

For discussion
25 February 2013

LEGISLATIVE COUNCIL
PANEL ON ENVIRONMENTAL AFFAIRS
SUBCOMMITTEE ON ISSUES RELATING TO
AIR, NOISE AND LIGHT POLLUTION

**Interface between the Environmental Impact Assessment Ordinance
(Cap. 499) and the Air Pollution Control Ordinance (Cap. 311)**

Purpose

This paper provides a brief account of the environmental impact assessment (EIA) mechanism under the EIA Ordinance (the EIAO) and its interface with the Air Pollution Control Ordinance (the APCO)

The EIAO and its Operation

2. The EIAO has been in operation since 1998. Its purpose is to provide for assessing the impact on the environment of designated projects, for protecting the environment. The “Technical Memorandum on Environmental Impact Assessment Process” (EIA-TM) issued under section 16 of the EIAO sets out the principles, procedures, guidelines, requirements and criteria for handling various EIA matters, which among other things, include –

- (a) the technical content of an EIA study brief or EIA report;
- (b) deciding whether a designated project is environmentally acceptable;
- (c) deciding whether an EIA report meets the requirements of the EIA study brief;

(d) issue of environmental permits (EPs); and

(e) imposition of environmental monitoring and audit requirements for designated projects as conditions in EPs, etc.

3. According to the EIA-TM, designated projects are to be assessed in accordance with the prescribed methodologies and that the assessed environmental impacts have to meet the criteria and requirements as set out in the annexes of the EIA-TM for various environmental issues and subject areas.

4. In terms of consultation, the EIAO has provided for receiving comments from the public and the Advisory Council on the Environment (ACE) before the issue of an EIA study brief and before deciding on whether to approve, approve with conditions or reject an EIA report of a designated project. To ensure transparency, EPD has made available all EIA study briefs, EIA reports and EPs at the EIAO website for easy access by the public. In the last five years between 2008 and 2012, a total of 57 EIA reports have been processed, amongst them, 8 were found not suitable for public and ACE inspection. Of 49 reports that were exhibited for public and ACE inspection, 28 have subsequently been approved with conditions and 21 approved without conditions.

5. EIA studies involve a wide range of professional disciplines and issues. Hence, the EIA-TM stipulates that EPD shall take advice from the relevant authorities on specified issues and matters. For example, EPD is required to take advice of the Director of Agriculture, Fisheries and Conservation on nature conservation and ecological matters, Director of Planning on visual and landscaping matters, Director of Marine on marine matters, Director of Health on human health matters and Director of Civil Aviation on civil aviation matters. In short, the statutory EIA process is not only a transparent process but also a process involving multiple disciplines and authorities, implemented in accordance with the principles, criteria and requirements as stipulated in the published EIA-TM.

Interface of EIAO with the APCO

6. In terms of air quality, the approaches and methodologies for air quality assessments are set out in Annex 12 of the EIA-TM. The criteria for evaluating

air quality impacts are set out in Annex 4, paragraph 1.1(a) of which requires “meeting the Air Quality Objectives (AQOs) and other standards established under the APCO”. Meeting the AQOs established under the APCO therefore is a key benchmark requirement for deciding if an EIA report may be approved under the EIAO. As and when the AQOs established under the APCO are revised and come into effect, the corresponding decisions under the EIAO will have to take the AQOs in force at the time of the decisions as the benchmark requirement.

The new AQOs and their Implications to the EIA process

7. The current AQOs, which were promulgated in 1987 under the APCO, set out the concentration limits of seven key air pollutants in the ambient air. In response to the release of the new Air Quality Guidelines (AQGs) by the World Health Organisation (WHO) for global application for protection of public health, EPD commissioned a consultancy study in 2007 to review Hong Kong’s existing AQOs and develop a long-term air quality management strategy. Taking into account WHO’s new guidelines and practices in other advanced countries, the review proposed a set of new AQOs which benchmark against WHO’s Interim Targets (ITs) and AQGs, accompanied by a host of proposed air quality improvement measures that are required to help Hong Kong achieve the new objectives. Taking account of the views of the community, we will adopt the proposed AQOs at **Annex A** as the new AQOs for Hong Kong, which are broadly comparable to those being adopted in the EU and US.

8. Adoption of the new AQOs requires amendments to the APCO and the Government aims at having the new AQOs come into effect in 2014, subject to LegCo’s approval of the APCO Amendment Bill within this year. A LegCo Brief on the APCO Amendment Bill was issued on 6 February 2013. The new AQOs will become statutory standards when they come into operation and hence will become the benchmark for conducting air quality impact assessment under the EIA studies. Designated projects subject to these new statutory standards will have to implement adequate and appropriate mitigation measures in areas of design, construction and other operation standards, where necessary, to meet the new legal requirements.


Transitional Arrangement for EIA before new AQOs are in place

9. Under the EIAO, approval of EIA reports and issue of EPs have to make reference to the prevailing AQOs at the time the decision is made. At present, there are some on-going designated projects which have already had their EIA reports approved and EPs granted based on the existing AQOs. We hence need to consider carefully the potential impact arising from the introduction of the new AQOs might have on projects already granted with an EP before the new AQOs come into operation. In the event that the amendments to the scope of such projects should warrant an application for variation of the EP to be supported by a new EIA, the application of the new AQOs may cause substantial changes to the original design of the project and have major cost and programming implications. Having considered carefully the need to preserve the integrity of the EIA system as an ongoing mechanism, as well as the regulatory certainty for proponents of projects that have already completed the EIA process, we propose in the APCO Amendment Bill to provide for a time-limited transitional period of 36 months from the commencement date of the new AQOs, within which the new AQOs will not apply to an application for variation of an EP of the designated projects which have already been approved under the EIAO prior to the coming into effect of the new AQOs.

Environment Bureau
February 2013

Proposed New AQOs for Hong Kong

Pollutants	Avg. Time	Existing AQOs		Proposed AQOs				
		($\mu\text{g}/\text{m}^3$)	No of Exceed-ances Allowed	WHO IT-1 ^[3] ($\mu\text{g}/\text{m}^3$)	WHO IT-2 ^[3] ($\mu\text{g}/\text{m}^3$)	WHO IT-3 ^[3] ($\mu\text{g}/\text{m}^3$)	WHO AQG ($\mu\text{g}/\text{m}^3$)	No of Exceed-ances Allowed
Sulphur Dioxide	10-min	--	--	-	-	-	500	3
	24-hr	350	1	125	50	-	20	3
Respirable Suspended Particulates (PM10)	24-hr	180	1	150	100	75	50	9
	Annual	55	NA	70	50	30	20	NA
Fine Suspended Particulates (PM2.5)	24-hr	--	--	75	50	37.5	25	9
	Annual	--	--	35	25	15	10	NA
Nitrogen Dioxide	1-hr	300	3	-	-	-	200	18
	Annual	80	NA	-	-	-	40	NA
Ozone	8-hr	240 ^[1]	3	160	-	-	100	9
Carbon Monoxide	1-hr	30,000	3	-	-	-	30,000	0
	8-hr	10,000	1	-	-	-	10,000	0
Lead	Annual	1.5 ^[2]	NA	-	-	-	0.5	NA

 Proposed new AQOs

- [1] There is no existing 8-hour AQO for ozone in Hong Kong. The figure presented above is the CW TSE/EPD/HKSARG, 1-hour AQO.
- [2] There is no annual AQO for lead in Hong Kong. The figure presented above is the 3-month AQO.
- [3] WHO accepts the need for governments to set national standards according to their own particular circumstances. The WHO guidelines therefore also suggest ITs on SO₂, PM₁₀, PM_{2.5} and O₃ to facilitate a progressive approach for achieving the ultimate AQGs and provide milestones in achieving better air quality.