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(ACE 41/95)
for advice

**Proposed subsidiary legislation to be made under the
Air Pollution Control Ordinance -
Air Pollution Control (Open Burning) Regulation**

Introduction

In the EPCOM meeting held on 6 September 1993, members considered and supported a proposed control scheme on open burning (EPCOM paper at Annex 1). Subsequently in the ACE meeting held on 19 September 1994, the Council endorsed the substance in the first draft of the proposed Air Pollution Control (Open Burning) Regulation, and asked that the following issues be further looked at or clarified:

- (a) possibility for listing all opening burning activities requiring a permit;
- (b) the 28-day "deemed approval" clause; and
- (c) the valid period of a permit.

2. The proposed regulation has since been revised having taken on board the Council's views on these issues. A re-draft is now attached at Annex 2 for members advice pursuant to section 43(1) of the Air Pollution Control Ordinance.

Outline scheme of control and revisions

3. The scheme of control remains very much unchanged from that in the first draft of the Regulation. To recapitulate, opening burning activities which generate serious air pollution such as open burning of construction wastes, rubber tyres and metal salvage are prohibited. Other open burning activities, such as burning of incense for ritual or amenity purposes which either forming part of the custom of the community or having significant amenity value, are exempted. All other open burnings necessary to be carried out under extraordinary situations are put under permit control.

4. To take on board this Council's views mentioned in paragraph 1 above, the following revisions had been made to the draft Regulation in consultation with the Legal Department:

- (a) Amendment was made to specify the exempted (section 2) and the prohibited (section 3) open burning activities, and to require all other open burnings be controlled by permits (section 4). Listing out exhaustively those open burnings requiring a permit was found

not practicable.

- (b) The 28-day "deemed approval" clause was removed. Now, while an applicant is still required to submit an application 28 days prior to an intended open burning, he is not allowed to carry out the burning unless and until he has obtained a permit;
- (c) The valid period of a permit remains no longer than one year. As a new provision, section 5(4)(c) also specifies the number of open burnings allowed within the valid period of the permit.

Consultation

5. All interested parties had been consulted on the first draft of the Regulation. The above revisions are straight forward so no further consultation is necessary.

Implementation

6. Subject to this Council's endorsement and Legislative Council's consideration while laid on the table there, the Regulation is intended to be implemented before the end of this year on the first date it is published in a gazette.

Advice Sought

7. Members are requested to advise if they endorse the draft Regulation as attached in Annex 2.

Environmental Protection Department
Air Policy Group
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