



Review of Queensland Environment Protection Regulation

Submission by the Australian Industry Group

March 2008

Introduction

Queensland industry takes its environmental responsibilities very seriously. The vast majority of firms recognise the importance of minimising their “environmental footprint” on the local and broader environment, and being responsible corporate citizens.

Firms are also increasingly becoming more engaged on issues such as climate change, waste management and water conservation, and recognise the vital importance of working collaboratively with other stakeholders in protecting the environment, and in becoming more eco-efficient.

Within this context, the Queensland Government is to be commended for much of the good work it does in engaging industry on eco-efficiency, and in encouraging firms to see the “eco-efficiency bottom-line” as a critical part of the “business bottom-line”. This approach has recognised the balance, for example, between minimising industry’s environmental footprint, whilst at the same time retaining the fruits borne from a thriving industrial base, such as better employment opportunities, economic prosperity and regional development.

It is within this context that the Australian Industry Group provides comments on the review of the *Environment Protection Regulation*, and expresses its disappointment with the major thrust of the discussion paper’s proposals.

As one of Australia’s leading industry organisations, Ai Group represents more than 10,000 firms nation-wide, across a broad and expanding range of sectors, including manufacturing, construction, transportation, automotive, telecommunications, food and beverages, IT and call centres, transport, labour hire and other industries. The review’s proposals will have a major negative impact for many of our members.

Furthermore, we believe that many of the review’s proposals appear to be inconsistent with the spirit of the positive work undertaken to date by the Queensland Government in engaging industry, in a collaborative manner, on environmental issues.

Our comments are provided in more detail below.

1. SIZE OF THE PROPOSED ERA FEES.

Our members have expressed very strong concerns over the size and scale of the proposed fee increases for environmentally relevant activities.

As outlined in the discussion paper, some firms (eg some metal working and chemical manufacturing) could be expected to pay an extra \$45,000, per site, per year for activities defined by the Environmental Protection Agency as being environmentally relevant. Some charges will be as high as \$61,000 per site per year. For example:

- metal working firms who currently pay \$16,000 per annum, would pay \$61,000 per site per year
- chemical manufacturers who currently pay \$5,800 per annum would pay \$52,000 per site per annum

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- some boiler makers who currently pay \$0 per annum would be required to pay up to \$15,000 per site per annum

Importantly, ERA fees are based on a per-site basis, and will be indexed annually.

Whilst we recognise that the proposed fee increases vary considerably, and that some industry activities will no longer be subject to environmental licensing arrangements, many of the proposed increases will add significantly to the production costs of many Queensland firms.

This is especially concerning when Queensland firms are already facing extra cost increases, such as energy price rises, the rising prices of commodities, interest rate increases, and the high Australian dollar.

Furthermore, the fee increases are highly unlikely to produce any direct environmental benefit to the firms involved. As one environmental manager (who is facing a \$20,000 increase in fees) said to us in the preparation of this submission

“If we had the choice about spending \$20,000 extra on environmental issues, I’m sure we could find a better way to spend it, such as cleaner production”.

We are also concerned that fee increases of the magnitude proposed add another reason for firms considering relocating their operations off-shore where environmental regulations are significantly lower.

The justification for such fee increases is also unclear. For example:

- We do not believe it is reasonable that firms should be faced with the financial consequences – in one hit - of a failure by government agencies to annually index fees over a 12 year period, and that this increase, in many cases, greatly exceeds CPI over this period
- The argument that the Queensland fees will still be lower than other States and Territories needs to be examined more closely. Whilst the discussion paper notes that “the average will be lower”, for some sectors, such as those relating to the concreting industry (eg concrete batching plants, quarrying, and asphalt manufacturing), we understand that the fees will in-fact, be higher than other States and Territories. Similarly, in an increasingly global economy, comparative regulatory regimes and costs in other countries also need to be taken into account.
- We also believe that the “cost-neutral regulation” motivation underpinning the setting of the fees mitigates against the environmental protection objectives of the regulation. The setting of the fees at \$200 per unit appear to be a clear “backward mapping” of the revenue required to recoup the \$31 million expended as part of the administration of the regulation. From a public policy point of view, it is difficult to sustain the argument that revenue generated from fees should be enough to recoup the expenditure. For example, how do we know that the administration of the regulation is undertaken in an efficient and cost-effective manner? Similarly, there are many examples of government regulation and service delivery where fee revenue does not cover the administration or delivery of services.

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- Some industry sectors are already subject to significant government environmental regulation, separate to the ERA processes. For example, some companies within the chemicals industry are already subject to significant regulatory requirements, for example, those covered by the major hazards facility legislation. These regulations already involve a significant cost for companies concerned, and the ERA fee comes on top of this.

The Government argues that the proposed increases “ensures that the community no longer pays for pollution caused by Queensland industries”¹. We believe such an argument fails to take into account:

- The positive public benefit gained from the activities of such industries, such as employment, regional development and economic growth
- The strong possibility that fee increases will be passed on to consumers, and the community, through higher prices for goods and services
- The quality of regulation, or the quality of the services provided
- How, if at all, the increased fees will “ensure that the community no longer pays for pollution”.
- Firms are not separate to the community – they are part of it.
- The community also consists of consumers who purchase and use products manufactured by industries who will be subject to additional fees.

In addition to the external positive public benefits brought about by a thriving industrial base, such an argument fails to take into account the contribution industry makes towards public infrastructure through taxation and private investment in infrastructure.

As a case in point, Queensland industry contributes approximately **\$2.4 billion per year (or 25 per cent of total taxation revenue)** to the Queensland Government through payroll tax, not to mention other State based taxes, nor the indirect contribution it makes through the company tax administered by the Australian Government (some of which comes back to the Queensland Government via specific purpose payments). Revenue from these taxes goes towards the Queensland’s Government’s delivery of services to the Queensland community, such as through infrastructure, health, education and policing.

¹ Media Statement “Comments sought on changes to environmental laws” The Hon Andrew McNamara MP, Minister for Sustainability, Climate Change and Innovation, 8 February 2008.

2. LACK OF INCENTIVE TOWARDS REDUCING POLLUTION.

Whilst Ai Group recognises the effort that has gone into devising a more transparent structure for the setting of ERA fees, and we acknowledge the complex issues involved in setting such a structure, we believe that the devised structure needs to incorporate incentives for firms to reduce pollution.

Under the current proposals, there is no incentive to "do the right thing" in terms of eco-efficiency or improved environmental management practices. Furthermore, the proposed changes would discourage many firms from spending resources on cleaner production.

We believe consideration should be given to building a system that provides a financial incentive towards businesses that have a good track record on environmental issues.

We recognise that fee increases to support load based licensing are currently prohibitive, but that does not mean that an incentive system cannot be built into the proposals that would recognise and encourage cleaner production by Queensland industry.

An incentive system could include greater support including technical support, rebates, reduced reporting requirements, faster approval processes and public recognition for cleaner production. Another option that could be considered is a system that allows for discounts on the basis of good performance, similar to the Workcover system that involves calculating a premium that takes into account the previous five years Workcover history.

Similarly, we believe applying fees on the basis of generic risk will not encourage innovation aimed at reducing environmental impacts.

Finally, we believe firms demonstrating good environmental performance should not be forced to subsidise those businesses that are poor environmental performers and should be afforded the opportunity to reduce their fees.

3. STRUCTURE OF ERAS

Ai Group members understand the need for environmental regulation of their activities, and the need for a transparent approach to the setting of such fees.

Unfortunately, whilst we recognise the attempts set out in the discussion paper to improve the current arbitrary assignation of ERA fees, we believe they fall short of a rigorous structure that acts as an incentive for firms to minimise their environmental footprint. To a large extent, we consider that the single arbitrary fee has been replaced by a number of arbitrary parameters, still resulting in a somewhat arbitrary fee.

In preparing this submission, members have queried the "scores" allocated to their particular industry sector, in particular, the level of complexity assigned to their specific sub-sector.

Importantly, the proposed changes to ERA assessment and approval processes are not site specific, which would involve assessing impacts specific to the site and activity being conducted. Instead averages are used to assess environmental impacts.

Similarly, the assignation of fees takes no account of pollution mitigation strategies that are put into place by individual companies.

We believe this is a simplistic, “hit and miss” approach, which does not enable, nor encourage, best practice.

For example, the average data used to calculate loadings includes a flow rate of 250L/person/day for wastewater treatment plant design. Advice from our members indicates this is a fluctuating figure, particularly in response to improved domestic water efficiency. As such, using this figure as a basis for calculating average loadings is therefore open to dispute and potentially out-of-touch with best practice.

Furthermore, the proposed changes penalise complex industries by charging fees based on complexity of process rather than actual risk. We believe risk analysis should be incorporated into licensing complex industries rather than a generic fee structure based on number of processes involved. For instance, newer, cleaner production technologies are intrinsically going to be more complex, and under the current scheme these emerging technologies will be penalized.

4. CONCLUSION

Our members have expressed very significant concerns about the proposals outlined as part of the review of the Environmental Protection Regulation.

Not only will the proposals add extra production costs for many Queensland firms, but they appear to be inconsistent with the collaborative work undertaken to date by the Queensland Government in encouraging greater industry engagement on environmental issues.

As such, we urge a serious re-think of the review’s proposals to take into account the issues raised above. Specifically, we propose that consideration be given to the following:

- Should the proposed ERA structure be accepted, a significantly lower fee per unit, or a gradual phasing-in of the fees over a longer period, should be given serious consideration. We recognise the need for fees to be indexed annually.
- Greater consideration should be given to encouraging, rewarding and promoting good environmental performers, for example through a reduction in fees.
- A clear commitment by Government that the revenue generated by environmental licensing fees will be used solely for improved environmental administration, education and service delivery, particularly for those industries faced with a higher fee.

We welcome the opportunity to discuss our submission in more detail. Contact is Aaron Johnstone, Manager Policy and Public Affairs, on 3244 1767 or email aaron.johnstone@aigroup.asn.au