

**For discussion
on 13 June 2006**

**LEGISLATIVE COUNCIL
PANEL ON ENVIRONMENTAL AFFAIRS**

PWP Item 93DR – Chai Wan Public Fill Barging Point

**Supplementary Information on
Control on Covering of Dump Trucks Carrying Public Fill Materials**

Purpose

In response to the request of the Environmental Affairs Panel at its meeting on 22 May 2006 to consider PWP Item 93DR “Chai Wan Public Fill Barging Point”, this paper informs Members of the legal provisions and control measures relating to covering of public fill materials carried by dump trucks and the related enforcement measures to control uncovered dump trucks travelling on roads or entering the Chai Wan Public Fill Barging Point. This paper should be read in conjunction with the LC Paper No. CB(1) 1483/05-06(04) on the same subject.

Legal Provisions and Enforcement Measures

2. At present, there are at least four pieces of legislation that are applicable to controlling dump trucks carrying public fill materials at construction sites, on roads or at designated waste disposal facilities. Government has been enforcing these legal provisions actively. Details of these legal provisions and enforcement actions are set out below.

Air Pollution Control (Construction Dust) Regulation under the Air Pollution Control Ordinance (Cap.311)

3. This regulation aims to control dust generated from activities at construction sites. For this purpose, it has a specific provision governing the control of vehicles carrying dusty materials. Under Schedule 21(2) of the Regulation, where a vehicle leaving a construction site is carrying a load of dusty materials, the load shall be covered entirely by clean impervious sheeting to ensure that the dusty materials do not leak from the vehicle. Any person contravening the regulation shall be guilty of an offence and shall be liable to a fine for a first offence and a fine and imprisonment for three months for a second or subsequent offence.

4. Environmental Protection Department (EPD), as the enforcement authority of various environmental control ordinances, has been conducting extensive inspections and taking enforcement actions against pollution activities at construction sites. Every year, EPD conducts over 4000 site inspections and the requirement of cover of dump trucks leaving construction sites is one of the items included in the routine inspection checklist. EPD enforcement officers will take appropriate enforcement actions including prosecutions against non-compliance. In the past three years, EPD initiated eight prosecutions against the contractors that failed to comply with the cover requirement. Of them, six were convicted with fines ranging from \$3000 to \$12,000.

5. In addition to law enforcement, EPD has been working actively in partnership with the construction industry on programmes such as seminars, workshops, training courses and help desk services, which aim to promote environmental improvement measures and compliance at construction sites. These programmes have been well received and supported by the industry.

6. Through law enforcement and collaboration with the industry, there has been a general increase in industry's awareness and compliance of the environmental requirements, including the covering of public fill carried by dump trucks leaving construction sites, as revealed by the decreasing trend of the public complaints received. In 2005, EPD received no public complaint on uncovered dump trucks from construction sites, whereas ten complaints were received in both 2003 and 2004.

Public Cleansing and Prevention of Nuisances Regulation under the Public Health and Municipal Services Ordinance (Cap. 132)

7. This regulation serves to control falling of materials carried by vehicles during the course of transportation. Under section 9(1)(b) of the Regulation, no person shall drive, use, or cause or permit to be driven or used any vehicle or motor vehicle in any street or public place unless any load likely to result in littering or injuring the surface of the street or public place, which is carried thereon is so secure and packed that no part or content thereof may fall, escape or be blown therefrom, onto the street or public place. Any person contravening the regulation shall be guilty of an offence and shall be liable to a fine and to imprisonment for 6 months. The regulation is applicable to dump trucks carrying public fill materials.

8. The Food and Environmental Hygiene Department (FEHD) is the authority responsible for enforcement of the regulation. In 2005, FEHD conducted 10 prosecutions against vehicles carrying sand, gravel, or earth materials under the regulation. All the 10 cases in 2005 were convicted and the fines ranged from \$450 to \$2,500.

Road Traffic (Traffic Control) Regulations under the Road Traffic Ordinance (Cap. 374)

9. This regulation requires that materials carried by vehicles should be properly secured. The Regulation explicitly provides that the driver of a motor vehicle on a road shall ensure that any load is properly secured to and contained on or inside the vehicle. Any person who without reasonable excuse contravenes the regulation shall be guilty of an offence and shall be liable on first conviction to a fine and imprisonment for 3 months and on second or subsequent conviction to a fine and imprisonment for 6 months. Again, the regulation is applicable to dump trucks carrying public fill materials.

10. The Hong Kong Police (the Police) is the enforcement authority. In 2005, the Police prosecuted 40 and 2,366 drivers for contravening the regulation by way of summons and fixed penalty under the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240) respectively. As the Police does not keep statistics specifically for dump trucks carrying public fill materials, further data breakdown for dump trucks is not available. Of the prosecution cases conducted by summons in 2005, a total of 32 drivers were convicted with one driver disqualified from driving for one month. The fines ranged from \$300 to \$2,000.

11. In addition, under section 109(4) of the Road Traffic Ordinance, the Commissioner for Transport has prescribed a Code of Practice for the Loading of Vehicles. As required under the Code, loose bulk load must always be covered and the covers must extend over the side and tail boards and be firmly secured. A failure to observe any provisions of the Code is not in itself an offence, but any such failure may be taken into account in the relevant proceedings.

Waste Disposal (Designated Waste Disposal Facility) Regulation under the Waste Disposal Ordinance (Cap. 354)

12. This is a newly enacted regulation that aims to facilitate implementation of the Construction Waste Disposal Charging Scheme that took effect on 1 December 2005. Under section 4(1) & (2) of the Waste Disposal (Designated Waste Disposal Facility) Regulation, Director of Environmental Protection (DEP) may, for the purpose of avoiding any nuisance or any danger to health or the environment arising from carrying on of any activity in any designated waste disposal facility, exercise the power to order the driver of a vehicle to leave the facility. It should be noted that the future Chi Wan Public Fill Barging Point will replace the existing temporary public fill barging point at Quarry Bay as a designated waste disposal facility subject to control by the regulation.

13. In addition, Waste Disposal (Charges for Disposal of Construction Waste) Regulation requires main contractor who undertakes construction works to make an application to DEP to establish a chit and billing account system. Based on the information of the chit and the billing account, the construction sites from which dump trucks are originated can be readily identified when they hand in their chits for dumping at the barging point. This will facilitate EPD in tracking down violations and taking enforcement actions against the offending contractors under the Air Pollution Control (Construction Dust) Regulation.

Other Measure Related to Control of Dump Trucks Using Public Fill Barging Point

14. Compared to tarpaulin covers which are still commonly used by most dump truck drivers, power-operated mechanical covers have many merits in terms of their convenience and effectiveness in dust prevention and ensuring road safety in the course of transportation of dusty materials. For this reason, the Eastern District Council has been advocating their use on all dump trucks on a territory wide basis. Civil Engineering and Development Department (CEDD) has carried out trial schemes to use power-operated mechanical covers on eleven public works projects since 2004. With the experience gained, a Technical Circular has recently been promulgated by the Works Branch of the Environment, Transport and Works Bureau (ETWB) requiring all public works capital projects with contract sums of \$20 millions or more to use dump trucks equipped with mechanical covers for delivery of construction and demolition materials to and from construction sites. The Technical Circular also requires project departments to include the installation of mechanical covers for dump trucks as an item of the “Pay for

Environment” measures that provide financial incentives to the works contractors and the trade for implementing the measure satisfactorily. With this new measure in place, it is anticipated that tarpaulin covers will be gradually replaced by power-operated mechanical covers which will further facilitate compliance with the cover requirement.

Recommended Actions for Chai Wan Public Fill Barging Point

15. Legal provisions are already in place to control covering of public fill materials carried by dump trucks at construction sites, on roads or in public places. The government departments responsible for enforcing these legal provisions will continue to enforce the laws and take prosecution actions against offenders. In addition, we consider that as far as the future Chai Wan Public Fill Barging Point is concerned, there is further scope for strengthening our actions to ensure dump trucks using the facility will be in strict compliance with the cover requirement upon its commissioning in 2008. We set out these recommendations as follows:-

- (a) To assist law enforcement and facilitate monitoring of vehicles using the barging point, CEDD will set up suitable remote control and monitoring device such as CCTV at the entrance point;
- (b) All the concerned parties, including CEDD, EPD and the barging point operator, will work together to intercept uncovered vehicles entering the barging point and take enforcement and prosecution actions against offenders violating the Air Pollution Control (Construction Dust) Regulation;
- (c) In addition to enforcement actions under the environmental regulation, EPD will refer all relevant cases falling within the jurisdictions of FEHD and the Police for their corresponding follow-up enforcement and prosecution actions; and,
- (d) Vessels used for carrying public fill materials from the barging point will be equipped with a global positioning system to enable real time tracking by EPD and CEDD to guard against illegal dumping or spillage during sea transport.

16. We believe the above measures will be sufficient to deter violations. We will liaise with the industry to ensure that these measures are effectively promulgated to contractors and dump truck drivers before the facility is opened. Also, we will actively promote the use of power-operated mechanical covers as set out in paragraph 14 above. In particular, we will enhance dialogue with the construction industry and the dump truck associations to convey a very clear message to them that no violation of the laws governing dust control or securing of public fill materials carried by dump trucks will be tolerated.

Advice Sought

17. Members are invited to note the legal provisions and control measures relating to covering of public fill materials carried on dump trucks and the recommendations for the Chai Wan Public Fill Barging Point. Members are further invited to note our proposal of upgrading 93DR for consideration by the Public Works Subcommittee in June 2006 with a view to seeking funding approval by FC in July 2006.

Environmental Protection Department

June 2006