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Environmental Protection Department
Headquarters

33/F, Revenue Tower,
5 Gloucester Road,
Wan Chai, Hong Kong.



環境保護署總部

香港
灣仔告士打道五號
稅務大樓三十三樓

16 August 2005

Miss Monna Lai
Assistant Legal Advisor,
Legal Services Division
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss Lai

Waste Disposal (Amendment) Bill 2005 ("the Bill")

I refer to your letter dated 25 July 2005 seeking clarification on the duties of and sanctions imposed on various parties in the clinical waste management chain. Further to our interim response on the same day, please find below our reply to the rest of your questions.

Duties of and sanctions imposed on various parties in the Clinical Waste Management Chain

Waste Producer

2. The regulation to be made under the Waste Disposal Ordinance will require clinical waste producers to arrange for proper disposal of clinical waste at a licensed disposal facility. Failure to comply with such requirement is an offence and the proposed sanction is a fine of \$ 200,000. This obligation may be fulfilled by consigning the waste to a licensed collector.
3. The regulation will allow a healthcare professional to deliver in person not more than 5 kg of clinical waste to a licensed disposal facility or a collection point. Healthcare professionals will have to comply with the requirements relating to the types of clinical waste, the packaging, labeling and transportation of clinical waste. These requirements will be set out in the regulation, and the proposed sanction for failing to comply with any of the requirements is a fine at level 6 (i.e. \$ 100,000).

4. An offence under section 16A of the Ordinance is of general application to any person who has performed acts that constitute the elements of that offence, i.e. without lawful authority or excuse deposits or causes or permits to be deposited waste in a public place, on any Government land or on any land other than Government land without the consent of the owner or occupier of the land.

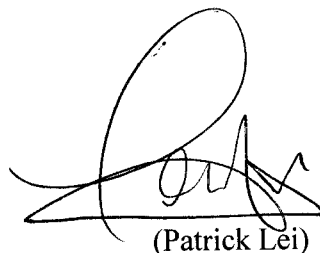
5. An offence under section 16A is neither pegged to the offence under the regulation regarding proper disposal of clinical waste nor the offence regarding requirements to be observed by healthcare professionals in delivery of clinical waste. The three offences are separate offences.

Waste Collector

6. "Collection" does not necessarily involve "removal" since a waste collector can receive waste passively without actively removing it. For example, a waste collector may set up a collection point to receive clinical waste delivered by healthcare professionals. Such an act is "collection" rather than "removal". The same collector may also, in providing a collection service, remove waste from the premises of the waste producers.

7. The regulation to be made under the Waste Disposal Ordinance will contain the provisions setting out the requirement for a clinical waste licensed collector to deliver clinical waste to a licensed disposal facility within 24 hours or as specified by the Authority, and the sanction for failure to comply with such requirement is a fine of \$ 100 000 and 6-month imprisonment.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Patrick Lei', written over a horizontal line.

(Patrick Lei)
for Director of Environmental Protection

c.c. DoJ (Attn: Ms. Fanny Ip, SALD)
DoJ (Attn: Ms. Betty Cheung, SGC)