

End of Waste Code

Returned Concrete (ENEW07278517)

Waste Reduction and Recycling Act 2011

Version history

Version	Date	Description of changes
1.00	6 March 2020	Commencement of EOW code on gazettal

Prepared by: Waste and Contaminated Land Assessment, Department of Environment and Science

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1. Explanatory Statement

This End of Waste (EOW) code for waste **returned concrete** has been issued by the Queensland Government in accordance with section 159 of the *Waste Reduction and Recycling Act 2011* (WRR Act).

This EOW code states when the **returned concrete** becomes 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 13 of the *Environmental Protection Act 1994* (EP 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

An EOW code states when a waste stops being a waste following any necessary processing or treatment. A waste becomes a **resource** when it has been determined to meet the requirements of an EOW code. It may be necessary to treat or process the waste prior to meeting those requirements. An Environmental Authority (EA) under the 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. If a **resource** does not meet the requirements of the EOW code and/or is not used in accordance with the EOW code, it is not deemed a **resource**. It remains 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** approved under an EOW code, is deemed to be a waste again, if it is disposed of at a waste disposal facility, 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 or the illegal dumping of waste provision 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** if they do not 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. 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**.

2.4 Lawfulness of the activity

The issuing of this EOW code for the use of a **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.

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

3. Period of this EOW code

This EOW code takes effect from 06 March 2020 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 applies to waste **returned concrete**. The **returned concrete** becomes 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](#).

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 returned concrete .
Information to be provided	
(6.3)	The registered resource producer must provide a copy of the EOW code for <i>Returned Concrete (ENEW07278517)</i> ⁴ to the resource user upon establishment of an arrangement to sell or give away the resource , and annually thereafter.
Notification of emergencies, incidents and breaches	
(6.4)	Any breach of a requirement of this EOW code must be reported to the chief executive as soon as practicable within 24 hours of becoming aware of the breach.
(6.5)	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 and in the format requested and time period specified.

7. Conditions of Use

Approved resource and approved use	
(7.1)	The approved resource is returned concrete which is used in the manufacture of aggregate products .

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.

'aggregate products' means products used in building, construction, landscaping and/or civil engineering applications (e.g. recycled concrete aggregate, engineered and structural fill material, base course, sub-base and subgrade, pipe bedding material, sealing aggregate, subsoil and subsurface drainage, and/or roadbase).

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

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

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

³ The approved form, *Registered Resource Producer for an EOW code*, is available on the Queensland Government website at www.qld.gov.au, using the publication number (ESR/2018/4082) as a search term.

⁴ This can be a physical copy, an electronic copy or a link to the chief executive's [website](#) where this EOW code is available.

‘registered resource producer’ 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 (e.g. a company operating a concrete batch plant from where the **resource** originates).

‘resource’ means **returned concrete**.

‘resource user(s)’ means a **person** who uses the **resource** for a use approved under this EOW code and does so in such a manner which does not cause any **environmental harm** (e.g. a quarry or waste recycler receiving concrete from a **registered resource producer**).

‘returned concrete’ means any form of concrete product in its hardened or plastic state, and which is not reused in any concrete pour. It excludes construction and demolition waste.

- 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* 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 reasonable and 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 not an offence not to comply with the general environmental duty. However, maintaining your general environmental duty is a defence against the following acts:

- (a) an act that causes serious or material environmental harm or an environmental nuisance
- (b) an act that contravenes a noise standard
- (c) a deposit of a contaminant, or release of stormwater run-off, mentioned in section 440ZG.

More information is available on the Department of Environment and Science website www.des.qld.gov.au.

Some relevant offences under the *Environmental Protection Act 1994*

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

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 \$5000 constitutes material environmental harm and damages, or costs required to rehabilitate the environment, of over \$50,000 constitutes serious environmental harm.

Serious or material environmental harm excludes environmental nuisance.

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 contaminants include a wide variety of contaminants listed in Schedule 10 of the Environmental Protection Regulation 2019.

It is your responsibility to ensure that prescribed 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. 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.

Failure to comply with EOW code (section 158)

A registered resource producer for an EOW code must not 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:

21 February 2020

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