

Environment and Communications Legislation Committee

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

Division/Agency: Environment Protection Division (EPD)

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

Question Date: 20 April 2021

Question Type: Written

Senator Urquhart asked:

1. Can the Department please address the following comments contained within the APCO submission, specifically relating to what resources the Government has committed to achieving effective compliance and enforcement of Australia's hazardous waste framework: Effective compliance and enforcement of the Hazardous Waste Act and the Recycling and Waste Reduction (Export–Waste Plastic) Rules are also needed to ensure that the work that our Members, Governments, and partner organisations across the supply chain have undertaken in recent years to improve waste outcomes, both in Australia and internationally, is not diminished by unscrupulous operators. The spectre of illegally exported waste plastics undermines public confidence in recycling system and risks harming the reputations of all those involved in the supply chain.
2. How many staff within DAWE are responsible for processing permits to export/import hazardous waste? Are these the same staff who will be responsible for processing licensing applications for waste items relevant to the bans on glass, mixed plastics, tyres and paper/cardboard? If no, how many staff are responsible for processing these licenses?
3. How many staff are responsible for ensuring industrial compliance for hazardous waste and the export bans?
4. Has departmental staffing levels increased in the last 12 months to manage permit, licensing, and compliance since the establishment of the waste export bans were established?
5. In its submission, DAWE states "The department is seeking to align the management of waste plastics under the RAWR Act with the requirements of the Hazardous Waste Act to minimise disruption to industry". Can you please provide further detail in relation to the alignment – in other words, what specific aspects of the RAWR structure and administrative arrangements need to change in response to the Hazardous Waste Act amendments?
6. Two submissions (ALGA, ecycle solutions) raise the prospect of plastic waste going to landfill or incineration in the likely absence of the capacity to further process/re-use certain categories of plastic. What is DAWE's assessment of this possible outcome? What work or evidence underpins any such assessment – both in respect to plastic waste as a whole, and also in respect of particular categories like the one identified by ecycle solutions (i.e. NTCRS plastics).

Answer:

1.

The Compliance operates within the Department of Agriculture, Water and the Environment's Regulatory Framework to support the delivery of risk-based, intelligence informed and outcomes focused enforcement responses that are consistent and transparent across the department's many regulatory responsibilities (including hazardous waste). The department's compliance priorities are set out in its Compliance Plan which identifies the disruption of hazardous waste crime as one of the priority compliance outcomes for 2019-2023.

The department works closely with Australian Border Force and other international authorities to target illegal shipments that pose the greatest threats to human health and the environment. The department regularly acts on intelligence it receives from industry, the public and international regulators and will continue to take appropriate action where non-compliance is identified.

The *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (Hazardous Waste Act) has operated since 1989. The Hazardous Waste (Regulation of Exports and Imports) Amendment Bill 2021 proposes amendments to enhance compliance and enforcement under the Act to:

- trigger the *Regulatory Powers (Standard Provisions) Act 2014* (Regulatory Powers Act) to adopt standardised Commonwealth regulatory powers and best practice regulation.
- improve compliance and enforcement by refining the existing criminal offences and introducing new strict liability offences, and civil penalties so that non-compliance is responded to in a targeted and proportionate manner.
- increase the penalties for offences relating to the export, import and transit of hazardous waste and introducing new serious offences where there is, or could be, injury or damage to human health or the environment.
- Introduce new information sharing powers that will allow for the sharing of information, including across the Commonwealth, State and Territory governments where appropriate.
- introduce new record keeping requirements and information gathering powers to protect, use and disclose information to ensure compliance.

Together these amendments will modernise the compliance functions within the Hazardous Waste Act, further enhance the department's ability to detect non compliance, and ensure the department can respond to non-compliance in a targeted and proportionate manner.

The *Recycling and Waste Reduction Act 2020* (Recycling and Waste Reduction Act) also includes compliance and enforcement provisions that trigger best practice for Commonwealth regulators under the Regulatory Powers Act. This gives the Australian Government officers access to the monitoring and investigation powers available under that Act. This ensures that government officers are able to effectively monitor compliance and investigate wrongdoing under that Act.

Enhancement of the administration of the National Television and Computer Recycling Scheme (NCRS) under the Recycling and Waste Reduction Act is a continuing priority as illustrated by the recent compliance action in relation to a co-regulatory arrangement found to not be meeting obligations under the scheme.

2.

The Hazardous Waste Section has a range of responsibilities including the assessment of hazardous waste permit applications. This section has six ASL and is supported by two contractors.

Different sections within the Waste Regulation and Stewardship Branch are responsible for assessing hazardous waste permits and waste export licences. As of 23 April 2021, there are seven ASL directly working on the administration of the waste export ban, supported by three contractors.

The Hazardous waste permitting and waste export licence areas are also supported by the department's Compliance and Legal Divisions.

3.

Compliance activity associated with the portfolio's legislation is managed by the department's Compliance Division with the support of Australian Border Force. The Compliance Division will assign staffing to hazardous waste, or the waste export ban, that is commensurate with the compliance activities undertaken at that time. The number of people allocated towards compliance activity for these functions will vary as circumstances change.

4.

A new section was established to implement the waste export ban and regulate the scheme. The department has increased staffing levels as and where needed, to ensure it can meet its obligation to process waste export licence applications.

The first phase of the waste export ban began on 1 January 2021 with waste glass. As of 23 April, the department had received six applications for waste glass export licences. Five licences have been granted and one is being assessed. Details of granted licences are published on the department's website (environment.gov.au/protection/waste/exports/licence-exemption-list).

5.

The department is currently developing the Waste Reduction (Export—Waste Plastic) Rules to be made under the Recycling and Waste Reduction Act. This is being done in consultation with industry. As part of this process, the department is exploring potential overlap and where the requirements of one scheme may be met by the other. This will inform the administration of both schemes from 1 July 2021.

6.

Significant analysis and consultation was undertaken to support the final agreement by the former Council of Australian Governments (COAG) on 13 March 2020 to the scope, timeline and national response strategy to the waste export ban, and a number of reports were commissioned to inform the decision to ban the export of waste paper, plastic, glass and tyres, including:

- A cost benefit analysis undertaken by the Centre for International Economic (the CIE) “- Cost and benefits of banning exports of waste – final report, prepared for the Department of Agriculture, Water and Environment 24 February 2020. Available: <https://static1.squarespace.com/static/5df9aa078642f943ece6a0b3/t/5f571e0e416c7273cd84bcc1/1599544859996/costs-benefits-banning-exports-waste.pdf>

- A decision Regulation Impact Statement -Phasing out exports of waste plastic, paper, glass and tyres – Prepared for COAG consideration 13 March 2020. Available https://ris.pmc.gov.au/sites/default/files/posts/2020/03/phasing_out_exports_of_waste_plastic_paper_glass_and_tyres_-_decision_regulation_impact_statement.pdf

Generally, this analysis and stakeholder feedback suggested that high value plastics (such as PET and HDPE) were at low risk of being landfilled, but that the outcome for other plastic types was less certain.

In response, the \$190 million Recycling Modernisation Fund (RMF) is directly increasing domestic capacity to process waste materials subject to the export ban, by leveraging an additional \$800 million in co-investment from states, territories and industry. Of these projects announced so far:

- o twenty-two projects address almost 130,000 tonnes of plastics;
- o thirteen projects address almost 430,000 tonnes of glass;
- o six tyres projects address over 91,000 tonnes of tyres, and
- o five projects address over 223,000 tonnes of paper and cardboard.