

2.2 Waste Regulation by Environmental Protection

Executive Summary

- Waste Regulation within Environmental Protection implements and administers the Waste Management (Jersey) Law 2005.
- The Law implements the Basel Convention in Jersey, to enable the shipment of hazardous wastes out of the Island for disposal.
- The Law incorporates a new regulatory licensing regime, which helps to protect the marine environment from potential impacts of waste management activities.
- The Law is an additional tool available for Environmental Protection in dealing with pollution, including that of the marine environment.

1. Overview of Waste Regulation activities

- Prohibition of unlicensed or harmful activities involving waste.
- Control procedures for movements of hazardous wastes exported from Jersey for disposal or recovery in other jurisdictions.
- Waste management activities to be licensed unless otherwise exempt.
- Carriers of hazardous or healthcare wastes to be registered unless otherwise exempt. Control procedures for movements of hazardous or healthcare wastes within Jersey.

2. Legislation

- Waste Management (Jersey) Law 2005.
- the Basel Convention (the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal).
- the OECD Decision (the on the Control of Transfrontier Movements of Waste Destined for Recovery Operations).
- EC Regulation (EC) No 1013/2006 on shipments of waste.

3. Introduction to Waste Management (Jersey) Law 2005

This Law was brought into force in order that;

- the Basel Convention could be ratified by the United Kingdom on behalf of Jersey. This would allow the export of hazardous waste from Jersey for disposal, which was prevented by the UK Government in 2002
- Jersey could adopt “environmentally sound management of hazardous and other wastes”, as part of its own internal waste management activities.

The Waste Management (Jersey) Law 2005 came into force in two stages in November 2006 and February 2007. It also implemented the OECD Decision which along with and the EC Regulation (EC) No 1013/2006 on shipments of waste enables a legislative framework within which Jersey can ship waste to European member states.

Up until 2002, Jersey successfully exported hazardous waste to the UK for the purpose of disposal. It was necessary for ratification to the Basel Convention to be performed on Jersey’s behalf by the UK, in order to arrange a “duly reasoned request” and continue to dispose of hazardous wastes in the UK.

Ratification status to the Basel Convention was achieved in September 2007. A “duly reasoned request” with the UK was agreed in January 2009. Provision of suitable specialised facilities to dispose of such hazardous wastes in Jersey would be technically difficult and economically unattractive. In July 2010, consent was given by both the Jersey and UK competent authorities for shipment of stockpiled hazardous wastes for disposal by high temperature incineration in the UK. The export of approximately 100 tonnes of this stockpiled hazardous waste is expected to take place in late 2010.

The Basel Convention requires parties to adopt policies for the environmentally sound management of wastes. This means taking all practicable steps to ensure that waste is managed in a manner that will protect human health and the environment against the adverse effects that may result from such waste.

The Law therefore introduced the additional regulatory provisions listed in Section 1.

4. Implementation of Waste Management (Jersey) Law 2005

4.1 Transfrontier Shipments

The Minister for Planning & Environment is the competent authority for the purposes of transboundary shipments of waste, responsible for implementing and executing the administrative and operational requirements for the control of such shipments, from, in transit through or into Jersey.

Since 2008, Environmental Protection have processed and consented to a total of eight shipments; seven shipments of waste for recovery and one for the disposal of hazardous wastes mentioned above.

There are currently a further nine notifications for waste exports on which Environmental Protection is providing advice.

4.2 Hazardous & Healthcare Waste - carrier registration and movement procedures

Carriers of hazardous & healthcare waste have to apply to register with Environmental Protection unless they are exempt from this requirement. There are 52 organisations who have registered.

Waste carriers should ensure that their employees are suitably trained and that any motor vehicle or other equipment that is used is appropriately designed and maintained.

Movements of such wastes on Island roads should be pre-notified to the section before the movement takes place.

The types of wastes regulated by this part of the Law include hazardous wastes such as asbestos construction materials, oils, agrochemicals and healthcare waste from nursing homes.

4.3 Waste Management Licensing

Waste management activities have the potential for impact on the marine environment, principally through;

- site drainage and runoff to surface water systems
- pollution of groundwater / coastal tidal waters
- leaching of contaminants from permanent deposits of waste

Coastal land reclamation sites, where wastes are deposited in close proximity to the marine environment, are the principal wastes sites presenting a risk of pollution to the marine environment. The licensing regime will minimise the impact of these activities by ensuring persons manage their activities. Waste Management Licences can be held by government departments, companies or individuals carrying out waste activities.

Article 23 of the Waste Management (Jersey) Law 2005 is reproduced in the box below. It requires that any person who carries out waste management activities does so in accordance with a waste management licence issued under the Law by Environmental Protection. It sets out the waste activities which need to be licensed and the offences.

Article 23 Prohibition of unlicensed or harmful activities involving waste

(1) A person who causes or knowingly permits any activity to which this Article applies to be carried on shall be guilty of an offence, unless it is carried on in accordance with a waste management licence that is issued under this Law by the Minister and is for the time being in effect.

(2) This Article applies to each of the following activities, namely –

- (a) the deposit of controlled waste on any land;
- (b) the keeping of controlled waste on any land;
- (c) the treatment of controlled waste on any land, or by means of any mobile plant; and
- (d) the disposal or recovery of controlled waste on any land, or by means of any mobile plant.

(3) The prohibition in paragraph (1) is subject to Article 24.

(4) A person who deposits, keeps, treats, disposes of or recovers controlled waste in a manner that is likely to cause pollution shall be guilty of an offence.

(5) Any person who is guilty of an offence under paragraph (1) or paragraph (4) shall be liable to imprisonment for a term of 2 years and to a fine

Appendix 1 lists the sites which require to be licensed and gives details of the operators and site types. A risk banding is attributed to those waste management sites shown in Appendix 1 as high, medium or low. This is a simple banding system to set a level of fees according to the level of regulatory work involved because of the relative risk the site poses to the environment. Current fees for licence applications and ongoing annual fees for the subsistence of the licence are set out in the Fees Order as detailed in Appendix 2. The Law sets a funding framework designed on the polluter pays principal.

The Law is introducing a licensing regime to existing waste activities for the first time, many of which have been operational for a number of years. Operational standards, methods and environmental monitoring will have to be assessed against best practice to ensure adequate environmental protection.

Where applications were made for licences before August 2007, these existing operations can continue lawfully until the applications are determined. Sites starting business after this date require a licence before they begin operating.

The licensing process involves statutory and public consultation in order to capture representations and take these into account in the determination process.

A licence cannot be issued unless the use of the land is lawful which means a suitable planning permission must be in force.

The section is currently seeking compliance with the licensing regime from the Island's waste operators (including the Transport & Technical Services Department) and is prioritising this work due to limited resources (see section 7 below). The licence application for the new Energy from Waste plant at La Collette will be determined before it starts operation in late 2010.

Licences can only be issued to applicants who are fit to hold a licence. This means that Environmental Protection must take into account an applicant's technical competence, financial capability and whether an applicant has current convictions for environmental offences.

In addition, a licence can only be issued if Environmental Protection is satisfied that the waste management activity would not involve a risk of pollution that cannot be effectively dealt with by imposing conditions in the licence. Licence conditions should therefore ensure that licence holders take all necessary measures to prevent pollution from their activities.

A licence will specify both the activity which may be carried out and the precise area of land on which the activity may be carried out. Licence conditions will detail the permitted waste types for the site and control its design, construction, operation, monitoring and maintenance by reference to the operator's application and working plan.

The operator will have to manage the site in accordance with the standards and methods detailed within the licence conditions and their working plan. It is an offence to contravene any condition of a licence and a licence holder found guilty of an offence shall be liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

Anyone who manages waste in a manner that is likely to cause pollution commits an offence and, if found guilty, shall be liable to imprisonment for a term not exceeding 2 years or to a fine, or both. This means that even if the activity is covered by a valid licence or is deemed lawful while an application is determined, Environmental Protection can still take enforcement action if it is carried out in such a way that it may cause pollution.

5. Coastal land reclamation

5.1 Introduction

Coastal land reclamation has been a method of disposing of construction and demolition wastes and incinerator ash residues since 1977 at the St. Helier waterfront, east of Albert and La Collette. Disposal methods have, with time, improved greatly from initial depositing and mixing of all wastes deposited, to depositing incinerator ash in designated areas, through to current modern methods which;

- use engineered containment cells for ash and contaminated materials which are situated above the level of mean high water spring tides
- check materials deposited and define waste acceptance criteria for wastes deposited in the general reclamation area where there is no engineered containment and the infill is in continuity with the adjacent marine environment.

5.2 La Collette II Reclamation Site

The current land reclamation site is at La Collette II, St Helier. An application has been received for a licence for the site which will be determined in due course.

Any licence will require management of site to protect the marine and wider environment and prevent pollution. Conditions and working plans for the following areas in particular will provide additional mechanisms to protect the marine environment against pollution.

- Engineered containment cell design for incinerator ash and contaminated wastes.
- Waste acceptance criteria based on site specific risk assessments.
- Monitoring that may include surface, ground, coastal waters, sediments and marine ecology to verify that management and control measures are performing as intended.

Licence conditions will require the production, review and updating of a working plan by the operator (Transport and Technical Services Department). This will provide the detail of the justification, design, construction, testing, operation and monitoring for all aspects of the waste activities on site. Modern risk assessment methodologies will be used in decisions for design, management and operation of the site.

5.3 Former land reclamation sites / landfills

Development in areas of former land reclamation is controlled by Planning Law. Environmental Protection is consulted on or requests relevant development proposals in order to provide advice or request conditions on compliance with Waste Management Law, as well as to comment on wider environmental protection issues.

6. Monitoring and reporting

Data such as environmental monitoring data and waste inputs provided by the waste site operator as a requirement of the licence will provide Environmental Protection with additional data. Such information will be available to the public under the Law subject to other caveats in the Law and any confidentiality or data protection claims.

7. Budget, manpower and resources considerations

The budget (excluding manpower) for waste regulation is approximately £15,000.

	2010 budget	Fees (income)	Manpower	Operating budget
Waste Management			67,024	
- implementation (inc. vehicle)		(96,900)		45,300
<i>Sub total</i>	15,424	(96,900)	67,024	45,300

It is recognised that the limited manpower resources are restricting the pace at which the section can implement the Law and receive the waste management licence fees income in the table above in order to fund the ongoing inspection and compliance at waste management sites.

The annual subsistence fees for waste management licences cannot be realised until the licences are issued. This is pressurising the budget.

One officer was appointed Head of Waste Regulation in 2005. The post was vacant for a period of 12 months following an internal promotion and the current post-holder was appointed in 2008.

The work of the section is carried out by the Head of Waste Regulation with support from other Environmental Protection team members who are able to reprioritise work areas. This however takes resources away from other Environmental Protection areas.

Recently an Environmental Protection Officer on 6 month secondment from another States department and has provided valuable assistance. This has helped in the licensing work for the new Energy from Waste Plant at La Collette.

8. Constraints

The implementation of the Law has resulted in a high workload. Associated with this is also a significant amount of additional work in other waste related areas, which cannot be easily controlled and constant reprioritisation of work is necessary.

The transfrontier shipment work is a priority to enable the Island to honour its international obligations under the Basel Convention. This is the reason the Waste Management (Jersey) Law 2005 needed to be introduced and other jurisdictions are involved in the process.

9. Addressing of constraints by Environmental Protection

- Business planning processes - review and rationalise work activities to enable cost effective protection of the island's environment given available resources.
- Additional resources from secondment arrangements.
- Training of Environmental Protection Officers in waste regulation in order to allow flexibility across the team where work loads allow this.

Appendix 1 – Sites requiring Waste Management Licences

Licence ref.	Operator	Site type / address	Risk banding
WML001	Transport & Technical Services Department (TTSD)	Land Reclamation Site Phase 2 La Collette	High
WML002	TTSD	Bulk Waste Facility, Bellozanne Valley	Medium
WML003	TTSD	Green Waste Facility, La Collette	Medium
WML004	TTSD	Energy from Waste Plant, Bellozanne Valley	High
WML005	TTSD	Healthcare Waste Incinerator, Bellozanne Valley	Medium
WML006	TTSD	Waste Oil Compound (hazardous wastes), Bellozanne Valley	High
WML007	PICOT & ROUILLE LTD	Scrap Metal Yard, Bellozanne Valley	Medium
WML008	AAL RECYCLING LTD	Aggregates Recycling Site, La Collette	Low
WML009	ABBEY PLANT LTD	Waste Transfer Station, Rue des Pres, St. Saviour	Low
WML010	ALG SKIPS LTD	Waste Transfer Station, Trinity	Low
WML011	WP RECYCLING LTD	Waste Transfer Station and Aggregates Recycling, Broadlands, Mont Fallu, St. Peter	High
WML012	HUNT BROTHERS LTD	Scrap Metal Yard, Commercial Street, St. Helier	Low
WML014	PARISH OF ST HELIER	Recycling Site, Parish Depot, St Helier	Low
WML015	JERSEY BIO FUELS LTD	Waste treatment Site, (Biodiesel manufacture), Rue de la Falaise, Trinity	Low
WML016	REG'S SKIPS	Waste Transfer Station, McQuaig's Quarry, St John	Low
WML017	CAC ENVIRONMENTAL Ltd.	Waste Transfer Station (Asbestos) La Collette	High
WML018	ATLAS WORKS	Scrap Metal Yard, Dorset Lane, St Helier	Low
WML019	TTSD	Energy from Waste Plant La Collette	High
WML020	TTSD	Waste Transfer Station (Green waste) Warwick Farm Green Waste	Low
WML021	TTSD	Waste Transfer Station, Howard Davis Farm, Recycling Logistics Depot	Low
WML022	CAC ENVIRONMENTAL Ltd.	Waste Transfer station (Asbestos) Springside Industrial Estate, Trinity	Low
WML023	VHE CONSTRUCTION LTD	Mobile Plant Licence (bioremediation) for use at Gas Place, St Helier (proposed Town Park site)	Low
WML024	TTSD	Landfill, (Asbestos) Land Reclamation Site Phase 2 La Collette	High

Appendix 2 2010 Waste Management Fees

Waste Management (Jersey) Law 2005 Waste Management (Fees) (Jersey) Order 2008 amended

For the table set out in Schedule 1 to the Waste Management (Fees) (Jersey) Order 2008 there shall be substituted the following table–	
Part 1 – Applications	Fee (£)
Licence application –	
high regulatory requirement	2011.95
medium regulatory requirement	1633.72
low regulatory requirement	1223.98
Licence modification –	
significant modification	819.49
minor modification	409.74
Licence transfer –	409.74
Licence surrender –	
high regulatory requirement	2011.95
medium regulatory requirement	1633.72
low regulatory requirement	1223.98
Waste carriers registration –	107.16
Transboundary consignment note –	
application	1107.36
shipment fee – for each permitted shipment	99.81
Internal consignment note –	0.50
Part 2 – Annual fees	
Licence subsistence –	
high inspection frequency	11294.22
medium inspection frequency	5647.11
low inspection frequency	2826.18