



LINCOLNSHIRE WASTE PARTNERSHIP

21 September 2011

SUBJECT :	Information Paper: The roles and responsibilities of the Environment Agency – Focus on Waste – Northern Area, Anglian Region
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BACKGROUND INFORMATION

The Environment Agency was established in 1996 to bring together previously disparate responsibilities for protecting the environment and to contribute to sustainable development. This integrated approach means that we consider all elements of the environment when we plan and carry out our work, which includes:

- regulation of major industry
- flood and coastal risk management
- waste management
- agriculture
- navigation
- fisheries
- contaminated land
- conservation and ecology
- water quality and resources
- climate change

The Agency's Northern Area, Anglian Region is based on the catchments of the rivers Ancholme, Witham, Welland and Nene and bounded by the coast and Humber estuary. This means that, as well as Lincolnshire, the Northern Area boundary includes Northamptonshire, Rutland, Peterborough, North Lincolnshire and North East Lincolnshire. We currently have 356 staff to cover all of the above functions in Northern Area. Approximately 50 of these are officers delivering front-line environmental regulation, one aspect of which is waste. For England and Wales as a whole, we employ a total of approximately 10,000 staff covering all of our functions.

In Northern Area we regulate 43 active and 65 closed landfills, 13 incinerators, 298 other waste management operations, 814 water treatment works (sewage and industrial), 32 food and drink factories, 73 other factories 127 poultry rearing units and 24 pig farms.

We also operate a pollution hotline on a 24/7, 365 day basis, to allow members of the public to call us free on 0800 807060 to report their concerns about pollution or environmental damage.

In Northern Area in 2010 we dealt with 3,905 such reports which led to 36 defendants being prosecuted for 55 environmental offences resulting in a total of £219,265 fines plus £80,437 costs awarded to us.

SCOPE (WASTE)

Our responsibilities extend beyond covering the solid waste arisings that the members of this partnership have a duty to collect and manage, to include all forms of waste from all sources:-

- Waste from all remaining non – household (commercial and industrial) municipal sources
- Solid, liquid and gaseous waste emissions from prescribed industries
- Wastewater discharges from sewage / water treatment works
- Mining and quarrying waste
- Hazardous waste
- Radioactive waste
- Agricultural waste

The disposal / treatment / recycling and movements of these different types of waste fall under our various regulatory functions. The degree of regulation in each case is designed to be proportionate and based on relative risk to the environment.

The remainder of this report places its emphasis on those forms of waste that the Lincolnshire Waste Partnership is more familiar with in its day to day dealings.

LICENCES, PERMITS AND EXEMPTIONS

Under the Environmental Permitting Regulations 2010, waste management facilities require an Environment Agency permit to operate, or can register an exemption if the activity is considered sufficiently low risk.

There are currently 354 operational, permitted waste sites in Lincolnshire and 1774 registered as exempt. We carry out inspections and audits on these sites in accordance with a risk score based on operator performance and risk to the environment. Lower risk and better performing operators see us less often and pay less for the privilege. Higher risk and poorer performers see us more often and pay more by way of annual fees.

Whatever the type of permit, and whether or not a site is operated by the private or public sector (or their contractors) we are obliged to regulate to a level playing field. Since the overriding purpose of permitting is to protect the environment, the domain of an operator has no bearing if the environment is being harmed or is under threat. We operate a policy whereby our own operations that require a permit are regulated by staff from a different Environment Agency Region.

Similarly, although many activities are exempt from permitting because of their lower risk to the environment, we do some visits to check that this remains so and that operators do not abuse this relaxed form of regulation.

In terms of pollution incidents that we deal with, badly managed factories, raw materials, new and unused substances are as likely to cause environmental harm as are badly managed waste facilities and waste materials.

Types of waste site

The waste sites we regulate range widely in scale and nature and amongst the broad types included are the following:-

- Landfills
 - Sub-categorised according to waste received e.g. Household Commercial & Industrial waste, inert waste only, hazardous waste only
- Transfer stations
 - Sub-categorised as above (includes Household Waste Recycling Centres).
- Treatment facilities
 - Physical treatment, chemical treatment, biological treatment, incineration – all sub-categorised according to waste received, as above (includes composting)

The most common complaints we receive about such sites focus on the impact of odour, and to a lesser extent, dust and noise, on the dwellings and work places of local people.

Securing compliance at regulated sites

Our strategy is to deliver improved environmental outcomes rather than focus on processes, so we take a risk based approach. To achieve our aims, we endeavour to build good working relationships with operators and work to strengthen these throughout the operational span of the facilities in question. Our liaison ranges from on-site discussions with small scrap yard owners to meetings at boardroom level with Directors of multi-national companies.

When the conditions of a permit are being breached, dependent upon the environmental risk, our preferred approach is to achieve voluntary compliance through offering advice and guidance. This is when we draw on our working relationships with operators and in most case this results in satisfactory outcomes. However, should this approach fail, further action may escalate to include warning letters, notices and legal action through the courts. More recently the use of civil sanctions has been made available to us, currently for offences under the packaging regulations only. For example an Enforcement Undertaking was offered to a company to make amends for its offences and pay its avoided costs (£8,229) to an environmental charity. This meant the company was not prosecuted.

CUSTOMERS AND GOOD NEIGHBOURS

Amongst our customers are those who live near to waste sites and who look to us to safeguard their health, quality of life and environment from any detriment which may arise from poorly operated facilities. So, part of our role is to be involved (or if necessary initiate) regular liaison meetings between operators and their neighbours and to be a mediating

influence where there is conflict. Amongst those public who attend such meetings there may also be Parish Councillors, District Councillors, County Councillors and Members of Parliament. This forum provides a further platform to engage and build relationships with these representatives of the public. We welcome any assistance they can provide in resolving what can sometimes be the conflicting priorities of growth, profit and environmental responsibility.

In addition to these site specific meetings, our Area Manager regularly meets with Council Leaders and Chief Executives, Members of Parliament and Directors from major players in the waste industry to discuss issues which may fall within particular constituencies.

ILLEGAL WASTE SITES

The Environment Agency is committed to reducing illegal sites and activities. We allocate our resources by concentrating on those sites with the greatest adverse impact, to reduce the risk they pose and redirect the waste into legitimate business.

An illegal waste site may be summarised as:

“Any repeated multiple unauthorised activity carried out in an organised manner.”

Examples of illegal waste sites:

- a site operating without a permit
- a site operating without an exemption

Dealing with Illegal Waste Sites

When we identify an illegal waste site we use various techniques to address the issue, depending on the severity of the activity and particular circumstances. The activities can range from the naivety of small, first time ‘have a go’ type operators to serious and deliberate organised criminal activity.

Our preferred approach is to offer advice and guidance to bring offenders into voluntary compliance. This approach works for operators who want to set up a legitimate business but have gone about it in the wrong way, unwittingly finding themselves operating an illegal waste site.

Where this approach fails, we can use warning letters, notices and legal action through the courts. Tools at our disposal include surveillance techniques to gather evidence, sharing intelligence, interviews, and joint operations with other enforcement authorities such as raids on premises. In some cases, the Environment Agency has used deception operations to help tackle illegal waste sites. For example, in order to obtain evidence against a suspected illegal operator we purchased a vehicle which was at the end of its life and equipped it with covert video cameras and a tracking device. The vehicle was tracked to the suspect's scrap yard which was raided in a joint operation with the police. We recovered the video evidence which had caught the suspect on camera acquiring the vehicle and attempting to dispose of it illegally.

During 2010-11, we dealt with 66 illegal waste sites in Lincolnshire, stopping the unlawful importation or deposit of waste on 56 of those sites (85%). We brought the majority of these into regulation. At some we stopped the activity or the waste was removed from site.

Cooperation between the Environment Agency and Local Authorities

To invoke action from us to deal with it, a site needs to be dealing in waste as defined under the legislation, in an organised manner without a permit.

We frequently work with planning enforcement officers, trading standards, HSE and the Fire & Rescue service to tackle specific sites. The use of regulatory powers from organisations collaborating together is usually more effective in tackling offenders than working in isolation. For example, where there are issues at waste sites that have both a County Council planning consent and an Environment Agency permit or exemption, we jointly examine the enforcement options that are available under both controls to decide which combination can best address the issues in question. We are in the process of agreeing a joint memorandum of understanding with the County Council to cement this good practice into our ways of working. We are constantly looking for ways to be more efficient and effective by working together with our regulatory partners, and avoiding duplication.

Also, we have agreed with the Local Government Association (LGA) a protocol that sets out the types of fly-tipping that local authorities and we respond to. This has been the subject of a previous report by the Environment Agency to this Partnership (1st October 2009, minute 9 refers).

WASTE PACKAGING AND PRODUCER RESPONSIBILITY

Producer Responsibility laws require businesses to reuse, recover and recycle waste which comes from products they produce. This includes waste electronic and electrical equipment (WEEE), waste packaging and waste batteries. The UK must meet its national targets for recovery and recycling of these wastes set under European Union (EU) Directives. It is the responsibility of producers to do their bit to ensure this is done. In the case of materials used for packaging, there are different percentages for different types, but overall the combined target is 74%.

In each case affected businesses must register with the Environment Agency, either directly or through a producer compliance scheme. We currently deal with 245 registered producers in Northern Area. Monitoring involves checking with the relevant recycling industries where they obtain their feedstock from or who has approached them to help fund recycling operations (by purchase of Packaging Recovery Notes – PRN's) and last year we carried out 60 audits of producers. There are many recycling industries with which we have regular dialogue in this context.

Should prosecution for non-compliance be necessary then the courts will take into account how much a business has saved by not registering and include that as part of any overall financial penalty that may be imposed. An example of this occurred in Northern Area last year when a producer generating packaging was fined £6,000 plus £1,335 costs for failing to register

THE FUTURE: WASTE AND RESOURCE MANAGEMENT APPROACH

Along with our partners in industry and the public sector, we are proactive in moving toward a future where as much discarded material as possible is recognised as a resource, rather than waste, and put to beneficial use.

To this end a range we have developed criteria to establish the point at which a waste has been processed to agreed standards so that it becomes a 'product', no longer regulated as a waste.

We have published final quality protocols for these waste materials:

- Aggregates from inert waste
- Biodegradable waste (source-segregated) for compost
- Biodegradable waste (source segregated) for anaerobic digestate
- Cooking oil and rendered animal fat
- Flat glass
- Lubricating oil
- Plasterboard
- Plastics (non-packaging)
- Pulverised fuel ash and furnace bottom ash (bound and grout)
- Tyres – tyre-derived rubber material

We have published draft quality protocols for these waste materials:

- Poultry litter ash

The following materials are currently in UK public consultation:

- Aggregates from inert waste
- Wood

Quality protocols for the following waste materials are currently being considered:

- Glass – Cathode Ray Tube
- Incinerator bottom ash
- Paper sludge ash
- Pulverised fuel ash and furnace bottom ash (unbound)
- Steel slag
- Tyres – tyre bales

As well as developing protocols we will in future be diverting more of our resources to advising businesses on how they can become more efficient across the board (water energy and waste) and save money by reducing the creation of waste in the first place (and using less water and energy).