

Submission on the Hazardous Waste (Regulation of Exports and Imports) Amendment Bill 2021

April 2021



Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate.

This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

Due to the timeframe for consultation, this Submission has not yet been considered by MWAC. It will be put before the Council at the upcoming meeting on Wednesday, 28 April 2021. The Committee will be informed of any changes to this Submission following consideration by MWAC.

Introduction

The Western Australian Local Government Association (the Association) welcomes the opportunity to provide comment to the Environment and Communications Legislative Committee on the *Hazardous Waste (Regulation of Exports and Imports) Amendment Bill 2021* (the Bill).

The Association understands that the intent of the legislation is to fulfil Australia's international obligations regarding the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. The Bill provides the legislative mechanism to enact what the Australian Government has already agreed in relation to the Convention.

The Association is making this submission to ensure that the interaction between the Bill and the *Recycling and Waste Reduction Act 2020* (the Act) are fully considered and any potential contradictions or duplications avoided, in particular regarding Waste Plastics. The Export Bans on these materials are being introduced through the Act, with the mixed plastic ban, commencing 1 July 2021, and the ban on export of unprocessed single resin or polymer, effective 1 July 2022. From 1 July 2021 exporters of plastic will need to sort the plastic into a single resin or polymer *and* hold a licence to export the material. From 1 July 2022 exporters of plastic will need to ensure the single polymer or resin is further processed *and* hold a licence to export the material.

Extract from Association Submission on the Waste Plastics Rules

The following extract from the Associations Submission on the Waste Plastic Rules has been included to confirm that:

- The approach taken to Waste Plastic Specifications proposed in the Waste Plastic Rules will meet the requirements of the Basel Convention
- The approach the Association is suggesting in relation to contingency planning will meet the requirements of the Basel Convention and be possible through the Bill.

Waste Plastic Specification

To be eligible for export, plastic will need to meet a specification, the Rules identify two types of specification that can be used:

- *Listed waste plastic specification – is a specification that has been listed by the Department of Agriculture, Water and the Environment (the Department) on its website*

- *Waste Plastic Specification* - is defined as a written industry specification or standard that relates to the manufacture, processing or supply of waste plastic.

In the Paper accompanying the Rules, the Department has identified that specifications that are part of contractual arrangements may be commercial in confidence and these specifications do not have to be published. The applicant for an export permit will have to provide the Department with evidence to demonstrate how the waste plastic will comply with the specification. The Waste Plastic Specifications will be “assessed for their suitability on a case-by-case basis”.

The specification question is important, however it is also worth noting that it is not the specification alone that is considered by the Minister when determining whether to grant an export licence. In making the decision to grant an export licence, the Minister must have regard to a number of matters, including:

- *The intended use of the plastic at its end destination*
- *Whether the nominated specification is appropriate for that intended use*
- *If the specification is not a listed specification – the polymer or resin type, thresholds for contamination, packaging and colour requirements. After 1 July 2022, there will be additional requirements relating to the plastic, including the physical size and shape of the plastic and whether the plastic is to be processed into flakes or pellets.*

The first point means that there will be considerable oversight regarding the material use, so unsuitable material uses can be avoided. The Department will be administering the requirements on behalf of the Minister and will require a detailed understanding of the plastics markets, what products different plastics can be made into and the levels of contamination which are acceptable for various end uses. The Department will need to be very careful in undertaking these assessments, as there could be the potential for the intent of the export bans to be undermined if a high level of contamination is commercially acceptable. The Department will need sufficient administrative capacity to ensure that these applications can be assessed in a timely manner. The Department has established an [online portal](#) for these applications.

Contingency Planning

The Rules provide an exemption process for material which is a “trade sample” of regulated plastic, but does not provide any other types of exemption. The Association strongly recommends that the Rules provide the Minister with the ability to grant exemptions in other circumstances. For example, if it is the choice is between export (to a legitimate destination/process) and landfill, that the option of export be allowed. Otherwise an unintended consequence of the export ban may be that mixed plastic is landfilled or used in waste to energy processes (when these become available).

Following implementation of the ban, there will be a need for effective contingency planning to ensure that should a plant be impacted by natural disaster, including fire, or financial instability, there will be alternative destinations available for the product. Until the markets mature there will be increased risk to emerging companies and developing markets. This is potentially an activity that could be undertaken at a national level.

Recommendations:

- ***That the Rules be amended to provide the Minister with the ability to issue exemptions for the export of plastic in certain circumstances.***
- ***That a contingency planning process be undertaken to determine potential end markets, should one or more processing plants be impacted by natural disaster or other situation that makes it inoperable.***