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Environmental Protection Department
Waste Management Policy Division
Waste Policy Group
Waste Policy Section (2)
(Attn: Mr David HA,
Sr Env Protection Offr (Waste
Policy)2)
45/F, Revenue Tower
5 Gloucester Road
Wan Chai
Hong Kong

By Fax (2318 1877) and By Post

28 September 2005

Dear Mr HA

Waste Disposal (Amendment) Bill 2005

I am now scrutinizing the Waste Disposal (Clinical Waste) (General) Regulation (“the Regulation”) and have the following comments:

Section 33 of the Waste Disposal Ordinance (Cap. 354) (“the Ordinance”)

The Regulation is stipulated to be made by the Chief Executive in Council under section 33 of the Ordinance after consultation with the Advisory Council on the Environment. As section 33(1) of the Ordinance provides that the Governor in Council may after consultation with the Advisory Council on the Environment makes regulation, please consider to change “the Governor in Council” to “the Chief Executive in Council”.

Waste Disposal Licence

Waste disposal licence is defined under section 2 to mean a licence under section 16 of the Ordinance in relation to clinical waste. Please clarify the difference between this waste disposal licence and a waste disposal licence granted under section 21(4) of the Ordinance as mentioned in section 8.

Proper Disposal of Clinical Waste

(A) In response to my query that whether a healthcare professional can deliver the waste generated by himself and other small clinical waste producers on the same journey to the collection points or reception points, you confirmed in the penultimate paragraph of your letter dated 25 July 2005 that “Healthcare professionals will be allowed to carry waste generated by other small clinical waste producers provided that the quantity is no more than 5 kg.”.

In the last paragraph of your letter dated 5 August 2005, you confirmed that “Healthcare professionals who deliver clinical waste generated by other small clinical waste producers may amount to providing services for the collection of clinical waste under the new section 11(2). However, under Regulation to be made, such healthcare professionals will be authorized to provide the service in question, thus excluding them from the requirement of a licence in accordance with the new section 11(2)(b).”.

In the event that a healthcare professional delivering clinical waste generated by himself and, at the same time, clinical waste generated by another healthcare professional, it appears that:

- (a) the healthcare professional whose clinical waste is to be delivered by the other healthcare professional does not comply with section 3(1) as such method does not fall within section 3(2); and
- (b) there is no express provision in the Regulation to permit a healthcare professional to collect the clinical waste generated by another healthcare professional and deliver all the clinical waste on the same journey to the collection point or reception point.

Please clarify.

(B) A person who produces or causes to be produced, or who has in his possession or custody any clinical waste, shall discharge his obligation under section 3(1) to cause or arrange for the clinical waste to be properly disposed of if he, inter alia, consigns the clinical waste to a licensed waste collector, an authorized waste collector, the collection authority which provides services for the collection and removal of clinical waste under section 9A of the Ordinance or to a public officer authorized to provide such services under section 23A of the Ordinance for delivery from the land or premises.

Are such consignees agents of the consignor in the disposal of the clinical waste? If such consignees subsequently deposit or cause or permit the clinical waste to be deposited in a public place, on any Government land or on any land other than Government land without the consent of the owner or occupier, will

the consignor be held responsible for breaching section 16A of the Ordinance?

Authorization for On-site Collection Point

Section 9(4)(a)(ii) requires the authorized person, in respect of each consignment of clinical waste delivered to the land or premises specified in the notice authorising the land or premises as on-site collection point, to prepare a waste delivery record. Section 9(4)(a)(iii) requires the authorized person, in respect of each consignment of clinical waste delivered by another person to the land or premises, to provide that other person with a copy of the waste deliver record. Does the consignment of clinical waste include the waste produced by the authorized person on that land or premises? Does such record requirement also apply to other collection points?

It is appreciated that your reply in both Chinese and English could reach us by close of play, 29 September 2005.

Yours sincerely

(Monna LAI)
Assistant Legal Adviser