

<p style="text-align: center;">Dumping at Sea Ordinance, Cap. 466 Guidance Note No. 1/2006</p>
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**Implementation of the 1996 Protocol to
the Convention on the Prevention of Marine Pollution by
Dumping of Wastes and Other Matter, 1972**

Scope

This Guidance Note sets out the general considerations to be taken into account by the Authority when considering permit applications submitted under the Dumping at Sea Ordinance, Cap. 466 (DASO), following the extension of the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (the London Convention) to the Hong Kong Special Administrative Region (HKSAR) on 29 October 2006.

2. This Guidance Note shall be brought to the attention of all parties who concern themselves with the application of a permit under the DASO. These parties include but are not restricted to operators, contractors, consultants, project clients and authorized persons/registered structural engineers engaged in both government and private projects involving operations regulated under sections 8(1) and 9(1) of the DASO.

Effective Date

3. The considerations set out in this Guidance Note shall apply to all applications submitted on 15 December 2006 and thereafter for a permit required under the DASO.

Reference and Effect on Existing Circulars

4. This Guidance Note is for general reference only and is subject to revision without prior notice. Interpretation of the Guidance Note should be considered in the context of the DASO (<http://www.justice.gov.hk/Home.htm>) and the 1996 Protocol to the London Convention (<http://www.londonconvention.org>) to which permit applicants are advised to make reference as necessary. Should there be any inconsistencies between this Guidance Note and the DASO, the latter shall prevail.

5. With respect to the present management framework for the testing and disposal of dredged material, permit applicants should also refer to:

- (a) the Environment, Transport and Works Bureau Technical Circular (Works) No. 34/2002 “Management of Dredged/Excavated Sediment” (http://www.etwb.gov.hk/technical_circulars/index.aspx?langno=1&nodeid=1108); and
- (b) Practice Note for Authorized Persons and Registered Structural Engineers No. 252 “Management Framework for Disposal of Dredged/Excavated Sediment” (http://www.info.gov.hk/bd/english/documents/index_pnap.html).

Introduction

6. Following the spirit of the London Convention, the DASO controls, *inter alia*, the disposal and dumping of substances and articles from vessels, aircraft and marine structures in the sea and under the sea-bed and the related loading operations, as well as incineration at sea. These operations and others specified in sections 8(1) and 9(1) of the DASO would require a permit to be issued by the Director of Environmental Protection as the Authority under the Ordinance.

7. In 1996, a Special Meeting of Contracting Parties to the London Convention agreed to adopt a new protocol (i.e. the 1996 Protocol). Principally, the 1996 Protocol adopts the precautionary approach and requires Contracting Parties to protect and preserve the marine environment from all sources of pollution and take effective measures, according to their scientific, technical and economic capabilities, to prevent, reduce and where practicable eliminate pollution caused by dumping or incineration at sea of wastes or other matter. In particular, appropriate consideration should be given to waste management options of reuse, recycling or upland treatment and/or disposal prior to marine disposal. The 1996 Protocol also aims at providing greater protection to the marine environment by stipulating some prohibitions.

8. The People's Republic of China ratified the 1996 Protocol on 1 September 2006. By virtue of Article 153 of the Basic Law, the Central People's Government extended the application of the 1996 Protocol to the HKSAR with effect from 29 October 2006.

9. Section 10(2) of the DASO provides that the Authority, in determining whether to issue a permit, may have regard to the need to protect the marine environment, the living resources which it supports and human health, and prevent interference with other legitimate uses of the sea. While section 10(2)(b) sets out a non-exhaustive list of factors (including but not limited to the source and nature of the substances or articles to be dumped, and the places to be used for loading and dumping substances and articles) which the Authority may take into account when considering a permit application, section 10(2)(b)(xii) states that the Authority may have regard to other conditions she thinks necessary to protect the marine environment as well. In the light of the extension of the application of the 1996 Protocol to the HKSAR, the Authority wishes to set out in this Guidance Note her general considerations in issuing permits under section 10(1) of the DASO for reference by permit applicants before they submit their applications.

Considerations of the Authority

A. Dumping at Sea

10. Article 4 of the 1996 Protocol prohibits the dumping of any substance or article at sea with the exception of the following categories:

- (a) dredged material;
- (b) sewage sludge;
- (c) fish waste, or material resulting from industrial fish processing operations;
- (d) vessels and platforms or other man-made structures at sea;
- (e) inert, inorganic geological material;
- (f) organic material of natural origin; and
- (g) bulky items primarily comprising iron, steel, concrete and similarly unharmed materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping.

11. Accordingly, the Authority shall not issue a permit to dump any substances or articles or carry out related loading operations in respect of substances or articles falling outside those listed in items (a) to (g) in paragraph 10 above.

12. In addition to the considerations set out in section 10(2) of the DASO, the Authority shall, according to section 10(3) of the DASO, have regard to the practical availability and environmental consequences of alternative methods of dealing with such substances or articles. In the light of Annex 2 to the 1996 Protocol, permit applicants should demonstrate that appropriate consideration has been given to waste management options such as re-use, off-site recycling, destruction of hazardous constituents, or treatment to reduce or remove the hazardous constituents. The Authority shall refuse to issue a permit for dumping wastes or other matter if it is determined that appropriate opportunities exist to reuse, recycle or treat the waste without undue risks to human health or the environment or disproportionate costs.

13. To enable the Authority to decide whether to issue a permit, the Authority may, under section 10(6) of the DASO, require permit applicants to supply information and carry out related examinations and tests. In the light of Annex 2 to the 1996 Protocol, permit applicants may be required to submit a detailed description of the materials proposed to be disposed of and the relevant environmental impact assessment reports, and carry out physical, chemical and biological/toxicity tests for material characterization. In respect of dredged/excavated material, applicants may wish to refer to the detailed requirements on the material characterization and classification as set out in the documents mentioned in paragraph 5 above.

14. Based on past experience, the Authority has so far issued permits mainly for dumping dredged material (item (a) of paragraph 10 above) at sea. The material generally arises from maintenance dredging projects (such as deepening of harbour fairways and maintenance of inland waterways) and other development projects in which a genuine disposal need can be demonstrated. Such permitted dumping operations are subject to monitoring by the Authority to verify whether the permit conditions are met. Those materials listed in items (b) to (g) in paragraph 10 above are either uncommon in Hong Kong or capable of being managed under an environmentally better treatment or disposal alternative and therefore should not normally require marine disposal.

B. Incineration at Sea

15. Article 5 of the 1996 Protocol prohibits incineration at sea of substances or articles. Accordingly, the Authority shall not issue a permit for carrying out incineration at sea or related operations as described in section 9(1) of the DASO.

16. With the availability and arrangement of appropriate waste treatment and/or disposal options in Hong Kong, applicants may wish to know that no permit has ever been issued by the Authority under the DASO for carrying out incineration at sea or related operations.

C. Export of Wastes or Other Matter

17. Article 6 of the 1996 Protocol prohibits the export of substances or articles to other countries for dumping or incineration at sea. Accordingly, the Authority shall refuse to issue a permit for the export of substances or articles for dumping or incineration at sea.

18. The prohibition set out in paragraph 17 does not apply to permit applications in relation to domestic cross-boundary transfer of substances and articles between the HKSAR and the other parts of the People's Republic of China. However, the Authority would still need to consider permit applications for such cross-boundary transfer of substances or articles for dumping in the light of the considerations as set out in paragraphs 7 and 9 to 16 above.

Enquiries

19. Any enquiries on this Guidance Note or related issues should be directed to the Territorial Control Office of the Environmental Protection Department (Tel. no.: 2835 1287). Information on permit application is also available at the website of the Environmental Protection Department (<http://www.epd.gov.hk/>).



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