



Health, Environment & Waste

**COMPLIANCE STRATEGY
ENVIRONMENTAL PROTECTION ACT 1994**

**BUILDING OUR COMMUNITIES
BUSINESSES AND PRIDE**



Compliance Strategy for the Environmental Protection Act 1994

The main purpose of the *Environmental Protection Act 1994* (the Act) is to:

- Protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (*ecologically sustainable development*).

The role of Local Government in relation to achieving the purposes of the Act is:

- licensing of devolved prescribed Environmentally Relevant Activities (ERAs)
- inspecting prescribed Environmentally Relevant Activities for compliance with their Environmental Authority conditions and the requirements of the Act/associated Regulations
- undertaking investigations regarding complaints relating to Environmentally Relevant Activities
- undertaking investigations regarding complaints relating to environmental harm; and
- proactive education of businesses and the general public in relation to key environmental matters.

The Act is also administered in part by the State Government's Department of Environment and Heritage Protection (DEHP). DEHP investigates and enforces a number of issues as follows:

- investigation of complaints regarding serious or material environmental harm
- regulation of non-devolved prescribed Environmentally Relevant Activities which are a prescribed activity or prescribed resource project
- management of contaminated land, including the maintenance of the Contaminated Land and Environmental Management Registers
- assessment of applications for Registered Suitable Operators and maintenance of the Registered Suitable Operator database; and
- investigation of complaints relating to waste transport and storage.

Compliance Objectives for the Environmental Health Program

The objectives of the Environmental Health Program are to prevent, control and/or reduce risks relating to the potential environmental harm, to ensure that businesses are regulated in a fair and effective manner, and to provide businesses and the public with relevant information regarding environmental issues. In addition to its core work, the Environmental Health Program also works alongside other regulators and policy makers (i.e. DEHP, QFRS, WHSQ) to ensure the overarching purposes of the Act are achieved.

Strategy for Compliance Activities

The aim of this Compliance Strategy is to limit environmental harm as much as is reasonably possible, identify the source of any environmental harm which has been caused, implement appropriate enforcement/remedial action and develop education/enforcement strategies to prevent recurrence in the future.

The Environmental Health Program will utilise this Compliance Strategy as a framework to conduct routine inspections, complaint investigations and proactive regulatory work to achieve the aim outlined above.

Routine Inspection of Prescribed ERAs

The Environmental Health Program will undertake routine inspection of prescribed ERAs as per the inspection framework. Officers will work with the relevant business operators in order to ensure any non-compliant Environmental Authority conditions are complied with in full and provide technical support to operators in regards to any issues identified.

Investigation of Customer Requests (Prescribed ERAs)

The Environmental Health Program investigates customer requests relating to the general operation of prescribed ERAs. Issues investigated include excessive noise, release of contaminants to land, air and/or water, release of contaminants to stormwater etc. Officers will investigate the matter to assess the validity of the complaint and undertake appropriate enforcement action to ensure non-compliances are resolved in a suitable timeframe.

Investigation of Customer Complaints (non-Prescribed ERAs)

The Environmental Health Program also investigates customer requests relating to potential environmental harm to land, air and water, and the breach of prescribed criteria under section 440 of the Act. Issues investigated include the release of contaminants to land, air and/or water, excessive noise from commercial premises etc. Officers will investigate the matter to assess the validity of the complaint and undertake appropriate enforcement action to ensure non-compliances are resolved in a suitable timeframe.

Risk Assessment of Compliance Outcomes

The Environmental Health Program identified consistency in decision making, and in particular the adoption of appropriate enforcement tools, as being critical to the work of the Program and to ensure they are an open, fair and transparent regulator. To foster greater consistency between individual officers, this Compliance Strategy for the *Environmental Protection Act 1994* has been developed.

This Compliance Strategy provides a framework whereby a risk-based assessment can be undertaken, based on the key outcomes of the investigation, to select the most appropriate enforcement tool to adopt. By utilising a risk-



based framework it is possible to ensure that a consistent and transparent approach is utilised at all times in the selection of the most appropriate enforcement tool by the officers within the Environmental Health Program.

The *Environmental Protection Act 1994 Enforcement Matrix*, utilises a risk assessment based on two distinct criteria. These are, the human health risk posed by the non-compliance and the likelihood of the business operator / alleged offender to resolve the non-compliance in a suitable timeframe. Although the criteria are derived wholly independent of each other, when inputted together into the Enforcement Matrix, they produce a 'recommended enforcement option'. It is then expected that officers will adopt the 'recommended enforcement option' in regards to securing compliance. If however, an officer believes that an alternative enforcement option is more suitable than the 'recommended enforcement option', the officer must provide an evidence report to their supervisor outlining the reason for this decision. If the evidence report provides clear evidence that another enforcement tool would better secure compliance, then the 'recommended enforcement option' may be replaced with a more appropriate option.

Regardless of the enforcement action that may be required, the officer will always discuss the issues with the business operator / alleged offender. For some lower risk, first time offences, the officer may only provide verbal advice. However, if escalated enforcement action is recommended, the officers will explain this prior to it occurring. The Environmental Health Program is committed to being an open and transparent regulator that works with business operators / customers to achieve compliance.



Environmental Protection Act 1994 Enforcement Matrix

		ENVIRONMENTAL RISK (Actual or Potential)		
		MINOR (low Risk)	MAJOR	CRITICAL (Very High Risk)
LIKELIHOOD OF COMPLIANCE (COMPLIANCE HISTORY/WILLINGNESS AND CAPACITY TO COMPLY)	CATEGORY A (Low Risk)	Verbal Advice	Legal Notice* Infringement Notice	Legal Notice* Infringement Notice
	CATEGORY B	Legal Notice Infringement Notice*	Legal Notice* Infringement Notice	Legal Notice Infringement Notice Environmental Audit/Investigation
	CATEGORY C	Legal Notice Infringement Notice*	Legal Notice Infringement Notice Environmental Audit/Investigation	Legal Notice Infringement Notice Environmental Audit/Investigation Prosecution
	CATEGORY D (High Risk)	Legal Notice Infringement Notice Environmental Audit/Investigation	Legal Notice Infringement Notice Environmental Audit/Investigation Prosecution	Legal Notice Infringement Notice Environmental Audit/Investigation Prosecution

Note 1: The enforcement options in the enforcement matrix are a guide only. Enforcement should be undertaken in accordance with the enforcement matrix and unless approval is obtained from the officer's line manager.

Note 2: Officers must always discuss the identified issues / offences and proposed actions with the business operator / alleged offender prior to any documentation / notices being delivered.

Note 3: Officers must always refer to the relevant legislation to determine whether a particular enforcement option (e.g. Infringement Notice) is permitted for a particular offence.

Note 4: If deviating from the above default enforcement options, the decision must be clearly documented and validated by the responsible officer.

Note 5: It should be noted that in cases where immediate action is required to prevent environmental harm, verbal advice will be provided, which will then be followed up via Legal Notice.

** Please note that 'Legal Notice' refers the service of a Direction Notice or Environmental Protection Order under the Act. Officers are to assess the evidence in regards to the issue before selecting the preferred legal notice type.*



Levels of Environmental Risk (Actual or Potential)

MINOR (Low Risk)

- Legislative non-compliances, which have the potential to result in a minor, temporary threat to the environment. Minor non-compliances can be easily rectified during the normal course of business.

Examples:

- Minor solid air or land contamination which can be easily resolved and/or remediated, e.g. small amounts of rubbish on a commercial premises, small amounts of dust from a plot of vacant land, etc.
- Very minor amounts of prescribed water contaminants (e.g. motor oil) which are unlikely to enter a stormwater gutter, stormwater system or waterway, e.g. minor oil spill in an area with stormwater drains or gutters some distance away etc.

MAJOR (High Risk)

- Legislative non-compliances which have the potential to result in a significant threat to the environment. Businesses may not be able to fix major non-compliances during the normal course of business.

Examples:

- Minor amounts of prescribed water contaminants (e.g. motor oil) which are likely to enter a stormwater gutter, stormwater system or waterway, but have not already done so.
- Excessive noise from a commercial property during permitted hours, e.g. from an extraction fan, refrigeration unit etc.

CRITICAL (Very High Risk)

- Legislative non-compliances which represent an imminent and significant threat to the environment. Critical non-compliances represent a fundamental breakdown in management systems in the business and require immediate corrective action.

Examples:

- Critical non-compliances, such as serious stormwater, air or land contamination, noted during a prescribed ERA inspection.
- Large amounts of prescribed water contaminants (e.g. motor oil) which are likely to enter a stormwater gutter, stormwater system or waterway, but have not already done so
- Contamination of a stormwater gutter, stormwater system or waterway by prescribed water contaminants, e.g. oil which has leaked or been poured into a waterway etc.

Categories of Likelihood of Compliance

(Compliance History/Willingness and Capacity to Comply)

CATEGORY A - Indications of future and ongoing compliance are high (Low Risk)

- No known occurrences of historic and/or current ongoing serious non-compliance;
- Good demonstrated awareness of and/or capacity to meet regulatory requirement; and/or
- Reasonable and cooperative attitude.

CATEGORY B - Indications of future and ongoing compliance are uncertain

- Few known occurrences of historic and/or current ongoing non-compliance; and/or
- Questionable awareness of and/or capacity to meet regulatory requirement.

CATEGORY C - Indications of future and ongoing compliance are low

- Numerous known occurrences of historic and/or current ongoing non-compliance; and/or
- Low awareness of and/or capacity to meet regulatory requirement.

CATEGORY D - No indication of future and ongoing compliance

- Historic and/or current wilful violation of regulatory requirement; and/or
- Little or no demonstrated willingness or capacity to meet regulatory requirement.

Level of Action

VERBAL ADVICE

- Minor compliance issue that is expected to have a high level of compliance; and/or
- Unlikely to result in any imminent risk to the environment.

LEGAL NOTICE

- Major and/or critical non-compliance where there is significant doubt in relation to the likelihood of compliance; and/or
- May ultimately result (or continue to cause) in a serious risk to the environment if not resolved.

TRANSITIONAL ENVIRONMENTAL PROGRAM

- Major and/or critical non-compliance where compliance is likely to take a considerable time to achieve; and/or
- May ultimately result in a serious risk to the environment if not resolved.

ENVIRONMENTAL AUDIT

- Evidence indicates that critical non-compliances have or are likely to result in a critical risk to the environment if not resolved; and
- The seriousness of the non-compliance can be readily audited against site-specific conditions, plans or approved standards.

ENVIRONMENTAL INVESTIGATION

- Evidence indicates that critical non-compliances have or are likely to result in a critical risk to the environment if not resolved; and
- The seriousness of the non-compliance extend beyond site-specific conditions, plans or approved standards.



INFRINGEMENT NOTICE

- Evidence of previous, current and/or ongoing serious non-compliance indicating a low likelihood of compliance; and/or
- Wilful non-compliance; and/or
- Serious risk to the environment if not resolved swiftly.

PROSECUTION

- Evidence of environmental contamination; and/or
- Critical imminent risk to the environment; and/or
- Known or expected ongoing legislative non-compliance