



立法會秘書處 法律事務部  
LEGISLATIVE COUNCIL SECRETARIAT  
LEGAL SERVICE DIVISION

來函檔號 YOUR REF :  
本函檔號 OUR REF : LS/S/31/08-09  
電話 TELEPHONE : 2869 9468  
圖文傳真 FACSIMILE : 2877 5029

Mr Joe FONG  
Senior Environmental Protection Officer (Air Policy) 2  
Environmental Protection Department  
Air Policy Division  
33/F, Revenue Tower  
5 Gloucester Road  
Wan Chai  
Hong Kong

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**BY FAX**  
**Fax No.: 2827 8040**

Dear Mr FONG,

**Air Pollution Control (Volatile Organic Compounds)  
(Amendment) Regulation 2009 (L.N. 107 of 2009)**

We are scrutinising the legal and drafting aspects of the Regulation. We would be grateful for your clarification of the following points -

Section 2(1)

It amends the definition of "coating" in section 2(1) of the Air Pollution Control (Volatile Organic Compounds) Regulation (Cap. 311 sub. leg. W) (the principal Regulation) by excluding aerosol coating. Would you explain the reason for providing such exception?

Section 2(2)

Compared to the repealed definition, in the new definition of "importer" in section 2(1) of the principal Regulation, would you explain the reason for referring to the act of possession, etc. of imported regulated product in the past?

Section 2(5) and (7)

Would you explain the reason for replacing the term "regulated paint" by "regulated architectural paint" in section 2 and other relevant provisions of the principal Regulation?

There are certain offences relating to "regulated paint", such as manufacturing, etc. regulated paints in contravention of section 3 of the principal Regulation or failing to

fix a label on a container of regulated paints in accordance with section 4 of the principal Regulation (see section 17(1) or (2)). Would it be necessary to draft a saving provision to cater for legal proceedings to be instituted under section 17 for offences in relation to "regulated paint" committed before commencement of the Regulation?

#### Section 10(4)

Compared to the repealed section 8(3) of the principal Regulation, in the new provision, would you explain the reason for requiring information on regulated architectural paint that is manufactured or imported by the manufacturer or importer on after the effective date and is sold by the manufacturer or importer, etc?

#### Section 12

Compared to the repealed section 11(4) of the principal Regulation, in the new provision, would you explain the reason for requiring information on regulated printing ink that is manufactured or imported by the manufacturer or importer on after the effective date and is sold by the manufacturer or importer, etc?

#### Section 13

Compared to the repealed section 14(4) of the principal Regulation, in the new provision, would you explain the reason for requiring information on regulated consumer products that is manufactured or imported by the manufacturer or importer on after the effective date and is sold by the manufacturer or importer, etc?

#### New sections 16A, 16E and 16I

In these provisions, the term "must not" is adopted to prohibit a person from doing specified acts. Compared to similar prohibition in sections 3, 10 and 13 of the principal Regulation, the term "shall not" is adopted instead. To achieve consistency, would it be desirable to adopt the same terminology when referring to the same concept in similar contexts within the same piece of legislation?

#### New sections 16B and 16F and 16J

In new sections 16B(1), 16F(1), and (2) and 16J(1) and (2), the term "must" is adopted to require a manufacturer or an importer of specified products to disclose specified information. Compared to similar requirement in section 6 of the principal Regulation, the term "shall" is adopted instead. To achieve consistency, would it be desirable to adopt the same terminology when referring to the same concept in similar contexts within the same piece of legislation?

New sections 16C and 16G and 16K

In new sections 16C(1) and (2), 16G(1)-(4), and 16K(1)-(4) the term "must" is adopted to require a manufacturer or an importer to submit a report. Compared to similar requirement in sections 8(1), 8(2), 11(1), 11(2), 14(1) and 14(2) of the principal Regulation, the term "shall" is adopted instead. To achieve consistency, would it be desirable to adopt the same terminology when referring to the same concept in similar contexts within the same piece of legislation?

New sections 16D and 16H and 16L

In new sections 16D(3), 16H(3) and 16L(4) the term "must" is adopted to require the Authority (i.e. the air pollution control authority) to publish a notice in specified circumstance. Compared to similar requirement in sections 9(3), 12(4) and 15(3) of the principal Regulation, the term "shall" is adopted instead. To achieve consistency, would it be desirable to adopt the same terminology when referring to the same concept in similar contexts within the same piece of legislation?

We would be grateful for your earliest reply in both languages.

Yours sincerely,



(Stephen LAM)  
Assistant Legal Adviser

cc. LA  
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