

End of waste code
Fertiliser wash water and slurry
(ENEW07278417)

Waste Reduction and Recycling Act 2011



Version history

Version	Date	Description of changes
1.00	4 June 2018	Original document
1.01	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.

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

© State of Queensland, 2018

The Queensland Government supports and encourages the dissemination and exchange of its information. The copyright in this publication is licensed under a Creative Commons Attribution 3.0 Australia (CC BY) licence.



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 <http://creativecommons.org/licenses/by/3.0/au/deed.en>

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>.

June 2023

Contents

1. Explanatory Statement.....	4
2. Guidance.....	4
2.1 Resource use versus Activity	4
2.2 Resource versus Waste	4
2.4 Failure to comply.....	4
2.5 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	7
8. Definitions.....	7
Appendix A —General obligation for all persons	10

1. Explanatory Statement

This End of Waste (EOW) code for fertiliser wash water and slurry has been issued by the Department of Environment and Science (the department) in accordance with section 159 of the *Waste Reduction and Recycling Act 2011* (WRR Act).

This EOW code states when a waste becomes a resource and any relevant requirements and/or conditions for its use. It supports the vision of [Queensland's Waste Avoidance and Resource Productivity Strategy \(2014-2024\)](#), for Queensland to become a national leader in avoiding unnecessary consumption and waste generation by adopting innovative resource recovery approaches and managing all products and materials as valuable and finite resources.

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

An EOW code states when a waste stops being a waste including 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 that point. 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 has been considered a **resource** under an EOW code is considered a resource only for the purpose of the approved use(s). A resource that does not meet the requirements of the EOW code and/or is not used in accordance with the EOW code is deemed to be 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 also deemed to be a waste when it is disposed of at a waste disposal facility.

The resource is deemed to be a waste when 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 —when the depositing starts.

2.3 Failure to comply

Any **person** operating under this EOW code must comply with the requirements and conditions of use of the EOW code. It is an offence to not comply with the relevant requirements and conditions, carrying a maximum penalty of 1665 penalty units for an individual and 8325 penalty units for a corporation¹.

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

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

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 **4 June 2018** and remains in force until it is cancelled, amended or suspended.

4. Waste to which this EOW code applies

This EOW code applies to **fertiliser wash water** and **slurry** generated from the processes as described under Requirement 1 of Section 6 – Registered Resource Producer Requirements.

This waste 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

- a) 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 form² that the **person** intends to become a **registered resource producer** for this EOW code; and
- b) A registered resource producer for this EOW code must comply with the stated registered resource producer requirements.

5.2 Resource users

- a) The **resource user** must only use the **resource** for a purpose allowed under this EOW code; and
- b) The resource user must comply with the stated conditions of use.

² The approved form, *Registered Resource Producer for an EOW code*, is available on the **chief executive's** website at www.des.qld.gov.au, use the search term ESR/2018/4082

6. Registered resource producer requirements

(1)	<p>The registered resource producer must not use, sell or give away the resource unless it meets all of the following criteria and quality characteristics:</p> <ul style="list-style-type: none"> a) Is generated as a result of: <ul style="list-style-type: none"> i. cleaning or washing of the fertiliser plant, relevant equipment used within the plant and fertiliser shed floors either using high pressure water (no cleaning chemicals) or using mechanical means, OR ii. hygroscopic sorbing of moisture into fertiliser products; b) Must contain nutrient values; c) Does not contain more than the 'maximum permissible concentration of impurities' for fertiliser in accordance with <i>Biosecurity Regulation 2016</i>; and d) Does not contain more than the following levels of Total Petroleum Hydrocarbons (TPH) on a dry weight basis: <ul style="list-style-type: none"> i. (C6 – C9) – 100 mg/kg ii. (C10 – C15) – 100 mg/kg iii. (C16 – C34) – 300 mg/kg iv. (>C34 – C36) – 500 mg/kg
(2)	<p>In addition to meeting the quality criteria, the resource must not have any properties and characteristics nor contain any other contaminants at concentrations which may cause environmental harm when used in accordance with this EOW code.</p>
Resource monitoring	
(3)	<p>The registered resource producer must ensure that an appropriately qualified person monitors and records the relevant criteria and quality characteristics of the resource as stated in Requirement 1 under Section 6 Registered resource producer requirements.</p>
(4)	<p>A sampling and analysis plan must be designed and implemented by an appropriately qualified person to determine the compliance of the fertiliser wash water and slurry with Requirement 1 under <i>Section 6 - Registered Resource Producer Requirements</i>.</p>
(5)	<p>The sampling and analyses plan must provide for monitoring of the fertiliser wash water and slurry to:</p> <ul style="list-style-type: none"> a) be conducted on a monthly basis; and b) be undertaken on samples of the material to be provided to the resource user.
(6)	<p>All analyses undertaken as a part of this EOW code must be carried out by a laboratory that has NATA certification, or an equivalent certification for such analyses.</p>
Information to be provided	
(7)	<p>The registered resource producer must provide the following to the resource user each time the resource is provided for use:</p> <ul style="list-style-type: none"> a) information in writing that the resource approved under this EOW code is a fertiliser wash water and slurry and not a fertiliser by itself;

	<ul style="list-style-type: none"> b) declaration in writing that the resource being supplied is compliant with the requirements of this EOW code; c) a certificate of analysis for the quality characteristics of the resource, stipulating the minimum, maximum and average claim concentration for the nutrient values including that for the Total Nitrogen, Total Phosphorous and Total Potassium; and d) Safety Data Sheet for the resource.
Records	
(8)	<p>The registered resource producer must ensure the following records are kept for each load of the resource transported:</p> <ul style="list-style-type: none"> a) origin of the resource; b) date of pick-up of the resource; c) location and date of delivery of the resource to the resource user; d) contact details for the person responsible for use of the resource at site of use; and e) quantity (volume) of the resource supplied.
(9)	<p>The registered resource producer must keep records of all requirements under this EOW code for a period of at least five (5) years and provide the records to the chief executive upon request and in the format requested.</p>
Notification of emergencies, incidents and exceptions	
(10)	<p>Any breach of a condition of this EOW code must be reported to the chief executive as soon as practicable within 24 hours of becoming aware of the breach.</p>
(11)	<p>Records must be kept including full details of the breach and any subsequent actions taken.</p>

7. Conditions of use

Approved uses	
(1)	<p>The resource must only be applied to agricultural land.</p>

8. Definitions

Words and phrases used throughout this EOW code 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.

‘agricultural land’ means land used for agricultural crops which includes horticulture, turf and land growing field crops or pastures.

‘appropriately qualified person’ means a **person** or persons who have professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis to performance relative to the subject matter using the relevant protocols, standards, methods or literature.

‘Biosecurity Regulation 2016’ means the most recent version of the biosecurity regulation which is in force at the time of generation and/or use of the resource.

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

‘cleaning’ means to perform or undergo a process of emptying the contents of the **fertiliser** plant, relevant equipment used within the plant and fertiliser shed floors without the use of any cleaning chemicals.

‘contaminants’ (as defined in Section 11 of the *Environmental Protection Act 1994*), unless authorised under this EOW code means —

- a) a gas, liquid or solid; or
- b) an odour; or
- c) an organism (whether alive or dead), including a virus; or
- d) energy, including noise, heat, radioactivity and electromagnetic radiation; or
- e) a combination of contaminants.

‘dry weight basis’ means the composition of wet fertiliser wash water and slurry based on the mass of dry solids it contains.

‘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.

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

‘first flush’ means a system on the site’s stormwater drainage network which is installed to mitigate the risk of **fertiliser** exiting the site via stormwater.

‘fertiliser’ means a ‘substance that is manufactured, represented, supplied or used for the purpose of directly or indirectly—

- a) fertilising soil; or
- b) supplying nutrients to plants; or
- c) conditioning the soil by altering the chemical, physical or biological condition of the soil;

however, does not include a substance declared, under a Commonwealth Act or regulation, to be an agricultural chemical product or a veterinary chemical product.

‘hygroscopic sorbing’ means the process by which **fertiliser** granules absorb the moisture from air and turn into a slurry like substance.

‘impurities’ mean substance(s):

- a) that is in the fertiliser – as a result of being in a component used to make the fertiliser; or as a by-product of manufacturing processes for the fertiliser; but
- b) a substance(s) in the fertiliser that is not for the purpose of supporting plant growth.

‘load’ means the volume of resource put in or on something for conveyance or transportation, carried at one time. 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' is the National Association of Testing Authorities.

'nutrient' means an element included in a fertiliser for the purpose of supporting plant growth.

'person(s)' means an individual or a corporation.

'registered resource producer' means a **person** who has registered with the **chief executive** to use, sell or give away the resource to be used under this EOW code.

'records' include breach notifications, written procedures, analysis results, monitoring reports, monitoring programs and any other record keeping required under the relevant requirements and conditions of this EOW code.

'resource(s)' means **fertiliser** wash water and slurry which meet the quality criteria specified in 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.

'Safety Data Sheet' means a document containing data regarding the properties of the resource which provides users 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 code of practice for production of Safety Data Sheet.

'site(s) of use' means the relevant location or locations where the **resource** is used in accordance with this EOW code.

'washing' means the act of cleansing with water including initial runoff from a rain event that is captured in the **first flush**.

- 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 (DES) 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 9 of the *Environmental Protection Act 1994*.

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 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)

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:

23 April 2018

Enquiries:

Permit and Licence Management
Ph: 13 QGOV (13 74 68)
Email: palm@des.qld.gov.au