Environmental Issues in Agriculture: Regulating GHG Emissions in B.C.

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AGENDA

1. Metro Vancouver Air Quality Management Bylaw
2. Permits and Approval Process
3. Proposed new Air Quality Management Bylaw
4. Do’s and Don’ts for Air Quality Permits and Applications
5. *West Coast Reduction* Case

Metro Vancouver (formerly, the Greater Vancouver Regional District)

Metro Vancouver is authorized to **"prohibit, regulate and otherwise control the discharge of air contaminants".**

The B.C. ***Environmental Management Act*** authorizes Metro Vancouver to establish prohibitions, regulations, rates or levels of fees, conditions, requirements and exemptions for different persons, operations, activities, industries, trades, businesses, air contaminants or works, and for different classes of persons, operations, activities, industries, trades, businesses, air contaminants or works …

Applicable Bylaws

- Air Quality Management Bylaw No. 1082
- Air Quality Management Fees Regulation Bylaw No. 1083

Table 1 – Air Contaminant Emission Fees for Authorized Discharges

Column 1 (A) Air Contaminant	Column 2 (B) Emission fee per tonne of air contaminant
Particulate Matter (filterable and condensable from solely combustion sources)	$300
Particulate Matter (filterable and condensable from solely non-combustion sources)	$30
Fine Particulate Matter (filterable and condensable from combined combustion and non-combustion sources, not fuelled solely by natural gas and/or propane)	$300
Particulate Matter (all other filterable from combined combustion and non-combustion sources, not fuelled solely by natural gas and/or propane)	$30
Nitrogen Oxides (NOx)	$50
Photoreactive volatile organic compounds (photoreactive VOC)	$60 (for the 2011 calendar year) $100 (beginning in 2012)
Non-photoreactive volatile organic compounds (non-photoreactive VOC)	$30
Sulphur Oxides (SOx)	$100
Total Reduced Sulphur (TRS)	$150
Hazardous Air Pollutants	$1,000
Other (not otherwise specified)	$30
Odour (fee per billion odour units)	$50

Air Contaminants and Odour

- "**Air Contaminant**" means any substance that is emitted into the air that
  - (a) injures or is capable of injuring the health and safety of a person;
  - (b) injures or is capable of injuring property or any life form;
  - (c) interferes or is capable of interfering with visibility;
  - (d) interferes or is capable of interfering with the normal conduct of business;
  - (e) causes or is capable of causing material physical discomfort to a person; or
  - (f) damages or is capable of damaging the environment; …
- **"Pollution"** means the presence in the environment of substances or contaminants that substantially alter or impair the usefulness of the environment; …

Permits and Approvals

Permits

11 The district director may issue a permit to allow the discharge of an air contaminant subject to requirements for the protection of the environment that the district director considers advisable and without limiting the generality of the foregoing the district director **may do one or more of the following in the permit:**

(1) place limits and restrictions on the quantity, frequency and nature of an air contaminant permitted to be discharged and the term for which such discharge may occur;

(2) require the holder of a permit to repair, alter, remove, improve or add to works or to construct new works and to submit plans and specifications for works specified in the permit;

(3) require the holder of a permit to give security in the amount and form and subject to conditions the district director specifies;

(4) require the holder of a permit to monitor, in the manner specified by the district director, an air contaminant, the method of discharging the air contaminant and the places and things that the district director considers will be affected by the discharge of the air contaminant;

(5) require the holder of a permit to conduct studies, keep records and to report information specified by the district director in the manner specified by the district director;

(6) specify procedures for sampling, monitoring and analyses, and procedures or requirements respecting the discharge of an air contaminant that the holder of a permit must fulfill.

The proposed New Bylaw will apply to:

- Facilities that process organic materials including farms and farm processes, facilities that compost organic waste, rendering plants, animal feed plants, mushroom media composting facilities, intensive agricultural feedlot activities, and anaerobic digesters processing non-agricultural waste.

Classification System

- Facilities will be classified into low risk sources, medium risk sources, and high risk sources based on the amount of odour released into the community, the sensitivity of the receptors, and the offensiveness of the odours.
- This classification will determine the action the facility will be required to take, as well as the fees the facility will be required to pay.

Criticisms of proposed New Bylaw

- Fees imposed will be determined by the use of odour units, the same method of monitoring and testing which the Board in *West Coast Reduction* found to be too imprecise to be used for compliance purposes.
- Fees lessen the financial resources available to be utilized to develop odour reducing solutions within the facilities at issue.
- The complaints system is unreliable.
- The new Bylaw undermines the public interest in sustainable management of organic wastes, as articulated by Metro Vancouver itself in a series of recent formal policy pronouncements, specifically: the Integrated Solid Waste and Resource Management; the Zero Waste Challenge: Goals, Strategies and Actions Zero Waste Challenge; and the Regional Organics Strategy Regional Organics Strategy.

Indirect Tax?

- Those facilities classified as high risk will face charges of **$5 per year for each person exposed to a specified level of odour.**
- The new policy will shift the cost of odour enforcement onto high-risk odour-generating facilities at $5 per person per year for those that are impacted (as determined by Metro Vancouver).
- The level of odour will be determined by odour units, to be measured by an odour panel who will assess the odour in accordance with internationally accepted methodologies.

West Coast Reduction Case

- 2010 decision out of the British Columbia Environmental Appeal Board, *West Coast Reduction Ltd. v. British Columbia (Ministry of Environment).*
- West Coast sought to set aside the decision of the Air Quality District Director to amend their existing air permit to add various requirements, conditions, criteria, standards, guidelines and objectives all relating to the eventual reduction in the amount of odour emitted from their rendering plant.
- “battle of the experts”

Environmental Appeals Board

Key Points from the *West Coast Reduction* Case

- The Board found that the amendments were wrongfully imposed by the Director, as he did not have the authority or jurisdiction to impose the requirements at issue.

- The Board found that the complaints process utilized by the GVRD provides significant room for error, and did not provide sufficient information to determine whether or not the amendments were necessary for the protection of the environment.

- It was found to be more likely that the amendments were an attempt to placate the public rather than to provide a real solution to the odour issue. As a result, the Board found that the Director's amendment of the permit was an improper exercise of discretion.

West Coast Reduction Case

- In relation to the use of odour units, the Board found that the Director does have authority to introduce a new unit of measurement into a permit amendment in certain situations.
- “The notion that odour units can be used as an indicator of an environmental "smell" is simply too flawed to be used as a method of determining compliance, and is therefore not suitable for determining whether the environment is adequately protected."
- “Given that there are many steps in the process of attempting to calculate odour units which are problematic, and which contain so many points of bias and subjectivity, the Panel finds that the ultimate number or value coming out of an odour unit measurement cannot be relied upon as meaningful, particularly for the purposes of evaluating compliance with a mandatory term of a permit.”

Integrated Solid Waste and Resource Management Plan

- The overriding principle of the Integrated Solid Waste and Resource Management Plan is the avoidance of waste through an aggressive waste reduction campaign and through the recovery of materials and energy from the waste that remains. In line with this principle, the Integrated Solid Waste and Resource Management Plan (ISWRMP) has four goals:
  - Goal 1: Minimize waste generation
  - Goal 2: Maximize reuse, recycling and material recovery
  - Goal 3: Recover energy from the waste stream after material recycling
  - Goal 4: Dispose of all remaining waste in landfill, after material recycling and energy recovery

Negotiating Air Quality Permits

- Do your homework and review like permits for like facilities
- If you are capping emissions, make sure you will be able to comply those caps
- Consider your source input for emissions calculations
- Limit reporting obligations and testing requirements
- Build in flexibility for improving your operations or minor changes to works and procedures
- Develop a good relationship with the regulator
- Find a good consultant with expertise for testing and monitoring

Negotiating Air Quality Permits con't

- Don't forget to calculate your fee
- Don't set emissions caps you can't meet
- Don't accept "no odours"
- Don't assume that the source of complaints is your facility

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