

Environmental Protection and Other Legislation (Waste) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 124

made under the

Environmental Protection Act 1994

General Outline

Short title

Environmental Protection and Other Legislation (Waste) Amendment Regulation 2019

Authorising law

Section 580 of the *Environmental Protection Act 1994*

Policy objectives and the reasons for them

In Queensland, the *Environmental Protection Act 1994* (EP Act) and its subordinate legislation, the *Environmental Protection Regulation 2008* (EP Regulation), provide a framework for classifying waste and regulating waste management activities which have the potential to cause environmental harm. These are referred to as the regulated waste categorisation framework and the waste-related environmentally relevant activity (ERA) framework.

In 2018, a review of the regulated waste categorisation and waste-related ERA framework was completed. The objective of the review was to amend the EP Regulation to reform and modernise the way that Queensland classifies and manages its waste.

The review included extensive consultation with government, waste industry and other stakeholders. A consultation Regulatory Impact Statement (RIS) and decision RIS were endorsed by the Office of Best Practice Regulation (OBPR), within the Queensland Productivity Commission (QPC), in accordance with *The Queensland Government Guide to Better Regulation* (the Guide).

To facilitate these amendments, the following subordinate legislation was approved and notified on the Office of the Queensland Parliamentary Counsel website.

The *Environmental Protection (Regulated Waste) Amendment Regulation 2018* was notified on 5 October 2018 and commenced on 4 February 2019. It introduced risk-based regulated waste categorisation and management framework. Categorisation is determined by the nature and concentration of the hazardous properties contained within a waste. The risk-based categories are category 1 (highest risk), category 2 (moderate risk) and not-regulated (lowest risk).

The *Environmental Protection (Waste ERA Framework) Amendment Regulation 2018* was notified on 23 November 2018 and commences in 2 stages. Stage 1 commenced on notification to provide for urgent provisions necessary to implement the container refund scheme, the waste levy and to meet stakeholder expectations relating to on-farm composting activities, land disposal of clean earth and end-of-life tyre storage. Stage 2 is scheduled to commence on 1 July 2019 and will introduce the remaining waste-related ERA framework changes.

Following finalisation of this subordinate legislation a number of matters have been identified that require subsequent amendments to the EP Regulation to clarify the regulatory requirements and ensure that they properly align with the policy intent.

Achievement of policy objectives

The objective of the *Environmental Protection and Other Legislation (Waste) Amendment Regulation 2019* (amendment regulation) is to amend the EP Regulation so that it aligns with the policy intent to provide improved risk-based regulation of waste management activities, consistent with the decision RIS.

The amendment regulation will achieve the policy objective by:

1. correcting an administrative error in the transitional provisions so that existing ERA approvals for tyre recycling, autoclaving, waste disposal and waste transfer activities correctly transition to the new ERA framework;
2. correcting an error to enable annual fees for regulated waste transport activities to be correctly calculated when vehicles are added or removed within an annual period;
3. clarifying the regulatory requirements for on-farm composting activities to reduce unnecessary duplication in regulation;
4. clarifying the regulatory requirements that apply to government entities when waste generated from road or railway maintenance activities is transported to and stored on state land; and
5. making other minor amendments to correct clerical and administrative errors.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objectives of the EP Act, which is, to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (ecologically sustainable development).

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

Alternative options were considered through the regulatory impact assessment that included a consultation RIS and decision RIS. The amendment regulation is consistent with the approach provided in the decision RIS.

Benefits and costs of implementation

The amendment regulation remains consistent with the most recent assessment of costs and benefits discussed in the decision RIS.

Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* was considered during the drafting of this regulation and the amendments are consistent with fundamental legislative principles.

Consultation

Key industry stakeholders including the Waste Recycling Industry Association Queensland (WRIQ), Queensland Farmers' Federation (QFF) and the Australian Lot Feeders Association (ALFA) were consulted on the proposed amendment relating to on-farm composting of organic wastes. WRIQ, QFF and ALFA support the proposed amendment, noting that it removes duplication of regulation and continues to provide consistent and appropriate risk-based regulation of on-farm composting of organic wastes.

No additional external consultation was undertaken in relation to the remaining amendments as they correct technical errors or are machinery in nature.

In accordance with the Guide, OBPR was formally consulted on the amendment that relates to on-farm composting activity requirements. OBPR confirmed that the amendment that relates to on-farm composting activity requirements is excluded from further regulatory impact assessment on the basis that the proposal appears to reduce the burden of regulation, with no apparent significant adverse impacts.

For the remaining amendments, DES applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category f – regulatory proposals that correct technical errors or amend legislation to take account of current Queensland drafting practice and Category g – where changes are machinery in nature).

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