



Mr Jamie Merrick
Director General
Department of Environment and Science and Innovation
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Email: OCE.policy@des.qld.gov.au

27 September 2024

Dear Mr Merrick,

Re: Proposed changes to PFAS in regulated waste consultation

Thank you for the opportunity to provide feedback on the proposed amendments to the *Environmental Protection Regulation 2019* to introduce threshold values for per- and poly-fluoroalkyl substances (PFAS) in regulated waste. The Waste Management and Resource Recovery Association of Australia (WMRR) is the national peak body for Australia's waste and resource recovery industry representing the entire breadth and depth of the sector including business organisations, the three (3) tiers of government, universities, and Non-Government Organisations (NGOs), including research bodies. In Queensland, WMRR represents over 380 individual members from than 50 entities. The state generates 10.6 million tonnes each year of waste with a resource recovery rate of 47% delivering an economic value of \$2.02 billion employing 10,290 Queenslanders.

WMRR supports the proposed legislative amendments identified in Section 3 of the *Review of the regulated waste PFAS values in the Environmental Protection Regulation 2019 Consultation Paper August 2024* ("proposed amendments"), however queries why this is being done in isolation and would encourage the proposed amendments to be part of a wholistic review of the broader Queensland regulatory and legislative framework.

As fierce proponents of the resource and waste management hierarchy, WMRR advocates for beyond end-of-life material management and the reinvestment of valuable resources back into the economy in order that *less can be used for longer*. In WMRR's view, Queensland has already taken a number of positive steps towards establishing the economic and regulatory settings required to support the sustainable growth of the state's WARR industry. These include the implementation of the waste disposal levy ('the Levy'), increased funding to WARR industry, the statewide introduction of a mandated extended producer responsibility (EPR) scheme for beverage containers (the *Containers for Change* program), the adoption of avoidance policies – with the increased elimination of single-use plastic items, and the release of the Energy from Waste policy. The proposed amendments are another step in the right direction, by enabling low-risk PFAS impacted waste materials to be diverted from landfill, and suitably managed as part of Queensland's circular economy.

In reviewing the proposed amendments, WMRR makes the following comments for consideration with a view to ensuring that they are clearly understood and align with other regulatory instruments. For ease of reference, the potential legislative amendments have been addressed in turn to reflect the structure of the consultation paper.

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3.1 Introduction of non-regulated threshold values for tested PFAS contaminated waste

WMRR notes that the current categorisation of waste in Queensland under the *Environmental Protection Regulation 2019* (“EP Regulation”) establishes a risk-based classification system with three (3) categories of waste:

- i. category 1 regulated waste (highest risk);
- ii. category 2 regulated waste (moderate risk); and
- iii. general waste (non-regulated waste).

Testing of regulated wastes is only required if a default classification is not applied under the EP Regulation (Schedule 9, Part 1) which identifies 78 types of waste as category 1 or category 2 regulated wastes. The proposed amendment has the effect of requiring regulated wastes to undergo testing to demonstrate low PFAS levels in order to be exempt and instead, classified as a non-regulated or general waste.

The proposed amendment to establish PFAS threshold values to enable low risk PFAS to be non-regulated provides an obvious opportunity for the for safe, fit-for-purpose reuse of low risk PFAS impacted soils that would otherwise require landfill at the highest levy rate. WMRR notes that the threshold values mirror those in the Victorian EPA’s *Classification of PFAS impacted soils* which provides a legal pathway for reuse of waste soil containing low level PFAS. WMRR also appreciates the threshold values in the proposed amendment are consistent with *ERA53(a) Organic material processing by compost* and the current NEMP 2.0.

In WMRR’s view the harmonisation across jurisdictions with regard to the accepted “safe” low-level of PFAS is beneficial to the WARR sector, and the reinvestment of the recovered solid waste (where it is appropriate and safe to do so) aligns with landfill diversion and resource recovery targets. However, whilst the prescribed threshold values provide greater certainty with regard to the management of PFAS containing materials, it is not so clear to industry as to which waste materials should be considered regulated wastes and tested to the proposed thresholds. WMRR members have expressed concern that the regulatory testing requirements under the EP Regulation (Schedule 9, Part 1) are difficult to decipher. Given the widespread use of PFAS compounds in everyday consumer items and its bio-accumulative nature, there is uncertainty around whether some widely considered general wastes should be considered regulated wastes.

For example, the ubiquitous nature of PFAS in the environment means that if tested, much of the material generated from the construction and demolition (C&D) sector would likely contain levels of PFAS above the proposed thresholds. Materials such as concrete, tiles, piping and other building materials are far more likely to include PFAS and other contaminants than other types of general waste. However, these materials are already commonly accepted as general waste. In other Australian jurisdictions, such wastes have been specifically identified in waste classification codes as general waste to avoid confusion. Taking a commonsense approach and explicitly naming those material streams that can be exempt from testing and treated as general waste (due to their low-level PFAS risk being well established from the outset), would mitigate any potential confusion in the Queensland WARR industry, particularly given so many operate in multiple jurisdictions, about if and when testing is required.

With this in mind, as stated above, it would be prudent for DESI to consider a broader review, including the 78 types of waste provided in Schedule 9, Part 1 of the EP Regulation to provide clear and certain guidance to identify specific low risk PFAS containing waste streams for default categorisation as general waste using common product name examples (i.e.: tiles and ceramics). Other jurisdictions such

as NSW have implemented guidance documents that pre-classify common materials as general wastes, providing industry and the community with certainty as to when a material can be treated as a general waste and not necessitate testing. Furthermore, there needs to be alignment with the environmental authority for general waste landfills so that the newly considered general wastes that fall below the proposed thresholds can be disposed as general wastes.

Whilst it is appreciated that the proposed amendment will create opportunities for material to be reused or repurposed appropriately, there may also be material that requires safe disposal. However, a general waste landfill facility is currently not authorised to accept any PFAS concentration at all. It also follows that the acceptance criteria for general waste at landfills needs to mirror the proposed amendment.

3.2 Clarify uncertainty where soil is managed under a soil disposal permit or a site management plan

WMRR supports the proposed amendment to clarify that contaminated soil from a site listed on the Environmental Management Register (EMR) or Contaminated Land Register (CLR) is not a regulated waste. This mitigates potential confusion for soils already appropriately risk managed by the existing framework. WMRR welcomes measures that provide certainty and clarity of regulatory responsibilities for industry and stakeholders.

3.3 Clarify definition of persistent organic pollutants

WMRR supports the proposed amendment. The proposed threshold limits include specific reference to PFOS and other PFAs (which WMRR agrees would include perfluorooctane and its salts). It follows that these compounds should be considered as PFAS and be measured in accordance with the proposed PFAS thresholds rather than in accordance with the thresholds for persistent organic pollutants.

WMRR welcomes the proposed amendments to the EP Regulation to introduce threshold values for PFAS in regulated waste as part of a broader approach to provide a clear and certain regulatory framework for the WARR sector so that government, industry and the community can be confident in the safe and beneficial reuse of recovered products. Removing regulatory barriers to resource recovery of low-risk secondary raw materials is fundamental to the success of Queensland's circular economy and achieving landfill diversion targets.

It should be noted that our further comments in regard to the proposed amendment echo our [recent correspondence](#) with the Queensland Premier (and copied to the Hon. Leanne Linard and other political leaders) addressing the need for a wholistic review of the Queensland regulatory framework, and our request for it to be a key election priority.

Please contact the undersigned if you wish to further discuss WMRR's submission.

Yours sincerely



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Chief Executive Officer

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