

Aggregates Levy - A Differential Rate Scheme?

A Response from the British Aggregates Association, 2nd November 2001

Summary

- The British Aggregates Association (BAA) was formed to represent and protect the interests of the United Kingdom's independent aggregates producers. Small, independent aggregates producers face far greater difficulties than the major companies in dealing with new regulatory and fiscal measures
- The Government is introducing an aggregates levy, payable at £1.60 per tonne, from 1 April 2002. The Government has justified the levy as a response to the environmental cost of quarrying
- The levy is payable at the same rate for all commercial exploitation of aggregates (exempt for a limited number of exemptions) regardless of the actual impact on the environment. A differential rate scheme would attempt to encourage improved environmental performance by applying a differential rate to well performing quarries
- The Treasury is consulting on a possible differential rate scheme. The BAA believes that there are huge difficulties in designing a workable scheme. Any scheme is likely to be costly to implement, impractical, immensely damaging to smaller operators and is unlikely to produce any significant improvement in environmental performance
- Many of the difficult questions posed in the consultation paper demonstrate the fundamental problems with the aggregates levy itself, not just with a differential rate scheme. The list of problems is becoming more and more apparent, while the date for implementation of the scheme draws closer and closer. The Government should postpone the introduction of the levy until these issues are properly addressed.

General Response

One of the Government's aims in environmental taxation is to deliver environmental gains cost effectively. A differential scheme is an attempt to address a key weakness of the aggregates tax legislation: the absence of a feedback mechanism or any positive incentives to improve environmental performance. However consideration of the practical and economic implications of a differential rate scheme demonstrates major problems in the implementation of any such scheme:

Practical Problems

- A differential rate scheme would be designed to reward improvements above and beyond those demanded by regulation, but this is not economically sensible or practical. Under the

Environmental Protection Act 1990, quarries were subject to Integrated Pollution Control (IPC), which means their total impact is measured and regulated. The standards set followed the principle of “the best available technology not entailing excessive cost” (BATNEEC), which is now being replaced by “best available technology” (BAT). Any unavoidable impacts are to be directed towards the environmental medium best able to receive them, with the objective of minimizing pollution of the environment as a whole. Standards for compliance with BAT are constantly reviewed, and tailored to individual quarries. Expecting improvements beyond those demanded by BAT will be economically inefficient, even if it is possible to achieve; a tax designed to achieve such improvements would surely not meet the test of good taxation

- All applications for new quarries and extensions plus ongoing statutory reviews under the Environment Act 1995 now require an Environmental Impact Assessment. This Assessment informs the basis of condition controlling the development and can form the basis of a refusal or an order to close.

Legislation and regulation are constantly changing. Planning guidance note MPG6 is under review and there are ongoing changes to MPG11 (for which only two issue-specific annexes have been published) process guidance notes (concerning criteria for compliance with BATNEEC) are subject to frequent revision, and an increasing number of EC Directives which impact on the industry are taking effect. Designing a scheme to supplement existing high, changing standards will be impractical, and it will probably be impossible to define higher standards for every environmental outcome.

- The UK quarrying industry operates some of the highest environmental standards in Europe. If standards are not being met, the BAA would suggest this may be due to poor enforcement
- There would be enormous practical difficulties in assessing compliance with the standards for the discounted tax rate. Quarries vary extensively, in terms of location, size, type, and methods, as is recognised in parts of this consultation. Current regulation and Integrated Planning Controls impose a specific set of standards on individual quarries, and the planning system involves similarly individual judgements. The industry is simply too complex for a “one size fits all” approach and it is most unlikely that the marginal improvements which might be made would warrant the bureaucracy and expense necessary to achieve them.

Economic Problems

- The effect of a differential rate scheme on international competitiveness will actually be worse than the tax alone. Under World Trade Organisation and EU competition rules, importers will have to be taxed at the lowest rate, but will have no compliance costs as they will (obviously) not be subject to the new environmental assessment

- As outlined above, improving upon the BAT standards would be extremely difficult and impractical, even impossible. However, if differential tax rates were to be introduced, they could be extremely damaging to smaller operators, who would simply be unable to afford to make improvements within a very short timescale. Smaller companies would find implementation costs per unit higher, and would be less able to quickly raise the capital needed for improvements. Any company unable (not unwilling) to make improvements as quickly as other companies would find itself forced out of the market as it had to pass on higher tax costs. Quarries forced into bankruptcy will also have little money available for aftercare and restoration of sites
- New standards and regulations will always affect smaller companies more than larger firms – compliance will clearly be more burdensome. It is hard to see how government could do anything to alleviate these burdens without being accused by the majors of infringing competition law. It is also hard to see how a major company with a proportion of its quarries benefiting from differential rates could be prevented from cross subsidising to undercut smaller competitors, whose quarries may actually be less harmful than some of those belonging to the major operator
- It is in any case difficult to see how any scheme could be up and running before implementation of the tax in April 2002 – if it comes in later, much of the damage will by then be irreversible.

It seems clear that a differential tax scheme cannot be sensibly implemented because of its enormous complexity and cost, its implications for smaller operators and international competitiveness, and because it risks simply duplicating existing regulations, which set the highest realistic standards and are under constant review. It is clear the tax will be an extremely expensive and bureaucratic exercise, which is very unlikely to result in further environmental improvements. In addition, the impacts which the tax is supposed to compensate for are not yet clearly and precisely defined, which causes problems in determining the impacts which a differential rate should seek to address. The Treasury seem unclear whether they are aiming to duplicate existing regulations or to create new standards. Many of the serious problems with implementing any differential rate scheme to change environmental behaviour are recognised in the consultation paper. The logical conclusions – abandonment of the differential rate scheme, and a reconsideration of the Aggregates Tax itself – should be drawn. Aggregates quarrying is strictly environmentally regulated, more so than many other industries and indeed the vast majority of foreign quarries. It seems pointless in the extreme to consider detailed proposals for assessing “environmentally friendly” quarries when it is unclear how existing regulations might be bettered.

Problems with the Aggregates Levy

The questions posed in the consultation paper actually reveal some of the deep-seated problems with the aggregates levy itself:

1. The objective of the levy is “To ensure that the environmental impacts of aggregates production (eg noise, dust, visual intrusion, loss of amenity and damage to biodiversity) not already addressed by regulation are more fully reflected in prices”. Regulations and targets are constantly being updated. Indeed, since the environmental impacts were assessed for the aggregates tax, changes have been made to legislation and regulation which mean quarrying will no longer have the same environmental impact. Examples include the many EC Directives implemented and due for implementation, reviews of MPG 6 and MPG 11 which will lead to a stricter environmental control regime, and the current replacement of BATNEEC with BAT. It is unclear how the levy, or a differential rate scheme, can be designed to supplement a complex regulatory framework which is constantly changing and where precise standards are in many cases determined to take account of each quarry’s individual circumstances. In addition, since environmental protection is governed by BAT, using further improvements upon “the best available techniques” to govern eligibility for a lower rate of tax will be economically inefficient and contrary to the principles of good taxation.
2. The consultation appears to show a lack of detailed knowledge of the regulatory requirements (particularly BAT requirements) – aggregates environmental policy needs to be based on a more holistic approach, taking account of the work done by DEFRA and the DTLR, rather than, as at present, duplicating regulations. It should also be noted that there are in many cases additional regulations stricter than those imposed on comparable industries.
3. Under 3.1 “What types of environmental factors should be assessed?” it is striking that the consultation is rather vague on this. It is impossible to see satisfactory answers to the questions posed – they simply reinforce the evidence that the tax is a blunt instrument.
4. Under 3.2 “Costs Associated with Location” the question is posed, “A higher price for aggregates produced in National Parks, etc could lead to a fall in production from these quarries. Is there a risk here that the wider environmental outcome would not be beneficial, if this led to quarries becoming inactive but unrestored, or if aggregates have to be transported further?” These issues are also extremely important in the context of the closures of small quarries which will result from the aggregates tax. The aggregates market is highly localised, with 80% of aggregates used within 30 miles of extraction – therefore major falls in production, or closures, at individual quarries will have a significant impact by increasing the distances aggregates must be transported. Transport is arguably the greatest impact associated with quarrying, which means this is an important issue and one which should have been given much more consideration in the original proposals for the Aggregates Tax.
5. Under 3.4 The Environmental Impact of Transport “Should the number of complaints from local residents about quarry traffic be considered?” - It would be odd if the views of local residents were ignored, given that the level of the tax was determined through asking local residents the value they placed on the environmental impact of quarrying (London

Economics studies). However the views of local residents may well vary with local factors (such as expectations linked to affluence, or local campaigning), which do not accurately reflect environmental factors, and they may incorrectly attribute problems to quarries. It would therefore be hard to use the number of complaints to provide a reliable measure of actual problems caused. This question illustrates the flaws behind using contingent valuation among local residents to determine a tax. In addition, complaints about all environmental issues, including transport, can be raised through liaison committees, which are now becoming a standard planning condition including the conditions determined under the review provisions of the 1995 Environment Act Section 96 Schedule 13.

6. "Would the costs of improving environmental performance in order to qualify for a lower rate of levy be disproportionate for small and medium sized enterprises?" (under 3.5, as above). Yes, of course it would, as such burdens always fall more heavily on smaller companies. The issue of causing extra problems for SMEs should have been examined much more closely before the tax itself was finalised.

Responses to specific points

2.1 Principles

Does it improve environmental outcomes?

"In particular, does it improve environmental outcomes beyond those that would be achieved by the standard levy without a differential rate? Does it improve environmental outcomes beyond the standards set by regulations? And does the scheme properly cover the full range of environmental outcomes?"

Response

- Because quarries are supposed to comply with the BAT principle, improving environmental outcomes beyond the standards set out in regulations will be extremely difficult if not impossible
- The regulations quarrying is subject to are constantly being up graded – most importantly, the process guidance notes, detailing standards for compliance with BAT, are continually reviewed (indeed PG 3/8 on quarry processes and PG 3/15A on roadstone and asphalt are both currently under review). It will therefore be extremely difficult to assess whether environmental outcomes improve upon this
- In addition, the regulations vary in their precise implementation, and enforcing authorities, between different parts of the UK. Most obviously, England and Scotland are covered by separate planning systems
- The "full range of environmental outcomes" may be rather difficult to measure and is rather vague – does it, for example, include consideration of the environmental effects abroad when imports from countries with less stringent regulations are increased ?

Is it practical?

“The criteria to qualify for the scheme must be easy to measure, unambiguous and verifiable. In Budget 2001 the Government identified several practical difficulties with a differential rate scheme, including how to assess compliance and how to define environmental performance. Administration of the scheme must not impose undue costs on either the industry or government.”

Response

- It is unlikely that qualification will be simple and easily measured, because of the wide variations between quarries and the many factors which must be taken into account to be equitable
- As quarries vary hugely, in location, size and methods, even within one company, exemptions would need to be decided on a quarry by quarry basis to have any hope of achieving meaningful improvements, otherwise larger companies will have an incentive to focus efforts on more easily improved quarries and avoid tackling the most difficult problems. Assessment on this basis would take years and be extremely costly. It would also need to be reviewed very regularly, as “good” quarries experienced greater demand and therefore increased their impact
- It is in any case difficult to see how any scheme could be up and running before implementation of the tax in April 2002 – if it comes in later, much of the damage, the tax will cause, will by then be irreversible. Ultimately, administering a scheme along these lines, given that the industry already complies with complex regulations, will be difficult, bureaucratic, and costly
- Moreover, compliance costs will inevitably increase, a burden which will be felt more keenly at smaller companies. Small companies are also likely to need longer to make the improvements because of problems raising sufficient capital, and may well be driven out of the market by whichever firms are able to make improvements most quickly and thus undercut their competitors.

Does it offer value for money in terms of the environmental improvements that it prompts?

“Is the value of the environmental improvements achieved by a differential rate worth the difference between the tax rates involved? In order to answer this question, it is necessary to consider what differential is required to stimulate an improvement in environmental performance; and what the value of that improved performance would be. In addition, is the additional complexity compared with having a single rate worth the benefits gained?”

Response

- Improvements over and above those demanded by BAT will be subject to “the law of diminishing returns”, even if they are possible
- Quantifying the economic value of environmental impacts is extremely problematic, as has already been noted. · Given the costs of achieving improved environmental performance, together

with the assessment costs, the differential would have to be very significant to make improvements a worthwhile commercial decision

- The more significant the differential, the more its associated problems, as outlined elsewhere, will be magnified
- It must also be noted that any additional complexity in the tax assessments will hit smaller firms hardest.

It is also stated that, *“it is also necessary to take account of other potential costs of having a differential rate. For example, the treatment of imports should not threaten UK competitiveness. (Note it is likely that WTO and EU competition rules would require imports to be taxed at the lowest rate, in order to avoid penalising producers in other countries)”*.

Response

- If imports are taxed at the lowest rate from day one, those quarries which have been unable to afford the environmental improvements demanded (ie most companies other than the majors) will face being undercut by their competitors
- This would be a further blow to small quarries, which already face significant difficulties
- It would also leave them with less money available to make improvements, once those companies who had done so were undercutting their prices
- Even the majors are likely to face problems, since importers will have lower environmental compliance costs, as well as the obvious advantages in dealing with their untaxed secondary aggregates, but be able to demand the same prices as domestic operators
- If a more global view of the environment is taken, clearly this scheme is unlikely to improve the “complete / global” environmental position, since the environmental impact of quarrying will merely be exported. This is not responsible behaviour for an “advanced” nation.

“Such a scheme should also be in line with UK competition policy and not unfairly disadvantage small and medium size firms.”

Response

- New standards and regulations will always affect SMEs more than larger firms – compliance will clearly be more burdensome. It is hard to see how government could do anything to alleviate these burdens without being accused by the majors of infringing competition law
- It is also hard to see how a major company with a proportion of its quarries benefiting from differential rates could be prevented from cross subsidising to undercut smaller competitors, whose quarries may actually be less harmful than some of those belonging to the major operator.

Environmental Issues

3.1 “What types of environmental factors should be assessed?”

Response

- The impacts mentioned are / will be addressed by existing regulations, such as the Environmental Protection Act 1990, which introduced the principles of IPC and BAT. These standards are constantly under review, and are increasingly supplemented by EC Directives. If the proposals for a rebate scheme are serious, given that the tax is supposed to complement regulatory measures, there would need to be some way of keeping the standards it demanded under review. It is probable that this would be extremely costly, and would produce little noticeable environmental benefit. There seems at the moment to be a huge risk of simply duplicating environmental improvement targets and bureaucracy, at great cost and for little benefit
- The third paragraph, on setting absolute standards, demonstrates how the tax is a blunt tool, with or without a rebate. It is difficult, or even impossible, to see a satisfactory solution to the issue of whether rebates should be based on absolute standards or making improvements, even if one agreed with the tax and its proposed rebate scheme
- Although the Government want a differential rate to be easily administered, the necessary inclusion of location as an assessed criterion reinforces the logical conclusion that each quarry will need to be assessed individually (see below). This will be expensive and time consuming
- With huge financial incentives, and in many cases the future of the company, riding on acceptance for the differential rate, there would be obvious problems with a system of self assessment, so government would need to be responsible for assessment. This would create tremendous and highly specialised enforcement problems. There are already concerns about enforcing existing regulations with local authorities increasingly overstretched. In addition, it is unclear precisely who would be responsible for assessment. The Environment Agency (or its equivalent across the UK) is not designed to assess compliance with a complex discount scheme, but rather to tackle breaches of regulations when they occur; it is also not a uniform body across the UK. It would be equally unrealistic to expect Customs and Excise to undertake complex environmental assessment.

3.2 Costs associated with location

“Do you think location should be taken into account in determining the environmental impact of a quarry?”

Response

- In a purely logical sense, it is only sensible to take location into account – otherwise there is a risk of increasing demand from quarries in environmentally sensitive areas, as recognised under 3.1. However this is unlikely to be satisfactory
- Geology decides the location for quarries – in some cases it may be necessary to quarry in a specific location. Protected designations such as Sites of Special Scientific Interest (SSSI), Areas of Outstanding Natural Beauty (AONB) and Naturas cover over 25% of UK landmass – potentially ruling out a very high proportion
- In many cases quarries pre-date designations such as National Parks, SSSI, and AONB. In addition many are actually created or maintained by quarry operators. So to then penalise them for being within or near an SSSI is clearly unreasonable
- It should however be noted that location is an integral part of MPG planning guidance, which is being tightened
- SSSIs have been given additional protection under the Countryside and Rights of Way Act
- A differential rate would be a blunt and inefficient way of tackling the issue of location, as it is unable to consider the range of factors relevant to the individual site.

“What measures, if any, could or should be used to identify quarries which are in areas with high landscape or amenity value but which do not fall within nationally designated areas such as National Parks?”

Response

- Measures should be taken, if the assessment of the costs the tax was meant to pay was based on the “costs” to the local residents – but impossible to see how
- This will be a particular issue in Scotland and Northern Ireland, which are not covered by National Parks legislation in the same way. Scotland is just getting its first National Parks; Northern Ireland is covered by different legislation
- Measures to identify these areas could simply allow the most affluent communities to make it impossible for quarries to operate in their local area, transferring any problems to areas which may be affected as much or more.

“A higher price for aggregates produced in National Parks, etc could lead to a fall in production from these quarries. Is there a risk here that the wider environmental outcome would not be beneficial, if this led to quarries becoming inactive but unrestored, or if aggregates have to be transported further?”

Response

- Yes. These are important issues that should have been more carefully considered as part of the deliberations on the introduction of an aggregates tax?
- There is little doubt that aggregates will end up being transported further as a direct result of Aggregates Tax. This is due to the localised nature of the aggregates market, and the probability of small companies closing. It is notable that transport produces the greatest environmental impact associated with quarrying.

“What is the likelihood of quarries becoming inactive but unrestored?”

Response

- Over recent years there has been a trend of the major quarry companies buying out smaller operators and closing down their operations but often leaving them in a derelict state but still part of the local landbank. Minimal operations are undertaken to maintain planning permission, but essentially sites can remain unrestored indefinitely. However BAA recommendations that all dormant sites should be removed from the land-bank and competition issues taken into consideration, at planning consent stage, should ameliorate this problem.

“Should population density in the locality of the quarry be taken into account? If so, how?”

Response

- If the basis for the aggregates tax is the local residents’ assessment of its “cost” to them it arguably should be done. However this may be counter productive in environmental terms since the most environmentally sensitive sites often have a very low population density.

3.3 Costs related to management and operation of a quarry

“Would it be possible to set relevant criteria to address environmental costs under the control of quarry operators, e.g. noise, dust, and impact of transporting aggregates?”

Response

- The most relevant criteria to address environmental costs already exist: “the best available technology not entailing excessive cost”
- Specific impacts are addressed through a variety of means in addition to the BAT principle. For example, defined nuisances, such as noise and dust, are controlled by local authorities under the Environmental Protection Act 1990, and in recent years numerous EC Directives have also imposed tighter environmental targets

- In addition, Process Guidance notes exist on specific impacts, which are currently under review with a view to introducing even stricter targets
- The impact of transporting aggregates is not entirely under the quarry operator's control, since it is largely determined by the location of the quarry in relation to its markets and the local community, and local roads policy (and will be affected by closures when the aggregates tax is levied, which will force aggregates to travel further!).

“Is there a technology standard, or standards, which could be set which would guarantee that the level of a particular environmental impact is low?”

Response

- BAT – under the Environmental Protection Act 1990, quarries must use the best available technology. The definition of the technology standards this includes is subject to periodic (four yearly) review. These standards guarantee as low an impact as is practicable
- The only standard suggested in the consultation is ISO14001 accreditation – this is essentially a bureaucratic exercise. It is not suited to smaller quarries and has not been recognised, of itself, as providing any environmental benefit
- MPG11 annexes are likely to impose strict, measured standards for guidance in granting new planning permissions. As the standards will reflect the best available technology, clearly it will be difficult, if not impossible, to get equipment to improve on some of the standards, notably the proposed noise reduction levels.

“Should the environmental criteria be the same for:

a) all types of activity (e.g. hard rock and sand and gravel)

Response

- Logic suggests all quarries should be measured in the same way- noise will still have the same effect, whatever its source, and differentiation would also be much more complex
- However, the imposition of uniform criteria would not be suitable as it would not adequately cope with the great differences between quarries. Assessment of compliance with BAT under the Environmental Protection Act 1990 is already tailored to the individual quarry, as is the planning process. This is because regulators in the past have found that uniform standards, such as those likely to be imposed as criteria for a differential rate, are not the best way to improve environmental performance
- As previously stated, quarries are so varied that any meaningful scheme would have to make subjective judgements on an individual basis. This will be completely impractical.

b) for all types of operator (e.g. large and small)?”

Response

- The BAA welcomes the willingness to at least think about the different environmental impacts and the business needs of smaller operators.

“Is implementation of an environmental management system a good indicator of environmental performance? Should certification to an accredited environmental management system (eg ISO 14001 or EMAS) be a requirement?”

Response

- The BAA is concerned that environmental management systems amount to little more than expensive box ticking exercises that impose huge costs on smaller operators
- Implementation of an EMS does not in itself indicate the actual environmental impact. It is often only an internal auditing requirement – one which the larger operators can afford to pay consultants to fill in the paperwork for, but does not guarantee the quarry is better than any other
- The BAA is also concerned that the imposition or active promotion of such schemes is contrary to stated government policy of reducing the burden of red tape and bureaucracy.

“If not, are there other means of demonstrating performance in this area? Is this a relevant measure for small quarries?”

Response

- As responses elsewhere have indicated, there are many dimensions to environmental performance, most of which are already tightly regulated. The BAA does not believe that it is possible to combine these into a realistic overall measure of environmental performance
- The UK quarry industry is already recognised as being “head and shoulders” above the great majority of the EU in environmental performance.

“Even if an accredited environmental management system does not directly reduce environmental costs, would this nevertheless add to the ability to monitor environmental performance, and would this be essential to introducing an effective differential rate scheme?”

Response

- The Government appears to be considering a further layer of bureaucracy, even if it has no impact on the environment

- It is of course hard to comment definitively on whether it would be essential, since it will probably depend on the criteria and the assessing body.

“Should the fact that a quarry has landscaping and design measures in excess of those required by the relevant planning conditions be a criterion?”

Response

- The Government recognises that existing regulations already include a high level of control
- It seems rather unnecessary for the scheme to reward quarries for abiding by regulatory and legal requirements
- The properties of individual locations vary significantly – some quarries may be naturally hidden and have an extremely low visual impact once they meet their planning requirements. On the other hand, some quarries may necessarily be located such that they have a real visual impact even after taking all possible measures to ameliorate it. In this situation it would seem unfair to penalise the quarry which is naturally hidden. This illustrates the fundamental problems with a differential rate scheme – it cannot be designed to be fair and equitable, because quarrying is too complex for “one size fits all” measures to be appropriate.

“Should a differential rate reward existing good performers, or just those quarries that improve performance as a result of the levy in the future?”

Response

- The scheme is clearly only fair if it rewards all good environmental improvement, not just that made after the introduction of the levy.

Other measurements could include:

“Has the quarry had no breaches of environmental regulations within the relevant period? How should this work? What if a breach inadvertently occurs?”

Response

- It is unclear precisely which regulations are referred to – planning regulations, Environmental Protection Act controls, Environment Agency legislation, environmental audits?
- The regulations themselves are already enforceable. The Environment Agency regards breaches, whether intentional or not, extremely seriously. They often undertake prosecutions resulting in large fines and even the possibility of jail sentences. This proposal would effectively impose a double punishment, which apart from involving yet more bureaucracy and expense, is simply unjust.

“Does the quarry have a system for collecting, recording, analysing and responding to complaints?”

Response

- It is all too easy to have a set of tick boxes which do not actually mean anything
- However, quarries as a whole have systems for dealing quickly and effectively with genuine complaints.

“Should the number of complaints received from local residents be considered?”

Response

- The BAA would be concerned that this would amount to a NIMBY’s charter, simply encouraging local residents to complain without reason. It would also be difficult to prevent competitors taking advantage of the scheme to complain against rivals
- In reality, very few complaint are made about sand, gravel or hard rock quarries as opposed to open cast coal sites which are much more visually intrusive. Indeed most of the complaints received relate to transport, which is highly regulated and already taxed to the hilt.

3.4 How should the environmental impact of transport be reflected in a differential regime?

“Does the quarry have a transport plan agreed with its local authority after consultation, dealing with routing, hours of movement & reporting to local liaison committee? Could a transport plan help meet the objectives of the differential rate?”

Response

- Transport plans are already taken into account in the granting of new planning permissions. Using them to assess differential rates is pointless duplication.

“Should the number of complaints from local residents about quarry traffic be considered?”

Response

- We have commented above on the problems of basing the system on the number on complaints

“Should vehicle engines be fitted with particulate traps and / or meet certain noise standards? Should duplication be avoided with the government’s existing incentives to fit particulate traps and if so, how?”

Response

- Many of the improvements the tax sets out to foster are being made anyway. Duplicating initiatives in this manner is likely to prove unduly expensive with little prospect of additional benefit.

“To what extent should quarry operators be expected to take steps to manage the environmental impact of vehicles which are not under their direct control, eg those operated by their customers? How should these be taken into account?”

Response

- Most quarry operators already operate vehicle routing policies designed to minimise local concerns and comply with specific planning consent conditions
- It is hard to see how quarry operators could reasonably be assessed on the environmental impact of vehicles not under their direct control – even those of their customers. Transport is in any case increasingly heavily regulated and taxed
- However if the impact of traffic is measured through local residents’ concerns, vehicles not under the direct control of the quarry operator will inevitably be part of that.

3.5 How should environmental criteria be incorporated into a differential tax regime?

“What factors should be included when determining whether a quarry should qualify for a lower tax rate? Should a poor/less good level of performance or location qualify for a higher rate than the current £1.60 per tonne?”

Response

- It is extremely worrying that the Government seems to be considering a higher rate than £1.60 per tonne. It also seems like making a proportion of the tax punitive, as the “environmental costs” of quarrying have already been assessed at £1.60/ tonne before any improvements are made
- If a differential rate scheme could provide incentives to do better, and hence reduce the environmental impact of quarrying, logically one would expect the level of the tax to also reduce over time.

“If qualification for a lower tax rate depends on quarry management / operation factors alone, could it result in a worsening in overall impacts of quarries? For example, if quarries with large fixed environmental costs qualify for a lower rate due to meeting the variable criteria alone, the price of their aggregates would be lower and demand for their output could rise. Overall the pattern of aggregates supply would then have shifted towards the more environmentally damaging quarries.”

Response

- This is indeed a specific concern and once again demonstrates the difficult, complex and impractical nature of trying to design this particular scheme.

“If qualification depends on both location and operation / management criteria, should this lead to a multi rate system? For example, should there be separate rates for quarries which meet both the location criteria and the operation and management criteria, and for quarries which only meet the operation and management criteria? Or should there be two rates, depending on location, with a discount if the operation and management criteria are met?”

Response

- It may more closely reflect “actual” impacts, but would make it even more complex to administer than it already appears. Even a multi rate system would still be a very blunt tool, to supplement a complex and constantly changing regulatory system which assesses the appropriate measures for each individual quarry.

“Should the difference in rates be set at whatever level is required to change behaviour; or should the rates be set following further research to determine the relative environmental costs of different levels of quarry performance?”

Response

- The BAA has consistently argued that the existing research is inadequate and commissioned its own research which supported this view. (Wardell Armstrong Review) Any differential rate scheme should only be based on proper research, with the terms of reference and methodology agreed with the industry in advance
- Logically the discount should reflect the saved “cost” to the environment of better performance. However the implementation costs are likely to be too high to encourage the improvements, unless a discount over and above the saved cost to the environment was available. We believe that a cost benefit analysis of any proposed differential rate scheme would conclude that it should be abandoned.

“Would the costs of improving environmental performance, in order to qualify for a lower rate of levy, be disproportionate for small and medium sized enterprises?”

Response

- Of course. The problems may not just concern disproportionate costs, but ability to raise the capital to finance improvements.

4. Marine Dredged Aggregates

“How should marine produced aggregates be treated under a differential rate scheme? What environmental factors should be taken into account?”

Response

- The Government’s research suggested an environmental cost of marine dredging and the levy will apply to such aggregates. It would appear logical to include marine aggregates in the scheme
- Marine dredging aggregates differs greatly from land extraction. Marine aggregate dredging equipment is extremely expensive but this disadvantage is balanced by the fact that they have no problems with secondary aggregates, they only bring ashore saleable sizes, or silt, which is dumped overboard. However the imposition of the Aggregates Tax will magnify their advantages to a degree which may well encourage more marine dredging at the expense of ‘more environmentally accountable’ land based operations
- The difficulty of drawing up a practical list of assessment criteria to achieve a fair balance between marine and land won aggregate extraction further demonstrates the fundamental problems of the differential rate scheme.

5. Administrative and other issues

“How should the Government allow for potential changes to a scheme over time, for example, in response to changes in environmental regulations or advances in technology?”

Response

- We welcome the fact that the Government recognises that the levy should be reduced as environmental performance improves. The Government has previously stated that they expect the levy to rise over time, despite the fact that tighter regulation is expected to improve environmental performance
- With or without a differential rate, there should certainly be a mechanism for recognising that the levy should be lowered as environmental improvements take place
- If the differential rate scheme is to be implemented in April 2002, it is unlikely to be based on sufficient research and should therefore be made subject to review in any event.

“Should any multi-rate scheme be based on further economic research?”

Response

- It does not seem sensible to introduce a tax system without doing any economic research, including a proper impact assessment.

However the research conducted would need to be of a much higher standard than the research used for the introduction of the levy itself and in consequence, be much more expensive

“Would it be possible to set criteria so that only improvements beyond regulatory requirements with a genuine environmental improvement would be rewarded?”

Response

- This suggests that the Treasury does not have a clear view of the purpose of the scheme. All companies are required to meet regulations, by definition. The differential rate scheme was proposed as a way of rewarding and encouraging additional environmental performance.

“What would be the effect of a differential rate regime on small and medium sized businesses?”

Response

Small and medium sized businesses would face various difficulties, over and above those faced by the rest of the industry, in implementing a differential rate scheme. The precise effect would obviously depend upon the design of the scheme, but can be broken down into three areas.

i) The Burden of Costs

- The burden of new standards and regulations, and the costs of demonstrating compliance with any scheme, will always affect smaller companies more than larger firms – it will clearly be proportionately more costly
- Not only do small companies have a correspondingly small production base, across which to spread these costs, they are also likely to face great difficulty raising the capital to finance any improvements required
- The problem of financing improvements and undergoing assessment will be exacerbated by the costs associated with the various revisions to regulations, the current changeover to BAT, and the extra costs of implementing the Aggregates Levy itself. This will leave little money for compliance with a differential rate scheme
- Small quarries may be less able – not necessarily less willing – to make the improvements demanded to qualify for a lower rate of tax
- It is hard to see how government could do anything to alleviate these burdens without being accused by the majors of infringing competition law.

ii) Competitive Disadvantage

- Quick implementation of a differential rate scheme would exacerbate the problems caused. Smaller businesses are unlikely

to be able to make any necessary improvements, and get certified, within that timescale

- A differential rate could simply reward those quarries (probably the larger quarries) most able to fund improvements quickly, and place the other quarries at a competitive disadvantage
- Thus disadvantaged, smaller quarries would find it virtually impossible to raise the capital to make sufficient improvements to gain certification for the discounted rate.

iii) Assessment Criteria

- If a differential scheme were implemented, eligibility would need to be assessed on a quarry by quarry basis, rather than making whole businesses eligible for the discounted rate. Otherwise, a large operator could be able to gain eligibility for the lower rate, but have a handful of quarries which were extremely poor performing environmentally, and which were undercutting smaller quarries with a better record
- It is unclear how eligibility for discount is to be assessed – both Environmental Management Systems and ISO 14001 are very bureaucratic, and are not always appropriate, particularly for smaller operations. Assessment is office based and offers no guarantee of improved environmental performance.

In the majority of cases, the greatest costs will be associated with simply demonstrating existing high standards. UK quarries are already recognised as operating to some of the highest environmental standards in the world. With the advent of BAT, every quarry will now have to use technology which meets the highest realistic standards. As smaller quarries will inevitably find any new standards and assessments more difficult to deal with, as discussed above, a differential rate scheme should only be adopted if it will demonstrably lead to significant environmental improvements. The BAA does not believe that this is realistic. Although well intentioned, a differential rate scheme cannot do justice to the complexity of the industry, and will not achieve real environmental gains. The damage such a scheme would do to the industry as a whole, and the small and medium sized operators in particular, cannot be justified.