

**Bills Committee on
Air Pollution Control (Amendment) Bill 2008**

**List of Follow-up Actions Arising from
the Discussion at the Meeting on 19 May 2008**

Administration's Response

- I. To review the drafting of the proposed section 26G(4) to state clearly how the technical memorandum ("TM") operates.**
1. According to the proposed section 26G(1), the Secretary for the Environment ("SEN") is obliged, for the purpose of allocating a quantity of emission allowances, to issue a TM.
 2. As explained by the Administration at the Bills Committee Meeting on 19 May 2008, the purpose of the proposed section 26G(4) is to ensure that any TM allocating a quantity of emission allowances for a year must have gone through the negative vetting procedures and have taken effect (please refer to the existing sections 37B and 37C of the Air Pollution Control Ordinance, Cap. 311 ("APCO")) at least four years before that year. By way of illustration, in order for SEN to allocate a specific quantity of emission allowances for year 2020, SEN has to issue the relevant TM and make sure that it has taken effect pursuant to the existing section 37C of APCO prior to year 2016. If he fails to do so, the allocation of emission allowances for year 2020 would not have effect in respect of that year.
 3. We consider that the proposed section 26G(4) accurately reflects the above policy intent, the rationale of which, as explained by the Administration at the said meeting, is to provide sufficient lead time for the power companies to adjust their operation (e.g. installing emission abatement facilities, adjusting fuel strategies, securing emissions trading opportunities etc.) in order to comply with the emission caps.

II. To provide the draft TM for members' reference. To also advise the legislative timetable for the introduction of the first TM.

1. We will table the first TM at the Legislative Council at the beginning of the legislative year 2008/09. A draft TM is at **Annex 1** for members' reference.

III. To refine both the English and Chinese renditions of the proposed section 26G(5).

1. Having reviewed the drafting of the proposed section 26G(5), we consider that there is room for improving the Chinese version. A draft is at **Annex 2** for members' reference.

Environmental Protection Department

May 2008

**TECHNICAL MEMORANDUM
FOR ALLOCATION OF EMISSION ALLOWANCES
FOR ELECTRICITY WORKS**

1. PRELIMINARY

1.1 *Citation and Commencement*

This Technical Memorandum is issued pursuant to Section 26G of the Air Pollution Control Ordinance (Cap 311) and may be cited as the "Technical Memorandum for Allocation of Emission Allowances for Electricity Works". This Technical Memorandum shall come into operation in accordance with Section 37C of the Ordinance.

1.2 *Application and Scope*

1.2.1 Subject to Section 1.2.2 of this Technical Memorandum, this Technical Memorandum sets out the total quantities of emission allowances for all the Electricity Works and the allocation principles and determination methods of the quantity of emission allowances to be allocated in respect of the licence for each of the Electricity Works in relation to the emission year.

1.2.2 No part of this Technical Memorandum is applicable to those Electricity Works installed or used for the sole purpose of providing stand-by power supply in the event of a loss of normal power supply.

1.3 *Interpretation*

In this Technical Memorandum, unless the context otherwise requires, the following definitions apply-

"Electricity Works" means the Electricity Works defined in Schedule 1 to the Ordinance.

"Emission allowance" has the same meaning as in the Ordinance.

"Emission year" has the same meaning as in the Ordinance.

"Existing Electricity Works" means the Electricity Works conducted in any of the following power stations in respect of which a valid licence is in force on the commencement date of this Technical Memorandum-

- (a) Black Point Power Station at Yung Long Road, Lung Kwu Tan, Tuen Mun, New Territories;
- (b) Castle Peak Power Station at Lung Yiu Street, Tuen Mun, New Territories;
- (c) Lamma Power Station and Lamma Power Station Extension at Lot 1934 and Lot 2200, DD 3, Po Lo Tsui, Lamma Island; and
- (d) Penny's Bay Gas Turbine Power Station at Lot 23, DD 256, Penny's Bay, Lantau Island, New Territories.

"licence" has the same meaning as in the Ordinance.

"licence holder" has the same meaning as in the Ordinance.

"New Electricity Works" means any Electricity Works, other than the Existing Electricity Works, which comes into existence after the commencement of this Technical Memorandum.

"Ordinance" means the Air Pollution Control Ordinance.

2. ALLOCATION OF EMISSION ALLOWANCES

2.1 Subject to Sections 2.2 and 2.5 of this Technical Memorandum, the total quantity of emission allowances allocated for each and every calendar year for all of the Electricity Works from 1 January 2010 shall be as follows –

Sulphur dioxide	25 120
Nitrogen oxides ⁽ⁱ⁾	42 600
Respirable suspended particulates	1 260

⁽ⁱ⁾ Expressed as nitrogen dioxide

2.2 Notwithstanding Section 2.1, for those New Electricity Works in respect

of which there has never been any quantity of emission allowances allocated, the licence holder in question shall be allocated with such quantity of emission allowances for each and every calendar year in accordance with the respective quantity set out in Annex 1 of this Technical Memorandum. Such quantity of emission allowances determined in accordance with Annex 1 will remain effective from the month in which the licence for the said New Electricity Works commences until such time when the updated quantity of emission allowances determined according to Section 2.4 and Annex 3 of this Technical Memorandum comes into effect in accordance with Section 2.6 of this Technical Memorandum.

2.3 Subject to Section 2.5, the quantity of emission allowances to be allocated to each of the Existing Electricity Works for each and every calendar year from 1 January 2010 until the first updated quantity of emission allowances determined according to Section 2.4 and Annex 3 comes into effect in accordance with Section 2.6 shall be determined in accordance with the formula set out in Annex 2.

2.4 The Authority shall, in the year 2010 and thereafter, not less than once every three years, update the respective quantity of emission allowances to be allocated among the Existing Electricity Works and those New Electricity Works in respect of which emission allowances have been allocated in accordance with Section 2.2 and Annex 1 of this Technical Memorandum for 12 months or more prior to the update. The said update will be made on the first of January of the year and determined solely on the basis of the shares of electricity generation among all the Electricity Works covered by this Section according to the formulae set out in Annex 3 of this Technical Memorandum.

2.5 The quantity of emission allowances determined or updated under Sections 2.2 to 2.4 for allocation to each of those Electricity Works shall be rounded up to the next whole number.

2.6 The Authority shall notify the respective licence holders of the relevant Electricity Works in writing the results of the updating of the quantity of emission allowances conducted according to Section 2.4 of this Technical Memorandum no less than four calendar years before the updated quantity of emission allowances comes into effect.

2.7 Unless otherwise provided or required in the Ordinance or its subsidiary legislation, the Authority shall allocate to all Electricity Works the respective quantity of emission allowance determined in accordance with this Technical Memorandum.

Annex 1**Quantity of Emission Allowances for New Electricity Works
as Determined under Section 2.2**

A.1.1 The quantity of emission allowances for New Electricity Works for a full emission year shall be as follows-

Total Installed Capacity of the New Electricity Works	Sulphur dioxide	Nitrogen oxides ⁽ⁱⁱ⁾	Respirable suspended particulates
Less than 300 MW	2 × total installed capacity in MW / 3	4 × total installed capacity in MW / 3	total installed capacity in MW / 30
Equal or more than 300 MW	200	400	10

⁽ⁱⁱ⁾ Expressed as nitrogen dioxide

A.1.2 Where the licence of a New Electricity Works does not commence in January of a calendar year, the quantity of emission allowances for that New Electricity Works for that calendar year shall be allocated on a pro-rata monthly basis for the remaining months of that calendar year and part of a month is taken as a full month in the determination.

Annex 2

**Quantity of Emission Allowances of Existing Electricity Works
as Determined under Section 2.3**

A.2.1 The quantity of emission allowances for an Existing Electricity Works shall be determined according to the following formula –

$$A \times \frac{B}{C}$$

where –

- A represents the quantity of emission allowances in respect of each type of pollutants set out in Section 2.1 of this Technical Memorandum.
- B represents the quantity of electricity generation for local consumption from the Existing Electricity Works under consideration from 1999 to 2003 inclusive.
- C represents the sum of the quantity of electricity generation for local consumption from all Existing Electricity Works under consideration from 1999 to 2003 inclusive.

A.2.2 For the purpose of this Annex, "quantity of electricity generation for local consumption" means the quantity of gross electricity generation of the concerned Electricity Works subtracting its sales of electricity for export outside the Hong Kong Special Administrative Region.

Annex 3

**Quantity of Emission Allowances of Electricity Works
as Determined under Section 2.4**

A.3.1 The quantity of emission allowances for an Electricity Works, which is subject to the updating as referred to in Section 2.4, shall be determined according to the following formula –

$$A \times \frac{B}{C}$$

where –

- A represents the quantity of emission allowances in respect of each type of pollutants set out in Section 2.1 of this Technical Memorandum.
- B represents the adjusted quantity of electricity generation for local consumption from the Electricity Works under consideration in the period between October of the 6th preceding year and September of the preceding year, both months inclusive, immediately before the update.
- C represents the sum of the adjusted quantity of electricity generation for local consumption from all Electricity Works which are subject to the updating as referred to in section 2.4 of this Technical Memorandum in the period between October of the 6th preceding year and September of the preceding year, both months inclusive, immediately before the update.

A.3.2 For the purpose of this Annex, the adjusted electricity generation for local consumption from an Electricity Works shall be determined as follows –

$$D \times \frac{60}{E}$$

where –

- D represents the quantity of electricity generation for local consumption from the Electricity Works in the period between October of the 6th preceding year and September of the preceding

- year, both months inclusive, immediately before the update.
- E represents the number of consecutive calendar months counted from the first month of issue of the licence for the Electricity Works until September of the preceding year, both months inclusive, immediately before the update, or 60, whichever is smaller.

A.3.3 For the purpose of this Annex, "quantity of electricity generation for local consumption" means the quantity of gross electricity generation of the concerned Electricity Works subtracting its sales of electricity for export outside the Hong Kong Special Administrative Region.

AIR POLLUTION CONTROL (AMENDMENT) BILL 2008

COMMITTEE STAGE

Amendments to be moved by the Secretary for the Environment

Clause

Amendment Proposed

5

In the proposed section 26G(5), in the Chinese text, by deleting everything after “凡” and before “第(4)款” and substituting “局長藉着為施行第(1)款而具有效力的首份技術備忘錄，而作出任何分配，則”。