Code of practice

This code of practice template can be used as a basis for developing a code of practice under the Environmental Protection Act 1994.

**Introduction**

Codes of practice provide guidance to operators to help them comply with the *Environmental Protection Act 1994* (the Act) and meet their general environmental duty. The codes also outline the environmental best management practices of leaders in the industry.

Refer to the information sheet ‘Developing codes of practice’ (ESR/2015/1695[[1]](#footnote-1)) for more information on codes of practice and how they can be developed.

This code of practice template can be used as a basis for developing a code of practice under the *Environmental Protection Act 1994*. The following pages can be copied and pasted into a new document and an appropriate footer and branding added.

The use of this template is not compulsory and industry representatives may develop their own template to suit their specific industry needs. Existing codes of practice may also be used as a guide on developing a new code of practice.

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| **Version** | **Date** | **Description of changes** |
| 1.00 | 27 March 2014 | Document first published |
| 2.00 | 29 July 2014 | Included numbering for headings, changed the order of some paragraphs and added content about the general environmental duty defence outside of compliance with the code of practice. |
| 2.01 | 16 August 2016 | Updated corporate style, added publication number ESR/2015/1687 and updated publication numbers for referenced documents. |
| 2.02 | 2 August 2018 | Document rebranded to align with machinery of government changes. |
| 2.03 | 16 September 2021 | Reference to s318E(1) of the EP Act updated to s551. Legislative references updated in Appendix 1. |
| 2.04 | 8 August 2022 | Updated corporate branding and removed references to Motor vehicle workshop code of practice (ESR/2015/1716) as the document has been archived. |
| 3.00 | 19 August 2022 | Template rewritten with multiple changes including, but not limited to, inclusion of further guidance on information to be addressed in performance outcomes, new content on staff training and additional content on environmental objectives. |
| 4.00 | 28 September 2023 | Updated environmental values; provided additional explanatory text; and updated performance outcomes tables. |
| 4.01 | 13 February 2024 | MOG Updates |

**General environmental duty**

**Code of practice**

**for**

**<<INSERT activity details>> operations**

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# Introduction

This environmental code of practice has been prepared to provide guidance to operators to help them comply with the *Environmental Protection Act 1994* by meeting their general environmental duty. The code also outlines the environmental best management practices of leaders in the industry.

Under Section 319 of the *Environmental Protection Act 1994,* all persons in Queensland must fulfil their ‘general environmental duty’. This is defined as follows: ‘*A person must not carry out an activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm*’.*See* **Appendix 1***.*

This document describes <<INSERT activity details>> operations, the impacts on the environment, and how those impacts can be mitigated against in the interests of achieving environmental compatibility and complying with the *Environmental Protection Act 1994.*

Although this environmental code of practice is a voluntarily adopted standard for the <<INSERT activity details>> industry in Queensland, complying with this code provides the operator with a defence against a charge of unlawfully causing environmental harm and several other charges to the extent the code is relevant*.* If you do not comply with this code you may still rely upon the defence of complying with your general environmental duty, but will have to show how you met your general environmental duty another way.

# Objective of the code

The environmental code of practice aims to:

* describe environmental issues and challenges confronting <<INSERT activity details>> operations in Queensland;
* assist operators to better consider the environment with which they interact;
* guide <<INSERT activity details>> planning to ensure design and operations meet requirements of decision-making authorities;
* provide advice to decision-making authorities to enable them to make consistent decisions in respect to <<INSERT activity details>> operations;
* suggest practical measures to minimise environmental and social impacts;
* allow industry to establish a benchmark environmental performance; and
* demonstrate to the community the environmental compatibility of the <<INSERT activity details>> industry.

# Scope of the code

Under section 551 of the *Environmental Protection Act 1994*, the Minister may, by gazette notice, make codes of practice stating ways of achieving compliance with the general environmental duty for an activity that causes, or is likely to cause, environmental harm.

This environmental code of practice addresses environmental aspects of <<INSERT activity details>> operations. It does not cover environmental issues to do with siting or construction, and does not cover aspects covered by other legislation such as work health and safety.

The code does not restate any requirements of the *Environmental Protection Act 1994*,nor does it override or replace federal, state or local government legislation, regulation, plans or policies.

# Commencement date

This environmental code of practice commenced on [insert date of Minister approval] and has effect for seven years. To continue to have effect the code of practice must be reviewed and approved by the Minister by [insert date 7 years after Minister approval]. Industry members are encouraged to provide feedback and to report new initiatives to their associations, so the codes can evolve through each review.

# Acknowledgement

The department acknowledges the work of the following industry associations in the preparation of this code of practice:

• <<INSERT representative body>>

• <<INSERT representative body>>

• <<INSERT representative body>>

# About <<INSERT activity details>> operations

<INSERT DETAILS>

# Using the code of practice

There are a number of environmental risks associated with <<INSERT activity details>>. These include, but are not limited to:

* <INSERT DETAILS>
* e.g. the release of harmful gases from fuel and chemicals
* e.g. contaminated stormwater runoff
* e.g. noise
* e.g. waste management.

The codes of practice:

* *gives practical guidance* on how environmental best management practices can be achieved in the <<INSERT activity details>> sector; and
* *should be followed* unless there is an alternative course of action that achieves the same or a better environmental objective.

**Environmental objectives** are objectives or goals that the Queensland Government considers are necessary for <<INSERT activity details>> operators to achieve in order to meet the ‘general environmental duty’ described under the *Environmental Protection Act 1994.*

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| *The environmental objectives relevant to the <INSERT industry details> industry are as follows:*   * *The activity will be operated in a way that protects the environmental values of air;* * *The activity will be operated in a way that protects the environmental values of waters;* * *The activity will be operated in a way that protects the environmental values of wetlands;* * *The activity will be operated in a way that protects the environmental values of groundwater and any associated ecological systems;* * *The activity will be operated in a way that protects the environmental values of land, including soils, subsoils, landforms and associated flora and fauna;* * *The activity will be operated in a way that protects the environmental values of the acoustic environment; and* * *Any wastes generated, transported, or received as part of carrying out the activity are managed in a way that protects environmental values.* |

**Performance outcomes** are the end result that the operator needs to achieve to meet the environmental objectives. You may decide to use the control measures in this code of practice to achieve the performance outcome or you may choose to use your own control measure. However, if you do not use the control measures in this code of practice, you will **not** be able to rely on complying with the code as a defence if you cause unlawful environmental harm. You may still rely upon the defence of complying with your general environmental duty, but will have to show how you met your general environmental duty another way.

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| *Some performance outcomes provide the option for an environmentally harmful activity to be prevented or minimised. Prevention is the more desirable outcome. If the operator selects to minimise the harmful activity it must be demonstrated that consideration has been made to the following:*   * *the nature of the harm or potential harm; and* * *the current state of technical knowledge for the activity; and* * *the likelihood of successful application of the different measures that might be taken; and* * *the financial implications of the different measures as they would relate to the type of activity.* |

**Control measures** are examples of ways of achieving the performance outcome and are considered minimum requirements for complying with this code of practice. In some cases, a number of compliance control measures may be listed for one process. In these cases, you are advised to aim for the control measure or combination of control measures that is most likely to achieve the performance outcome for that process. Alternatively, you may be able to meet a performance outcome in a manner that is not listed in this code of practice (effectively choosing your own control measure or measures).

If you choose to use your own control measure, you will **not** be able to rely on complying with the code as a defence if you cause unlawful environmental harm. You may still rely upon the defence of complying with your general environmental duty, but will have to show how you met your general environmental duty another way.

**Best practice control measures** are control measures considered to be in addition to the minimum requirements and are what industry leaders are achieving. Best practice incorporates concepts such as cleaner production, waste minimisation, recycling and reuse. Use of best practice control measures may help to improve industry standards and progress towards best practice in the industry. You do not have to meet the best practice measures to comply with the general environmental duty.

In order that sustainable outcomes are achieved for both the industry and the environment, industry will endeavour to follow the principle of best practice environmental management (see s21 of the *Environmental Protection Act 1994*).

### **Develop a plan to protect your environment, reduce your business risks and gain a competitive advantage**

### An environmental management plan or system identifies environmental risks caused by the operation and puts activities in place to manage these risks. The performance outcomes and examples for meeting environmental objectives listed in this document will form a solid basis for creating your management plan or system.

By reducing your environmental impact and adopting eco-efficient practices, you will be able to:

* minimise your environmental risk;
* measure, plan and implement control measures to reduce energy, water, waste and materials;
* enhance product quality and productivity;
* improve financial performance; and
* reduce your business’ carbon footprint.

A management plan or system should achieve the following outcomes:

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* all potential environmental risks from the activity are identified and control measures are in place to prevent or minimise the potential for environmental harm;
* contingency measures are in place to avoid environmental harm in the event of unforeseen circumstances or natural disasters (e.g. flood);
* staff are trained and aware of their requirements of the *Environmental Protection Act 1994;*
* reviews of environmental performance are undertaken periodically;
* records of monitoring, incidents and complaints are kept; and
* ensure an inspection/maintenance program is in place to ensure plant is running optimally and to help ensure emissions are minimised.

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| *By developing and following an* ***environmental management plan or system*** *your business can demonstrate that all reasonable care is being taken to avoid causing environmental harm. Your business will be able to use this reasonable care, or due diligence, as a defence for compliance purposes.* |

### **Provide staff training**

### Encourage environmental awareness and responsibility amongst staff by providing appropriate staff training. It is your staff who will ensure that your operation remains compliant by recognising and minimising environmental hazards.

# Performance outcomes

*<<The performance outcomes tables below need to consider the protection of the following environmental values, as appropriate to the activity being undertaken:*

* *The environmental values of air;*
* *The environmental values of waters;*
* *The environmental values of wetlands;*
* *The environmental values of groundwater and any associated ecological systems;*
* *The environmental values of land, including soils, subsoils, landforms and associated flora and fauna;*
* *The environmental values of the acoustic environment; and*
* *Any wastes generated, transported, or received as part of carrying out the activity are managed in a way that protects environmental values.*

*Below are example tables which may be used to assist in determining what type of information should be included, the final performance outcomes will however be industry specific.>>*

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| Air (Dust and particle emissions) | |
| **Background** | *<For example>*  *Dust from <INSERT> is generated by many activities, such as: loading and transport of materials; storage of materials; and <INSERT>.*  *Dust from activities can enter neighbouring properties causing nuisance and lead to complaints. This may lead to an investigation by authorities regarding compliance of the activities being carried out.* |
| **Definitions** | *<If required relevant definitions may be added or alternatively add a definition section at the end of the document>* |
| **Performance outcome 1** | *<For example>*  *Dust and particulate emissions from all activities associated with the <INSERT> process must be controlled in order to prevent or minimise environmental nuisance at surrounding premises.* |
| **Control measures** | *<For example>*   * *Prevent and immediately clean up any spillages or dust accumulation on driveways or sealed roads.* * *Limit vehicle speeds on unsealed roads to reduce airborne dust.* * *Regularly water, sweep or otherwise maintain unsealed roads to minimise dust emissions to prevent nuisance from truck movements.* * *Roof and enclose truck loading bays.* * *Ensure any emission control equipment is installed, operated and maintained in accordance with manufacturer’s instructions.* * *Install real time weather monitoring linked to dust suppression (i.e. sprinklers automatically activate when conditions are dry and dusty).* * *Seal all internal roadways.* * *Install screening at the boundary of the premises and / or around high dust generating activities. Screening may include shade cloth and / or vegetation.* |

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| Water | |
| **Background** | *<For example>*  *Pollutants for <INSERT> can impact on the land and waterways by:*   * *increasing soil and water pH affecting aquatic life* * *increasing the turbidity or cloudiness of waterways* * *destroying the functionality of wetlands* * *providing a medium for weeds to establish.*   *In addition, contamination of soil and groundwater by petroleum and other chemicals can result in increased site clean-up liabilities for business.*  *Storm water is a valuable resource that can be captured and used in the process, which saves the use of mains water and reduces the risk of off site harm.* |
| **Definitions** | *<If required relevant definitions may be added or alternatively add a definition section at the end of the document >* |
| **Performance outcome 2.1** | *<For example>*  *Storm and process water must be appropriately managed to prevent or minimise the release of contaminants offsite and including any releases to ground water.* |
| **Control measures** | *<For example>*   * *Ensure that the first flush of contaminated water from areas such as <INSERT> is collected in in-ground pits or tanks.* * *Maintain sufficient freeboard for rain events to ensure that contaminated water is not permitted to leave the site. The required first flush capture capacity is equivalent to 0.02 metres (20 mm) multiplied by the area of the ‘contaminated area’ – that is 0.02 metres x length x breadth) i.e. a first flush capacity able to hold 20 mm of rainfall within the contaminated areas during a rain event over 24 hours.* * *Ensure dirty water from <INSERT> is captured in in-ground pits and tanks for reuse on site.* * *Reuse captured water for <INSERT> in order to maintain sufficient freeboard for rain events.* * *If contaminated water must be discharged, ensure that water is pH neutral and free from contaminants that have the potential to cause environmental harm prior to release.* * *If dirty water must be discharged, ensure that pits and tanks have adequate capacity for settling out sediment. Alternately other means of treatment, such as filtration, may be employed to ensure that suspended solids discharge limits are met.* * *Regularly inspect and clean out in-ground wedge pits to maintain adequate sediment holding capacity.* * *Roof the entire contaminated area(s) to reduce the risk of contaminated stormwater exiting the site.* * *Reuse captured water for <INSERT> and dust suppression.* * *MaximDRAFT ise the capacity for holding harvested rainwater to minimise the use of mains water.* * *Use the alternative of CO2 neutralisation to treat alkaline water prior to discharge.* * *Allocate a designated truck wash area within the contaminated area to avoid contamination of dirty and clean water across the site.* * *Develop a site storm water management plan that describes the correct management of all water on the site.* |
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| **Performance outcome 2.2** | *<For example>*  *Storage of fuel, lubricants and other chemicals must be managed to minimise releases of contaminants.* |
| **Control measures** | *<For example>*   * *Store all fuels, oils and chemicals in impervious bunded areas or compounds capable of holding at least 110% of the volume of the largest tank and/or 25% of total maximum drum inventory, whichever is the larger.* * *Clean up all chemical spills promptly.* * *Keep Safety Data Sheets (SDS) for all hazardous substances used or stored on site.* * *Maintain a fully serviced spill response kit on site.* |
|  | * *Store all chemicals in a roofed or enclosed area to avoid stormwater becoming contaminated.* |

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| Acoustic Environment (Noise) | |
| **Background** | *<For example>*  *Noise from <INSERT> can cause conflict between operators and the community. Noise sources may include:*   * *truck and front end loader engine noise* * *reverse warning devices* * *truck air brakes* * *swinging, scraping, loading devices* * *hydraulic pumps* * *conveyor belts* * *compressors* * *air valves* * *filters* * *opening and closing gates* * *radios* * *alarms* * *amplified telephones* * *public address system*   *Refer to Environmental Protection (Noise) Policy 2018 for noise standards.* |
| **Definitions** | *<If required relevant definitions may be added or alternatively add a definition section at the end of the document >* |
| **Performance outcome 3** | *<For example>*  *Noise nuisance must be prevented or minimised at noise sensitive places.* |
| **Control measures** | *<For example>*   * *Maintain a system for capturing complaints and addressing them.* * *Where noise sensitive receptors are nearby ensure that noise emissions from noisy equipment are managed appropriately.* * *Ensure that reversing alarms are of the squawker type rather than beepers.* * *Only operate within your approved operating hours.* * *When operating outside of normal operating hours, consDRiAFT der consulting with your neighbours to avoid complaints.* * *Limit where practicable the operation of trucks and other heavy* * *machinery to appropriate hours.* * *Ensure that all equipment and vehicles are maintained to manufacturer’s specifications.* * *Locate your plant in an appropriately area away from sensitive noise receptors.* * *Use the layout of buildings and natural topography as noise barriers where possible. Cost effective landscaping improvements (e.g. fencing and mounds) can be implemented to reduce noise emissions and therefore the potential for complaints.* |

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| Waste | |
| **Background** | *<For example>*  *Producing waste has impacts from extracting resources to disposal in landfill. Disposal has significant environmental impacts from transporting the waste for disposal, to potential leachate, odour and greenhouse gas emission impacts.*  *Waste management practices should follow the legislated waste management hierarchy. These are prioritised below from the most preferred to least preferred options*   * *AVOID unnecessary resource consumption* * *REDUCE waste generation and disposal* * *RE-USE waste resources without further manufacturing* * *RECYCLE waste resources, including the recovery of energy* * *TREAT waste before disposal, including reducing the hazardous nature of waste* * *DISPOSE of waste only if there is no viable alternative*   *The Waste Reduction and Recycling Act 2011 provides for an end of waste (EOW) framework to promote resource recovery opportunities and transform the perception of waste from being seen as waste to being valued as a resource. The EOW framework provides for a waste to be approved as a resource if that it meets specified quality criteria for its specific use. If a waste is approved as a resource under the EOW framework, it is no longer considered a waste under the Environmental Protection Act 1994. If the resource is not used in accordance with the applicable EOW code or approval, it would then again be considered a waste and must be managed accordingly.* |
| **Definitions** | *<If required relevant definitions may be added or alternatively add a definition section at the end of the document >* |
| **Performance outcome 4** | *<For example>*  *Waste production and disposal must be minimised and waste must be managed to prevent environmental harm.* |
| **Control measures** | *<For example>*   * *Ensure that regulated wastes (Environmental Protection Regulation 2019 Schedule 9) are disposed of in accordance with legislation. Regulated wastes include, but are not limited to: alkaline water, <INSERT> waste oil, coolant, contaminated diesel fuel and other vehicle fluids.* * *Ensure that waste tracking arrangement are in accordance with relevant legislation.* * *Segregate wastes and recycle those that may be recycled. Clearly label waste containers to encourage use. Examples of recyclable wastes include metals, paper and cardboard, plastics and concrete wash out.* * *Only put inert, solid waste into industrial bins and general rubbish.* * *Minimise the generation of waste through careful planning and execution of <INSERT>.* |

*<<Add additional performance outcome tables as appropriate to your industry>>*

# Appendix 1

## General obligations under the Environmental Protection Act 1994

## 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.

## General environmental duty

The Environmental Protection Act 1994 section 319 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 think about these issues:

* 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:

* 1. an act that causes serious or material environmental harm or an environmental nuisance
  2. an act that contravenes a noise standard
  3. a deposit of a contaminant, or release of stormwater run-off, mentioned in section 440ZG.

## Duty to notify

The duty to notify (sections 320-320G of the Environmental Protection Act 1994) requires a person or company to give notice where serious or material environmental harm is caused or threatened to occur. Notice must be given of the event, its nature and the circumstances in which the event happened. Notification can be verbal, written or by public notice depending on who is notifying and being notified.

For more information on the duty to notify requirements refer to the guideline *‘*The duty to notify of environmental harm’[[2]](#footnote-2)*.*

## Relevant offences under the Environmental Protection Act 1994

1. Causing serious or material environmental harm (sections 437-439)

Material environmental harm is environmental harm that is not trivial or negligible in nature. It may be great in extent or context, or it may cause actual or potential loss or damage to property. The difference between material and serious harm relates to the costs of damages or the costs required to either prevent or minimise the harm or to rehabilitate the environment. Additionally, serious environmental harm may have irreversible or widespread effects, or it may be caused in an area of high conservation significance. Serious or material environmental harm excludes environmental nuisance.

1. Causing environmental nuisance (section 440)

Environmental nuisance is unreasonable interference or likely 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.

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

Prescribed water 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 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.

1. Placing a contaminant where: serious or material environmental harm may be caused (section 443); or environmental nuisance may be caused (section 443A).

## Relevant offences under the Waste Reduction and Recycling Act 2011

1. 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. Litter can also be an abandoned vehicle. 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.

1. Illegal dumping of waste (section 104)

Illegal dumping is the dumping of large volumes of litter (200 litres or more) at a place.

1. Available at www.qld.gov.au, using the publication number ESR/2015/1695 as a search term [↑](#footnote-ref-1)
2. Available at www.qld.gov.au, using the publication number ESR/2016/2271 as a search term. [↑](#footnote-ref-2)