



CAIA
Chemical & Allied Industries' Association



Responsible Care
OUR COMMITMENT TO SUSTAINABILITY

PROPOSED NATIONAL WATER RESOURCES STRATEGY 2 SUMMARY
SUBMISSION BY CHEMICAL AND ALLIED INDUSTRIES' ASSOCIATION

OCTOBER 2012

INTRODUCTION

CAIA supports the submission made by BUSA but wishes to highlight two areas of significant concern to the chemical industry namely the approach being taken to the "economic charge" and the lack of concrete actions in respect of regulatory reform.

ECONOMIC CHARGE

The proposed strategy refers to an "economic charge". It is assumed that this is a reference to the draft Waste Discharge Charge System, on which an engagement with industry has recently been initiated.

While the imposition of such a charge is provided for in the Act, it has to be done in terms of Water Pricing Strategy determined by the Minister. The current Water Pricing Strategy refers to strategy in this regard as including "the determination of future charges for point and diffuse sources of pollution, based on the "polluter pays principle". This will include measures to internalise the cost of water pollution, as well as economic incentives and disincentives to promote the reduction of waste discharge. "

While a significant volume of effluent is discharged by chemical companies in terms of a license to rivers, the majority of chemical companies discharge to the sewer on payment of an industrial effluent charge, in terms of municipal by laws.

The industrial effluent charge can essentially be considered a mitigation charge as it is based on the load discharged and the ability of the wastewater sewerage and treatment system to accommodate the particular effluent.

The imposition of a waste discharge charge on the municipal effluent to a river will be incorporated into the industrial effluent charge when the cause of the deteriorated quality of the surface water may not be the result of any industrial effluent discharge.

In general CAIA has a number of concerns about the draft strategy which should be addressed prior to implementation and believes that as this is essentially a substrategy of the draft National Water Resource Strategy, the principles on which it is based should be incorporated into the revision of the draft strategy.

It is understood to be the intention to undertake a pilot implementation of the draft waste discharge charge strategy and it is proposed that initiation of the pilot implementation must be preceded by a clear implementation plan which includes the following elements, which should be seen as prerequisites of implementation:

Review of the intention to impose the charge only on point source dischargers not diffuse sources. This is particularly problematic when the high incidence of overflowing sewers and treatment plants which dominates the pollution sources in many catchments.

Determination of Receiving Water Quality Objectives for the catchment by a formal gazetting and consultation process which in turn are used to develop effluent discharge limits which form the basis of an authorised discharge.

The strategy currently allows for the imposition of the charge on all point source dischargers regardless of their compliance status and not only on those that exceed their authorised discharge. The imposition of a penalty on a compliant discharger is not supported.

The indirect imposition of the charge on industrial users of the municipal system where the industrial discharger complies with the sewer discharge requirements but the municipality does not in turn comply with the authorised discharge limit thus incurring a penalty that will be imposed on all users of the municipal system cannot be supported and needs to be reviewed.

The methodology of determining the cost:benefit of the various mitigation options needs to be addressed at a catchment level taking catchment-specific RWQOs into account. In some cases mitigation at source may be the best overall option while in other cases this may not be the case. This depends on a number of factors including: the state of each impacted catchment the number of dischargers, the discharge constituents that need attention, the discharge volume, etc. There is also the need to clearly define the approach to be taken to dischargers that enter and exit the catchment.

The strategy currently makes no provision for phasing in the imposition of charge, as is being contemplated for the proposed carbon tax. It is proposed that a similar approach be taken to this new charge on the basis that as in the case of the carbon tax, a charge is now going to be imposed on economic activities that have been undertaken for a number of years.

Another possibility is to make provision for offset type arrangements where a point source discharger may financially support interventions in the same catchment such as mitigation of another point source discharge or even a non point discharge and in so doing offset his own obligation. This would be possible where the available technology may be more cost effectively applied to one discharge than another.

The current strategy provides for two charges, namely a mitigation charge which is intended to implement a cost recovery mechanism for mitigation actions in the catchment, which will be imposed on point dischargers proportional to load and an Incentive Charge , which is presented as an incentive to promote improved performance and to be imposed across the board on all point source dischargers.

It has always been understood that National Treasury will not approve earmarking of specific taxes, which in this case means that the Incentive Charge which has been identified as a tax, will just be an additional tax on the private sector as municipalities which dominate the number of authorised dischargers into a catchment will not pay it and in addition the funds raised will just generate further revenue for the fiscus.

REGULATORY REFORM

An effective and efficient licensing regime must play an important part in improving how water resources are managed in a way that benefits society as a whole. It is common cause that the current system is not as efficient and effective as users and government would like. CAIA has a number of members who need water licenses to pursue their operations and has collected information on the impact of the current regime on investments.

The long delays in considering licenses have significant economic impacts as such delays, delay commencement of construction, which in turn increase the capital costs. This is not a concern limited to the private sector. Municipalities in particular suffer from these delays, which in turn reduces the amount of MIG funding available. In the case of local authorities, operating without a license particularly on existing plants is common practice, to the extent that it is now becoming a finding in the audit reports of municipalities, which in turn impacts negatively on service delivery in the water sector.

In CAIA's view there are a number of actions that could and should be taken to address the current unsatisfactory situation and that the proposed strategy should include a clear way forward in this regard.

The current regulatory regime on which any authorisations are based includes the following elements in terms of the National Water Act:

- Catchment based approach to water resource management

- Determination of the Reserve in each catchment
- Classification of the catchment water resource
- Determination of Receiving Water Quality Objectives for each catchment taking into account the classification
- Determination of authorised discharges based on risk assessment
- Issuing of draft license
- Issuing of final license
- Frequent reviews

While it is recognised that the Department of Water Affairs can act as the CMA until it is formally established, it is unsatisfactory that the basis of the institutional arrangements are not yet implemented. In addition it now appears that the licensing function will be delegated to the CMA before any review of the regulatory regime is completed.

The failure to determine the reserve as required in the National Water Act remains a constraint in the decision making process relating to licenses. In the absence of classification of all catchments, Receiving Water Quality Objectives, which have not been formally adopted, are used in a discretionary manner and have resulted in discharge requirements that are more stringent than SANS 241, which is clearly not achievable. Draft licenses are issued with impossible requirements and applicants are then required to undertake comprehensive risk assessments to motivate relaxations. These risk assessments are generally not then used in improving the conditions of the license.

Business is of the opinion that there are ways in which the licensing process can be improved without compromising achievement of policy objectives.

The following three aspects are considered particularly important in achieving an improved licensing process:

- A clear understanding of the requirements for a licence application and that these requirements are justified based on risk
- A clear, consistently applied and defensible decision making process is used in the consideration of a license application

- Effective administration including the minimisation of unnecessary delays in the processing of applications.

CAIA is not suggesting that a less rigorous decision making methodology is advocated but that a systematic risk based approach is adopted where the prioritising of risks is the important focus so that these can be managed in proportion to the risk.

CONCLUSIONS

CAIA wishes to work with the Department in a collaborative manner to ensure that a mutually acceptable regulatory regime is in place and believes that a clearly articulated strategy which addresses the concerns raised by BUSA, in particular as far as the chemical industry is concerned, the two issues discussed in this submission.