



INFORMATION BULLETIN

RESPONSE TO COMMENTS (LARGE CONTAINERS) – DRAFT CLASSIFICATION FOR RIGID PACKAGING

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INTRODUCTION

In December 2005, EPA released the information bulletin *Draft classification for rigid packaging* (EPA publication 1024) for comment and consultation. This draft classification proposed that all steel and plastic rigid containers contaminated with prescribed industrial waste must be reused and recycled and that their disposal to prescribed waste landfill be prohibited.

Under the *Industrial waste management policy (Prescribed Industrial Waste)*, EPA can classify wastes based on the opportunities for reuse, recycling or recovery of energy. EPA has classified large rigid containers contaminated with prescribed industrial waste (PIW) in accordance with schedule 1 of the policy.

For the purposes of the classification, **'large containers' refers to all steel and plastic rigid containers with original volume equal to or greater than 200 litres, contaminated with PIW**. Common examples are 205 L (44 gallon) steel drums, 200 L plastic 'Mauser' drums, and 1000 L intermediate bulk containers (IBCs). It excludes flexible packaging types, such as 1000 L bulk bags.

'Large containers contaminated with PIW' refers to containers with a residue of PIW contamination, and also refers to containers that are filled or partially filled with solid PIW.

Smaller containers (below 200 litres in volume) were also discussed in the *Draft classification for rigid packaging*. Several submissions raised concerns about the impact of EPA mandating the reuse or recycling of smaller containers, discussed further below. EPA has engaged Hyder Consulting to further assess the impact of mandating the reuse or recycling of smaller containers. EPA will determine the practicability of classifying smaller containers based on the findings of this impact assessment.

EPA has granted a phase-in period until 1 July 2007 to allow for industry to implement the changes in management practices required. 1 July 2007 has been

set as the implementation date for the following reasons:

- Reuse and recycling options are currently available.
- By removing large containers from PIW landfill, industry will not need to classify its large containers by hazard.
- Industry will avoid the increase in PIW landfill levies scheduled to take effect from 1 July 2007.

EPA sought and received comment on the *Draft classification for rigid packaging*. Feedback was received from several public forums held around the state, and from written submissions.

Public forums were held in Melbourne, Traralgon, Wangaratta, Geelong, and Bendigo. Thirteen written submissions were received from (in order of receipt) Brambles Industrial Services, Qenos, Resource GV (Goulburn Valley Regional Waste Management Group), Visy Industrial Packaging, Victorian Waste Management Association (VWMA), Swan Hill Rural City Council, Waste Reduction Group (South West Regional Waste Management Group), Royal Automobile Club of Victoria (RACV) Ltd, Corangamite Shire Council, Environment Victoria, Plastics and Chemicals Industries Association (PACIA), Exxon Mobil, and ACCORD. Comments from the public forums and submissions have been summarised below.

EPA has now finalised the *Classification for large containers contaminated with prescribed industrial waste* (available on EPA's website as publication 1100 at www.epa.vic.gov.au), incorporating comments from submissions and forums.

Comments and EPA's response have been categorised into the following:

1. the size (volume) of contaminated rigid containers included in the classification
2. exemptions and exclusions from the classification
3. national uniformity and COAG Principles
4. impacts of implementation.

These sections are discussed in detail below.

Comments on the draft of an editorial nature have been noted, but have not been specifically addressed in this document.

SUMMARY OF PUBLIC COMMENT AND RESPONSE

1. Size of contaminated rigid containers included in the classification

Several comments were received in relation to the size of containers to be included in the classification and the viability of including smaller containers and are discussed below.

Summary of comment

EPA did not specify the size of rigid containers to be included in the classification and sought industry feedback on the most appropriate volume threshold to include. EPA received support for the proposed classification of rigid packaging down to 200 litres in volume. Several submissions also supported mandating reuse down to lower volumes.

Comments included:

- Environment Victoria: 'Generally, we support the proposed reclassification of rigid packaging containing Prescribed Industrial Waste (PIW) to effect a ban from landfill disposal of containers of all sizes, except with EPA-approved exemptions.'
- PACIA wrote, 'Following consultation with a range of member companies PACIA is aware that there is limited concern from industry regarding larger containers, as there is awareness and use of existing facilities for reconditioning and recycling, and of the end-markets that exist for these products.'
- 'ACCORD members support the current proposals for the classification of large containers.'
- Qenos stated, 'the 20 litre limit mentioned at the AiG presentation on the 23rd February sounds reasonable as a minimum'.
- 'Visy Industrial Packaging supports the proposed classification for rigid packaging.'
- VWMA recommended that EPA 'ban from landfill containers 20 L and over'.

Several submissions raised concerns over the ability to recover smaller containers (less than 200 litres).

Comments included:

- ExxonMobil: 'There is a lack of facilities that can clean and recycle the containers. One key concern is that the proposed 12 month timeframe is unlikely to be sufficient time for new recycling/cleaning plant to be constructed.'

- Qenos: 'The issue of minimum container size that this proposal applies to is very important. Special handling of a large number of small containers could become quite costly and burdensome for both the generator and the reconditioners.'
- VWMA: 'Smaller containers (paint etc) will bring about confusion especially from the domestic scene.'

Response to comment

EPA has considered the comments raised in relation to container size to be included in the classification. EPA acknowledged in the draft classification that there may be limited options for smaller container recovery and specifically sought feedback on these limitations. These limitations were confirmed during consultation. EPA has since engaged Hyder Consulting to assess the impact of mandating reuse or recycling of smaller containers contaminated with PIW.

The majority of submissions and comments at forums from stakeholders supported mandating reuse and recycling of containers equal to or above 200 litres in volume; therefore EPA has mandated the reuse or recycling of large rigid containers contaminated with PIW.

2. Exemptions and exclusions from the classification

This section discusses concerns raised over the ability to remove difficult residual PIW from rigid containers, in particular small containers, and the need for exclusions and/or exemptions to be permitted.

Summary of comment

Submissions and comments made in public forums raised concerns over the difficulty of reuse or recycling of containers with PIW residual that is difficult to remove. Qenos, for example, commented, 'The main issue will be in the ability to effectively clean the containers to be free of PIW. There may be certain wastes, such as the very resinous wastes mentioned in the proposal, or hard setting solid polymer wastes, which are very difficult to remove from drums, etc.'

Comments made during consultation forums raised concerns over the ability of the waste treatment sector (who dispose the majority of large containers to PIW landfill) to remove difficult residuals from all the containers that they currently dispose.

Response to comment

Based on feedback during consultation EPA understands that the number of large rigid containers that cannot be avoided or recovered, as a result of a difficult-to-remove residual, is very low. In addition, waste treaters have been in the process of upgrading residual removal and recovery technologies to enable

improved rates of recovery for large and smaller containers.

EPA recognises there may still be instances where a large container has a residual that is too difficult to remove or that is filled or partially filled with solidified waste. EPA expects the number of such larger containers to be very low and therefore has decided to require that industry apply for an alternative classification on a case-by-case basis. Applications should set out reasons why the classification should not apply in their case, and justify an alternative classification. Any alternative classification must result in the best environmental outcome.

For plastic containers in particular, EPA recognises that often the base section of the container becomes stained and impregnated with contaminants, deeming the container unsuitable for recycling. Therefore, EPA has excluded contaminated sections of containers from the classification. The contaminated section should be removed to enable recovery of the uncontaminated section of the container.

As noted in the classification document for large containers, disposal to PIW landfill of asbestos dust and friable asbestos in large containers is permitted in accordance with EPA Publication 364, *The transport and disposal of waste asbestos*. The use of large containers contaminated with other PIW for asbestos transport is not permitted.

3. National approach and COAG principles

The issue of creating a nationally uniform approach and creating policies consistent with Council of Australian Governments (COAG) principles and EPA's reasoning behind adopting a State-specific policy is discussed in this section.

Summary of comment

PACIA and ACCORD's submissions commented that the proposed classification does not present a nationally consistent approach and also requested clarification of how COAG principles had been incorporated in the development of the draft classification.

Specifically PACIA's and ACCORD's submissions included:

'PACIA/ACCORD supports the Australian Government's approach to regulatory best practice and recommends that the Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard Setting Bodies (COAG Principles) should be rigorously applied in the consideration of any regulatory response to a perceived market failure. PACIA/ACCORD supports the following as good regulatory practice principles.

Regulatory solutions should:

- be the minimum required to achieve the stated objectives;
- adopt a risk management approach to forming and administering regulation;
- minimise the impact on competition;
- be compatible with international standards and practices;
- cause no restriction to international trade;
- be developed in consultation with the groups most affected and be subject to regular review;
- be flexible, not prescriptive and be compatible with the business operating environment;
- standardise the exercise of bureaucratic discretion; and
- have a clear delineation of regulatory responsibilities and have effective and transparent accountability mechanisms
- be nationally consistent.'

Response to comment

In the development of the classification for larger containers contaminated with PIW, EPA has applied the requirements of the IWMP (PIW), which requires that EPA assess environmental hazard, technical, logistical and financial considerations. These considerations effectively take into account the COAG principles and apply them to the state of Victoria. The Victorian Government has made a commitment to eliminate prescribed industrial waste disposed to landfill and the community has made it clear that they expect PIW to be reduced. EPA, through implementing the *Industrial Waste Management Policy (Prescribed Industrial Waste)* has taken a lead role in requiring the reuse and recycling of PIW.

The disposal of steel and plastic large containers represents a significant loss of resources and occupies valuable landfill space. Rigid containers also present a possible means of illegal disposal of liquid PIW into landfill; therefore EPA will continue to work towards removing packaging waste from landfill.

From 1 July 2007 landfill levies for PIW will increase significantly. By avoiding the disposal of large containers to landfill, industry will avoid paying the increased levy. By prohibiting disposal EPA aims to provide some certainty to reconditioning and recycling markets to enable investment in improved recovery technologies.

4. Impacts of implementation

Summary of comment

A number of issues were raised in relation to implementation of the draft classification as summarised below:

- the diversion of PIW to sewer
- the net environmental impact of recovering rigid packaging
- access to reuse and recycling facilities in rural communities
- the cost of recovering large containers.

Several submissions raised concerns over the diversion of PIW to sewer as a result of cleaning containers. EPA expects that where industry clean containers on-site that they manage effluent appropriately, including complying with limits in trade waste agreements. Where sites are not set-up to manage the effluent then the contaminated containers will need to be sent to facility licensed by EPA to process these wastes.

A net positive environmental gain from the recovery of industrial packaging made from plastic or steel has been demonstrated through projects such as *Life Cycle Impact Data for Resource Recovery from Commercial and Industrial and Construction and Demolition Waste in Victoria*, prepared by RMIT University. Large containers have significant embodied material resource value relative to smaller containers and EPA believes that there is sufficient data to demonstrate that the recovery of large industrial steel and plastic containers has a positive environmental gain and does not require a separate life cycle assessment.

Concerns were raised at several rural forums regarding the lack of facilities available to collect containers contaminated with PIW, and also the cost of transporting PIW containers to metropolitan area for reuse or recycling. There are only two landfills licensed to receive containers contaminated with PIW, and they are both based in Melbourne. Therefore, the only legal disposal options are currently in the metro area. EPA recognises the need to improve the ability to collect industrial packaging in rural areas and EPA will continue working with government agencies and recyclers to improve facilities for plastics and steel collection in rural areas. For PIW containers to be recycled or disposed to solid industrial or municipal waste landfill the PIW must first be removed from the container. The *drumMUSTER* program is an example of the ability to collect containers from regional areas. By removing the PIW residual before collection the *drumMUSTER* program has been able to manage their containers as a non-PIW.

Concerns over increased cost of disposal for rigid packaging were mainly focused on smaller packaging. As discussed in the draft classification, EPA's consultation with the waste treatment industry found that treatment costs for recovery of all larger containers would not be greater than current landfill disposal costs. On 1 July 2007, EPA's hazard classification guidelines come into effect, and at the same time the landfill levy for PIW is scheduled to

increase. Under the new hazard classification requirements, generators of large containers contaminated with PIW would be required to classify their containers by hazard, which may prove difficult especially if the PIW residuals are heterogeneous (as is often the case for containers used to deliver waste/s for treatment). By avoiding potentially complex hazard classification, and increases in the PIW landfill levy, industry should benefit from the classification and the treatment industry's response in creating comprehensive and competitive recovery options.

FURTHER INFORMATION

- EPA publication 1100, *Classification for large containers contaminated with prescribed industrial waste* (available for download from www.epa.vic.gov.au/publications).