

For information
on 2 June 2008

Legislative Council

**House Committee Subcommittee on the
Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008**

**Follow-up actions arising from the discussion
at the meeting on 26 May 2008**

Purpose

At the first meeting of the Subcommittee on the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008 held on 26 May 2008, Members requested the Administration to provide further information on the followings –

- (a) of the 384 samples collected in the survey of effluents from the restaurant trade in August and September 2005, the number of restaurant operators whose effluent samples had a chemical oxygen demand (COD) value below the mean of 1,630 grammes per cubic metre (g / cu m) and those exceeding the prescribed cap of 2,000 g / cu m, and the follow-up actions (such as the number of prosecutions taken against the latter category);
- (b) the number of restaurant operators who are required to pay \$7,000 or below and \$7,000 to \$15,000 per year for the rates of trade effluent surcharge (TES) in each of the past three years;
- (c) in a table form, setting out the estimated laboratory cost for conducting the reassessment, the original and the new TES rates payable by successful appellants;
- (d) examples of legislative provisions allowing the Government to refund the cost of reassessment to the successful appellants;
- (e) the number of restaurant operators who have lodged further appeals against the TES rates with the Administrative Appeals Board in the past three years;
- (f) the minimum, maximum and average values of applications for reassessment of TES rates from the restaurant trade in the past five years; and
- (g) the number, and reasons for, rejected applications for

reassessment of TES rates from the restaurant trade in the past five years.

2. This paper seeks to provide the information requested.

Survey of effluents from the restaurant trade

3. The survey of effluents from the restaurant trade was carried out by the Environmental Protection Department (EPD) in August and September 2005. By the end of the survey, 384 samples were collected during inspections and analysed. From the result, we calculated the mean of the samples considering that the existing structure of the charging scheme relies on the average pollution loads of all TES trades for apportioning the relevant cost among the TES trades. The use of any other statistical figure, such as the median, would necessitate the restructuring of the entire scheme to apply the same measure to all TES trades. It would also mean we would have to recalculate all TES rates applicable to the TES trades on the premise of the polluter-pays principle and the target of full recovery of the relevant cost.

4. The results indicated that effluent strength of the restaurant operators ranged from 32 g / cu m to 77,500 g / cu m, with a mean of 2,520 g / cu m. To avoid distortion of the results by unusually high and low values, samples lying beyond two standard deviations from the mean were deleted. On this basis, 10 sample results were discarded. The values then ranged from 32 g / cu m to 14,900 g / cu m with a mean of 1,629 g / cu m. From which we concluded that 1,630 g / cu m would be a representative average COD value for the trade.

5. Among the 374 samples lying within two standard deviations from the mean, the COD value of 111 samples exceeds the generic mean of 1,630 g / cu m and the COD value of 263 samples is below the generic mean. Among the 111 samples, 84 of them carry a COD value exceeding the cap of 2,000 g / cu m for the calculation of TES rates.

6. During the survey, effluent samples were collected in confidence and were not for the *Water Pollution Control Ordinance* (Cap 358) (WPCO) enforcement purpose and therefore cannot form a basis for prosecution. Nevertheless, EPD will make reference to the survey results, individual traders' past performance, the nature, quantity and characteristics of the effluent discharges, and assess their corresponding environmental impacts to conduct inspections. If non-compliance is spotted during inspection, EPD may collect legal samples and take appropriate enforcement action accordingly. In parallel, EPD will arrange briefing sessions to these operators to help them adopt mitigating measures.

7. In respect of the restaurant trades, EPD conducted 4,608, 4,016 and 3,946 inspections under WPCO procedure in 2005, 2006 and 2007 respectively. The numbers of convictions were 14, 9 and 7 in 2005, 2006 and 2007 respectively.

TES paid by operators of the restaurant trade

8. The number of restaurant operators who are required to pay \$7,000 or below and \$7,000 to \$15,000 for the past three years are summarised as follows –

	As at April 2006		As at April 2007		As at April 2008	
	No. of restaurant accounts	% of total no. of restaurant accounts	No. of restaurant accounts	% of total no. of restaurant accounts	No. of restaurant accounts	% of total no. of restaurant accounts
TES \leq \$7,000 per year	7,390	57%	7,665	57%	8,067	59%
TES from \$7,001 to \$15,000 per year	2,413	19%	2,523	19%	2,541	18%

Estimated laboratory cost

9. The laboratory cost for conducting the reassessment is directly related to the number of sampling days required for the reassessment, which in turn is determined according to the total pollution loading of the effluent. Upon receipt of an application for reassessment of the TES rate and all necessary information, the Drainage Services Department (DSD) will agree on the number of sampling days and the dates with the operator and the laboratory. Depending on an estimated daily COD load expressed in terms of kilogrammes per day (kg / day), two to six sampling days will be assigned throughout a period which is to be no more than eight weeks. The specified number of sampling days may be varied subsequently depending on the actual daily COD load of effluent samples collected on the previous sampling day(s). An applicant may withdraw the application for reassessment at any time during the samples collection period.

10. We are given to understand that laboratory cost ranges from \$3,000 to \$3,500 per sampling day. The corresponding costs of reassessment applications are tabulated as follows –

Range of COD load discharged (kg / day)	No. of sampling days	Estimated laboratory cost (\$)	Original TES rate	TES rates payable by successful applicants
0 – 50	2	6,000 – 7,000	\$3.78 / cu m	From \$0 to \$3.77 / cu m depending on the revised COD values
51 – 100	3	9,000 – 10,500		
101 – 300	4	12,000 – 14,000		
301 – 600	5	15,000 – 17,500		
> 601	6	18,000 – 21,000		

Examples of legislative provisions

11. We are not aware of examples of legislative provisions by which the Government is obliged to refund to a successful applicant the cost incurred by the applicant pertinent to conducting a reassessment of certain fees and charges.

Appeals to the Administrative Appeals Board

12. There was no appeal to the Administrative Appeals Board between 2005 and 2007 against the TES rates. During the period, an appeal was made in February 2006 regarding TES trade classification of the appellant.

COD values of applications for reassessment of TES rates from the restaurant trade

13. For the past five years, the minimum, maximum and average COD values of the applications for reassessment of TES rates from the restaurant trade are –

	Minimum	Maximum	Average
2007-08	300	1730	875
2006-07	320	1860	870
2005-06	310	1730	857
2004-05	240	2040	865
2003-04	370	1770	810

Rejected applications for reassessment of TES rates from the restaurant trade

14. For the period between 2003-04 and 2007-08, the number of rejected applications for reassessment of TES rates from the restaurant trade in each of the years was 7, 13, 10, 10 and 12 respectively. Generally speaking, reason for rejecting an application could be -

- (a) the COD values of the samples collected from the premises

of the applicant were higher than those stipulated in the Sewage Services (Trade Effluent Surcharge) Regulation for the restaurant trade;

- (b) trade effluent of high strength was found stored up elsewhere and discharged via routes not going to the sampling point(s);
- (c) pre-collected samples were used to substitute some of the samples not having been collected;
- (d) the applicants had carried out additional cleaning of the central grease trap one to two days just before the scheduled sampling date without notifying DSD; and
- (e) the applicants had adopted some pollution control measures, such as the use of sieves, sponges, etc. to improve the trade effluent quality during the sampling period. However, the applicants were subsequently found failing to adopt those pollution control measures during the surprise inspection made by DSD after completion of the sampling work.

Environmental Protection Department
29 May 2008