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Tel : 2869 9205

Date : 8 October 2009

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 14 October 2009

**Proposed resolution under section 34(2) of the
Interpretation and General Clauses Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for the Environment will move at the Council meeting of 14 October 2009 under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The speech, in both English and Chinese versions, which the Secretary will deliver when moving the proposed resolution is also attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

AIR POLLUTION CONTROL (VOLATILE ORGANIC COMPOUNDS) (AMENDMENT) REGULATION 2009

RESOLVED that the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009, published in the Gazette as Legal Notice No. 107 of 2009 and laid on the table of the Legislative Council on 27 May 2009, be amended –

(a) in section 2(2), by repealing the new definition of “importer” and substituting –

““importer” (進口商) means a person by or for whom a regulated product is or was brought, or caused to be brought, into Hong Kong, and includes a person who, at or immediately after the time a regulated product is or was brought, or caused to be brought, into Hong Kong, is or was in possession of or entitled to the custody or control of the product, whether as owner, consignee, agent or broker;”;

(b) in section 2(11), in the new definition of “exempt compound”, by repealing paragraph (f);

- (c) in section 14, in the new section 16A, by repealing “1 October 2010” and substituting “1 October 2011”;
- (d) in section 14, in the new section 16B(1), by repealing “1 October 2010” and substituting “1 October 2011”;
- (e) in section 14, in the new section 16B(1)(d), by adding “and” at the end;
- (f) in section 14, by repealing the new section 16B(1)(e);
- (g) in section 14, in the new section 16C(2), by repealing “31 March 2011” and substituting “31 March 2012”;
- (h) in section 14, in the new section 16C(3), by repealing “1 October 2010 to 31 December 2010” and substituting “1 October 2011 to 31 December 2011”;
- (i) in section 14, in the new section 16C(4), by repealing “1 October 2010” and substituting “1 October 2011”;
- (j) in section 14, in the new section 16C(4)(f)(ii), by repealing “and volume of exempt compounds”;
- (k) in section 20, in the new Part 1 of Schedule 5, by repealing the definitions of “exempt compound” and “Method 303”;
- (l) in section 20, in the new Part 1 of Schedule 5, in the definition of “volatile organic compound”, by repealing everything after “metallic carbonates” and substituting “and ammonium carbonate.”;
- (m) in section 20, in the new Part 1 of Schedule 5, by adding –
““textured and flexibilized coatings” (紋理及柔軟效果塗料) means coatings that are labelled and formulated to be applied exclusively on a flexible plastic substrate or on the lower part of the body of a motor vehicle to provide textured or flexibilized effect on the substrate or part;”;

- (n) in section 20, in the new section 1 of Part 2 of Schedule 5, by repealing everything after “condition –” and substituting –

“Item	Regulated vehicle refinishing paints	Maximum limits of volatile organic compound content
1.	Adhesion promoters	840
2.	Clear coatings (non-matt finish)	420
3.	Clear coatings (matt finish)	840
4.	Colour coatings	420
5.	Multi-colour coatings	680
6.	Pre-treatment coatings	780
7.	Primers	540
8.	Single-stage coatings	420
9.	Temporary protective coatings	60
10.	Textured and flexibilized coatings	840
11.	Truck bed liner coatings	310
12.	Underbody coatings	430
13.	Uniform finish coatings	840”;

- (o) in section 20, in the new Part 3 of Schedule 5, by repealing everything after “formula –” and substituting –

$$\frac{W_a - W_b}{V_d - V_e}$$

where –

W_a represents the weight of volatile matters in grams as determined by Method 24;

W_b represents the weight of water in grams as determined by Method 24;

- Vd represents the volume of material in litres as determined by Method 24;
- Ve represents the volume of water in litres, calculated by dividing the weight of water as determined by Method 24 by the density of water.”.

Legislative Council Meeting (14 October 2009)

**Secretary for the Environment's Speech on
proposed resolution under
the Interpretation and General Clauses Ordinance**

**Amendments to the
Air Pollution Control (Volatile Organic Compounds) (Amendment)
Regulation 2009**

President,

I rise to move the motion, as set out under my name, to amend the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009 (the Amendment Regulation). The proposed amendment has been set out in the Agenda distributed to Members.

2. The Amendment Regulation seeks to amend the Air Pollution Control (Volatile Organic Compounds) Regulation to extend the existing control on VOC-containing products to vehicle refinishing paints, vessel paints, pleasure craft paints, adhesives and sealants. We plan to ban in phases starting from 1 January 2010 the import and local manufacture of these products with VOC contents exceeding the prescribed limits. We expect that extending the control to the concerned products, which forms part of our comprehensive programme to improve air quality and to help achieve the emission reduction target in 2010, will further reduce about 700 tonnes of VOC emission a year.

3. We have consulted and taken into account the feedback of the trades in formulating the Amendment Regulation. Notwithstanding this, in accordance with the recommendations of the Subcommittee formed to scrutinize the Amendment Regulation, we agreed to further consult the trades on the proposal relating to vehicle refinishing paints in response to the concerns raised by the trades during the scrutiny process.

4. Specifically, the trades have two concerns. First, they are concerned over the reliability of the supply of certain compliant vehicle refinishing paints proposed in the Amendment Regulation, as currently they are only produced in the United States and are not available from the trades' existing supply network. Secondly, the trades are concerned about the sufficiency of the lead time for the switch to compliant products. To address these concerns, we have accepted the suggestions of the trades to relax VOC content limits of the relevant vehicle refinishing paints to the levels adopted by the European Union, and postpone the implementation by one year to 1 October 2011.

5. The proposed relaxation would lead to a decrease of about 35 tonnes of VOC emission reduction in 2010. According to our current estimation, the VOC emission in 2010 is 31 035 tonnes, which is slightly higher than our original reduction target of 31 000 tonnes VOC emission. However, given this 35 tonnes emission reduction amounts only to about 0.1% of the target emission level in 2010, the effect of the proposed relaxation would only be ascertained by the time of compiling the 2010 emissions figures.

6. Reducing the emission of VOCs will go along way to improving air quality. It is also a worldwide trend to tighten the VOC content limits of vehicle refinishing paints. We will therefore take on board the Subcommittee's suggestion to review the feasibility to tighten the content limits one year after implementation of the control on vehicle refinishing paints.

7. We also propose to replace the definition of "importer" to make it clear that the coverage of "importer" would not be extended to retailers or purchasers, in response to Subcommittee's concern about the risk of a retailer or even a purchaser of a regulated product being caught under the definition of "importer".

8. The amendment has the support of the Subcommittee. I appeal to Members for support of the motion.

9. Thank you, President.