

Australian Capital Territory

# Waste Management and Resource Recovery (Waste-to-Energy) Code of Practice 2023 (No 1)\*

Disallowable Instrument DI2023 – 252

made under the

Waste Management and Resource Recovery Act 2016, s 60 (Codes of practice—approval)

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## 1 Name of instrument

This instrument is the *Waste Management and Resource Recovery (Waste-to-Energy) Code of Practice 2023 (No 1)*.

## 2 Commencement

This instrument commences on the day after notification.

## 3 Approval

I approve the Waste to Energy Code of Practice as set out in Schedule 1.

Chris Steel MLA  
Minister for Transport and City Services

9 November 2023

\*Name amended under Legislation Act, s 60



# Schedule 1 – Waste to Energy Code of Practice

TRANSPORT CANBERRA AND  
CITY SERVICES DIRECTORATE

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## Introduction

This Waste-to-Energy Code of Practice (the Code of Practice) is made under section 60 of the *Waste Management and Resource Recovery Act 2016* (the Act) and provides guidance on Waste-to-Energy activities in the ACT. The Code of Practice implements the ACT's *Waste-to-Energy Policy 2020-25* to prohibit the thermal treatment of waste, allow the production but not burning of refuse derived fuel and encourage anaerobic digestion in the Territory.

The Code of Practice provides guidance for persons authorised under the Act to issue Waste Facility Licences. Details of who the Code of Practice applies to and what restrictions apply are included in the Scope and Application of the Code of Practice.

## Definitions

Unless otherwise specified, the following definitions apply to the Code of Practice:

**the Act** means the *Waste Management and Resource Recovery Act 2016*.

**the Code of Practice** means this *Waste-to-Energy Code of Practice*.

**Incineration** means a process of burning material at high temperature in combustion chambers, resulting in a high-temperature chemical reaction between a fuel and an oxidant that produces gases.

**Gasification** means a process that heats material at high temperatures, using a controlled amount of oxygen or steam to prevent combustion, resulting in the production of a gas.

**Pyrolysis** means is a process that heats material at high temperatures within very low oxygen environments. In the absence of oxygen the materials change composition, leaving a solid residue with a high concentration of carbon (char), as well as liquids and/or gases, which can all be combusted to generate energy.

**Refuse derived fuel (RDF)** means a solid fuel made from waste which would otherwise be sent to landfill. Refuse derived fuels can go by several names such as Process Engineered Fuel (PEF) or Solid Recovered Fuel (SRF).

**Residual waste** means non-hazardous waste materials which can no longer be reused, recycled and for which no alternative markets exist, after genuine source separation from mixed waste and resource recovery operations have occurred, which would otherwise be sent to landfill.

**Requirement** means conduct which must be undertaken to remain compliant with the Code of Practice. Requirements are enforceable under part 9 of the Act.

**Territory** means the Australian Capital Territory.

## Purpose

The purpose of the Code of Practice is to legislate aspects of the *ACT Waste-to-Energy Policy 2020-25*. The Waste-to-Energy Policy was developed to provide greater clarity to the community and industry as well as a framework to the ACT Government for assessing Waste-to-Energy proposals.

Under the *Waste Management and Resource Recovery Act 2016*, businesses that operate a waste facility in the Territory must hold a Waste Facility Licence. Compliance with the Code of Practice will be considered during the waste facility licence application process under section 22(3)(a) as ability to comply with the Act. Any proposal that is not consistent with the Code of Practice will be refused a licence.

The Code of Practice authorises the ACT Government to undertake enforcement activities against non-compliant waste facility operators.

## Scope

The Code of Practice applies to new facilities proposing waste-to-energy technology with a focus on prohibiting thermal waste-to-energy technologies.

Waste-to-energy facilities / activities established before the date the Code of Practice takes effect including thermal treatment of waste in the Territory are outside the scope of the Code of Practice and will not be impacted by it.

The Code of Practice does not cover activities such as the treatment of hazardous or toxic waste, the destruction of clinical waste or diseased animals.

## Application of the Code of Practice

The Code of Practice applies to waste facility licensees and applicants for a waste facility licence under the Act.

The Code of Practice does not apply to licenced waste facility licences that permit thermal treatment of waste in the Territory, which were established prior to the commencement of the Code of Practice.

## Requirements of the Code of Practice

### Requirement 1 - Thermal waste-to-energy

Non-thermal means of energy recovery such as anaerobic digestion and the use of landfill gas capture, or the production of refuse derived fuel (RDF) from residual waste are permitted.

New facilities, proposing thermal treatment of waste by means of incineration, gasification, pyrolysis or variations of these for energy recovery, chemical transformation, volume reduction or destruction, are not permitted in the Territory.

The only exceptions are for:

- the safe disposal of clinical waste as defined under the [Clinical Waste Act 1990](#)
- the destruction of infected animals in line with the [Animal Diseases Act 2005](#)
- the treatment of hazardous waste regulated by the [Dangerous Substances Act 2004](#).

### Requirement 2 - Refuse derived fuels (RDF)

The production of RDF from non-residual waste is not permitted. Thermal treatment of RDF is not permitted within the territory.

## Offences

A failure to comply with a requirement of the Code of Practice is a strict liability offence and is subject to penalties under section 61 of the Act.

The infringement penalty for failing to comply with a Code of Practice is set out in the *Magistrates Court (Waste Management and Resource Recovery Infringement Notices) Regulation 2017*. If prosecuted in Court, the value of a penalty unit for an offence against this Code of Practice is set by section 133 of the [Legislation Act 2001](#).