimation factors. This flexibility in calculating emissions was generally seen as a positive as it allows for emissions calculations to be modified to suit local conditions. For specific concerns, the NPI team can be approached for clarification or revision of the manuals depending on the issues raised.

The EPA undertakes an emissions validation process, which includes desktop audits, of all data received prior to its use for calculating licence fees.

3.5.5 Environment Management Fee

Comment: The regulatory effort should be reviewed to consider the fairness of fees and current data.

This issue was also raised specifically for wastewater producing activities (sections 3.1.2 and 3.2.12), wood preservation works (section 3.2.1), abrasive blasting (section 3.2.2), metal finishing (section 3.2.4.1), waste for resource recovery or transfer (section 3.2.8.2), waste transporters (section 3.2.10), saleyards (section

3.2.12), piggeries (section 3.2.13), composting works (section 3.2.14), rendering or fat extraction (section 3.2.17), dredging (section 3.2.22), fuel burning (section 3.2.24) and motor racing or testing venues (section 3.2.25).

Discussion: Given that the development of the LFS began in 2003, it is reasonable to expect some shift in the focus of regulatory effort in line with the shifting risk of activities. However further investigation would be required prior to making any changes.

Issue 5 The EMF needs to allow for changes in the focus of the EPA's regulatory effort over time.
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3.5.6 Large versus small businesses

Comment: LFS is skewed towards larger industries subsidising the small industries with suggestion that larger industries are the easy targets but they are not the only ones that pollute. The larger facilities are paying for the EPA to provide an environmental consulting service to smaller licences.

Discussion: LFS was designed to better reflect the EPA's regulatory effort and pollutant emissions by licensees. The EPA's licensing revenue recovers the cost of running the licensing system. The LFS is based on detailed consideration of the regulatory effort for all individual sectors and individual businesses. This analysis indicated that small business were previously subsidising the cost of regulating bigger businesses. The LFS redistributed fees in accordance with the polluter pays and user pays system.

The EPA does not provide an environmental consulting service to smaller licences.

3.5.7 Access to fee information from other facilities/activities

Comment: Would like access to fee information from other facilities and activities for comparison.

Discussion: Information on the fee levels of other activities can be found in EPA Guideline: Schedule of environment management fees²¹. However, as fees could be used to calculate operational information about licensees, licence fees for specific licensees are not publicly available.

Comment: Would like to access information on waste costs, ie what primary and secondary producers of waste pay in terms of licensing and how these reduce the amount of tertiary waste handlers pay in terms of disposal of these waste items?

Discussion: Information on the fee levels of other activities can be found in EPA Guideline, Schedule of environment management fees²¹. The number of EMF units for licensed activities was determined by analysing the amount of regulatory effort that the EPA puts into each activity type and level. This is strongly influenced by the environmental hazard posed by each sector and was not determined based on the waste management cycle.

3.5.8 Fees too high

Comment: The fees are too high for small family businesses and could put them out of business.

Discussion: The impact of the LFS on small business was considered during the development of LFS and upon implementation, over half of small businesses licensed by the EPA received a fee cut.

If licensees have difficulty in paying licence fees, they may apply to the EPA to pay in quarterly instalments.

²¹ <http://www.epa.sa.gov.au/xstd_files/Licensing/Information%20Sheet/info_lfs_mgt_fees.pdf>

Under circumstances approved by the Minister, the EPA has the power to waive or reduce licence fees under s116 of the EP Act. These reductions are only granted under exceptional circumstances. If a company believes they have a case for a fee reduction on the basis of fairness or hardship they should contact the EPA about applying for a fee reduction.

There are a wide range of grants and other funding opportunities available from government agencies, corporate bodies and non-government organisations. The EPA is not involved with any of these grants however more information can be found through the 'Gateway to South Australian community, business and government information and services' <<http://www.sa.gov.au>>.

3.5.9 Definitions

Comment: Definitions are needed for the terms 'drop a fee level' and 'volume of effluent'. There is confusion over the interchangeable use of the terms 'unit' and 'level'. Does volume of effluent refer to effluent produced or volume discharged off site? If it refers to volume produced this means there is no recognition for effluent reuse and this should be changed.

Discussion: The terms 'unit' and 'level' are not interchangeable. For the EMF, the fee units indicate the relative fee for a particular activity. In some cases, an activity may have a number of levels (eg based on emissions) with differing fee units. To 'drop a fee level' means to move to a different level within an activity that has a lower number of fee units.

References in the LFS to wastewater or effluent, generally relate to the quantity produced. This is specified within the EP Regulations. Rewarding good environmental performance is discussed in section 3.5.3.

3.5.10 EPA attendance at industry meetings

Comment: Would like more information sessions/EPA attendance at industry meetings.

Discussion: If you would like the EPA to attend an industry meeting, please contact the EPA with details on the meeting including what you would like to discuss with the EPA. This ensures that the correct person attends the meeting.

3.6 Comments not directly related to LFS

There were a number of issues raised that were not related to the LFS. General comments have been provided to address some of these concerns.

3.6.1 Wheel squeal from rail operations

The EPA thanks you for your comments on wheel squeal from rail operations.

3.6.2 Licence payment versus annual payment

When an EPA licence is issued, the first invoice covers the licence payment for the first 12 months only; even if the licence is issued for a longer period. Subsequent annual invoices cover the licence payment for the following 12-month periods. The payment for the licence is divided over the period of the licence rather than a one off payment at the beginning. This assists companies to budget expenses and enables the increase in CPI (Consumer Price Index) to be calculated accurately.

3.6.3 EIP requirements in accredited licences

In South Australia, environment improvement programs (EIPs) are required to bring a licensee into compliance with the general environmental duty or an environment protection policy²². Having an EIP does not disqualify a licensee from becoming accredited however the EPA must consider the EIP when assessing an application for an accredited licence. Licensees with a condition for an environment improvement program are generally not demonstrating a high level of environmental performance²³ and unlikely to get accredited.

In comparison, the EIP required by Victoria for accredited licences relates to going beyond compliance and has a specific focus for documenting the licensee's commitments to improving their environmental performance and community consultation.

3.6.4 All activities should be listed as prescribed activities in Schedule 1

Schedule 1 of the EP Act lists the activities which the EPA has assessed as the activities of environmental significance. Facilities conducting activities not on this list must still comply with their general environmental duty and other provisions of the EP Act including environment protection policies. The EPA can issue environment protection orders to or prosecute unlicensed operators if required.

3.6.5 Waste collection at marinas

The *Code of practice for vessel and facility management (marine and inland waters)* [2008] provides details on the prevention of pollution which may arise from the construction, use, and maintenance of vessels and related facilities.

3.6.6 Cap on production

The EPA has noted the companies' concerns on this and will investigate the licence conditions.

3.6.7 National Pollutant Inventory (NPI) reporting thresholds

The NPI thresholds are set nationally and relate to the requirement to report to the NPI. The methods used by NPI to calculate emissions are used within the LFS but not the thresholds.

3.6.8 EPA customer service

The EPA is committed to good customer service as is demonstrated by our strategic priorities which include:

- **More effective relationships**—We will achieve better results for the environment of South Australia by building more effective relationships with industry, licensees and local government.
- **A reputation for excellence**—We understand that improving access to our services and clarifying their scope saves time and reduces frustration for our stakeholders. We strive to build a pro-active and service-oriented culture, and to be at the forefront of leading regulatory practices

3.6.9 Waste levy

The waste levy focuses on the quantity of waste disposed of and is not designed to control the method of waste transport. If a company decided to use 10 trucks, each carrying one tonne they would be charged the same waste levy as 1 truck carrying 10 tonnes. However, the second company would only need to pay an EPA licence fee for 1 truck while the first company would need to pay for 10 trucks.

²² Refer clause 54 of the *Environment Protection Act 1993*.

²³ Refer clause 36 of *Environment Protection Regulations 2009*.

3.6.10 Survey design

The EPA thanks respondents for their comments on the survey design and format and will consider these when developing future surveys.

3.6.11 Trade assistance measures

There are a wide range of grants and other funding opportunities available from government agencies, corporate bodies and non-government organisations. The EPA is not involved with any of these grants however more information can be found through the 'Gateway to South Australian community, business and government information and services'

<<http://www.sa.gov.au>>.

3.6.12 Small to medium enterprises

The EPA treats all licensees in a fair and equitable manner. It supports the economic growth of the state and balances the needs of the environment with business sustainability.

3.6.13 Licence fees

Schedule 1 of the EP Act lists activities that are of environmental significance and cannot be carried out without a licence. An EPA licence is essentially a licence to operate.

A licence is a statutory requirement between the EPA and the licensee that sets out the minimum acceptable environmental standards to which the licensee must perform, based on the environmental risks posed by the licensee. This regulatory regime allows for the implementation of a level playing field between industries undertaking both similar and different activities.

The revenue received through LFS covers the costs the EPA incurs due to the management of licences. This includes:

- the administrative process associated with developing, issuing and maintaining licences
- assessing and responding to documents submitted through licence conditions
- developing policy and guidelines to encourage improved environmental performance
- implementing a comprehensive inspection regime
- monitoring the quality of the environment to provide robust data to guide strategic decisions.

3.6.14 Waste definitions

The *Environment Protection (Waste to Resources) Policy 2010*, which has completed consultation and is currently passing through the enactment process, contains a mechanism under which a waste or material resulting from the treatment of waste can be deemed to be a product.

Listed wastes are any substances listed in Part B of Schedule 1 of the EP Act.

3.6.15 Exemption fees

The EPA thanks respondents for their comments and will consider them when undertaking any future review of the exemption fees.

3.6.16 Multi-site licences

Companies with a Sustainability Licence will benefit from streamlined licence conditions and the opportunity to combine multiple sites into one licence. The licence fee will still apply per site.

3.6.17 Waste transport certificate

The EPA Guideline, *Waste transport certificate* (2007)²⁴ provides information to help waste producers, transporters and depot owners comply with environmental legislation when listed wastes are transported within South Australia. It contains instructions for completing the waste transport certificate.

3.6.18 Future advisory panels

The EPA will include the wood preservation (timber treatment) industry on advisory panels related to the LFS.

3.6.19 Promotion

The EPA promotes good environmental performance through its newsletter, *EPA Monitor*, and listing holders of accredited licences and industry achievers²⁵ on the EPA [website](#).

3.6.20 Seed cleaning operations

Seed cleaning operations are captured as an activity of environmental significance under activity 7(3)(b) Crushing, grinding or milling of Schedule 1 of the EP Act. There are environmental risks associated with this activity relating to dust, noise and odour.

²⁴ <http://www.epa.sa.gov.au/xstd_files/Waste/Guideline/guide_wastetransport.pdf>

²⁵ <http://www.epa.sa.gov.au/businesses/industry_achievers>

4 Internal review

The internal review included an assessment comparing the actual fees charged through LFS with the modelled fees and staff interviews to identify any other areas of unfairness or inconsistency. The analysis showed that the LFS model was reasonably good at a high level and the total revenue received did not increase. However there were some specific issues raised and these are discussed below.

4.1.1 Wastewater producing activities

There is currently variability in the criteria for discounts for wastewater producing activities with discounts based on sustainable reuse, discharge to sewer or treatment of wastewater. This can be confusing and there may be scope for further aligning the criteria for discount for wastewater producing activities. Any changes in this area would need to consider that there are a range of activities which relate to the production of wastewater. The nature of the wastewater will vary between activities and the criteria for discount for one activity may not necessarily be applicable to another.

Issue 6 The criteria for discounts and prescribed environmental measures differ for the various wastewater producing activities.

4.1.2 Sewage treatment works or septic tank effluent disposal schemes [activity 3(2)]

There is currently an inconsistency between Schedule 1 of the EP Act and the EP Regulations in relation to this activity. As such it is unclear which fees should apply to a sewage treatment plant in a water protection area that is not the Mount Lofty Water Protection Area. The fee applicable is that being applied to sewage treatment plants, not in a water protection area.

Issue 7 It is not clear in the EP Regulations that the fee units applicable to sewage treatment plants in a water protection area which is not the Mount Lofty Water Protection Area is the same as the fee for sewage treatment plants not in a water protection area.

4.1.3 Waste or recycling depot—Solid waste for on-site disposal [activity 3(3)]

One of the fee levels for waste or recycling depot—solid waste for on site disposal—is for the range 5,000–20,000 tonnes. The waste levy standards require a weighbridge for non-metropolitan waste if they receive 10,000 tonnes or more which falls in the middle of the fee level range. This could result in some confusion.

Issue 8 The EP Regulations contain a fee level for the receipt of 5,000–20,000 tonnes of waste which is inconsistent with the weighbridge requirements for the waste levy which require a weighbridge for non-metropolitan waste if they receive 10,000 tonnes or more.

4.1.4 Composting works [activity 6(3)]

Currently the EP Regulations are unclear as to the fee that applies if a composting facility is undertaking composting operations but not receiving any waste. The fee applicable is equivalent as if they were receiving waste.

Issue 9 It is not clear in the EP Regulations that the fee applicable for composting facilities that are operating but not receiving waste is equivalent as if they were receiving waste.

4.1.5 Dredging [activity 7(4)] and Earthworks drainage [activity 7(6)]

A flat fee is applicable only if an EMF is required. Under the user pays principle, a licence is associated with a licence fee. Licensing a company to undertake dredging or earthworks drainage activities requires regulatory effort for the EPA even if the activity is not actually carried out.

Issue 10 The EP Regulations currently indicate that if no environment management fee applies, no flat minimum fee is applicable. Hence the EPA is not reimbursed for its costs associated with issuing a licence for dredging and earthworks drainage activities if they do not operate during the year.

4.1.6 Closed sites

During the development of LFS, it was decided that due to the recent introduction of the landfill guidelines which applied stricter environmental management requirements, closed landfills would not be charged a fee. The initial implementation of the landfill guidelines is due by 30 June 2010. All landfill operators are now aware of the guidelines and their post-closure requirements.

Although not specifically discussed, this default of no fee for closed sites was applied to other facilities that maintained their licence post closure.

Despite being closed, there is still a regulatory effort needed to manage these licenses, and not charging a fee is not consistent with the user pays principle.

Issue 11 There is regulatory effort needed to manage the licenses of closed sites yet currently no fee is applicable, eg closed landfills.

4.1.7 Non-operating sites

In some situations, a licensee may wish to maintain a licence to enable them to begin operating again at a later date.

Despite not operating, there is still a regulatory effort needed to manage these licenses and not charging a fee is not consistent with the user pays principle. A suitable fee should be relative to the both the activities previously conducted on site and the size of the facility, eg an EMF of the lowest fee applicable for activities with fee levels or 25% of the normal EMF for activities with a flat fee.

Issue 12 The EP Regulations does not set a fee for the situation where a site is not operating but wishes to maintain their licence to enable them to begin operating again at a later date.

4.1.8 Schedule 1

The thresholds for activities in Schedule 1 of the EP Act differ from the fee thresholds in the EP Regulations (ie capacity vs emissions). The EPA has found that this can be confusing.

Issue 13 The thresholds listed in Schedule 1 of the EP Act differ from the fee thresholds in the EP Regulations and can result in confusion.

4.1.9 Accredited Licences

Currently when an Accredited Licence is awarded, the licensee receives a 50% discount in their licence fees. The EPA believes that the REF and FMF components should be quarantined from the accredited licence discount and the discount should only apply to the EMF component as there is a reduction in regulatory effort on behalf of the EPA. The REF relates to pollutant load and, in line with the polluter pays principle, should not be affected by regulatory effort. The administrative work covered by the FMF will still need to be completed for accredited licences.

Issue 14 The inclusion of the resource efficiency fee in the discount for accredited licences is not consistent with the polluter pays principle as the resource efficiency fee is designed to be a financial incentive for reducing emissions. If a licensee can halve this fee by becoming accredited, the incentive to reduce emissions is significantly reduced. The inclusion of the flat minimum fee in the discount for accredited licences is not consistent with the user pays principle as the administrative work covered by this fee needs to be completed by for all licences including those accredited.

4.1.10 Water reuse fee

The water reuse fee currently only applies to discharges of low salinity water to the marine environment. The EPA believes that this should also apply to the discharge of this water to inland waters as both have an environmental impact.

Issue 15 The water reuse fee only applies to the discharge of water to the marine environment and not to inland waters.

5 Summary of issues

Type 1 issues are those that focus on clarifying the LFS or amending it to account for situations not covered when just developed. These will be presented to government as higher priority. Table 2 summarises the Type 1 issues.

Type 2 issues are those that will input into subsequent broader reviews. Table 2 summarises the Type 2 issues.

Table 1 Type 1 issues

Issue	Details
Issue 4	The prescribed environmental measure for wineries and distilleries implies that the only way to reduce the salt load and meet the criteria for a fee reduction is by treating their wastewater. Cleaner production techniques to reduce the amount of salt entering the wastewater system or reducing the volume of wastewater produced are also viable techniques but are currently not recognised.
Issue 7	It is not clear in the EP Regulations that the fee units applicable to sewage treatment plants in a water protection area which is not the Mount Lofty Water Protection Area is the same as the fee for sewage treatment plants not in a water protection area.
Issue 9	It is not clear in the EP Regulations that the fee applicable for composting facilities that are operating but not receiving waste is equivalent as if they were receiving waste.
Issue 10	The EP Regulations currently indicate that if no environment management fee applies, no flat minimum fee is applicable. Hence the EPA is not reimbursed for its costs associated with issuing a licence for dredging and earthworks drainage activities if they do not operate during the year.
Issue 12	The EP Regulations does not set a fee for the situation where a site is not operating but wishes to maintain their licence to enable them to begin operating again at a later date.
Issue 14	The inclusion of the resource efficiency fee in the discount for accredited licences is not consistent with the polluter pays principle as the resource efficiency fee is designed to be a financial incentive for reducing emissions. If a licensee can halve this fee by becoming accredited, the incentive to reduce emissions is significantly reduced. The inclusion of the flat minimum fee in the discount for accredited licences is not consistent with the user pays principle as the administrative work covered by this fee needs to be completed by for all licences including those accredited.

Table 2 Type 2 issues

Issue	Details
Issue 1	There are currently a number of activities that do not have any fee levels or only have two or three fee levels compared to some activities which have many fee levels and this is perceived as an inequity.

Issue	Details
Issue 2	There are currently a number of activities that do not have any ability to decrease licence fees while some activities have multiple options and this is perceived as an inequity.
Issue 3	There are currently a number of activities that do not have a prescribed environmental measure which is perceived as an inequity.
Issue 5	The EMF needs to allow for changes in the focus of the EPA's regulatory effort over time.
Issue 6	The criteria for discounts and prescribed environmental measures differ for the various wastewater producing activities.
Issue 8	The EP Regulations contain a fee level for the receipt of 5,000–20,000 tonnes of waste which is inconsistent with the weighbridge requirements for the waste levy which require a weighbridge for non-metropolitan waste if they receive 10,000 tonnes or more.
Issue 11	There is regulatory effort needed to manage the licenses of closed sites yet currently no fee is applicable, eg closed landfills.
Issue 13	The thresholds listed in Schedule 1 of the EP Act differ from the fee thresholds in the EP Regulations and can result in confusion.
Issue 15	The water reuse fee only applies to the discharge of water to the marine environment and not to inland waters.

6 References

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Appendix 1 EPA's Licence Fee System Survey

Thank you for contributing to the EPA's review of the licence fee system (LFS).

The LFS has now been operational for one year and, as promised, the EPA is now undertaking a review of the system to ensure that it is fair and balances the needs of all sectors.

The EPA has endeavored to establish the system in a way which has shifted the focus to 'polluter pays' and 'user pays' principles.

The system was rigorously developed and has been found to work reasonably well however the EPA would like your input on what is or isn't working.

The EPA will provide feedback on the outcome of the review at the conclusion of the project.

Section 1 Information about you

To assist the EPA understand the information you provide in this survey, we would like to know some information about you.

- Are you a?
 - Licensee
 - Industry Association
 - Other [please specify] _____

If indicate Licensee

- Approximately how long have you been licensed by the EPA?
 - 1 year
 - 2 years
 - 3 years
 - 4 years
 - 5 years
 - 6 years or more
 - Don't know
- What is your primary activity
 - Petroleum and chemical
 - Manufacturing and mineral processing
 - Waste treatment and disposal
 - Activities in specified areas
 - Animal husbandry and other activities
 - Food production and animal and plant product processing

If indicate Industry Association

- What type of industries do you represent?
- Where are you located?
 - Metropolitan Adelaide
 - Adelaide Hills
 - Barossa
 - Fleurieu and Kangaroo Island
 - Eyre and Western
 - Far North
 - Limestone Coast
 - Murray and Mallee
 - Yorke and Mid North
 - Other [specify] _____
- Please provide contact details [this is optional however will enable us to contact you if we need to clarify any of your responses]
 - Name: _____

If indicate Other

- Where are you located?
 - Metropolitan Adelaide
 - Adelaide Hills
 - Barossa
 - Fleurieu and Kangaroo Island
 - Eyre and Western
 - Far North
 - Limestone Coast
 - Murray and Mallee
 - Yorke and Mid North
 - Other [specify] _____
- Please provide contact details [this is optional however will enable us to contact you if we need to clarify any of your responses]
 - Name: _____
 - Position: _____

- Materials handling and transportation
 - Other [specify] _____
 - Don't know
 - Is this....? (*choices relate to the subsection of the activities described above*)
 - Please list your authorisation numbers [optional]
 - How large is your business?
 - <10 employees
 - 11–50 employees
 - 51–100 employees
 - >100 employees
 - Don't know
 - Which [if any] industry associations are you a member of?
 - Australian Industry Group
 - Business SA
 - Local Government Association of SA
 - SA Chamber of Mines and Energy
 - SA Farmers Federation
 - SA Wine Industry Association
 - Waste Management Association
 - Other [specify] _____
 - Don't know
 - Where are you located?
 - Metropolitan Adelaide
 - Adelaide Hills
 - Barossa
 - Fleurieu and Kangaroo Island
 - Eyre and Western
 - Far North
 - Limestone Coast
 - Murray and Mallee
 - Yorke and Mid North
 - Other [specify] _____
- Position: _____
 - Company: _____
 - Address: _____
 - Phone: _____
 - Email: _____
 - Company: _____
 - Address: _____
 - Phone: _____
 - Email: _____

- Please provide contact details [this is optional however will enable us to contact you if we need to clarify any of your responses]
 - Name: _____
 - Position: _____
 - Company: _____
 - Address: _____
 - Phone: _____
 - Email: _____
- How have your total fees changed?
 - Increased significantly
 - Increased slightly
 - No change
 - Decreased slightly
 - Decreased significantly

Section 2 The licence fee system

This section aims to provide the EPA with an understanding of how much is known about the licence fee system.

- Do you understand the licence fee system?
 - Yes
 - No
 - Don't know

If no:

- Please indicate why you do not understand the licence fee system... [this can include multiple reasons]
 - LFS has not been fully explained to you
 - You have not been involved in the LFS process
 - You do not handle invoices
 - The EPA information is too complex to understand
 - The EPA did not provide enough information
 - The LFS is too difficult to understand
 - You are not interested
 - Other [specify] _____
 - Don't know

- How would you rate the licence fee system?
 - Not at all fair [lots of room for improvement]
 - Not very fair
 - Neutral/Don't know
 - Fair
 - Very fair [minimal changes needed]
- How do you think the new system compares to the previous system in terms of how well it can be understood?
 - Much more confusing
 - Slightly more confusing
 - Neutral/Don't know
 - Easier to understand
 - Much easier to understand
- How do you think the new system compares to the previous system in terms of fairness?
 - Significantly more unfair
 - Slightly more unfair
 - Neutral/ don't know
 - Slightly more fair
 - Significantly more fair
- Do you understand how your fee was calculated?
 - Yes
 - No
 - Don't know
- Do you understand your options for reducing your fee?
 - Yes
 - No
 - Don't know
- Which [if any] of the following options for reducing your fee or making fee payment easier are you aware of?
 - Reducing emissions
 - Accredited licence
 - Improving environmental performance (meeting prescribed environmental measures)
 - Paying by installments
 - None/Don't know

Section 3 The future of the system

The EPA has endeavoured to establish the system in a way which has shifted the focus to 'polluter pays' and 'user pays' principles. We are now seeking your thoughts on the system, to help us determine how we can refine and improve the scheme.

This section is to provide you with the opportunity to have your say on areas of the licence fee system that you think are not fair and could be improved.

Please be as detailed as possible in your explanations of your concerns to enable the EPA to understand the issue.

- Do you have any comments or concerns on...?
 - Comparison of fees between activities
 - The fees of a specific activity
 - The criteria for discounts
 - A prescribed environmental measure [section 8 Schedule 2 of the *Environment Protection Regulations 2009*]
 - Other
 - None/Don't know

If tick Comparison of fees between activities,

- In relation to your comments on comparison of fees between activities, which activities are you comparing?
- Where do you believe the inequity exists between these activities [ie why the fee allocation is unfair]?
- What are your thoughts on what changes could occur, giving consideration to the environmental risk posed by those activities?

If tick The fees of a specific activity,

- In relation to your comments on the fees of a specific activity, which activity is of concern?
- What is your concern with the fee level of that activity [ie fee is too high, fee is too low, there are too many levels, there are not enough levels]?
- What are your thoughts on what changes to the fee level could occur, giving consideration to the environmental risk posed by that activity?

If tick The criteria for discounts,

- In relation to your comments on the criteria for discounts, which activity is of concern?
- What is your concern with the discount criteria for that activity?
- What are your thoughts on what changes to the discount criteria could occur, giving consideration to the environmental risk posed by that activity?

If tick A prescribed environmental measure,

- In relation to your comments on a prescribed environmental measure, which prescribed environmental measure is of concern?
- What your concern is with the prescribed environmental measure?
- What are your thoughts on what changes to the prescribed environmental measure could occur, giving consideration to the environmental risk posed by the activity that prescribed environmental measure applies to?

If tick Other,

- In relation to your comments on other issues, what is your concern?
- What are your thoughts on what changes could occur, giving consideration to the environmental risk?
- Do you have any other comments you wish to add?

On behalf of the EPA, Square Holes thanks you for completing this survey. Your views count.