

立法會
Legislative Council

LC Paper No. CB(1) 406/04-05
(These minutes have been seen
by the Administration)

Ref: CB1/SS/2/04/1

**Subcommittee on
Waste Disposal (Designated Waste Disposal Facility)
(Amendment) Regulation 2004 and
Waste Disposal (Charges for Disposal of Construction Waste) Regulation**

**Minutes of the third meeting
held on Monday, 29 November 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk (Chairman)
Hon Miriam LAU Kin-yee, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon KWONG Chi-kin
- Members absent** : Hon LEE Cheuk-yan
Hon Abraham SHEK Lai-him, JP
Hon LEE Wing-tat
- Public officers attending** : Environment, Transport and Works Bureau

Ms Doris CHEUNG
Deputy Secretary (Environment and Transport)

Mrs Teresa WONG
Principal Assistant Secretary (Environment and Transport)

Environmental Protection Department

Dr Ellen CHAN
Assistant Director (Waste Facilities)

Department of Justice

Miss Shandy LIU
Senior Government Counsel

Civil Engineering and Development Department

Mr Michael LEUNG
Chief Engineer/ Fill Management

Environmental Protection Department

Mr T K CHENG
Senior Environmental Protection Officer
(Facilities Development)

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Mary TANG
Senior Council Secretary (1)2

I Meeting with the Administration

- (LC Paper No. CB(1) 345/04-05(01) -- List of follow-up actions arising from the discussion on 25 November 2004
- LC Paper No. CB(1) 345/04-05(02) -- Summary of views/concerns (as at 25 November 2004))

Clause-by-clause examination of the Regulations

- (LC Paper No. CB(1) 208/04-05(02) -- Marked-up copy of the Waste Disposal (Designated Waste Disposal Facility)(Amendment) Regulation 2004
- LC Paper No. CB(1) 208/04-05(03) -- Waste Disposal (Charges for Disposal of Construction Waste) Regulation
- LC Paper No. CB(1) 208/04-05(05) -- Assistant Legal Adviser's letter dated 8 November 2004 to the Administration
- LC Paper No. CB(1) 208/04-05(06) -- Administration's response to CB(1) 208/04-05(05))

The Committee deliberated (Index of proceedings attached at **Annex A**).

2. The Administration was requested to -
 - (a) work out with the trade an acceptable guideline on the determination of inert waste content with reference to the Net Weight/Permitted Gross Vehicle Weight of different types of vehicles. To consider incorporating the guideline as part of the legislation in the long run. During the interim, consideration should be given to including an empowering provision in the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 (the Amendment Regulation) to provide the legal basis for the Director of Environmental Protection to determine the inert waste content;
 - (b) consider including the word “temporarily” in section 4(4A)(c) of the Amendment Regulation to reflect more accurately the scope of the enabling provision at section 33(4)(ba)(iv) of the Waste Disposal Ordinance (Cap. 354); and
 - (c) review the definition of “contract” under proposed section 2 of Waste Disposal (Charges for Disposal of Construction Waste) Regulation to include other evidence in writing pointing to a contract.
3. The meeting ended at 10:32 am.

Council Business Division 1
Legislative Council Secretariat
6 December 2004

**Proceedings of the meeting of the Subcommittee on
Waste Disposal (Designated Waste Disposal Facility)(Amendment) Regulation 2004 and
Waste Disposal (Charges for Disposal of Construction Waste) Regulation**

**Meeting on Monday, 29 November 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000115	Ms Emily LAU	Introductory remarks by Ms Emily LAU who was elected to chair the meeting in the absence of the Chairman who was late for the meeting	
000116 - 001008	Administration Ms Emily LAU ALA4 Clerk	Examination of the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 (LC Paper No. CB(1) 208/04-05(02)) Section 2 - Definition of construction waste Reference to views of Hong Kong Waste Disposal Industry Association as set out in item (h) of LC Paper No. CB(1) 345/04-05(02) on the need for guidelines to differentiate between inert and non-inert waste	
001009 - 002250	Administration Ms Emily LAU Ms Audrey EU Ms LI Fung-ying Ms Miriam LAU ALA4	Section 3A - Facilities that accept construction waste Schedule 1 and 2 Members' concerns - (a) there might be disputes in the determination of inert waste content; (b) guidelines on the determination of inert waste content should be worked out with the trade before the implementation of the charging scheme; (c) there should be a designated public officer at each waste reception facility to handle disputes on the determination of inert waste content Administration's response - A reference table together with a set of administrative guideline on the determination of inert waste content were being worked out in consultation with the trades.	The Administration to work out with the trade an acceptable guideline on the determination of inert waste content with reference to the Net Weight/Permitted Gross Vehicle Weight of different types of vehicles.

Time marker	Speaker	Subject(s)	Action required
002251 - 003433	Chairman Ms Audrey EU Ms Miriam LAU	<p>The Chairman returned at this juncture</p> <p>Members' requests -</p> <p>(a) empowering provisions should be included in the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 (the Amendment Regulation) to provide the legal basis for the Director of Environmental Protection (DEP) to determine the inert waste content; and</p> <p>(b) reference table not to be included in the Amendment Regulation for the time being as this would subject to change taking into account practical experience. However, this should form part of the legislation in the long run.</p>	<p>The Administration to consider incorporating the guideline as part of the legislation in the long run. During the interim, consideration should be given to including an empowering provision in the Amendment Regulation to provide the legal basis for the DEP to determine the inert waste content.</p>
003434 - 005100	Administration Chairman Ms Miriam LAU Ms Emily LAU	<p>Section 4 - Powers of Director</p> <p>Administration's explanation on waste load carried by vessels -</p> <p>(a) only inert materials would be transported by vessels;</p> <p>(b) charging would be based on the maximum load of vessels rather than by weight;</p> <p>(c) the construction trade had been consulted and they agreed to the charging arrangement for vessels; and</p> <p>(d) separate deposit requirement would be worked out for vessels.</p>	
005101 - 005320	Ms Emily LAU Administration Chairman	Discussion on measures to prevent fly-tipping	
005321 - 005815	Administration Chairman	Sections 4 (2) to (4)	

Time marker	Speaker	Subject(s)	Action required
005816 - 019007	Chairman Administration Ms Miriam LAU ALA4 Mr KWONG Chi-kin Ms Audrey EU	Section 4 (4A) Members' query about the use of different wordings in section 4(4A)(c) of the Amendment Regulation and the enabling provision in section 33(4)(ba)(iv) of the Waste Disposal Ordinance (Cap. 354) regarding temporary closure of designated waste disposal facilities	The Administration to consider including the word "temporarily" in section 4(4A)(c) of the Amendment Regulation to reflect more accurately the scope of the enabling provision at section 33(4)(ba)(iv) of the Waste Disposal Ordinance (Cap. 354)
019008 - 012004	Chairman Administration	Administration's confirmation that public officers would be stationed at waste disposal facilities	
012005 - 012414	Administration Ms Emily LAU Chairman	Section 5 - Offence of causing disruption or disorder Section 5A - Offences involving incorrect information	
012415 - 012809	Chairman Administration	Sections 6 to 10	
012810 - 013008	Chairman Administration	Administration's meeting with the trades on 30 November 2004	The Administration to provide written response to deputations' submissions
013009 - 013408	Administration Ms Emily LAU Chairman	Examination of Waste Disposal (Charges for Disposal of Construction Waste) Regulation Section 1 - Commencement Administration's estimate that the Regulation was expected to commence in mid-2005 given the need for a dry run of the implementation of the charging scheme	

Time marker	Speaker	Subject(s)	Action required
013409 - 014308	Chairman Administration ALA4	<p>Section 2 - Interpretation</p> <p>Points raised by ALA4 regarding the definition of 'contract' -</p> <ul style="list-style-type: none">(a) exemption under section 7 would not be applicable to verbal contracts under the proposed definition;(b) whether evidence in writing other than a formal contract would be regarded as a contract for the purpose of exemption under section 7; and(c) applicability of section 9(5) to verbal contracts <p>Administration's response -</p> <ul style="list-style-type: none">(a) written contract was required as otherwise there would be practical difficulties in deciding the entitlement for exemption under section 7; and(b) written contract was necessary under section 9 to ensure that main contractors who undertook construction works of \$1 million and above would open billing accounts so that the responsibility for payment of waste disposal charges would not be transferred to sub-contractors, including waste haulers	

Time marker	Speaker	Subject(s)	Action required
014309 - 015713	Ms LI Fung-ying Administration ALA4 Ms Emily LAU Chairman	Members' enquiry on whether standardized contracts were required and whether evidence in writing was accepted Administration's response - (a) DEP would not prescribe any form of standardized contracts for this purpose; (b) a written record that was sufficiently clear to show a genuine contractual relationship would be acceptable; and (c) the trades did not object to the proposed definition of contract	The Administration to review the definition of "contract" under proposed section 2 of Waste Disposal (Charges for Disposal of Construction Waste) Regulation to include other evidence in writing pointing to a contract