



## INDUSTRIAL WASTE RESOURCE REGULATIONS

# RESPONSE TO COMMENTS: ENVIRONMENT PROTECTION (INDUSTRIAL WASTE RESOURCE) REGULATIONS 2009 AND REGULATORY IMPACT STATEMENT

## PREAMBLE TO THE RESPONSE TO COMMENTS

The formal public consultation period for the draft *Environment Protection (Industrial Waste Resource) Regulations 2009* closed on 3 April 2009 and 35 submissions were received during this period, with a further five late submissions.

The majority of submissions were appreciative of the process used by EPA in the development of the Regulations and broadly endorsed the changes proposed in the Regulations. Submissions typically sought clarification on terminology or the intention of certain provisions in the Regulations, while some also provided advice on the implementation of certain provisions and how this could be improved.

This publication provides a summary of the responses received during consultation and how EPA has

addressed these comments in the implementation of the *Environment Protection (Industrial Waste Resource) Regulations 2009*:

## INTRODUCTION

The *Environment Protection (Industrial Waste Resource) Regulations 2009* (the Regulations) provide for the safe and efficient management of prescribed industrial waste (or hazardous waste) in Victoria. The Regulations aim to provide practical assistance to industry as it seeks to avoid generating waste and maximise rates of reuse and recycling of industrial waste resources.

The Regulations replace the *Environment Protection (Prescribed Waste) Regulations 1998* (the 1998 Regulations) and the Industrial Waste Management Policy (Prescribed Industrial Waste) 2000 (the IWMP PIW).

This guidance forms part of the Industrial Waste Resource Guidelines (IWRG), which offer guidance for wastes and resources regulated under the *Environment Protection (Industrial Waste Resource) Regulations 2009* (the Regulations). Publication IWRG201 – June 2009.

## SUMMARY OF TERMS

<b>Term</b>	<b>Definition</b>
<b>Authority</b>	Environment Protection Authority Victoria
<b>Category A waste</b>	Category A waste as defined in Schedule 2 of the Regulations
<b>Category B waste</b>	Category B waste as defined in Schedule 2 of the Regulations
<b>Category C waste</b>	Category C waste as defined in Schedule 2 of the Regulations
<b>DBR</b>	Direct beneficial reuse as defined in regulation 5(1) of the Regulations
<b>DG Act</b>	<i>Dangerous Goods Act 1985</i>
<b>EP Act</b>	<i>Environment Protection Act 1970</i>
<b>EPA</b>	Environment Protection Authority Victoria
<b>HazWaste Fund</b>	Hazardous Waste Fund established by the Victorian Government
<b>IW</b>	Industrial waste as defined in section 4(1) of the EP Act
<b>IWRG</b>	Industrial Waste Resource Guidelines
<b>IWMP PIW</b>	Industrial Waste Management Policy (Prescribed Industrial Waste) 2000
<b>NEPM</b>	National Environment Protection Measure: Movement of Controlled Wastes between States and Territories
<b>PIA</b>	Policy impact assessment
<b>PIW</b>	Prescribed industrial waste as defined in regulation 5(1) of the Regulations
<b>PIWAC</b>	Prescribed Industrial Waste Advisory Committee
<b>Publication 395</b>	EPA Publication 395: Instructions for completion of waste transport certificates
<b>Publication 448</b>	EPA Publication 448: Classification of wastes
<b>Publication 996</b>	EPA Publication 996: Guidelines for hazard classification of solid prescribed industrial wastes
<b>RIS</b>	Regulatory impact statement
<b>Regulations</b>	<i>Environment Protection (Industrial Waste Resource) Regulations 2009</i>
<b>SBR</b>	Secondary beneficial reuse as defined in regulation 5(1) of the Regulations
<b>VCEC</b>	Victorian Competition and Efficiency Commission
<b>WasteCert</b>	Electronic transport certificate system
<b>1998 Regulations</b>	<i>Environment Protection (Prescribed Waste) Regulations 1998</i>

## REGULATION DEVELOPMENT

EPA consulted extensively on the development of the Regulations throughout 2008 and early 2009. A RIS was prepared in accordance with the requirements of the *Subordinate Legislation Act 1994* and the Guidelines issued under that Act. The RIS concludes that the benefits of making the Regulations outweigh the associated costs. The RIS also demonstrated that relative to the 1998 Regulations, the new Regulations are expected to result in an administrative cost saving of approximately \$6.2 million per year. The VCEC assessed the RIS as adequate and meeting the requirements of the *Victorian Guide to Regulation* prior to release. EPA released the Regulations and RIS for a formal public comment period of 32 days. The formal public comment period ended on 3 April 2009.

## SUBMISSIONS

EPA received 35 written submissions on the Regulations and RIS. Industry and industry associations were most heavily represented with some submissions from private individuals and community groups. Submissions are subject to EPA's submissions publication policy ([www.epa.vic.gov.au/statements/submissions\\_policy.asp](http://www.epa.vic.gov.au/statements/submissions_policy.asp)) and may be published on the EPA website, except where EPA received an express request to withhold a submission from publication. A full list is provided below.

1. Alcoa
2. Private individual 1
3. Sweeney Todd Medical Waste Specialists
4. SITA Environmental Solutions 1
5. Private individual 2
6. Yarra Valley Water
7. SITA Environmental Solutions 2
8. South East Water
9. Private individual 3
10. Infotech Research
11. Private individual 4
12. GreenChip
13. Residents Against Toxic Waste in the South East
14. City West Water
15. Victorian Division of the Waste Management Association of Australia
16. Australian Industry Group
17. Private individual 5
18. Private individual 6
19. Eastern Liquid Services
20. Victorian Waste Management Association
21. Australian Environment Business Network
22. Royal District Nursing Service
23. North East Water
24. SteriHealth
25. Biohazard Division of the Waste Management Association of Australia
26. Private individual 7
27. Qenos
28. Private individual 8
29. Australian Vinyls
30. Enviropacific Services
31. Veolia Environmental Services
32. Australian Petroleum Production and Exploration Association
33. Transpacific Industries Group
34. Plastics and Chemicals Industries Association
35. Private individual 9

The majority of submissions sought clarification about terminology or the intention of specific provisions in the Regulations. Some also provided advice about implementation of the new regime and how this might be improved.

## RESPONSE TO COMMENTS

This Table sets out EPA's response to the comments received in public submissions about the Regulations and RIS. Some comments relate to the Regulations and guidance, but issues that are specific to guidance only have been taken into account in finalising the IWRG.

Topic	Comment	Response
Approach	Seven submissions supported the new direction of the Regulations, including the risk based approach and encouragement for industry to use waste as a resource where possible. Four submissions gave positive feedback about the consultative process for incorporating stakeholder input into the Regulations.	
	Four submissions expressed concern that the Regulations might not strike the right balance between reducing administrative burden for industry and protecting human health and the environment.	EPA acknowledges the need for robust compliance monitoring and enforcement to underpin the regulatory framework. As well as protecting the environment, this is necessary to ensure competitive equity for good environmental performers.
	One submission was concerned that many references are to the 'environment' alone, and that there seems to be very little reference to the effect on humans.	EPA considers the protection of human health in it's obligations to protect the environment. Regulation 40(1)(d) specifically requires assessment of the likelihood of an unacceptable risk of harm to human beings or the environment as part of the SBR process.
	Two submissions asked whether the Regulations would be subject to Parliamentary debate.	Regulations are not debated in Parliament. Bills are debated in Parliament, but Regulations are open for formal public comment and subject to disallowance by Parliament. Policies also go through a public comment process similar to Regulations, and are subject to disallowance.
	One submission raised concern that the lack of an IWMP PIW would mean that there would be no clear statement of the Government's plans for future hazardous waste management, and recommended a PIA be prepared outlining the effects of there no longer being an IWMP PIW.	Key components of the IWMP PIW have been built into the EP Act and the Regulations. The IWMP PIW is largely obsolete. Section 18A of the EP Act excludes policy revocations from PIA requirements.
	One submission queried whether the PIWAC would be disbanded.	PIWAC has not been disbanded and will continue to support implementation and monitor the efficacy of the Regulations.
	One submission queried whether the removal of the prescriptive list of prescribed wastes meant that licences for facilities receiving prescribed waste would need to be amended.	EPA licences reference waste codes for wastes that can be accepted at a premises. These waste codes will remain so licences will not require amendment.
Approach	One submission queried whether Part 2 of the Regulations applies to both scheduled and non-scheduled premises.	It applies to all IW producers.
	One submission expressed concern that the proposed Regulations seem to relate predominantly to the handling of waste in transit.	Whilst the Regulations are designed to provide prescriptive controls for transport and handling, Part 2 provides steps to reduce, reuse and recycle wastes in accordance with the wastes hierarchy. The IWRG will also assist industry to manage waste appropriately.

Topic	Comment	Response
	Two submissions sought an easy to read comparison of the old and new regimes and a further round of public comment.	A table detailing the substantive changes in the draft Regulations was provided in the Frequently Asked Questions document, released with the draft Regulations. EPA will also publish a comparison of the final regime and the old regime on the EPA website when the Regulations commence. Following two rounds of consultation there is insufficient time for further formal comment.
	Two submissions expressed concern about the duration of the formal public consultation period.	Feedback from a broad cross-section of stakeholders following earlier consultation was considered in advance of the Regulations being prepared, so EPA is satisfied that there has been adequate consultation.
	Two submissions expressed concern about transitional arrangements for the Regulations.	The Regulations allow classifications and exemptions issued under the existing framework to remain in place until they expire. There will also be a 12 month transition period for existing permits.
<b>Definitions</b>	One submission sought harmonisation with definitions used in other legislation, highlighting the term 'highway' is not immediately clear, and that the Dangerous Goods Regulations or Road Management Act might provide a better definition.	EPA is somewhat confined by the terminology in the EP Act, but in other areas the Regulations attempt to provide greater harmony with the NEPM and nationally applied waste codes and practices. 'Highway' is defined in section 4(1) of the EP Act as 'any street, road, lane bridge, thoroughfare or other place open to or used by members of the public for passage by motor vehicles, and any public car park'.
	One submission suggested that the definition of 'cleaner production' should be broader.	'Cleaner production' has been replaced with 'avoidance or reduction' to more accurately reflect the principle of wastes hierarchy in the EP Act.
	Five submissions sought clarification about the definition of 'direct beneficial reuse'.	The Regulations have been amended to provide a definition of 'treatment', with treatment being the test of whether DBR or SBR applies. In reality there is little material that can be diverted through the DBR pathway, as most materials will require some form of treatment to allow reuse.
	Four submissions expressed concern about the definition of 'practicably accessible'.	'Practicably accessible' only appears in Part 2 of the Regulations and will be assessed by producers on a case by case basis. EPA can assist industry to 'bridge the gap' of commercial viability through the HazWaste Fund.
<b>Definitions - PIW</b>	Eight submissions raised concerns about the definitions of 'PIW' and 'exempt material'. Subsection (b) of the definition of 'exempt material' makes reference to Part 2 of the Regulations. However, there is no reference to exemption in Part 2.	'Exempt material' specifically refers to SBR and material that would otherwise be PIW but the Authority has classified as non-prescribed. All other material is either IW, PIW or diverted to DBR. Part 2 of the Regulations enables the Authority to classify waste by hazard, including classifying waste that would otherwise be PIW as IW.
	One submission sought an explanation of the purpose of the new Schedule 1 list. One submission argued that if Schedule 1 is to be included, then there should also be a Schedule 2 – PIW, and Schedule 3 – Non-hazardous PIW.	Schedule 1 provides a list of IW excluded from regulation. Schedule 2 provides a risk-based hazard categorisation framework. There is no non-hazardous PIW. Materials with contaminants below the category C base-threshold will be managed as general IW.
	Three submissions suggested that the definition of 'IW' in the EP Act be reproduced in the Regulations.	Regulation 5(1) has been amended accordingly.

Topic	Comment	Response
Definitions - PIW	Two submissions recommended that regulation 5(2) should say 'the Regulations prescribe industrial waste to be category A waste, category B waste, category C waste, and non-PIW'.	Regulation 5(2) has been amended to include Schedule 1 industrial waste.
Definitions - PIW	Three submissions requested that Schedule 1 be tightened and explicitly exclude wastes that are contaminated with PIW.	A definition of 'Schedule 1 industrial waste' has been added to clarify this issue.
Definitions - PIW	One submission notes that asphalt is included in the non-PIW list, but that bitumen is not.	The Regulations have been amended to cover both bitumen and asphalt.
Definitions - PIW	One submission observed that it appears that scallop processing waste will no longer be a prescribed waste under the 'commercial food waste' exclusion in Schedule 1.	This flows from the risk based approach of the Regulations. Scallop processing waste was previously a prescribed waste because it has aesthetic, as opposed to hazardous, characteristics. With the potential to generate odour, those managing these waste streams will need to be mindful of their obligations under the EP Act.
Definitions - PIW	One submission argued that the proposed Regulations will make used tyres a PIW, as they are not listed in Schedule 1.	Used tyres are not listed in Schedule 1 as they need to go through the hazard categorisation framework if they cannot be reused. They will not generally be PIW, as they will not be categorised as category A, B or C waste unless they are contaminated.
Definitions - PIW	Six submissions noted that due consideration should be given to whether the Regulations adequately cover liquid waste. One submission suggested that 'commercial food wastes' could arguably include materials such as grease trap waste. A clarifier such as 'solid' or 'non-liquid' is required. Four submissions contend that sewage, sewage sludge, biosolids and recycled water should remain outside of the definition of PIW.	The definition of 'category A waste' in Schedule 2 of the Regulations has been updated to clarify that liquid wastes, other than trade waste and IW water managed in accordance with specifications acceptable to the Authority, are category A.
Definitions - PIW	One submission sought clarity about whether both 'PIW' and 'prescribed waste' need to be referenced in the Regulations.	The EP Act uses both 'prescribed waste' and 'PIW' interchangeably. 'Prescribed waste' covers 'PIW' (ie 'prescribed waste' is broader than 'PIW') so the references in the Regulations are acceptable.
Definitions - PIW	Two submissions recommended that the term 'hazard' should be incorporated with 'PIW'.	In effect the material is potentially hazardous, and only becomes hazardous where a pathway is realised between the material and a sensitive receptor. The Regulations are also limited by the terms used in the EP Act.
Definitions - PIW	One submission suggested that the definition of 'PIW' should also include a description of what 'security waste' is, and which types of waste require deep burial'	This issue is beyond the scope of the Regulations. One-off disposals can occur if a facility is licensed to accept a particular material. Guidance already exists for the design, performance and management of best practice municipal landfills.
Definitions - PIW	Two submissions queried whether the Regulations are consistent with the NEPM.	The IWRG that supports the Regulations will provide wastes codes that are consistent with those established under the NEPM. NEPM objectives to permit vehicles and track the movement of controlled waste are carried over from the 1998 Regulations to the new Regulations.

Topic	Comment	Response	
<b>Direct and secondary beneficial reuse</b>	Six submissions supported the proposed shift from the current exemption process to DBR and SBR pathways.	Resource efficiency gains will provide cost savings over the longer term. HazWaste Fund is also available to industry as a means of bridging the financial viability gap.	
	Two submissions cautioned that the economic downturn will affect DBR and SBR viability.	Resource efficiency gains will provide cost savings over the longer term. HazWaste Fund is also available to industry as a means of bridging the financial viability gap.	
	One submission asked what is the definition of 'secondary beneficial reuse'.	Secondary beneficial reuse is defined in regulation 5(1) as 'use as an input or raw material substitute in a commercial, industrial, trade or laboratory activity following any form of treatment or reprocessing'.	
	One submission argued that Part 5 does not make it clear what the material is exempt from.	The definition of 'PIW' specifically excludes 'exempt material', which includes material that goes through the SBR pathway. Material will no longer be considered PIW where a SBR has been authorised.	
	One submission asked if existing exemptions will need to go through the new SBR process.	Existing exemptions will not need to go through the new process until they expire. The Regulations include a consequential provision that deems existing exemptions to be SBR notifications for the purposes of the Regulations.	
	Five submissions expressed concerns about materials not being tracked under DBR. One submission suggested the 'DBR' provision be removed.	Material diverted through this pathway is considered a product, not a waste, and is therefore not subject to these Regulations. This does not mean their handling, transport and management is exempt from other legislation including the DG Act, and their onsite use and storage may be subject to the Planning and Environment Act and local planning schemes. The overarching provisions of the EP Act remain in place, allowing EPA to prosecute those who cause an environmental hazard.	
	Two submissions argued that there is potential, through DBR and SBR, to appear to hold industry to a lower standard than is currently required, that the Regulations decrease clarity to those involved with PIW management, and the Regulations place extra obligations on those who are aiming to comply with existing obligations.	Essentially a waste producer will need to satisfy the same standards as they would today, however the approval mechanisms are streamlined. The use of EPA appointed auditors in reviewing SBR notifications will ensure risks are appropriately managed. Material diverted to DBR will be subject to the same management considerations as other inputs or raw materials.	
	Six submissions suggested that there should be an appeal mechanism included in Part 5 of the Regulations.	EPA will refuse incomplete notifications, and will largely rely on the third party verification to attest to the merits of an application. This is why there is no appeal mechanism as regards refusal to authorise.	
	<b>Direct and secondary beneficial reuse</b>	Two submissions sought clarification about whether auditors and suitably qualified professionals are required to be independent third parties.	Independent third party endorsement is required to provide robustness and community assurance that SBR notifications are suitable. EPA does not believe utilising 'in-house' resources would provide adequate rigour and confidence. EPA will provide further information about third party endorsement in the IWRG.
		One submission asked if 'suitably qualified professionals' need to have some sort of accreditation?	While the Authority will not require accreditation, in managing their own risk and liability the producer or receiver preparing the notification will need to ensure that the person providing the endorsement is suitably qualified.

Topic	Comment	Response
<b>Direct and secondary beneficial reuse</b>	Four submissions did not support the requirement for third-party endorsement of SBR notifications.	Auditors will provide adequate rigour so that EPA and the broader community can have confidence in the suitability of category A and B reuse. The Regulations have been amended to allow a waste receiver to prepare a notification, so the cost of using an auditor could be shared by waste producers and receivers.
	Four submissions expressed concern about the cost of auditor verification of SBR notifications.	There will be less time spent reworking than under the 1998 Regulations because the notification can be refined without an iterative exemption process. EPA seeks to strike an appropriate balance between cost and providing a robust process. The use of auditor reviews has proven successful in the assessment of works approval applications.
	Two submissions were supportive of the use of third party endorsement, however wished to ensure that SBR did not allow unscrupulous generators, transporters and treaters to enter the market to the detriment of public safety and good operators.	EPA acknowledges the need for robust compliance monitoring and enforcement to underpin the regulatory framework. As well as protecting the environment, this is necessary to ensure competitive equity for good environmental performers.
	One submission suggested that moving the responsibility for applications to auditors may result in a perceived shift of responsibility from producers and EPA to auditors.	The use of EPA-appointed auditors under the Regulations will provide equivalent or greater robustness than the iterative application process under the 1998 Regulations. Responsibility will continue to rest with producers or receivers.
	One submission asked if review timelines for audits will be set by EPA or assessed on a case by case basis. The submission also queried who will pay for applications (producer or receiver) and how any conditions would be monitored.	Third-party review is to be arranged by the waste generator or receiver, with the timelines for preparation managed between the parties. There will be no application fee for submitting an SBR notification. The Authority also has the capacity to impose additional conditions on a case by case basis, including monitoring requirements.
	One submission questioned whether the requirement for auditor endorsement will be feasible with the current supply of auditors and the increased demand that this requirement will create.	EPA will work with the industry to ensure there is adequate capacity as demand for these services increase.
	Six submissions raised concerns about SBR notifications being prepared by producers only.	The Regulations have been amended to allow waste producers or receivers to prepare and submit notifications.
	One submission recommended that applicants should be required to submit details of contaminants and contaminant concentrations in an SBR notification.	This information is required in the Regulations.
	One submission sought clarification about SBR of liquids under the Regulations. As liquid wastes do not have a classification regime in place like solids, the requirements for applying for SBR are not obvious.	The definition of category A waste in Schedule 2 of the Regulations has been updated to clarify that liquid wastes, other than trade waste and IW water managed in accordance with specifications acceptable to the Authority, are category A. This allows the SBR process to apply equally to solid and liquid wastes.
	One submission asked if an assessment of the likelihood of an unacceptable risk of harm to the environment in a SBR notification will be based only on analytical data or an environment improvement plan. EPA will need to ensure that applications have consistent requirements.	The IWRG will provide further guidance about how to prepare SBR notifications.

Topic	Comment	Response
<b>Direct and secondary beneficial reuse</b>	<p>One submission queried what waste producers were exempt from following an SBR authorisation and why there was no provision for the Authority to seek additional information from an applicant submitting a SBR notification.</p>	<p>Once the notification is authorised, the management of the material is exempt from regulation ie it is no longer PIW. The information required in the notification is prescribed by the Regulations, while additional detail will be provided in guidance, including further information about third party verification. If the notification is incomplete then it will be rejected.</p>
	<p>Two submissions expressed concern about automatically endorsing a SBR notification if EPA fails to make a decision in the prescribed period of time ie 28 days.</p>	<p>The business system underpinning the SBR notification provisions will prevent 28 days being exceeded. It will also generate standard conditions on an authorisation document issued to the applicant. The Authority will have the capacity to impose specific, additional conditions on a case by case basis.</p>
	<p>One submission observed that there is apparently no ability to transfer authorisations in the Regulations, and this may be appropriate in certain circumstances.</p>	<p>The Authority has the capacity to change the details of the authorised notification where this would not result in an unacceptable risk of harm to the environment.</p>
	<p>Two submissions noted that conditions can be placed on reuse notifications, however it needs to be clear how industry and the broader community can be assured that these conditions are being complied with.</p>	<p>The Regulations require a strengthened compliance program to be implemented by EPA. The information provided with a SBR notification will enable EPA to identify and follow-up with the producer and receiver of material under an authorised notification.</p>
	<p>Two submission queried how much notice of changes to an authorised notification is required, how EPA will monitor the requirements, what follow up actions will be taken and what penalties apply for non-compliance.</p>	<p>EPA must be notified of any changes to a SBR authorisation as soon as possible, otherwise EPA may revoke the authorisation. EPA acknowledges that it will not always be possible to notify EPA in advance of any changes to a notification. Contravening a condition of an authorisation carries a 20 penalty unit offence in the Regulations, however there are more substantial penalties available under the EP Act, such as where the contravention results in an environmental hazard.</p>
<b>Direct and secondary beneficial reuse</b>	<p>One submission supported the proposed 28-day timeframe for EPA to review applications for SBR. If EPA requested further information, would this result in a 'resetting of the clock' and additional costs?</p>	<p>EPA will not authorise incomplete notifications, so there is no capacity to 'reset the clock' under the Regulations. If all relevant information is provided in the notification, EPA will make a decision within 28 days. If a notification is incomplete it will be rejected.</p>
	<p>One submission recommended that there should be no provision for 'stopping the clock' in the authorisation process.</p>	
	<p>One submission argued that EPA should have the ability to 'stop the clock' and further assess applications.</p>	
	<p>One submission suggested that retaining the current exemption regime, while removing the 'further information' clause, which results in stopping the clock, would be enough to improve approval timelines without putting additional impost on applicants.</p>	<p>Without external verification, such as the independent third party provisions in the Regulations, there would not be the same level of rigour and confidence associated with authorised SBRs.</p>

Topic	Comment	Response
<b>Direct and secondary beneficial reuse</b>	Two submissions sought clarification of whether a company generating the same waste from several sites would require separate notifications.	The notification does not need to be premises-specific, as long as the material covered by the notification is the same.
	One submission queried what mechanisms, other than third party verification, does EPA have in place to ensure that the SBR facilities actually divert the waste to beneficial reuse?	EPA will only authorise a notification that demonstrates how the beneficial reuse will be realised. The Regulations require identification of the receiver or receivers to be included in the notification, and allow the Authority to publish a summary of the authorised notification. EPA's compliance activities can then ensure movement of materials is in accordance with an authorised SBR notification and any conditions imposed.
	One submission asked if a facility receiving material under SBR would be subject to EPA assessment or ongoing monitoring?	EPA has capacity under the Regulations to impose conditions on SBR authorisations, including any measures required to ensure that the management of the material is not likely to result in an unacceptable risk of damage to the environment.
	One submission expressed concerned that the proposed SBR process may provide a monopoly in the treatment of PIW.	The SBR process may be accessed by waste producers and receivers. An authorised SBR notification will apply to particular material or materials, rather than to the treater itself. Businesses will need to make a commercial decision about whether the cost of establishing a SBR is justified, in the same way that they must decide whether to pursue an exemption under the 1998 Regulations. EPA hopes that the new streamlined notification process will encourage more businesses to take advantage of SBR opportunities.
<b>Editorial comments</b>	One submission raised a concern that the transport industry may inadvertently carry material incorrectly identified as 'non-waste' because of incorrect procedures followed by waste producers. EPA must ensure that waste producers fully understand their obligations under the Regulations.	EPA has the ability in section 53B of the EP Act to prosecute waste producers that cause or permit prescribed waste to be transported without a transport permit or exemption from the requirement to hold a permit under the Regulations. Material legitimately diverted through DBR and SBR pathways is considered a product, not a waste, but this does not mean that handling, transport and management is exempt from other legislation including the DG Act.
	One submission suggested changing the title of Part 2 from 'assessing and classifying IW' to 'producer to assess and classify IW' and regulation 6 should be clarified as an assessment of whether an IW is prescribed.	Part 2 covers assessment and categorisation by producers and classification by the Authority. The title has been changed to reflect this. Regulation 6 does not refer to assessing only whether an IW is prescribed, it also covers assessing opportunities in accordance with the waste hierarchy. Assessment of whether an IW is prescribed occurs if the assessment progresses through to hazard categorisation.
	One submission suggested that regulation 9 'treatment opportunity' should also refer to 'reprocessing'.	This amendment to the Regulations has been made.
	One submission suggested that the words 'realise this potential' are missing from regulation 9(1)(a).	This amendment to the Regulations has been made.
	One submission asked if draft regulation 12 should refer to section 53A of the EP Act, as regulation 26 of the 1998 regulations refers to section 53A.	The Authority issues permits under section 53F of the EP Act, whereas section 53A imposes the requirement to hold a permit, so the Regulations correctly reference section 53F.

Topic	Comment	Response
	One submission queried whether draft regulation 13 is redundant ie does Schedule 4 stand alone?	Clause 3 of Schedule 4 picks up IW that the rest of Part 3 of the Regulations does not, so this regulation is necessary. Schedule 4 requirements flow through Regulations 13 and 15.
	One submission suggested that regulations 40 and 41 should refer to authorisations 'granted or issued' under the Part.	This suggestion has not been adopted because the Authority 'authorises' an SBR notification under Part 5.
	One submission suggested that regulation 41(1)(d) should refer to 'authorisation' rather than 'permit'.	This amendment to the Regulations has been made (see regulation 45(1)(d)).
	One submission requested clarification for regulation 43 about how long records of notifications need to be retained, including any condition reports.	When authorising an SBR notification the Authority may provide conditions that must be met during the notification's period of validity. These conditions may include record keeping how long records are to be retained.
<b>Enforcement</b>	One submission stated that enforcement of infringements needs to be consistent, otherwise having infringements at all becomes meaningless within the industry.	EPA acknowledges the need for robust compliance monitoring and enforcement to underpin the regulatory framework. EPA will strengthen its compliance program accordingly. As well as protecting the environment, this is necessary to ensure competitive equity for good environmental performers.
	One submission suggested using inspectors to issue on the spot fines for inappropriate or unrecorded storage or other non-compliance.	EPA believes there are sufficient checks in place to avoid the establishment of high risk operations. Under the new regulatory framework EPA can, with greater confidence, shift resources from assessment to compliance monitoring and enforcement, reducing the regulatory burden on good environmental performers, while strengthening its ability to address poor environmental performers. Through time this will improve equity across the waste management industry.
	One submission expressed concern about EPA transferring resources previously used for risk prevention assessment processes to monitoring and enforcement activities.	
	One submission raised concern about on road enforcement proposed by EPA. A robust system will need to be developed and put in place to ensure that waste transport companies understand their obligations and a clearly defined transition period will be required.	Transition provisions have been allowed for permits, exemptions and classifications. The same driver training requirements will remain. The consolidated guidelines will assist transporters to understand their obligations under the Regulations.
<b>Funding</b>	One submission suggested that EPA could incorporate a provision into these Regulations for a superfund to be used for clean up measures on contaminated sites, or for remediation of contaminated soil.	HazWaste Funding can be used to support the development and acquisition of soil treatment technology to be applied in the management of contaminated sites.
	One submission argued that the hazardous waste levy could be focused more at the level of the source of production, not only at the end level of disposal.	HazWaste Fund grants are primarily focused on technologies or practices aimed at avoidance, reduction, reuse and recycling. A smaller proportion is directed to treatment and hazard reduction.
	One submission suggested that some of the hazardous waste levy could be put towards setting up and maintaining an environment centre in the south east region.	There are clear rules around where landfill levy revenue can be used. The majority of funds support cleaner production in industry through the HazWaste Fund, with a smaller proportion for EPA to use for compliance monitoring and enforcement activities.
	One submission stated that a number of municipal councils are aware that there may be contaminated sites within their municipality, and EPA should encourage and assist councils to identify, map and manage such sites.	EPA will continue to work with contaminated site land owners to identify and implement the best environmental outcome for the site. HazWaste Funding can also be used to support the development and acquisition of soil treatment technology to be applied to contaminated site management.

Topic	Comment	Response
	One submission requested that EPA publish a definitive list of impacted publications on release of the Regulations.	All relevant existing publications will be consolidated into the new IWRG. A listing of publications will be provided as part of the introduction to the IWRG.
	Two submissions noted that there are references to EPA Publications 448 and 996 in the Regulations. During the consultation sessions it was advised that these will be combined into one document.	
	Three submissions asked if the Regulations would indicate they are to be read with the IWRG.	The Regulations refer to the specific parts of the IWRG that are formally incorporated to the Regulations. The IWRG will align closely with the structure of the Regulations to allow for easy reference.
	One submission stated that the assessment process outlined in Regulations 7 to 10 lends itself to a simple flowchart and expects EPA plans to put one in the IWRG.	The IWRG will include a flow diagram outlining the flow of materials under the Regulations.
	One submission argued that a new company that is yet to operate may not yet fully know the characteristics of the waste they will produce. Will any guidance or assistance will be provided for those in this situation who wish to prepare a SBR notification?	EPA expects that a potential producer would need to have a good understanding of its likely waste outputs, as this would likely have significant cost implications for the business. EPA will provide guidance on the preparation of an SBR notification. EPA will not authorise incomplete notifications, so a producer will need to be able to provide all of the required information about their waste before they submit the notification.
	One submission stated that the Regulations and IWRG need to be clear and understandable as well as being able to be constantly monitored and enforced for both small and large industries.	The Regulations have been drafted as clearly as possible, but are essentially a prescriptive tool, so certain drafting protocols must be adhered to. The IWRG will assist industry and the community to understand the Regulations.
	One submission suggested that guidance and examples should be given explaining how a waste producer should assess the likelihood of harm to the environment under draft regulation 36(1)(b).	EPA will provide guidance on its expectations of information required in submitting an SBR notification. The third party review will also critically review the likelihood of harm to the environment (see regulation 41(1)(d)).
<b>Guidance material and the Regulations</b>	One submission argued that the IWRG should reflect that the assessment process in Part 2 is continual.	The assessment process in Part 2 applies to both existing and proposed activities that may generate PIW, so EPA agrees that new opportunities will become available under Part 2 over time. Regulation 9 specifically requires that material that has been treated must then be assessed in accordance with regulation 8.
	One submission raised concern about regulation 10 'Hazard Classification'. Guidance to waste producers for lowering the hazard of category A waste does not appear in the Regulations, nor is suitable guidance material available to date.	The IWRG will provide guidance on the management options for waste streams that have been treated.
	One submission notes that Publication 996 refers to solid PIW, and that this is confusing as it suggests the proposed Regulations refer only to solid waste. The detail in Appendix 3 of publication 996 should be reproduced in the Regulations.	IW water managed in accordance with specifications acceptable to the Authority is included on the Schedule 1 – non-prescribed waste list. 'Non-trade waste liquid IW' are category A waste. Appendix 3 of publication 996 is formally incorporated to the 1998 Regulations and so is legally part of the 1998 regulations.

Topic	Comment	Response
	One submission stated that, since much of the NEPM terminology is linked with publication 395, it should be incorporated to the Regulations.	EPA has specific incorporation powers that limit matter that may be incorporated to measurement or testing methodology under section 71(3) of the EP Act. To the extent possible the IWRG will reflect terminology included in the NEPM.
	One submission suggested that descriptions in list 5 of publication 395 need to align with terms in the Regulations.	The treatment code designates the intended type of treatment or disposal at the premises of the waste receiver. It takes into account the disposal options in the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. Two additional codes have been added for composting and bioremediation.
<b>Hazard classification</b>	One submission queried whether EPA will still provide assistance for industry with hazard classification. The Regulations should include set timelines for responses for hazard classification requests.	EPA retains the ability to issue classifications in Part 2 of the Regulations, and will continue to work with industry in issuing them. While regulated timeframes for decisions may be desirable, the varying complexity of some classifications means it is not possible to prescribe a timeframe.
	One submission stated that there is an ongoing role for EPA in funding hazard classifications on behalf of industry, and that these classifications should be publicly available.	EPA will continue to work with industry to review waste streams, their contaminant loads, and the need for further analysis and classification. The Regulations now include capacity for classifications to be published.
	One submission sought clarification of whether waste reclassification is required when the Regulations come in.	Classifications are unlikely to change from the existing system, except that some material may no longer be PIW if the hazard posed is sufficiently low.
	One submission states that dilution to reduce a hazard and place the waste in a less hazardous category does not seem to be an appropriate solution.	Part 2 has been updated to prevent dilution where this would the hazard category of the waste for the purpose of disposal.
	One submission argued that the soil 'fill material' classification could be segregated further to cater for the end point of reuse ie allowing less stringent concentrations for industrial reuse.	Fill material will remain as the definition of soil that can be reused anywhere. There is nothing stopping someone pursuing SBR authorisation for reuse of soil on-site elsewhere if the risk is acceptable ie category C reuse at industrial premises.
<b>Hazard classification - category A</b>	One submission argued that the movement of category A and its reduction to category B (or otherwise) needs to be revealed. Where is it currently stored and if it is unable to be treated, where is it relocated or deposited?	There is nothing to stop a waste producer retaining material onsite pending reuse. Licence conditions will specify the volume allowed to be stored on site. Part 2 of the Regulations provides a framework for implementing the hierarchy, and the other provisions of the Regulations apply when waste leaves a site.
<b>Hazard classification - category C</b>	Four submissions indicated support for the proposal to include a lower threshold on category C waste.	
	One submission expressed concerned about waste that will fall below category C and will be allowed to go to any landfill. Existing hazard categories should be maintained, rather than sending what is now regarded as PIW into unsuitable landfills. This waste should still be restricted to best practice landfills.	The base-threshold for category C allows the waste that will be considered IW to be disposed to a facility licensed to receive the waste. This would include a Solid Inert Waste Landfill (non-putrescible) or MSW landfill (putrescibles).

Topic	Comment	Response
	One submission argued that removing regulatory controls leaves nothing to prevent certain industries from sending initial reports to a landfill demonstrating the waste is below category C and then changing their process to result in a more hazardous waste being disposed of inappropriately.	If a generator has a change to its industrial process, the waste categorisation will need to be reviewed to ensure that the process change has not affected the category of the waste. This is part of the IWRG for hazard categorisation.
	One submission suggested that the Regulations seem to be moving liability toward landfill operators rather than producers, which is inconsistent with the intent of the Regulations.	The Regulations provide incentives for producers to better understand the characteristics of their waste and thus identify alternatives to landfill.
	One submission queried if there would be a need to update waste certificates and licences for receiving facilities to account for waste that will now fall below the category C threshold?	The material that falls below the category C base-threshold will be managed as an IW, enabling its disposal at solid inert (industrial) waste (non-putrescible) or municipal solid waste (putrescible) landfills, with no requirement for certificates.
	One submission argued that elutriation by itself is insufficient - it should be backed up by adequate research.	EPA has based the contaminant criteria on the NHMRC Australian Drinking Water Guidelines (1996) Guideline Health Values, the National Environment Protection Measure on the Assessment of Site Contamination 1999, Health Investigation Level for Commercial/Industrial Land, as well as other sources such as NSW DECC.
<b>Interstate movement</b>	One submission supported the current interstate movement policy being adopted in the proposed Regulations.	
	Four submissions sought clarification about whether DBR and SBR apply across state boundaries.	DBR and SBR only apply to materials being managed within Victoria, however the interstate movement provisions in the Regulations have been updated to clarify that interstate movement for the purposes of reuse, recycling or energy recovery in accordance with the wastes hierarchy is acceptable (see regulation 26).
	One submission stated that draft regulation 27(1) appears to require that sewage treatment plants be licensed to receive individual categories of PIW.	A PIW producer does not include an occupier of premises from which PIW is produced and transported from the premises through a sewer.
	One submission asked what the exemption process is under regulation 27, ie 'the receiving premises is exempt under the Act..'	The exemption is prescribed through the <i>Environment Protection (Scheduled Premises and Exemptions) Regulations 2007</i> , ie exempt from the requirement to hold a licence under the EP Act.
<b>Landfills</b>	One submission recommended that the Government's policy objective of zero category B waste to landfill by 2020 be included as an 'objective' of the Regulations.	These Regulations are intend to help achieve zero category B waste to landfill by 2020, however the 'objectives' provision in the Regulations needs to be closely tied to the prescriptive content of the Regulations. Since other instruments are also used to pursue the policy goal, it is not appropriate to include this in the objectives provision.
	One submission argued that the Government should recommit to an end to the disposal of hazardous waste to landfill.	These Regulations are designed to help achieve the Government's commitment of zero category B waste to landfill by 2020.

Topic	Comment	Response
	Two submissions asked how the Government intends to manage category B waste in the event that Lyndhurst reaches capacity ahead of schedule.	The intent of the Regulations is to provide clear and robust avenues for material avoidance, reuse and recycling, and is not intended to outline specifications for alternative disposal sites. The Government can consider capacity as part of a separate process.
Landfills	<p>One submission argued that the Lyndhurst landfill is not a suitable place to store all of Victoria hazardous waste. A long term containment facility is still urgently required with consideration being given to appropriate siting.</p> <p>Two submissions recommended that landfill siting and exclusion criteria should be included in the Regulations.</p> <p>One submission wanted guidelines and a stringent series of requirements for accepting category C waste ie any municipal landfill should still need to meet the best practice guidelines to accept category C waste.</p> <p>One submission requested inclusion of a requirement that all hazardous waste must be covered as soon as it is put in landfill.</p>	The intent of the Regulations is to provide clear and robust avenues for material avoidance, reuse and recycling, and is not intended to outline specifications for alternative disposal sites. There is existing EPA guidance on the siting, design and management of landfills.
Landfills	One submission recommended that there needs to be a change in perception that waste is only in the city. Waste is produced in all parts of the state and used in all parts of the state.	These Regulations apply to waste in the State of Victoria.
Language	<p>One submission suggested that to assist national businesses, the Regulations should seek to use terminology and waste categories that are consistent with other jurisdictions.</p> <p>One submission suggested that EPA needs to ensure that conflicts between language ie 'hazardous' and 'prescribed' wastes do not arise in the future ie in relation to the Lyndhurst landfill. EPA uses 'prescribed' but the council uses 'hazardous'.</p>	<p>EPA is somewhat confined by the terminology in the EP Act. The Regulations attempt to provide greater harmony with the NEPM and nationally applied waste codes and practices where possible.</p> <p>The term 'prescribed' comes from the EP Act, although 'hazardous' is also frequently used by EPA and others as a synonym for 'prescribed' in relation to waste to differentiate between category A, B and C wastes, and municipal and industrial wastes.</p>
Penalties	<p>One submission stated that, under the IWMP PIW, EPA can take action against a waste producer that fails to manage its waste in accordance with the wastes hierarchy. This does not appear in the Regulations and should be included.</p> <p>One submission suggested that EPA should consider whether it is necessary to have penalties or sanctions in the event that there is non-compliance with the obligations in regulation 6. Alternatively, EPA may wish to consider a requirement for a producer to submit evidence to support the assessment and classification process.</p> <p>One submission sought an explanation for the increase in penalty from 8 units to 20 in units for failure to provide an appropriate container for transporting PIW.</p>	<p>Clause 11(7) of the IWMP PIW enabled EPA to require a producer to take action where the producer failed to manage waste in accordance with the hierarchy. The Authority still has the capacity to issue a classification determining a management option under Part 2 of the Regulations. The Authority can also prosecute for contravention of the Regulations under section 27A of the EP Act.</p> <p>Poor containers are a common cause of dangerous spills of hazardous waste in transit. This penalty has been increased to 20 penalty units to reflect its serious implications and to bring the penalty in line with the penalties under Part 4.</p>

Topic	Comment	Response
Placarding	<p>One submission recommended that the penalties specified in the Regulations (8 or 20 penalty units) should be increased. It should possibly be an offence not to comply with a condition on a transport permit.</p> <p>One submission argued that there is currently no penalty or sanction for non-compliance with conditions on a permit.</p>	<p>The offence for failure to comply with a permit condition appears in section 53E of EP Act (600 penalty units and 240 penalty units per day for a continuing offence).</p>
Public information	<p>Six submissions recommended requiring use of a cytotoxic waste placard.</p> <p>One submission argued 'sharps' are only one component of the clinical waste stream, but other components have greater potential to cause harm than any 'sharp' object.</p> <p>Two submissions sought clarification that Schedule 4, Part E (use of half-sized emergency information panels) and whether it also applies to clinical and related wastes, particularly in relation to cars.</p> <p>One submission suggested EPA should make information about all classifications public.</p> <p>One submission recommended that individuals should have easy access to information about toxics in their communities. The monitoring of the reduction in hazardous waste by industry, recycling and category reduction should all be recorded and be easily accessible to the public.</p> <p>Three submissions suggested there should be provision to publicise exemptions and reuses.</p>	<p>Part D of Schedule 4 provides that when clinical and related wastes are being transported, the packages or combination of packages must be marked and packaged in a manner approved by the Authority. This allows the Authority to require packages to be marked with a cytotoxic symbol.</p> <p>Cars transporting less than 50 kilograms or litres of PIW for no fee or reward are exempt from Part 4 of the Regulations, including placarding requirements.</p> <p>Regulation 11 now has capacity for the Authority to publish a summary of a specific classification, as well as the gazetted requirement for general classifications. The EPA website has a summary of each of the classifications with links to the Gazette article.</p> <p>The Regulations include capacity for the Authority to publish summaries of SBR authorisations. A waste database (discussed below) would assist producers and receivers connect to achieve DBRs.</p>
Reporting	<p>One submission argued that offensive or hazardous industry zones where waste is generated, chemicals are kept or treated, should be signed appropriately so the public can be aware as they enter.</p> <p>Six submissions expressed concern about removing requirements for annual returns and annual environment performance reports.</p> <p>Three submissions supported the removal of the requirement to submit annual returns as the relevant information is already collected through WasteCert.</p>	<p>This is not within the scope of the Regulations. These issues are legislated under the Planning and Environment Act and local planning schemes.</p> <p>Section 31D of the EP Act requires annual performance statements from licence holders. Under the SBR pathway, the particulars of the producer, transporter and receiver will be provided to EPA in the notification. This will be sufficient information for EPA's compliance program to ensure materials are moving in accordance with an authorised notification. Annual returns will not be required under the Regulations, and without any 'prescribed particulars' in the Regulations, the requirement in section 54B of the EP Act will be inoperative.</p>
Transport	<p>One submission argued that the 1998 Regulations allow EPA to require a financial assurance from waste transporters, so the new Regulations should too.</p> <p>One submission expressed concern that the Regulations fail to address and provide for the provisions outlined in the NEPM.</p>	<p>The power to require financial assurances from waste transporters is in section 53F(5) of the EP Act so this capacity will be retained.</p> <p>This is provided by Part 3 and 4, and specifically by regulation 35.</p>

Topic	Comment	Response
	One submission sought clarification of consistency with the NEPM.	The Regulations are consistent with the NEPM. The removal of the current Schedule 1 list will mean the waste codes are the core descriptor of controlled waste. While Victoria will maintain a more detailed list of wastes codes, there will no longer be a need to reconcile the current Schedule 1 list with a NEPM code.
	One submission recommended changing the title of Part 3 to 'transport and management of PIW', with regulation 13 to have a separate title 'transporting non-hazardous PIW', and regulation 27 to have a separate title 'other transporter responsibilities'. It also recommended merging Part 3 and 4.	Part 3 deals with transport and management of both PIW and IW (see regulation 13). Regulation 27 (now regulation 26) does not need a separate title - it deals with transport requirements as does the rest of Part 3. Part 4 is discrete and relates only to transport certificates, so it makes sense for it to be separate.
<b>Transport certificates</b>	One submission argued that the controlled waste regulatory framework in Western Australia is more efficient as far as waste tracking is concerned, as no waste tracking certificates are need and no agency agreements need to be formed.	EPA believes it important to know who is generating PIW and where the waste ultimately ends up ie treatment or landfill. Accredited agent provisions remain in the Regulations.
<b>Transport certificates</b>	One submission queried whether current regulation 13(6), which requires the waste receiver to send a copy of the completed certificate to the producer within 30 days, is needed in the new Regulations to cover the use of paper certificates?	EPA believes that the best risk mitigation mechanism for paper certificates is matching the copy from the producer and the original from the receiver. Experience with the 1998 Regulations has demonstrated that the copy sent from the receiver to the producer is largely superfluous.
	One submission stated that there is no longer a requirement to provide the telephone number of the producer under Part A of Schedule 2. Also '(List 2)' is no longer a part of the 'UN Class/Code', nor is '(List 3)' a part of 'Waste origin'.	An emergency contact number is required for the producer. List 1 includes a waste description and code and makes reference to the UN Number, Class and Packing group. List 4 is the waste origin (the industry from which the waste originates).
	One submission stated that Part C of Schedule 2 of the 1998 Regulations and the new Regulations is confusing with regard to 'receiving facility name (if different from address of waste receiver)'. The following rewording is suggested: 'receiving facility name and address where different from the waste receiver.'	The Regulations have been amended accordingly.
	One submission asked where the purported savings from waste transport certificates are outlined in the RIS.	The cost saving comes from the reduction in the number generated and prepared as a function of the reduced volume of PIW being transported. The reduction will come through time as more material is either avoided, or diverted via direct or SBR.
<b>Transport - Dangerous Goods references</b>	One submission sought clarification about why the existing Regulations refer to the <i>Road Transport (Dangerous Goods) Act 1995</i> , while the Regulations refer to the DG Act.	The 1995 Act was repealed in 2008 and the relevant provisions that are incorporated to the Regulations are now part of the DG Act.
	One submission recommended that Schedule 2 of the Regulations would benefit from referring the Dangerous Goods Regulations to pick up Code 7 materials.	The Regulations refer directly to the DG Act under the new dangerous goods framework. Class 7 radioactive substances are not regulated by EPA. Radioactive substances are regulated under the <i>Radiation Act 2005</i> .

Topic	Comment	Response
<b>Transport - direct and secondary reuse</b>	Four submissions expressed concern about transporting DBR and SBR materials without any regulatory controls.	Material diverted to DBR or SBR will be managed in the same way as other raw materials or inputs, and subject to relevant Dangerous Goods requirements. EPA retains enforcement powers under the EP Act to deter inappropriate handling.
	One submission expressed concern that some material diverted through the DBR pathway wouldn't be captured under Dangerous Goods requirements. One submission recommended that a waste should stay a waste until its point of reuse so that wastes cannot be moved around uncontrolled.	If a material is not a dangerous good, then it is likely non-hazardous. Other wastes of domestic origin are transported without regulatory control if they are not dangerous goods.
	One submission suggested that despite any PIW being classified as 'exempt material' under these Regulations, the vehicle used to transport the material must meet any relevant requirements specified in Schedule 4.	The obligations in Schedule 4 are tied to Regulations 13 and 15, so they only apply to permitted vehicles and vehicles carrying specified IWs. Exempt material will remain subject to relevant requirements under the DG Act.
	One submission expressed concern that reuse schemes will stockpile waste on site as a buffer into their respective processes. The lack of testing and monitoring will provide an avenue for waste dilution and concealment.	DBR and SBR is for material for which a reuse opportunity exists. These materials will be an input or raw material substitute in a commercial, industrial, trade or laboratory facility and as such will need to meet a specification for use.
<b>Transport - permits</b>	Two submissions supported the proposed streamlining of the transport permitting process.	
	One submission sought clarity around prohibited routes such as the CityLink tunnels. Is this prohibition going to continue and will it also include the EastLink tunnels?	Regulation 15 picks up prohibited routes under DG Act. EPA does not provide guidance on specific prohibited routes.
	One submission stated that the Regulations no longer define 'prescribed waste' as regulation 6 of the 1998 Regulations do, so it is unclear how the legislative linkage between section 53A of the EP Act and the Regulations will be maintained.	For the purposes of the EP Act, 'prescribed waste' captures 'PIW', because 'prescribed waste' is broader and can include wastes other than IWs, so there will still be a link between the Regulations and the requirement to hold a permit under section 53A.
	One submission recommended that the Regulations should clearly specify that persons who use a PIW carrier to transport their waste should ensure the carrier is appropriately licensed.	Section 53B of the EP Act provides for this.
<b>Transport - permits</b>	Four submissions sought clarification around the proposed permit condition for reporting spillage, leak escape or other loss.	Any spill should be reported, as it is impossible to impose a volume limit in this instance. 5 kilograms of PCB oil is far more hazardous than 500 kilograms of foundry sand.
	One submission queried what will be on the sticker version of the vehicle permit.	It will include vehicle and permit holder details and permissible waste codes.
	Three submissions recommended changing 'may' to 'must' in draft regulation 17(1) ie the Authority must send a permit holder a notice to renew.	The Regulations have been amended accordingly.
	One submission suggested that there should be capacity for the Authority to suspend a permit if the permit fee is not paid.	The permit expires if payment is not made by the expiry date.

Topic	Comment	Response
	One submission suggested that there would be a significant and onerous change from allowing for temporary suspension while an account remains unpaid to automatic permit expiry.	EPA will send out a notice to renew 60 days prior to the expiry date, which should be an ample period of time to make payment.
Transport - permits	Two submissions suggested that, if declarations are to be used, their provision be mandatory at the time of permit renewal.	The Regulations have been amended accordingly.
	Nine submissions raised concerns about the proposed vehicle declaration replacing physical vehicle inspections.	The sticker will detail what materials can be transported. Transport certificate requirements will still apply to those transporting PIW. EPA will also have resources reallocated to inspections of vehicles presenting at landfills and treaters, increasing our capacity to identify non-compliant vehicles. EPA will provide a self-assessment checklist to assist permit holders.
	One submission suggested that the requirement to provide a vehicle declaration should be imposed through internal EPA process rather than through the Regulations.	It is important that the vehicle declaration requirements appear in the Regulations so that the Authority can insist on declarations. From a practical perspective EPA is being transparent about this requirement by prescribing it, rather than requiring it administratively.
Transport - placarding	One submission recommended that for the purposes of Part C of Schedule 4, waste should be referred to as 'PIW' not 'non-hazardous waste'.	The wastes listed in Part C of Schedule 4 are 'IWs', not 'PIWs'. The title of Part C has been amended to reflect this.
	One submission asked why the threshold for displaying 30XY Emergency Information Panels in Part C of Schedule 4 has been reduced from 1000 kg to 500 kg.	This is to bring the threshold in line with Dangerous Goods thresholds for displaying Emergency Information Panels.
	One submission commented that there appears to be an inconsistency between draft regulation 26 and Schedule 4 Part D paragraph 4(1).	Draft regulation 26 (now regulation 28) provides an exemption from the requirement to hold a permit and transport certificate provisions. The requirements in Schedule 4 Part D are picked up in regulation 15 and so only apply to permitted vehicles.
Transport - small loads exemption	Nine submissions expressed concern about the 200 kg small loads exemption from section 53A and Part 4. One submission recommended that the small loads exemption should be stipulated in kilograms or litres.	The threshold has been reduced to 50 kilograms or litres and the proviso of 'for no fee or reward' has been added.
	One submission asked if waste transport certificates required for loads less than 200 kg.	No, that is the intent of the provision.
Waste database	Two submissions recommended that the database should cover material reuse and other relevant information including location, movement, and storage both for safety and potential future retrieval.	These issues will need to be considered in designing the database. EPA will have information provided with SBR notifications and could choose to publish relevant details provided they are not commercially sensitive.
	One submission suggested that, if the database is used for recording information about wastes that can be used as inputs, there would be no need for process information to be shared.	
	One submission suggested that this information should be maintained for future generations and may necessitate separate disposal of certain types of wastes.	This is something EPA could consider in the future. This could be achieved through a classification by management option.

Topic	Comment	Response
	<p>Two submissions expressed a preference for EPA to maintain the database.</p> <p>One submission recommended that industry should be responsible for contributing to the database.</p>	<p>EPA would be supportive of a database maintained by an independent third party.</p>
	<p>One submission asked if wastes on the database are going to be monitored for quality. EPA would have some level of control if it acted as a broker in this instance.</p>	<p>EPA has capacity to attach monitoring conditions to SBR authorisations, which may assist with quality control. Material diverted to DBR will be subject to the same commercial arrangements as other raw materials or inputs.</p>
	<p>One submission asked about time limits for material on the database. There needs to be a structure set up for disposal of material that is no longer fit for reuse, or that no one wishes to reuse.</p>	<p>There is capacity to dispose spent waste in landfill as a last resort. Note that the DBR and SBR pathways can only be pursued if there someone who can reuse the material at the relevant time, so other PIW will remain subject to the requirements of the Regulations.</p>
	<p>Two submissions asked about reviewing materials sent directly to landfill that could have been listed on the database.</p>	<p>EPA has the capacity to identify some wastes going to landfill that may have a beneficial reuse. EPA would be able to contact the waste producer to identify the best solution for their waste, or issue a management classification if the situation was critical or more widespread.</p>
	<p>Two submissions asked what happens if the waste producer does not have room to keep material they have listed or cannot keep it safely or securely.</p>	<p>EPA can specify volume limits as a condition of SBR authorisation, however the DBR and SBR pathways can only be pursued if there someone who can reuse the material at the relevant time. It cannot be stockpiled pending treatment and reuse.</p>