



Ministry of
Environment and
Climate Change Strategy

Regulation of Air Discharges in BC, or ... who does what.

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Objective

- The objective of this presentation is to give a very brief overview of how the discharges of air contaminants are regulated in BC.
- The emphasis is on the interaction of the various acts and regulations and airshed planning at the local government level, using examples applicable to the Kamloops airshed.
- This is not in anyway legal advice on how to interpret the act and regulations.
- The presentation will be brief to allow for discussion.

Outline

- Greg Baytalan will be covering the Public Health Act as administered by the Health Authorities,
- I am going to cover the Environmental Management Act and associated regulations which are administered by the Environmental Protection Division (EPD) of the Ministry of Environment and Climate Change Strategy (MoE).
- However, there is one other act that is important in airshed planning, a small obscure section of the Municipal Act.

Municipal Act

- There is a section in the Municipal Act which specifies how local governments operate which allows local government to enact bylaws that protect air quality.
- The Municipal Act part 28 section 932 (i) includes the following *“require the owners or occupiers of real property, or their agents, to eliminate or reduce the fouling or contaminating of the atmosphere through the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia; and prescribe measures and precautions to be taken for the purpose; and fix limits not to be exceeded for those emissions.”*
- Examples of bylaws enacted under this section are those controlling open burning and biomass boilers.
- In general, a local government can only bring in a bylaw which is as stringent, or more stringent than a Provincial regulation or requirement under EMA, a bylaw cannot relax provincial requirements.
- Metro Vancouver has the authority to issue permits and set requirements just as MoE does, no other local governments have this authority. An example is the Biomass boiler requirements that are used in Metro Vancouver.

Environmental Management Act, or “EMA”

- Society produces waste, all developed jurisdictions must have systems to regulate and control the discharge of that waste to the environment.
- In BC, EMA is the act (along with 32 pendant regulations, codes of practice, ambient objectives, and policy guidance) which supplies the mechanism to do this.
- This is how it is phrased in one of the guidance documents, *“Controls, ameliorates and where possible, eliminates the deleterious effect of pollution.”* This language is important as many people are of the opinion that no discharges should be tolerated.

“pollution”

- The definition of pollution used in EMA is: “ *The presence in the environment of **substances or contaminants** that **substantially** alter or impair the usefulness of the environment.*”
- This sounds like a simple and easy to interpret and apply definition, but it is not. There are large differences in interpretation and this definition has proven difficult to use in practice.

“discharges”

A substance emitted into the air /into water/onto land that

Injures or **is capable** of injuring

- human health & safety,
- property, or any life form.

Interferes or is capable of interfering with **visibility** or the **normal conduct of business**.

Causes or is capable of causing **physical discomfort to a person**.

Damages or is capable of **damaging the environment**.

How does EMA work?

- The primary restriction in EMA comes near the beginning of the act, EMA Section 6(4):*waste must not be introduced into the environment in such a manner or quantity as to cause pollution*
- However, EMA then goes on to specify in great detail under what circumstances discharges to the environment can occur. Again this is a subtle but important nuance. The objective is to allow discharges to the environment without causing pollution.
- This often a source of confusion as many people equate any *discharge* with *pollution*. To add to the confusion the words *contaminant* and *pollutant* are used interchangeably in most public discourse, in EMA they are not.

Are some discharges exempt under EMA?

- Yes, in the context of airshed planning the two important exemptions are for emissions from motor vehicles and for space (or comfort heating).
- Section 6.5 (h): emissions from *steam powered* or *internal combustion engines* in compliance, if applicable, with the [Motor Vehicle Act and regulations](#);
- Section 6.5 (k): emission of an air contaminant from *combustion of wood or fossil fuels* used solely for the purpose of comfort heating of domestic, institutional or commercial buildings.
- 6.5 (k) is the reason that the operation of woodstoves and Outdoor Wood Boilers are not regulated, it important to note that local governments are not restricted like MoE, for example the biomass boiler bylaw in Kamloops.
- In BC woodstoves and small boilers are regulated by the Solid Fuel Burning Domestic Appliance Regulation (under EMA) that controls the manufacture, sale and in the case of OWB, the installation of the appliances *not* their use.

How does EMA control discharges?

- There are three tiers of discharges, each controlled in a different manner. In general the three tiers are related to the level of concern with that type of discharge (high, medium low if you like).
- The Waste Discharge Regulation (WDR) supplies a list of industries/business types/discharges that require an authorisation from the ministry before they can be introduced into the environment. Authorisations are site specific, and require an impact assessment before they are granted. An example would be the Domtar Pulp Mill which has an air discharge permit.
- Next, there are a series of industry/business types /discharges that are controlled by codes of practice. These do not require site specific authorisations. An example of this would be an asphalt plant operating under the Asphalt Regulation. A code of practice is being developed for saw-mills and wood processing plants as well.

Cont. ...

- If the discharge is not captured by the above, it does not require an authorisation, nor must it follow specified requirements in a code of practice, **but the general prohibition on causing pollution applies.**
- Examples of this type of discharge are tire retreading facilities, medical marijuana production facilities, auto body-shops, coffee roasting facilities etc.
- If problems arise with discharges from this type of facility, a *director*, delegated under EMA, can impose an order which stops or modifies the discharge. In practice this is very difficult and is rarely used except in dire circumstances.
- The last two slides are a very simplistic summary of a complex section of EMA; however, for the work we do in airshed planning committees, I have found it to be quite useful. If you are trying to determine if an authorisation is required, please consult with MoE staff before making any decisions.

Authorisations

- Two kinds, permits and approvals, both are site specific and require an internal review process, difference is that an approval is only for a period of up to 18 months. Permits stay in effect until they are amended, or cancelled.
- A permit can be amended without an application or request from the permittee.

Permitting Process

- Person who wishes to be granted a permit approaches MoE. A pre-application meeting is convened during which the proponent supplies information and descriptions of proposal to MoE staff. MoE staff then give them a list of information that will be required as part of the formal application, and a list of stakeholders who should be consulted.
- Proponent then prepares an application which includes all the information requested by MoE and a consultation report that includes all information and comments received from stakeholders by proponent.
- MoE then reviews the information and prepares internal reports, including a referral from a meteorologist on potential adverse effects on air-quality (if there are air-discharges). These reports then go to the *director* (or their delegated *statutory decision maker* who decides if an authorisation will be granted.
- There is an appeal period of 30 days from the time the permit is granted during which an appeal to the Environmental Appeal Board may be made.