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(ACE Paper 9/97)
for advice

Proposed Subsidiary Legislation to be made under the Air Pollution Control Ordinance (Cap. 311) - Air Pollution Control (Construction Dust) Regulation

INTRODUCTION

1. This paper seeks Members' advice on the proposed Air Pollution Control (Construction Dust) Regulation, at Annex A, to be made under Section 43(1) of the Air Pollution Control Ordinance.

BACKGROUND

2. Members considered and endorsed the proposed scheme for the control of construction dust at the meeting of 17 October 1994. The construction trade and the relevant government departments/branches have since been further consulted, and the draft regulation prepared. The ACE paper on the original proposal is attached at Annex B for Members' easy reference.

REVISIONS OF THE PROPOSED SCHEME

3. In the light of comments from the construction trade and relevant government departments/branches, some revisions were made to the endorsed control scheme. The revised arrangements require the contractor of a construction site to implement a set of dust control measures relevant to the kind of construction activities being undertaken. For those activities which have a greater potential of dust emission, the contractors will also be required to notify EPD to facilitate proactive enforcement and monitoring.

4. The major revisions include:

a) Replacement of Proposed Permit System with Standardized Regulatory System

The construction trades were concerned about the administrative work and time required for processing a permit application, and the uncertainty in cost for implementing permit conditions which make tendering out of contracts difficult. We have therefore replaced permit control with a more standardized regulatory scheme which set out clearly the dust control measures to be adopted. These specific measures are detailed in the Schedule of the Regulation. Failure to implement these measures will be an offence and will be subject to a maximum penalty of \$100,000 and imprisonment for three months.

b) Application of Controls to Small Works

In the original proposal, small works were exempted from the application of the regulation so as to keep the workload and manpower manageable from an enforcement point of view. However, with a standardized regulatory scheme, we can improve overall control by requiring small construction sites to be subject to the same control as larger sites. All construction sites will now be required to adopt the same set of dust control measures in the Schedule. This, in effect, will include most of the work sites performing road opening and road resurfacing which are normally close to pedestrians and have high potential for causing nuisance.

c) Transitional Arrangement

The exemption previously proposed to apply to all existing works remains unchanged. The exemption period, however, will be restricted to last for no longer than one year, and applies to both existing works and those works for which contracts have been signed although works have not yet commenced.

CONSULTATION

5. Construction related trade associations, including Hong Kong Construction Association and Real Estate Developers Association, Hong Kong General Chamber of Commerce, Federation of Hong Kong Industries, Hong Kong Institution of Engineers, utility companies, green groups and government departments and branches were consulted. They find the revised control scheme acceptable.

IMPLEMENTATION

6. Subject to this Council's endorsement, the Regulation will be introduced to the Environmental Affairs Panel of the Legislative Council on 4 March 1997 and tabled at the full Council on 12 March 1997. Our intention is to implement the Regulation in the second quarter of this year.

ECONOMIC IMPLICATION

7. Since many of the dust control requirements are housekeeping work, most of which have already been embodied in the project cost, there should be no significant economic impact to the trade as a result of implementing the Regulation.

PUBLIC REACTION

8. The Regulation aims to reduce dust emissions arising from construction activities, which has been a source of environmental nuisance. The Regulation should be welcomed by the public.

ADVICE SOUGHT

9. Members are invited to endorse the Regulation at Annex A for introduction to the Legislative Council.

Environmental Protection Department
Air Policy Group
February 1997