

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

**List of Follow-up Actions Arising from  
the Discussion at the Meeting on 26 May 2008**

**Administration's Response**

- I. To consider whether the allocated allowances under the proposed section 26K(2)(a)(i) should be subject to charges and if so, the levels of charges.**
1. Given that the occurrence of a special event is beyond the control of a specified licence holder, if he has exercised all due diligence to prevent the occurrence of such event and thereafter minimize the increase of emissions, we consider it appropriate to increase the quantity of allocated allowances without charge according to the proposed section 26K(1). Besides, as we explained in LC Paper No.CB(1)1457/07-08(01), if a charge is imposed on emission allowances, the cost would inevitably be passed through to the consumers, which may unnecessarily increase the financial burden of the public.
- II. To consider adding a new subsection (d) under the proposed section 26K(2) to include remedial/mitigation measures to be taken by the applicant.**
1. We propose to add a new subsection (d) under the proposed section 26K(2) to require an applicant to notify the Authority the occurrence of a special event within five working days after its occurrence, as well as to take all practicable measures to minimize the quantity of pollutant being emitted as a result. A draft is at Annex for members' reference.
- III. To consider specifying a timeframe within which the relevant circumstances should be reported to the Authority.**
1. Please refer to our response to Item II above.
- IV. To consider specifying in the proposed section 26K(5) the circumstances which could be classified as "special events".**
1. As stipulated in the proposed section 26K(2)(b) and (c), "special events" are restricted to those exceptional circumstances which occurred for reasons beyond the control of a specified licence holder and could not be prevented even if all due diligence have been exercised. Since different power plants have different operational modes and needs, it is necessary to consider what circumstances may be classified as "special events" on a case-by-case basis. We will specify a list of "special events" in the specified licences of individual power plants.
  2. With the addition of the proposed section 26K(2)(d) (please refer to our response to Item II above), we consider that the bill has properly specified the circumstances which may be classified as "special events" and qualified for application of additional allocated allowances.

**V. To advise how the allocated allowances could be transferred among individual power plants of the same power company, given that all the specified licences of these power plants are held under the name of the power company.**

1. The proposed section 26L aims to facilitate the transfer of allocated allowances from a holder of a specified licence to the holder of another specified licence. If the holders of these different specified licences are the same person, the transfer could be completed by providing a confirmation of the transaction in writing to the Authority that he has transferred a certain quantity of allocated allowances from the transferor licence to the transferee licence within five working days after the transfer is made.

**VI. To advise the consequences which a specified licence holder will face if he fails to deliver/transfer the agreed quantity of allocated allowances for a specified pollutant to another specified licence holder.**

1. Under the proposed section 26L(2) and (3), in order to adjust the quantities of allocated allowances accordingly, the relevant specified licence holders must provide a written notification to the Authority within five working days after the transfer is made. In other words, the transfer of allocated allowances must already be completed before a notification is made and the quantities of allocated allowances of the relevant specified licence holders are being adjusted accordingly.
2. Transfer of allocated allowances between specified licence holders under the proposed section 26L is a commercial activity. In case a transfer of allocated allowances is agreed but eventually failed to realize, the concerned parties may settle the matter through civil actions.

**VII. To provide a list of amendments to be made to the specified licence pursuant to the Bill.**

1. After the Bill comes into operation, the following amendments will be made to the specified licences –
  - (a) to include the mandatory term and condition specified in the proposed Schedule 2A, i.e., to require the specified licence holder to ensure that the actual emission of a type of specified pollutant from the licensed premises in an emission year is not greater than the allowed emission of that type of pollutant as applicable in respect of the emission year;
  - (b) to specify the quantity of emission allowances for each type of specified pollutant in respect of the specified licence concerned, as allocated by the Secretary for the Environment according to the proposed section 26G, and, where applicable, ascertained by the Authority according to the proposed section 26H;
  - (c) to specify the format for the specified licence holder to provide information on the amount of electricity generated for local consumption to the Authority, for the purpose of enabling the review of the allocation of emission allowances under the proposed Technical Memorandum;
  - (d) to specify the format for the Authority to notify the specified licence holder the

adjustment, if any, made to the quantities of actual emissions and allocated allowances according to Divisions 2 and 3;

- (e) to specify the circumstances which may be considered as special events for the purpose of the proposed section 26K;
- (f) to specify the format for the specified licence holder to report the occurrence of a special event, the quantity of excessive emissions arising from such event and the measures taken to prevent or minimize emissions arising from such event to the Authority for the purpose of the proposed section 26K;
- (g) to specify the format for applying to the Authority for increasing the quantity of allocated allowances upon the occurrence of a special event according to the proposed section 26K and the supporting documents or information required to be accompanied with such application;
- (h) to specify the format for the specified licence holder to notify the Authority upon acquisition or transfer of allocated allowances according to the proposed section 26L and the supporting documents or information required to be accompanied with such notification;
- (i) to specify the format for the specified licence holder to apply to the Authority for acquisition or transfer of emission credits according to the proposed section 26M and the supporting documents or information required to be accompanied with such application;
- (j) to specify the format for the Authority to notify the specified licence holder its decision regarding the application mentioned in item (i) above; and
- (k) to specify the format for the specified licence holder to notify the Authority upon the acquisition or transfer of emission credits according to the proposed section 26M and the supporting documents or information required to be accompanied with such notification.

**(VIII) To review the drafting of the proposed section 26L(3)(b) to make it clear whether the notification of acquisition of allocated allowances should reach the Authority within five working days after the acquisition or not later than 31 March in the year immediately following the emission year.**

1. Under the proposed section 26L(3)(b), the general requirement is that a notification must be given to the Authority within five working days after the relevant acquisition. This general requirement is, however, subject to an overriding requirement that such notification must be given on or before 31 March in the year immediately following the relevant emission year ("the next year").
2. We consider that the proposed section 26L(3)(b) already accurately reflects the Administration's policy intent.

AIR POLLUTION CONTROL (AMENDMENT) BILL 2008

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for the Environment

Clause

Amendment Proposed

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In the proposed section 26K(2) –

- (a) in paragraph (b), by deleting “and”;
- (b) in paragraph (c), by deleting the full stop and substituting “; and”;
- (c) by adding –

“(d) in the case of a special event, the applicant has also –

- (i) notified the Authority in writing of the occurrence of the special event within 5 working days after the occurrence of the event; and
- (ii) after the occurrence of the special event, taken all practicable measures to minimize the quantity of that type of pollutant being emitted in the emission year from the licensed premises as a result of the occurrence of the event.”.