

Environment and Communications Legislation
Answers to questions on notice
Agriculture, Water and the Environment Portfolio

Committee: Environment and Communications Legislation

Inquiry: Hazardous Waste (Regulation of Exports and Imports) Amendment Bill 2021

Question No: 1

Division/Agency: Environment Protection Division (EPD) G5

Topic: Questions on notice - Hazardous Waste (Regulation of Exports and Imports) Amendment Bill 2021

Question Date: 13 April 2021

Question Type: Written

The Senate Environment and Communications Committee asked:

1. In its submission (pg. 3), the Vinyl Council of Australia (VCA) stated that the amendments in the bill are 'likely to disincentivize existing and future product stewardship arrangements by local distributors, by adding complexity to the export of clean, recovered PVC waste recovered in take-back product stewardship initiatives to their original manufacturing bases overseas'.

How do you respond to this concern?

2. VCA (pg. 3) also raised that the lack of distinction between 'hazardous' and 'other' waste in Schedule 1 of the bill may 'unfairly cause some plastic wastes to be categorized as 'hazardous' by stakeholders when they are in fact, not. This outcome would not aid the investment in the circular economy for plastics in Australia'.

Can the department expand on its reasoning to not list 'hazardous' waste and 'other' waste separately?

3. VCA claims (pg.1.) that the government made representations to other countries to ask them to consider retaining GH013.

Can you advise why the B3011 amendment was adopted by the Organisation for Economic Co-operation and Development (OECD) instead of retaining the existing decision GH013?

4. What efforts are being made to ensure that the bill is consistent with the Recycling and Waste Reduction (Export – Waste Plastic) Rules 2021?

5. Some stakeholders, such as E-cycle Solutions, are calling for a 12-month moratorium on current export processes to allow the businesses to arrive at a domestic solution. How does the department respond to this request?

6. In its submission (pg. 2), E-Cycle Solutions stated that the 'hard ban on plastics from 1st July 2021 will incur significant additional cost through cost of transport to landfill and landfill fees'. How does the department respond to this concern?

7. Whilst the bill would satisfy Australia's international obligations, what will be the domestic impact?

- o Do these domestic implications include increased plastics going to landfill?
- o What is the government doing to counter any negative/detrimental domestic implications?

Answer:

1.

- The amendments to the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (the Act) set out in the Bill, reflect waste plastics classifications adopted in the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention) in January 2021.
 - i. These classifications enhance controls on exports and imports of waste plastics, so that their impacts on human health and the environment are minimised.
- Polyvinyl Chloride (PVC) waste was subject to control under the Basel Convention prior informed consent process, and the Act, before the Basel Convention waste plastics amendments came in force on 1 January 2021
 - i. This is because PVC contains Organohalogen compounds, which are listed as an Annex I hazardous constituent (Y45).
- The Basel Convention amendments further clarify the hazardous status of PVC by creating a new category of waste plastics that is not subject to prior informed consent (refer to B3011). B3011 specifically refers to non-halogenated polymers. This has the implication that halogenated polymers such as PVC are subject to prior informed consent, unless specifically listed as being non-hazardous.
- As the amendments to the Basel Convention, and those proposed under the Bill do not change the regulation of PVC wastes they are not expected to impact on current or future product stewardship arrangements.

2.

- The Basel Convention contains two annexes that list the types of waste that are subject to prior informed consent. Annex I lists hazardous wastes and Annex II other wastes requiring special consideration. Annex II previously listed household waste, and residues arising from the incineration of household waste.
- Australia's *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (the Act) does not make this distinction. This is because the control procedures for hazardous and other wastes under the Basel Convention and the Act are essentially the same.
- As hazardous and other wastes are both subject to prior informed consent controls, there is little value distinguishing the two types of wastes in the Bill. Doing so could create confusion for exporters and importers and increase regulatory burden without any environmental benefit.

3.

- Annex IX of the Basel Convention lists wastes that are not normally considered hazardous. The new entry, B3011, lists the types of plastic waste that can be exported without prior informed consent. This list includes several fluorinated polymers but does not include PVC.

- The OECD Decision controls the movement of hazardous waste between OECD countries. The OECD Decision specifically listed PVC waste going for a recovery operation as a 'green' waste not subject to prior informed consent controls (GH013).
- Changes to the Basel Convention are normally incorporated into the OECD Decision where there is no objection from any OECD member country.
- The United States, who is not a party to the Basel Convention, objected to the incorporation of the plastic amendments into the OECD Decision.
- Australia generally supported the incorporation of the plastic amendments into the OECD Decision, and that provision for the classification of PVC waste going for a recovery operation not being subject to prior informed consent, be kept.
- OECD members were not able to reach an agreement on these changes or find an alternative suitable for all members. Instead, it was agreed that each OECD country will determine how plastics are controlled – either in accordance with the existing OECD Decision, or as amended in the Basel Convention.
- Australia implements the OECD Decision through the *Hazardous waste (Regulation of Exports and Imports) (OECD Decision) Regulations 1996*. This Bill will not amend this Regulation, and therefore the regulation of PVC Waste under the OECD Decision in Australia would not be changed by this Bill. If any future changes to the way PVC is regulated under the Regulation were proposed, they would be subject to stakeholder consultation.
- Adoption of the B3011 amendment by an OECD Country will not mean PVC waste is automatically controlled as the existing GH013 code remains.
- However, individual OECD countries can decide to control transboundary movements of PVC waste. If this occurs, Australian exporters will require prior informed consent to export PVC waste to that country.

4.

- The Department of Agriculture, Water and the Environment is currently consulting with industry on the Recycling and Waste Reduction (Export—Waste Plastic) Rules to be made under the Recycling and Waste Reduction Act.
- The regulation of waste plastics covered by the *Recycling and Waste Reduction Act 2020* will operate in tandem with the regulation of hazardous waste plastics under the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*. This will help to ensure the export of plastic waste from Australia does not harm human health or the environment.
- The department is working to harmonise the two schemes to the extent possible to minimise disruption to industry.

5.

- The department understands that the submission from E-cycle Solutions relates to the *Recycling and Waste Reduction Act 2020*.
- The department is currently consulting with industry on the Recycling and Waste Reduction (Export—Waste Plastic) Rules to be made under the Recycling and

Waste Reduction Act and will consider the information provided by E-cycle Solutions as part of that process.

6.

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- The department is currently consulting with industry on the Recycling and Waste Reduction (Export—Waste Plastic) Rules to be made under the Recycling and Waste Reduction Act and will consider the information provided by E-cycle Solutions as part of that process.

7.

- The amendments outlined in the Bill are not expected to have an impact on industry.
- Australia had already placed controls on the movement of plastics that required industry to sort and prepare plastics according to the Institute of Scrap Recycling Industries (ISRI) standards. These standards also specify contamination limits.
- The waste export ban on mixed plastics is scheduled to commence on 1 July 2021. Under the ban, it is intended that a licence to export waste plastics under the *Recycling and Waste Reduction Act 2020* will not be granted unless the waste plastics are first sorted into single resin / polymers.
- The amendments agreed under the Basel Convention broadly align with the controls Australia already has and is putting in place.
- The additional regulatory and compliance powers introduced through the Bill will ensure broader compliance with the Hazardous Waste Act. This will mean that industry participants who do the right thing are not disadvantaged.
- The Australian Government is tackling problem plastics at a domestic level through a range of initiatives. This has included the endorsement of the 2025 National Packaging Targets, a phase out of microbeads and driving agreement by all Australian governments on the National Waste Policy 2018 and the National Waste Policy Action Plan 2019.
- The National Waste Policy Action Plan 2019 takes a whole-of-lifecycle approach to the plastic challenge, including product design, increasing Australia's recycling capacity, stimulating demand for recycled content, and preventing plastics from leaking into the environment. The plan sets the direction for priority action on waste management and recycling in Australia until 2030.