

**SUPPORTING INFORMATION FOR THE OPERATION OF
TRANSFER STATIONS ON
SALT SPRING ISLAND**

Prepared by the Salt Spring Island Transfer Station Regulation Committee (SSITS)

This document provides supportive information to Capital Regional District
Bylaw No. 2810

BACKGROUND

What is the purpose of these guidelines?

These guidelines have been prepared as supportive documentation to Capital Regional District Bylaw 2810, a Bylaw to Regulate the Operation of Transfer Stations on Salt Spring Island. These guidelines are intended to clarify for potential transfer station operators and Islands Trust and CRD staff the rationale and requirements of Bylaw 2810.

What is the transfers station strategy for Salt Spring Island?

The CRD has adopted a regulatory role, providing the opportunity for the establishment of private transfer stations on Salt Spring Island. The components of this regulatory framework include:

preparing CRD Transfer Station Regulation Bylaw 2810 to regulate the operation of transfer stations on Salt Spring Island; and
amending the CRD's Solid Waste Management Plan (SWMP)

The amendment to the SWMP is required to enable the CRD to use the enabling legislation of Section 19 (3) of the Waste Management Act to license transfer stations on Salt Spring Island.

What are the objectives of the transfer station bylaw?

The key component of this regulatory framework is Bylaw 2810, which requires every transfer station operator on Salt Spring Island to be licensed by the CRD. The bylaw applies to both existing facilities and proposed facilities. The purpose of licensing every facility is to meet the following Salt Spring Island Transfer Station Regulation committee objectives:

- 1) that a level playing field is established for private operators to compete;
- 2) that transfer station operations do not contaminate ground or surface water, generate unacceptable levels of odour, vectors, litter or dust;
- 3) that the public is protected from transfer operations which violate the requirements of their operator licence, and;
- 4) that transfer stations are operated by the private sector not the CRD.

OPERATOR LICENCE

Who needs to apply?

With the exception of premises that receive only empty food and beverage containers or other recyclables under the beverage container program regulation or other legislated programs or premises that store municipal solid waste or recyclables which were generated within the premises, all transfer stations on Salt Spring Island must be licensed.

It is not the intention of the CRD to license:

premises that are used for the purpose of short term parking of trucks carrying municipal solid waste or recyclables if these trucks are waiting for a ferry off the island or are waiting for the appropriate disposal facilities (off-island) to open for business.
retail or wholesale outlets that are involved in the sale of used merchandise.
premises engaged in automotive repair or restoration or sales of automotive parts.

LICENCE APPLICATION

How do I apply?

Review the information sheet and complete the application form attached as Schedule A to the transfer station bylaw. Send your application and application fee to:

Manager, Solid Waste
Capital Regional District
Environmental Services Department
P.O. Box 1000
524 Yates Street
Victoria, British Columbia V8W 2S6

How often must I renew my licence?

A licensee must renew an operator licence every three years by completing the application form attached as Schedule A in the transfer station bylaw and submitting it to the solid waste manager with the renewal fee. (Refer to Schedule D in the transfer station bylaw for application fees.)

Who determines if an application is approved and a licence is issued?

Licence applications will be reviewed by a team including CRD staff and Islands Trust staff. CRD staff will issue or decline to issue licences.

LICENCE FEE

What are the fees to obtain a licence?

Refer to Schedule D of the transfer station bylaw for a schedule of application, administration and amendment licence fees. The intent of this variable fee schedule is to provide operators with flexibility regarding the type and size of facility, while still providing the public and the environment protection against operations which violate the requirements of the CRD transfer station bylaw.

The administration/monitoring fees vary according to the class of licence, which in turn depends on the type of facility.

FACILITY SITING

Is the CRD or Islands Trust assisting in any way with the siting of transfer stations?

The CRD or Islands Trust are not providing a site(s) for future transfer stations facilities. It is ultimately the responsibility of each potential facility operator to secure a site which complies with the requirements of the Islands Trust.

The following points are provided to assist potential operators with facility siting:

Potential facility operators are responsible for compliance with the requirements of the Islands Trust and the Ministry of Transportation and Highways for the siting of a transfer station.

Logically, the facility would be sited in the best available location within the island.

The siting of a transfer station may require a rezoning; rezonings must go to public hearing.

The public on the entire island, and especially the near neighbours, must be satisfied that a facility would be compatible with the community and the planning and land use objectives of the Islands Trust.

Ideally, neighbours should be assured that a facility would be an asset in the community (e.g., environmentally sound, provide tax revenue and form a basis for an one stop drop off refuse and recyclables).

The CRD transfer station bylaw has been designed to facilitate rezoning because it provides comfort and security for neighbours (i.e., regulations can be enforced in a timely manner and, if necessary, the licence can be suspended or revoked without significant delay).

CRD regulations promote a level playing field so that all operators comply with the same “do-able” regulations.

CRD regulations will ensure protection of the environment.

What classes of licence and transfer stations are there?

The following classes of licence are available:

Class 1 - a licence to operate a Class 1 transfer station

Class 2 - a licence to operate a Class 2 transfer station

The following classes of transfer station are available:

Class 1 transfer station is a site at which municipal solid waste or recyclable material is received from the general public and is sorted, compacted or rearranged and stored for subsequent transfer off-site for further processing or final disposal.

Class 2 transfer station is a site that is used by the operator to store municipal solid waste or recyclable material for subsequent transfer off-site for further processing or final disposal. A Class 2 transfer station does not include a site, works or facility that accept or receive municipal solid waste or recyclable material from the general public.

ODOUR MANAGEMENT

How will odours be addressed?

First, odours detectable beyond a transfer station's site boundary would constitute a violation of this bylaw. Second, enforcement procedures will be in place which ensure a rapid response to any odour violations. Third, the operator will have a powerful incentive to treat any odour problems quickly as a condition of maintaining a valid licence.

The enforcement section of this document explains how facilities which violate the requirements of this bylaw will be required to comply.

LEACHATE MANAGEMENT

Why does the transfer station bylaw say that there can be no discharge of leachate to the environment?

The Salt Spring Island Transfer Station Regulation committee (SSITS) believes that transfer stations should not contaminate on-site or off-site ground or surface water. To ensure the environment is protected, the bylaw prohibits discharge of leachate to the environment.

Leachate management options may include:

- a) preventing generation of leachate;
- b) collection and disposal at an approved septage facility or sanitary sewer in accordance with either the CRD Septage Disposal Bylaw No. 1 or the CRD Sewer Use Bylaw No. 2 respectively; and

It also provides a financial incentive for operators to minimize the volume of leachate generated.

The goal of SSITS is to encourage minimum leachate generation.

The applicant must provide a leachate management plan which shows how leachate or surface run-off will be managed to ensure there will be no discharge of leachate to the environment.

VECTOR, LITTER AND DUST MANAGEMENT

How will the potential for vector attraction, litter and dust be addressed?

SSITS believes that transfer stations should be managed such that they control insects, birds, rodents, dogs, blowing papers, garbage, dust and all other potential pests on and around the transfer station site.

The enforcement section of this document explains how facilities which violate the requirements of the transfer station bylaw will be required to comply.

NOISE ABATEMENT PLAN

How will the potential for excessive noise be addressed?

SSITS believes that transfer stations should be managed such that they minimize noise as not to disturb the peace and well being of residents neighbouring the site.

The enforcement section of this document explains how facilities which violate the requirements of the CRD SSI noise bylaw may have their licences suspended or cancelled.

POST CLOSURE RESTORATION

What happens to abandoned materials?

Every licensee at the time of application will be required to provide a letter of credit, or a 50/50 combination of letter of credit and surety bond, to the CRD, which may be drawn down in the event that:

- a) the operator has not hauled off site the material within the time frame set out in Schedule B, the site will be cleared of materials; or

- b) the operator abandons the operation as shown by a discontinuance of activity related to the management of municipal solid waste or recyclable material on the site for 6 months, leaving materials on the site to be cleaned up, removed, or disposed of.

The amount of the letter of credit, or combined letter of credit and surety bond, is based on a formula which is the maximum tonnage of material recommended to be on the site at any one time multiplied by the cost per tonne to remove and dispose of the material.

To establish guidelines and requirements concerning the abandonment of materials, Schedule B of the transfer station bylaw provides some indication of how long and in what quantities materials may reasonably be stored on site.

LICENCE AMENDMENTS

What If I make changes to my operation after I receive a licence?

A licensee must provide to the CRD notice of any substantial operational changes. An application to amend the licence must be filed with the CRD prior to implementing any of the proposed changes. Substantial changes include:

- a change in the class of licence required
- changes made to odour, leachate, vector, litter, dust or noise management plans
- a change in the quantity of materials received or stored on-site

TRANSFER STATION REGULATIONS

Are there any limitations on the type of materials an operator may accept?

Yes, there are limitations. Only those materials listed in Schedule B may be accepted.

What size of buffer zones will be required around a transfer station operation?

Buffer zones must comply with applicable Islands Trust land use and zoning regulations and Ministry of Transportation and Highways requirements.

What degree of source separation will be required of municipal solid waste and recyclables generators?

The degree of source separation required will be determined by the receiving facilities. In general, the higher the degree of source separation, the easier it is to process and reduces the incidence of banned materials being hauled to Hartland landfill.

Are there other regulations/legislation I need to comply with in operating a transfer station?

Yes, all transfer stations must satisfy the provincial Ministry of Environment, Lands and Parks, Islands Trust, Ministry of Transportation and Highways, Workers' Compensation Board and other regulatory agencies.

The disposal of leachate must be conducted in accordance with applicable CRD bylaws (see Leachate Management of these guidelines).

COMPLIANCE

Introduction

The purpose of any compliance policy is to encourage persons who are subject to the regulations of the CRD comply with the requirements set out in licences and bylaws of the CRD.

Every effort should be made to encourage timely, voluntary compliance with regulatory requirements. It is expected that there will be good communication between CRD staff and persons who hold operator licences.

As a general principle, more serious violations will result in more serious enforcement action being taken. In extreme circumstances, it may be necessary for the CRD to act quickly and decisively for the purpose of protecting public health and safety.

Non-compliance issues will be dealt with efficiently and promptly.

What are the compliance priorities?

Every non-compliance situation will be assessed in its own context to determine the appropriate enforcement response. All available tools may be used as appropriate to achieve compliance.

The more serious the effect or potential effect, the greater the priority of the compliance response. For example, court action leading to a maximum penalty is more likely to be sought in the event of a significant adverse impact on human health and the environment.

Adverse Effect or Potential for Adverse Effect

The following criteria will be considered:

- the degree to which the contravention has *actually* impacted human health
- the degree to which the contravention has *actually* impacted the environment
- the degree to which the contravention *poses a risk* to human health
- the degree to which the contravention *poses a risk* to the environment

Sensitivity

The following criteria will be considered:

- the magnitude of the contravention
- history of non-compliance or complaints
- whether the contravention was intentional, accidental or negligent
- the efforts that the operator has made to comply
- whether the operator has been co-operative with the CRD and the Islands Trust in seeking compliance
- the extent to which due diligence has been exercised

ENFORCEMENT TOOLS

Introduction

A regular inspection protocol will be implemented to encourage operators comply with the terms and conditions of the bylaw. It is the CRD's intention to work with the operator to resolve operational issues. In the event of non-compliance, enforcement will be carried out on a progressive basis as follows:

Investigation

An investigation entails identifying the non-compliance and gathering evidence on reasonable grounds that the regulation has been contravened. It seeks to prove the truth or falsity of alleged non-compliance based on the evidence it yields. The strength of the evidence indicates what further actions may be appropriate, such as issuing a verbal warning, a written warning or a violation ticket.

Verbal Warning

Verbal warning involves providing verbal direction to the operator to rectify contraventions of the bylaw.

Written Warning

Written warning involves sending a notice by registered mail to a operator indicating that the operator has contravened the regulation. The notice advises the operator to comply with the regulation or risk legal action. It also provides the operator and the CRD and the Islands Trust with official documentation of the offence. Written notice requires the same standard of proof as formal prosecution.

Violation Tickets (MTI – Municipal Ticket Information)

An MTI violation ticket imposes an immediate monetary penalty for contravening the regulation. It is normally reserved for less serious incidents of non-compliance. Ticketable offence provisions are specified in the Violation Ticket Administration and Fine Regulation of the *Offence Act*. This regulation designates specific offences, maximum fines of up to \$2,000 and the enforcement officials who can issue tickets. A violation ticket is a legal notice that invokes the power of the court.

Court Action/Prosecution

Prosecution through the courts is the final enforcement tool. It is considered when the available evidence indicates a substantial likelihood of conviction and when other compliance options are inappropriate or ineffective.

The CRD can seek to enforce the bylaw by way of application to the court for injunctive relief pursuant to its authority under the *Local Government Act* by applying to the court to restrain a breach of its bylaws.

This power provides greater incentive for compliance than the power to levy a series of small fines which may be written off as the price of doing business. However, Section 19 (3) of the Waste Management Act does provide the option of fines.

There are three different ways in which a matter may be brought before the civil courts:

1. **Extreme Cases** - In the most extreme cases, it is possible to make an application to the court for an order "ex parte" without notice to the other side for an immediate interim order that someone cease a certain activity. This can only be done in urgent circumstances where harm to the public can be demonstrated. In such circumstances, an order may be obtained on the same day or the following day. The order will almost invariably contain a provision allowing the defendant to apply to the court on two days' notice to have the order set aside. This allows for the court to hear argument from the other side.

In most circumstances, however, an application to the court for injunctive relief requires at least two days' clear notice to the defendant where a legal action has already been commenced. Two "clear" days usually means, in practical terms, four or five calendar days.

Where an action has not been commenced, the required notice periods are somewhat longer, although there is provision in the Supreme Court rules for making an application to shorten the length of time required for notice. Again, this requires circumstances where there is urgency and a real threat to the public.

The overriding principle which guides the courts is that both parties must be heard before a judicial decision is made.

2. **No Pressing Harm** - In situations where the violation does not create any pressing harm to the public, and where there are legal issues in question and some doubt as to the position of the CRD as plaintiff or the credibility of witnesses is an issue, the matter may have to be set down for a trial. The trial process is extremely lengthy and expensive.
3. **In between**, are circumstances where the preparation and notice period for an application for an interlocutory judgment, pending trial, takes several weeks or a month or two. These are situations where the CRD's position is usually quite clear cut, where the evidence can be easily gathered and placed into affidavit form and where the defendant is also interested in a speedy and less expensive determination of the position of the parties.
4. **Third Party Dispute Resolution** - Before proceeding to legal action in an unresolved dispute with respect to a violation or alleged violation of this bylaw, the solid waste manager or designate may ask the parties to agree to a third party dispute resolution which can be convened quickly and at minimal expense compared to recourse at the courts.

Will the CRD suspend or cancel a licence?

Yes, the *Waste Management Act* gives the CRD specific authority to provide for the suspension or cancellation of a licence. This has been provided for in Section 4 d) of the bylaw which gives the solid waste manager the power to suspend or cancel an operator licence for failure to comply with the terms and conditions of the licence, or for failure to comply with the bylaw or any enactment applicable to the operation of a transfer station.

Generally, this remedy would only be exercised after the issuance of a warning to the operator. The length of time given for correction of the infraction would depend upon the nature of the infraction and the length of time reasonably required for correction by an operator acting expeditiously.

A temporary suspension of a licence may also act as a first step in a progressive series of enforcement actions which could result in longer suspensions, culminating in revocation of the licence.

Repeated failure to remedy a relatively minor violation or a failure to remedy a major violation of a regulation applicable to the operation of the transfer station may result in revocation of the licence.

Suspension and/or revocation of a licence would be serious, since it would be illegal to operate a transfer station without a valid licence.

What can complainants do?

The CRD has developed a complaints form which neighbours or others are encouraged to complete in their own words. This will assist the CRD in deciding what action to take against the operator.

What else can complainants do to speed up the process?

The CRD can convene an appeal panel of five people to look into the alleged violation and to suggest a remedy.