



End of Waste Code
Coal Combustion Products (ENEW07359717)

Waste Reduction and Recycling Act 2011



Queensland
Government

Version history

Version	Date	Description of changes
1.00	01 January 2019	Commencement of EOW code
2.00	08 March 2021	Amendment of EOW code - approval by gazette on 26 March 2021
2.01	23 June 2023	Minor update to reflect the definition of waste moving into the <i>Waste Reduction and Recycling Act 2011</i> . This does not impact the interests of the producer or user of the resource.
2.02	28 March 2024	Updated department name to reflect machinery of government changes and the definition of serious or material harm.
2.03	19 August 2024	Updated Appendix A to bring information up to date with legislative requirements changed in EPOLA 2024, including the introductions of the GED offence and Duty to Restore, changes to Duty to notify provisions, updated terminology and inclusion of environmental nuisance as serious or material environmental harm.

Prepared by: Waste Assessment, Department of Environment, Science and Innovation

© State of Queensland, 2024

The Department of Environment, Science and Innovation acknowledges Aboriginal peoples and Torres Strait Islander peoples as the Traditional Owners and custodians of the land. We recognise their connection to land, sea and community, and pay our respects to Elders past and present.

The department is committed to respecting, protecting and promoting human rights, and our obligations under the Human Rights Act 2019.

The Queensland Government supports and encourages the dissemination and exchange of its information. This work is licensed under a Creative Commons Attribution 4.0 International License.



Under this licence you are free, without having to seek our permission, to use this publication in accordance with the licence terms. You must keep intact the copyright notice and attribute the State of Queensland as the source of the publication.

For more information on this licence, visit <https://creativecommons.org/licenses/by/4.0/>

If you need to access this document in a language other than English, please call the Translating and Interpreting Service (TIS National) on 131 450 and ask them to telephone Library Services on +61 7 3170 5470.

This publication can be made available in an alternative format (e.g. large print or audiotape) on request for people with vision impairment; phone +61 7 3170 5470 or email <library@des.qld.gov.au>.

March 2024

Contents

1. Explanatory Statement.....	4
2. Guidance.....	4
2.1 Resource use versus Activity	4
2.2 Resource versus Waste	4
2.3 Failure to comply.....	4
2.4 Lawfulness of the activity	5
3. Period of this EOW code.....	5
4. Waste to which this EOW code applies	5
5. Person to whom this EOW code applies	5
5.1 Registered resource producers of the resource	5
5.2 Resource users.....	5
6. Registered resource producer requirements	6
7. Conditions of use	9
8. Definitions.....	12
Appendix A —General obligation for all persons	15

1. Explanatory Statement

This End of Waste (EOW) code for **coal combustion products** has been issued by the **chief executive** in accordance with section 159 of the *Waste Reduction and Recycling Act 2011* (WRR Act).

This EOW code states when the **coal combustion products** become a **resource** and any relevant requirements and/or conditions for its use. If the **resource** is not being used in accordance with the relevant requirements and/or conditions of this EOW code, or another type of permit that allows for its use, it is considered a waste under section 8AA of the WRR Act and must be disposed of appropriately at a facility that is **lawfully** able to receive the waste.

2. Guidance

2.1 Resource use versus Activity

Under section 155 of the WRR Act, a waste stops being a waste and becomes a **resource** when it meets the requirements and conditions of an EOW code. Under section 159 of the WRR Act, an EOW code specifies the circumstances when a waste becomes a resource; how it must be used to be considered a resource; when it is no longer considered a resource but a waste instead; and conditions that must be complied with by resource users and registered resource producers.

An Environmental Authority (EA) under the *Environmental Protection Act 1994* (EP Act) is required where an activity being undertaken triggers the threshold for any environmentally relevant activity (ERA). This means that treating or processing the waste to meet the resource quality criteria under the EOW code may require an EA under the EP Act if the activity meets the threshold for an ERA.

2.2 Resource versus Waste

A waste that is a **resource** under an EOW code is considered a **resource** only for the use(s) approved in an EOW code. To be considered a resource under the EOW code, the material used as the resource must meet the requirements of the EOW code and be used in accordance with the conditions of the EOW code, otherwise it is considered a waste and must be managed in accordance with waste management requirements under the EP Act and the WRR Act and their subordinate legislation.

A **resource** under an EOW code, is deemed to be a waste again, if it is not used in accordance with the EOW code; if it is disposed of at a waste disposal site; or if it is deposited at a place in a way that would, apart from its use approved under an EOW code, constitute a contravention of the general littering provision (section 103) or the illegal dumping of waste provision (section 104) under the WRR Act.

2.3 Failure to comply

It is an offence under section 158(1) of the WRR Act for a **registered resource producer** to produce the **resource**, or use, sell or give away the **resource** unless they comply with the requirements under an EOW code. Further, it is an offence under section 158(2) of the WRR Act for a **person** to use the **resource** in a way, or for a purpose, that does not comply with an EOW code for the **resource**. These offences carry a maximum penalty of 1,665 penalty units for an individual and 8,325 penalty units for a corporation¹.

Please refer to Appendix A of this EOW code for general obligations for all **persons** operating under this EOW code, which includes the **resource users**.

¹ The value of a penalty unit is stated in the *Penalties and Sentences Regulation 2015* (Qld).

2.4 Lawfulness of the activity

The issuing of this EOW code for the use of the **resource** does not warrant or imply the lawfulness of the activity under all legislation, or that approvals necessary under other legislation have or will be approved. It is the responsibility of the **registered resource producer** and **resource user** to identify and obtain all other approvals necessary for the relevant activities.

3. Period of this EOW code

This EOW code takes effect from the day of gazettal of this EOW code and remains in force until it is amended, cancelled or suspended by the **chief executive**².

4. Waste to which this EOW code applies

This EOW code is limited to **coal combustion products** sourced from coal fired power stations and coal fired boilers where at least 90% of the fuel source is coal and up to 10% of the fuel source can be **biomass** material (e.g. wood chip, **biosolids**), and where no other source of fuel is mixed other than petroleum based gas or liquid fuel for ignition support. These **coal combustion products** become a **resource** when the requirements and conditions under this EOW code are met.

5. Person to whom this EOW code applies

5.1 Registered resource producers of the resource

5.1.1 A **registered resource producer** for this EOW code must comply with the stated registered resource producer requirements in Section 6 – Registered Resource Producer Requirements.

5.2 Resource users

5.2.1 The **resource user** must only use the **resource** in a way, and for a purpose allowed under this EOW code.

5.2.2 The **resource user** must comply with the stated conditions of use in Section 7 – Conditions of Use.

² If an EOW code is to be amended, cancelled or suspended, the chief executive will provide an opportunity to make written submissions by providing a proposed action notice to the registered resource producers; and publishing the proposed action notice on the chief executive's [website](http://www.des.qld.gov.au) (www.des.qld.gov.au).

6. Registered resource producer requirements

Registration under this EOW code	
(6.1)	Prior to operating under this EOW code, the producer of the resource must register with the chief executive by giving a notice in the approved form ³ to become a registered resource producer for this EOW code.
Approved resource	
(6.2)	The approved resource is coal combustion products which complies with <i>Requirement (6.3)</i> of this EOW code.
(6.3)	The registered resource producer must not use, sell or give away the resource under this EOW code unless the resource complies with all of the following criteria and quality characteristics: <ul style="list-style-type: none"> a) the resource does not exceed the quality criteria stated in <i>Table 1: Resource quality criteria</i>; and b) where biomass used as additional fuel source includes biosolids containing per- and poly-fluoroalkyl substances (PFAS) contamination, the resource has been combusted at higher than 1100°C for at least 2 seconds.

Table 1 – Resource quality criteria

Quality characteristics	Limits for specific uses *		
	Total Maximum Concentration (mg/kg dry weight unless otherwise specified)		
	Bound applications	Unbound applications	Soil conditioner, soil product and direct land application
Arsenic (total)	NS	20	20
Beryllium	NS	NS	60
Boron	NS	100**	10**
Cadmium	NS	1	1
Chromium (total)	NS	100	100
Chromium (III)	NS	NS	100
Chromium (VI)	NS	1.5	1
Cobalt	NS	100	100
Copper	NS	100	100
Lead	NS	50	50
Mercury	NS	1	1
Molybdenum	NS	NS	10
Nickel	NS	60	60
Selenium	NS	10	5

³ The approved form, *Registered Resource Producer for an EOW code*, is available on the chief executive's [website](http://www.des.qld.gov.au) (www.des.qld.gov.au).

End of waste code
Coal Combustion Products (ENEW07359717)

Zinc	NS	200	200
Electrical conductivity	NS	NS	10(dS/m)
pH	NS	5 – 12.5 (pH units)	5 – 12.5 (pH units)
Analysis of the compounds below is only required if the resource is generated from the use of biosolids containing PFAS contamination			
Sum of PFOS and PFHxS	0.01	0.002	0.0002***
PFOA	0.02	0.004	0.0002***
PFOS (PFHxS not detected)	NS	0.001	0.0002***
PFHxS (PFOS not detected)	NS	0.003	0.0002***
PFBA, PFPeA, PFHxA	NS	0.001	0.0002***
Sum C ₉ -C ₁₄ Perfluoroalkyl carboxylic acids	NS	0.01	0.0002***
Perfluoroalkyl sulfonamides	NS	0.001	0.0002***
N:2 Fluorotelomer Sulfonic acids	NS	0.004	0.0005***
Sum of PFAS	0.1	0.01	0.0002***

NS = Not specified (monitoring of each element is still required).

* measured using **reference test methods**

** measured using hot CaCl₂ method

*** or the **limit of reporting** (LOR), whichever is smaller

Resource monitoring

- (6.4) The **registered resource producer** must sample, measure and record the composition of the **resource** for the quality characteristics in *Table 1 - Resource quality criteria* at a minimum of the following frequency:
- a) if **biomass** is used that contains or is reasonably likely to contain PFAS, every six months;
 - b) otherwise, every six months, until statistical analysis has been undertaken that demonstrates no significant (at minimum 95% Confidence Interval) difference in the mean and standard variation of contaminant concentrations over three years, then annually thereafter.
- (6.5) All sampling and monitoring required under this EOW code must be carried out by an **appropriately qualified person**.
- (6.6) All analysis required under this EOW code must be carried out by a laboratory that has **NATA** certification, or an equivalent certification, for such analyses.

Monitoring for PFAS

End of waste code
Coal Combustion Products (ENEW07359717)

(6.7)	Where biomass used as additional fuel source includes biosolids containing PFAS contamination, the registered resource producer must sample, measure and record the quality of resource for PFAS for at least Total Oxidisable Precursor Assay (TOPA) with a minimum: <ul style="list-style-type: none"> a) C₄-C₁₄ perfluoroalkyl carboxylic acids; b) C₄-C₁₀ perfluoroalkyl sulfonic acids; c) perfluoroalkyl sulphonamides; and d) n:2 flourotelomer sulfonic acids.
(6.8)	When sampling, measuring and recording the quality of resource for PFAS in accordance with <i>Requirement (6.7)</i> : <ul style="list-style-type: none"> a) analysis techniques must achieve lowest practicable limits of reporting; b) analysis techniques must achieve maximum extraction of PFAS from samples following Australian Standard Leaching Procedure (ASLP) test, <i>Australia Standard AS4439</i>; c) quality assurance measures for every TOPA measurement must be complied with <i>Section 19.2 of the PFAS National Environmental Management Plan Version 2.0 – January 2020</i>, unless superseded by a revised or new version of the document, including checks against PFAS results for corresponding non-oxidised samples; and d) any advice from the chief executive concerning improvements in analysis techniques must be implemented.
Information to be provided	
(6.9)	The registered resource producer must make the following available to any person to whom they provide the resource each time the resource is provided for use: <ul style="list-style-type: none"> a) a copy of the EOW code for <i>Coal Combustion Products (ENEW07359717)</i>⁴; b) the registered resource producer's business name, ABN and address; c) confirmation in writing that the resource being supplied is compliant with <i>Requirement (6.3)</i> of this EOW code; d) a most recent certificate of analysis for the quality characteristics listed in <i>Table 1: Resource quality criteria</i>; e) safety data sheet for the resource; and f) where biomass used as additional fuel source includes biosolids containing per- and poly-fluoroalkyl substances (PFAS) contamination, a notification indicating the same.
Records	
(6.10)	The registered resource producer must keep the following records each time the resource is provided for use: <ul style="list-style-type: none"> a) origin of the resource (e.g. address, lot on plan and/or GPS coordinates); b) quantity (in tonnes or cubic metres) of the resource supplied; c) quality criteria of the resource;

⁴ This can be a physical copy, an electronic copy or a link to the chief executive's [website](http://www.des.qld.gov.au) (www.des.qld.gov.au) where this EOW code is available.

End of waste code
Coal Combustion Products (ENEW07359717)

	<ul style="list-style-type: none"> d) date of dispatch of the resource; e) business name, ABN and address of the person receiving the resource; and f) if the biomass contains or may contain PFAS, the description of biomass, percentage by dry weight in total fuel mass and PFAS analysis results.
(6.11)	<p>All records required to be kept by the registered resource producer under this EOW code must be:</p> <ul style="list-style-type: none"> a) kept by the registered resource producer for a period of not less than five (5) years; and b) provided to the chief executive upon request, in the format requested and in the time period specified.
Notification of emergencies, incidents and breaches	
(6.12)	Any breach of a requirement of this EOW code must be reported to the chief executive within 24 hours of becoming aware of the breach ⁵ .
(6.13)	Records of any breach of a requirement of this EOW code, including full details of the breach and any subsequent actions taken, must be kept and provided to the chief executive upon request, in the format requested and in the time period specified.

7. Conditions of use

Approved uses	
(7.1)	<p>The approved resource is coal combustion products that comply with <i>Requirement (6.3)</i> of this EOW code and is used for the following purposes:</p> <ul style="list-style-type: none"> a) in bound applications in accordance with <i>Condition (7.2)</i>; b) in unbound applications in accordance with <i>Conditions (7.3)</i> and <i>(7.4)</i>; c) as a feedstock in the manufacture of soil conditioner in accordance with <i>Conditions (7.5)</i> and <i>(7.6)</i>; d) as a feedstock in the manufacture of soil product in accordance with <i>Conditions (7.5)</i> and <i>(7.7)</i>; and/or e) in direct land application in accordance with <i>Conditions (7.5)</i> and <i>(7.8)</i>.
Resource use in bound applications	
(7.2)	<p>The resource used in bound applications must only be used in manufacturing processes and applications which encapsulate or chemically transform and incorporate the resource into a final product that complies with relevant Australian Standards⁶ for that product. Final products for the purpose of this EOW code are limited to:</p> <ul style="list-style-type: none"> a) asphalt; b) binder for road stabilisation pavements;

⁵ Reporting can be via the **chief executive's** Pollution Hotline (1300 130 372 – option 2) or via online reporting through the **chief executive's website** (www.des.qld.gov.au).

⁶ In the absence of Australian Standards for the product, it is required that the final product meets any other appropriate industry standards (e.g. Registered Professional Engineer of Queensland certified technical specifications).

End of waste code
Coal Combustion Products (ENEW07359717)

	<ul style="list-style-type: none"> c) cement products; d) cementitious mixes; e) ceramic products; f) concrete products; g) geopolymers; h) insulators; i) paints, coatings and adhesives; j) rigid and composite pavements structures; k) rubbers; and l) varnishes, plastics, ceramics, ultra-light concrete and metal alloys.
Resource use in unbound applications	
(7.3)	<p>Use of the resource in unbound applications is limited to the below applications on standard areas:</p> <ul style="list-style-type: none"> a) pipe bedding materials; b) sub-surface drainage; c) road pavement, base, sub-base and subgrade structures; d) select layers which act as working platforms at the top of earthworks; and e) engineered construction works⁷.
(7.4)	<p>Resource users undertaking an unbound application must not use the resource:</p> <ul style="list-style-type: none"> a) below the groundwater table; b) within 50m of a water supply bore; c) if the site of use has pH greater than 8; and d) if the resource is produced using biomass that contains, or is reasonably likely to contain, PFAS, it must not be used in any of the following circumstances: <ul style="list-style-type: none"> • as fill, burial or use less than 2.0 metres above the seasonal maximum groundwater level; • within 200 metres of any surface water body or wetland area; • in (or in the vicinity of and able to be transported to): <ul style="list-style-type: none"> i) areas which can be identified with any of the nine matters of national environmental significance protected under the Environmental Protection Biodiversity Conservation Act 1999 (Commonwealth); and ii) areas of environmental significance as identified in State or local government legislation.

⁷ Use of the coal combustion products at a **facility** as fill material must be carried out in accordance with the requirements of an environmental authority that authorises Environmentally Relevant Activity (ERA) 60 as prescribed under Schedule 2 of the Environmental Protection Regulation 2019. For the purpose of filling a void, the coal combustion product is not considered as a resource.

End of waste code
Coal Combustion Products (ENEW07359717)

	<ul style="list-style-type: none"> • as fill, burial or use in any location potentially affected by reasonably foreseeable future rises in groundwater or sea level, or near stormwater drains; and • within 250 metres of any bore used for drinking water, edible crop or fodder irrigation, domestic supply or stock watering.
Resource use in the manufacturing of soil conditioner, soil product and/or in direct land application	
(7.5)	A person who intends to use the resource in the manufacture of soil conditioner, soil product and/or in direct land application must notify the chief executive by giving a notice in the approved form ⁸ at least 10 days prior to the commencement of using the resource .
(7.6)	The resource must only be used to manufacture soil conditioner that meets the requirements of AS 4454 .
(7.7)	The resource must only be used to manufacture soil product that meets the requirements of AS 4419 .
(7.8)	<p>Resource users undertaking direct land application of the resource must only do so in naturally acidic soils:</p> <ul style="list-style-type: none"> a) to correct the identified agronomic deficiency in land to which it is applied; and b) where the final soil pH does not exceed 8 pH unit after application of the resource.
Records	
(7.9)	<p>The resource user must record the following information for the resource received by the resource user under this EOW code:</p> <ul style="list-style-type: none"> a) business name, ABN and address of the person who supplied the resource; b) date of receipt of the resource; c) quantity (in tonnes or cubic metres) of the resource received; and d) business name, ABN and address of the resource user at the destination of the resource.
(7.10)	<p>All records required to be kept by the resource user under the conditions of this EOW code must be:</p> <ul style="list-style-type: none"> a) kept by the resource user for a period of not less than five (5) years; and b) provided to the chief executive upon request, in the format requested and time period specified.
Notification of emergencies , incidents and exceptions	
(7.11)	Any breach of a condition of this EOW code must be reported to the chief executive within 24 hours of becoming aware of the breach ⁹ .

⁸ The approved form, *Resource user for an EOW code notification form* is available on the chief executive's [website](http://www.des.qld.gov.au) (www.des.qld.gov.au).

⁹ Reporting can be via the **chief executive's** Pollution Hotline (1300 130 372 – option 2) or via online reporting through the **chief executive's** [website](http://www.des.qld.gov.au) (www.des.qld.gov.au).

(7.12)	Records of any breach of a condition of this EOW code, including full details of the breach and any subsequent actions taken, must be kept and provided to the chief executive upon request, in the format requested and time period specified.
--------	---

8. Definitions

Words and phrases used throughout this EOW code **in bold** are defined below. Where a definition for a term used in this EOW code is sought and the term is not defined within this EOW code, the definitions provided in the relevant legislation shall be used.

'ABN' means Australian Business Number which is a unique 11-digit number issued by the Australian Business Register and identifies a business in Australia.

'appropriately qualified person' means a person who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.

'AS 4419' means Australian Standard 4419 Soils for landscaping and garden use (2003), or its most recent version.

'AS 4454' means Australian Standard 4454 Composts, soil conditioners and mulches (2012), or its most recent version.

'biomass' means organic matter used as a source of energy in the combustion process, including dewatered or dehydrated residue from farming, forestry and municipal sewage treatment, such as dried leaves, branches and roots, woodchips, hay, sugarcane bagasse, non-chemical treated timber waste and **biosolids**.

'biosolids' means treated tank sludges and residues from a **sewage treatment plant** including sedimentation tank and clarifier sludges, aerobically and anaerobically digested sludge and cake products from those sewage treatment plants.

'cenosphere(s)' means inert, hollow, essentially thin-walled glass spheres of approximately 10–350 microns having a typical density of 0.4–0.8g/cm³, comprised largely of silica and alumina and filled with air and/or gasses which are formed from coal combustion ash when in a molten state.

'chief executive' means the Department of Environment, Science and Innovation or its successor.

'coal combustion products' means **fly ash**, **furnace bottom ash** or **cenosphere(s)** resulting from the burning of coal within coal fired power stations and coal fired boilers where at least 90% of the fuel source is coal and up to 10% of the fuel source can be **biomass** material (e.g. wood chip, **biosolids**), and where no other source of fuel is mixed other than petroleum based gas or liquid fuel for ignition support.

'emergency(ies)' means a situation where either human health or safety is threatened, or serious or material **environmental harm** has been or is likely to be caused; and urgent action is necessary to protect the health or safety of persons, or prevent or minimise the harm, or rehabilitate or restore the environment because of the harm.

'engineered construction works' means:

- a) where the **resource user** uses the **resource** in accordance with an applicable prescribed engineering standard; and/or
- b) engineer designed civil applications that have been certified by a Registered Professional Engineer of Queensland (RPEQ) as suitable for its intended purpose.

‘environmental harm’ means environmental harm as defined in Chapter 1 of the *Environmental Protection Act 1994*.

‘facility’ means a naturally occurring or constructed hollow, pit or void (e.g. a gully, mining shaft or quarry).

‘fly ash’ means solid material extracted from the flue gasses of a boiler fired primarily with pulverised coal, consisting essentially of the oxides of silicon, aluminium, iron and some calcium of which particle sizes range from less than 1µm (micrometre) to 200µm and are irregular to spherical shape.

‘furnace bottom ash’ means the agglomerated particles formed at the bottom of the furnace. Furnace bottom ash is typically grey to black in colour, is quite angular, and has a porous surface structure.

‘limit of report’ means the record of the minimum concentration of a substance in a sample that can be reliably detected by a laboratory that has NATA certification, or an equivalent certification.

‘load’ means the volume of **resource** put in or on something for conveyance or transportation, carried at one time and to one **site of use**. For example, a truck and trailer carrying the resource is considered as one load as well as multiple bins travelling by rail. Where the resource is transported via conveyor systems, information should be recorded on a daily basis until the transfer ceases.

‘NATA’ means the National Association of Testing Authorities.

‘person(s)’ means an individual or a corporation.

‘records’ include breach notifications, written procedures, analysis results, monitoring reports and monitoring programs required under a requirement or condition of this EOW code.

‘reference test methods’ means the reference test methods for determining the contaminant and as described in the most recent version of the United States Department of Environment, Science and Innovation’s *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* [available December 2013 at www.epa.gov/epaoswer/hazwaste/test/sw846.htm, also known as SW-846].

‘registered resource producer(s)’ means a **person** who produces the **resource** and has registered with the **chief executive** (in accordance with *Requirement (6.1)*) to use, sell or give away the **resource** to be used under this EOW code.

‘resource(s)’ means **coal combustion products** that meet the criteria and quality characteristics in *Requirement (6.3)* of this EOW code.

‘resource user(s)’ means a **person** who uses the **resource** for the use approved under this EOW code and in such a manner which does not cause any **environmental harm**, and includes the producer who uses the resource. Where the **resource user** uses the **resource** in the manufacture of soil conditioner, soil product or in direct land application, notification must be made in the approved form in accordance with *Condition (7.5)* of this EOW code.

‘safety data sheet’ means a document containing data regarding the properties of the **resource** which provides information on handling or working with that substance in a safe manner; and includes information such as physical data toxicity, environmental characteristics, health effects, first aid, reactivity; and storage, disposal, protective equipment and spill handling procedures. The safety data sheet must be compliant with Safe Work Australia’s *Model Code of Practice: Preparation of safety data sheets for hazardous chemicals*.

‘site of use’ means the relevant location(s) where the **resource user** uses the **resource** in accordance with this EOW code.

‘soil conditioner’ means a substance added to soil to improve the growing conditions for plant roots by providing nutritional requirements.

End of waste code
Coal Combustion Products (ENEW07359717)

'soil product' means general purpose soils, top dressing, topsoil and landscaping mixes manufactured in accordance with **AS 4419**.

'standard areas' mean land use including residential, parks, recreational play fields, open spaces and commercial and industrial sites; excluding a **facility** and **waters** and the bed and banks of waters.

'waters' includes river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water, natural or artificial watercourse, bed and bank of any waters, dams, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and groundwater and any part thereof.

- END -

Appendix A —General obligation for all persons

This appendix is not intended to provide a comprehensive assessment of all obligations under Queensland law. It provides some general information and persons are encouraged to familiarise themselves with all requirements related to their specific operation.

Responsibilities under the *Environmental Protection Act 1994*

All persons within the State of Queensland must also meet their obligations under the *Environmental Protection Act 1994*, and the regulations made under that Act.

General environmental duty

Section 319 of the *Environmental Protection Act 1994* (EP Act) states that we all have a general environmental duty. This means that we are all responsible for the actions we take that affect the environment. We must not carry out any activity that causes or is likely to cause environmental harm unless we take all reasonably practicable measures to prevent or minimise the harm. To decide what meets your general environmental duty, you need to consider:

- the nature of the harm or potential harm
- the sensitivity of the receiving environment
- the current state of technical knowledge for the activity
- the likelihood of successful application of the different measures to prevent or minimise environmental harm that might be taken
- the financial implications of the different measures as they would relate to the type of activity.

It is an offence to contravene the general environmental duty if this contravention causes or is likely to cause serious or material environmental harm.

More information is available on the Department's website www.des.qld.gov.au.

Duty to restore

In the event that an incident contaminates the environment causing unlawful environmental harm, the duty to restore may apply. Section 319C of the EP Act states that if a person causes or permits an incident involving contamination of the environment to happen that results in unlawful environmental harm, they must take reasonably practicable measures to rehabilitate or restore the environment to its condition before the harm. These measures must be taken as soon as reasonably practicable after the incident happens. A person should not wait for instructions from the administering authority to clean-up or remediate contamination.

When deciding measures to take to comply with the duty, regard must be had to:

- the nature and extent of the harm or potential harm
- the sensitivity of the receiving environment
- the current state of technical knowledge for the activity
- the likelihood of the successful application of the different measures to prevent or minimise environmental harm that might be taken
- the financial implications of the different measures as they would relate to the type of activity.

A person commits an offence against the duty to restore if they contravene the duty and the contravention relates to harm that is serious or material environmental harm.

More information is available on the Department's website www.des.qld.gov.au.

Duty to notify

Sections 320 to 320E of the EP Act outline situations in which a person has a duty to notify the department of environmental harm being caused or threatened. The duty is commonly engaged when a person carrying out an activity becomes aware, or ought reasonably to have become aware, that an event has happened that causes or threatens serious or material environmental harm. Notification must always occur if there has been a pollution incident that will cause, or threatens to cause, material or serious environmental harm.

Other relevant offences under the *Environmental Protection Act 1994*

Causing serious or material environmental harm (sections 437–39)

Material and serious environmental harm are defined in sections 16 and 17 of the EP Act. Material environmental harm is when the harm is not trivial or negligible in nature. Serious environmental harm is harm that is irreversible, of a high impact or widespread, or that is caused to an area of high conservation value or special significance. Damages, or costs required to rehabilitate the environment, of over thresholds amounts in the EP Act also constitutes material or serious environmental harm. .

Causing environmental nuisance (section 440)

Environmental nuisance is unreasonable interference with an environmental value caused by aerosols, fumes, light, noise, odour, particles or smoke. It may also include an unhealthy, offensive or unsightly condition because of contamination.

Depositing a prescribed water contaminant in waters (section 440ZG)

Prescribed water contaminants include a wide variety of contaminants listed in Schedule 9 of the Environmental Protection Regulation 2019.

It is your responsibility to ensure that prescribed water contaminants are not left in a place where they may or do enter a waterway, the ocean or a stormwater drain. This includes making sure that stormwater falling on or running across your site does not leave the site contaminated. Where stormwater contamination occurs you must ensure that it is treated to remove contaminants. You should also consider where and how you store material used in your processes onsite to reduce the chance of water contamination.

Placing a contaminant where environmental harm or nuisance may be caused (section 443)

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause serious or material environmental harm or environmental nuisance.

Some relevant offences under the *Waste Reduction and Recycling Act 2011*

Littering (section 103)

Litter is any domestic or commercial **waste** and any material a person might reasonably believe is refuse, debris or rubbish. Litter can be almost any material that is disposed of incorrectly. Litter includes cigarette butts and drink bottles dropped on the ground, fast food wrappers thrown out of the car window, poorly secured material from a trailer or grass clippings swept into the gutter. However, litter does not include any gas, dust, smoke or material emitted or produced during, or because of, the normal operations of a building, manufacturing, mining or primary industry.

Illegal dumping of waste (section 104)

Illegal dumping is the dumping of large volumes of litter (200 litres or more) at a place. Illegal dumping can also include abandoned vehicles.

Failure to comply with EOW code (section 158)

End of waste code
Coal Combustion Products (ENEW07359717)

A registered resource producer for an EOW code must not produce, use, sell or give away the resource unless the registered resource producer complies with the requirements of the EOW code relating to the resource.

A person, other than a registered resource producer, must not use a resource in a way, or for a purpose, that does not comply with an EOW code for the resource.

Approved:

8 March 2021

Enquiries:

Permit and Licence Management

Ph: 13 QGOV (13 74 68)

Email: palm@des.qld.gov.au