



Business Council *of*  
British Columbia

**Submission on  
Metro Vancouver's  
Proposed Amendments  
to  
Air Quality  
Management  
Bylaw 937**

May 27, 2008



Business Council of  
British Columbia

## SUBMISSION ON METRO VANCOUVER'S PROPOSED AMENDMENTS TO AIR QUALITY MANAGEMENT BYLAW 937

The Business Council of BC is pleased to provide comments on Metro Vancouver's revised Proposed Amendments to the Air Quality Management Bylaw of January 2008. Our comments relate to the following items: 1) the proposed regulatory fee structure, and 2) the proposed regulation of air emissions from boilers and heaters, now including those fuelled by biomass. The Business Council participated in the March 7, 2008 public consultation session which Metro Vancouver held to solicit feedback on the revised proposal.

By way of background, the Business Council, established in 1966, is an association representing approximately 210 large and medium-sized enterprises engaged in business in British Columbia. Our members are drawn from all major sectors of the provincial economy. Taken together, the corporate members and the associations affiliated with the Business Council are responsible for one-quarter of all jobs in British Columbia. More than three quarters of our members have an active business presence in Greater Vancouver.

### Comment Summary

We summarize below the key points raised in our submission:

1. The Metro Vancouver region has experienced an improving trend in air quality over the past 20-25 years, and is projected to maintain excellent air quality for the foreseeable future. Yet Metro Vancouver's forecasts for air contaminant emissions in the 2005 Air Emissions Inventory summary report appear to take a worst-case approach over the longer term, and do not take sufficient account of market-based and senior-level government policy changes that will positively influence the region's excellent air quality. Amending Bylaw 937 on the basis of



projections of deteriorating air quality that are inconsistent with previous trends and at odds with reasonable forward-looking analysis represents poor policymaking.

2. Concerning Metro Vancouver's present model for regulating air quality, we are troubled that the direct permitting system which the District has developed relies for revenue on a small group of stationary sources that are responsible for a small and declining share of air emissions in the region.
3. There is a risk that both equity and effectiveness considerations will be short-changed in the regulation-making and fee-setting process. Industrial and commercial businesses in the Lower Mainland already face a heavy property tax burden, a portion of which goes to support the District's services and programs. The regional government needs to be sensitive to the economic and competitive pressures facing existing industrial permit holders, such as the high Canadian dollar, rising energy costs, and BC's soon-to-be implemented carbon tax.
4. Our understanding is that at the level of regional governance, fees may not be charged for purposes other than to cover the costs of administering a program. While District staff has emphasized the overall "revenue neutrality" of the proposed changes, the proposed by-law amendment will result in an entirely new group of businesses being "captured" from a regulatory standpoint. This could well result in increased fee revenue in future years relative to what is required to administer the bylaw.
5. We are concerned by the process that has unfolded around the inclusion of biomass boilers in the regulation. It appears that the District is attempting to assert jurisdiction in this area, despite rulings from the Environmental Appeal Board stating that standards for biomass boilers in the Lower Mainland are a matter for *provincial jurisdiction*. Regulation of sources should be consistent across the province, and at a minimum, Metro Vancouver's standards should not be more stringent than the standards of adjacent jurisdictions that make up the larger Lower Fraser Valley airshed.



6. From the perspective of climate change, Metro Vancouver's policy position on biomass boilers is diametrically opposed to the generally accepted view of the GHG effects of biomass as an energy source, and also runs counter to the position of the BC government on the use of such fuels. Metro Vancouver should be concerned about potential "leakage" as a result of policy choices made by the District. Creating incentives for further leakage of biomass-fuelled industries from Metro Vancouver to adjacent jurisdictions will do little to improve air quality in the airshed, and may serve to highlight the lack of a convincing rationale for imposing more stringent emission standards within the region than exist elsewhere in the province.

The Business Council respectfully requests a response from the District on the following items of interest:

- a fuller accounting supporting the rationale for the proposed fee structure
- an explanation of what the expanded user fee revenue is projected to be under the proposed bylaw amendment., and what services and related costs are to be provided out of the Air Quality budget for the benefit of all member municipalities and residents
- an explanation of how the revised fees were arrived at: for the registration/permit, what rationale was used to support equity principles for registration/permit fees; and for the variable fees by contaminant type, what methodology was used to link scientific research to determining "appropriate" fee levels
- sufficient information to support Metro Vancouver's claim that the Air Quality program, under the proposed amendments, will be revenue-neutral (beyond the first year of operation)
- additional data from the 2005 emissions inventory demonstrating the sources of the various air contaminants in order to allow independent stakeholders to determine the share of responsibility of various sectors for such emissions



### **Current Context and Emission Trends**

Before commenting on the proposed amendments to the Air Quality Management Bylaw, it is useful to review the context for air quality regulation in the region.

The Business Council recognizes the importance of good air quality to the health of residents and the quality of life in Greater Vancouver. Fortunately, all of the available evidence indicates that Greater Vancouver has among the best air quality of any urban community in North America. Indeed, Dr. John Blatherwick, the former Chief Medical Officer for the Vancouver Coastal Health Authority, has characterized air quality in the region as “outstanding.”

Moreover, air quality in the regions has greatly improved over time. According to the recently-released executive summary of the 2005 Air Emissions Inventory Report for the Lower Fraser Valley airshed, overall emissions of air contaminants fell by roughly one-third from 1990 to 2005, despite significant population growth and steady increases in the volume of traffic in the region over the period. We note in particular that Metro Vancouver’s share of air contaminant emissions in the airshed has fallen faster than the shares of Whatcom County and the relevant part of the Fraser Valley Regional District. The full release of the 2005 Emission Inventory Report will be helpful in providing a better understanding of the sources of emissions and the data behind the trends.

Contrary to the positive trends in the available emissions data, Metro Vancouver’s revised Air Quality Management Plan assumes that emissions of primary particulate matter and various ozone and particulate matter precursors will increase in the next 15-20 years, resulting in adverse human health impacts. The Business Council is concerned that the emissions forecast underlying the AQMP reflects a worst-case scenario that downplays developments expected to have a positive impact on ambient air quality going forward. Specifically, the AQMP and the latest Air Emissions Inventory predict a levelling-off and then slight increases (rather than further declines) in emissions of most air contaminants. Based on the information reviewed and experts consulted by the Business Council when the



current AQMP was being formulated in 2004-2005, we believe these forecasts are questionable.

In particular, Metro Vancouver's policy approach to managing air quality fails to take sufficient account of several factors that will act to reduce emissions in the coming years:

- 1) Ongoing advances in technology point to progressively lower emissions of air contaminants across a range of industries.
- 2) Emissions from the manufacturing sector can be expected to drop as the number of manufacturing facilities in Greater Vancouver continues to diminish. A shrinking manufacturing sector seems inevitable given high operating costs, the lack of industrial land in the region, punitive industrial property taxes imposed by most Lower Mainland municipalities, and the cost of complying with Metro Vancouver fees and regulations.
- 3) The normal capital stock turnover process will continue to dampen emissions in the industrial, commercial and institutional sectors.
- 4) Adoption of more stringent vehicle and fuel standards by the federal and British Columbia governments, together with very large proposed public transit investments in the region, can be expected to lower transportation-related emissions (both on-and off-road) after 2009-2010.
- 5) Increased urban densification due to local government policies such as the EcoDensity initiative of the City of Vancouver will also help to reduce emissions of air contaminants.
- 6) The initiatives being taken by Canadian and US federal government agencies and west coast port authorities to address marine-related air emissions (e.g., port electrification) should have positive effects on future emissions from this important sector.
- 7) Market forces have prompted changes in energy demand and use that are beneficial to the environment. Specifically, the steep rise and heightened volatility of natural



gas prices since the early 1990s has reduced energy use and led some customers to switch from gas to electricity – a trend that is likely to persist. Note, too, that the role of BC Hydro’s Burrard Thermal plant has shifted to one of back-up capacity support. Burrard Thermal is likely to remain in this role – or possibly be retired – midway through the forecast period, resulting in less natural gas consumption and reduced air emissions.

- 8) Finally, the new federal Framework for Air Emissions will pave the way for new measures that significantly reduce industrial emissions of four acid rain and smog-causing substances: nitrogen oxides, sulphur oxides, particulate matter, and volatile organic compounds.<sup>1</sup>

In summary, a strong case can be made that air quality in the Lower Mainland region will continue to get better, even with population growth and further commercial and residential development. Indeed, Metro Vancouver’s Air Emissions Inventory report confirms the long-term trend toward significant air quality improvements. Amending Bylaw 937 on the basis of projections of deteriorating air quality that are both inconsistent with previous trends and at odds with reasonable forward-looking analyses represents poor policymaking. Excellent air quality has already been achieved in the region without the added regulation and fees proposed. And there is every reason to believe that the market based developments and senior government actions listed above will continue to exert a favourable impact on air emissions in the coming decades.

### **General Comments on the Issue Papers/Proposed Amendments**

Based on a review of the proposed by-law amendments outlined in January 2008 and the two Greater Vancouver Regional District (GVRD) Issue Papers released in 2007, the Business Council has identified a number of concerns that we wish to bring to the attention of Metro Vancouver officials, the Environment Committee, and the Board.

---

<sup>1</sup> The federal government intends to set hard caps that will reduce industrial emissions of these substances by the following amounts between 2006 and 2015: 40% for nitrogen oxides, 55% for sulphur oxides, 20% for particulate matter, and 45% for volatile organic compounds.



### *Fee Structure Change*

Our understanding of the original mandate of the GVRD regarding the control and abatement of air pollution was that the cost of this service would be shared among municipalities. We are troubled that the direct permitting system which the District has developed relies for revenue on a small group of stationary sources, with the result that a disproportionate share of Metro Vancouver's budget for air quality falls on sources responsible for a small and declining share of air emissions in the region.

As we understand it, Metro Vancouver claims that the pursuit of "continuous improvement" provides justification for imposing additional costs and administrative requirements on businesses and residential buildings, even though the vast (and rising) majority of emissions in the airshed lie outside the District's control. In these circumstances, there is a risk that both equity and effectiveness considerations will be short-changed in the regulation-making and fee-setting process. Industrial and commercial businesses in the Lower Mainland already face a heavy property tax burden, a portion of which goes to support the District's services and programs. Further, many Lower Mainland industrial and manufacturing businesses are struggling with a decline in their competitive position due to factors such as the high Canadian dollar, increased energy costs, and the slumping American economy. The regional government needs to be sensitive to the pressures facing existing industrial permit holders as a result of these developments, as well as from the introduction in July of BC's carbon tax. In sum, there should be room within the District's overall \$47.6 million operating budget (2008), and specifically within its \$5.8 million Air Quality budget, to finance its air quality programs without any need to resort to additional fees.

We note some contradictory signals inherent in the District's budgeting for this area, and are concerned that the revised fee structure will result in meeting a revenue target or filling a shortfall. Specifically, it appears that the 2007 Air Quality budget was \$6.8 million (in some earlier documentation it was set at \$6.5 million). The 10 percent decrease in the Air Quality budget for 2008 implies that fewer District resources are needed for air quality programs.



This in turn suggests that less emphasis will be placed on air quality issues in 2008, despite the increase (year over year) in expected revenues from user fees.

Furthermore, the fees proposed by Metro Vancouver appear not to be based on cost-recovery. Instead, they seem designed to meet unspecified revenue objectives, to selectively incent behaviour change, or both. Staff presentations made the second aspect explicit: at the March 7, 2008 consultation session, where staff noted that a principal purpose of amending the bylaw is to “align fees with principles and goals.” Our understanding is that at the level of regional government, fees may not be charged for purposes other than to cover the costs of administering a program. While District staff has emphasized the overall “revenue neutrality” of the proposed fee and by-law changes, the effect of the proposed amendment is that an entirely new group of businesses is “captured” from a regulatory standpoint. This could very well result in increased fee revenue in future years relative to what is required to administer the bylaw and the District’s air quality programs. In our view, the regional government does not have the taxation authority to impose “Pigovian” taxes (those that seek to change behaviour by increasing the cost of the undesired activity), which is the implication of the point made in the staff presentation materials.

As these financial issues are a matter for the public record, we request additional detail on and justification for the increase in user fees as a revenue source, and on the expected program expenditures. Our understanding is that Metro Vancouver’s mandate prevents it from collecting fees for any purpose other than offsetting program costs. From the budget figures made publicly available, it is not clear how the figures were arrived at or what rationale was applied to setting the Air Quality budget for 2008. Under the *Local Government Act*, (S. 363.2(f)), the regional district must make available a report, on request, indicating how a fee or charge imposed under this section was determined. The Business Council is hereby making such a request.



### *Boiler & Heater Change*

Metro Vancouver claims that the proposed changes in emissions regulations for boilers and heaters, and in the fees levied under Air Quality Management Bylaw 937, are fair and will assist in improving air quality. But in some respects the proposed measures seem neither equitable nor likely to have a positive impact on air quality. For example, mobile sources of emissions are not covered at all, even though they are responsible for over 85% of the region's emissions of nitrogen oxides (NOx), according to the 2000 Emissions Inventory.<sup>2</sup>

We are concerned about the process that has unfolded around the inclusion of biomass boilers in the regulation. It appears that the District is attempting to exert jurisdiction in this area, despite rulings from the Environmental Appeal Board stating that standards for biomass boilers in the Lower Mainland are a matter for *provincial jurisdiction*. Subject to differing allowable stack concentrations in areas defined as either urban or rural, the emerging provincial standard supports a consistent approach for operators of biomass boilers and heaters. Regulation of sources should be consistent across the province, and at a minimum, Metro Vancouver standards should not be more stringent than the standards of adjacent jurisdictions that make up the Lower Fraser Valley airshed.

An additional point concerns Metro Vancouver's policies on biomass boilers and climate change. Provincial policy, and more general concerns over climate change, is sparking renewed interest in biomass as a fuel source for many energy-intensive operations. Metro Vancouver's policy position on air quality, as expressed through the proposed bylaw amendment, is diametrically opposed to the generally accepted view of the GHG effects of biomass as an energy source, and also runs counter to the stated policy of the BC government. At senior levels of government and among architects of regional GHG reduction schemes, "leakage" (the loss of local industry to a non- or less-regulated jurisdiction) is recognized as an undesirable outcome. Metro Vancouver should be concerned about potential "leakage" as a result of policy choices made by the District. From

---

<sup>2</sup> We note that more up-to-date figures are not available, as they were not contained in the Executive Summary of the 2005 Inventory.



an air quality perspective, creating incentives for further leakage of biomass-fuelled industries from Metro Vancouver to adjacent jurisdictions will do little to improve air quality in the airshed, and may serve to highlight the lack of a convincing rationale for imposing more stringent emission standards within the region than exist elsewhere in the province.

A related issue raised by the Issue Papers and proposed by-law amendments is discrimination among energy end users. Homeowners residing in large condominium projects or mixed-use facilities are likely to be captured by the District's proposed regulatory/fee scheme, whereas single family homeowners will not, even if they burn oil or have open wood fireplaces. The way in which regulation is proposed for the various users of energy suggests a focus on sources that are easy to capture rather than on the composition of the air contaminant emissions profile for the region. This strikes us as inequitable.

*Information for informed decisions*

Despite the recent release of the executive summary of the 2005 Air Emissions Inventory, there continue to be significant information gaps which are material to the proposed amendments to the Air Quality Management Bylaw. We are particularly concerned that information on the distribution of responsibility for emissions of the various local air contaminants has not yet been published. More specifically, while we know that industrial emissions have fallen, disclosure of the relative share of industrial/point versus area and mobile sources would help to clarify just how much of the user-fee burden is appropriate to apply to the permit holders, businesses and residential buildings that the District proposes to regulate.

**Specific Responses to Feedback Form (supplied at March 7, 2008 consultation session)**

*A) 1. Comments on proposed revisions to air quality regulatory fee structure.*

Further to the comments above, we are troubled by the seemingly arbitrary nature of the respective fee increases for various contaminants. Explanation and justification are requested for the District's decision to ramp up proposed fees for the range of local air contaminants.



Specifically, air toxics are proposed to rise from the initial \$60/tonne in the current permit system to \$300/tonne in the first round of consultation in June 2007 to \$1,000/tonne in the March 2008 consultation document. In principle, the rapid escalation of fees calls for a well-reasoned argument supported by science, an explanation of the link between the health harm and the price set for the contaminant, and specific examples of other jurisdictions' use of such fees. To our knowledge none of this information has been provided to date.

Existing permit holders are concerned about the impact of the proposed fee structure on site-specific agreements that may be negotiated as part of their permits. These provide long-term regulatory certainty for important aspects of their operations. Business stakeholders need to know whether this amendment brings those agreements into question.

*B) 1. Support for including biomass as part of the proposed emission regulation?*

Further to our overall comments, the Business Council opposes the inclusion of biomass as part of the proposed bylaw amendment. The first premise on which Metro Vancouver rests its case for including biomass is flawed: we reject the assertion that the District should be “authorizing emissions with more protective emission limits than those provided by provincial regulation” in the first place. No justification has been advanced as to why the District should follow this path. Moreover, the Environmental Appeal Board’s decisions concerning biomass support the Business Council’s longstanding position that responsibility for all aspects of air quality should rest with the provincial government, not municipal/regional authorities. Air quality standards and regulation of sources should be consistent across the province, and at a minimum, standards should take account of an entire airshed, not solely the activities that happen to be located within a set of particular regional political boundaries.

From a climate change perspective, tightening regulations of biomass fuelled boilers and heaters at the present time would put Metro Vancouver at odds with emerging BC government policy and also conflict with the District’s own resolution to support the province’s goals in respect of reducing GHG emissions. Co-benefits for air quality are often



held out as an environmental bonus from actions to mitigate climate change. In the case of Metro Vancouver, air quality regulations that require excessively stringent standards for biomass boiler emissions may achieve the opposite effect.

B) 2. *Support for proposed emission limits for new and existing biomass-fuelled boiler?*

No comment.

B) 3. *Should there be a phase in period for biomass boilers to meet regulation requirement?*

No comment – see B) 1. above.

B) 4. *Registration, emission limits and fees for biomass boilers of less than 3 MW.*

No comment.

B) 5. *Support for proposed emission testing frequency of biomass boilers and heater?*

Given our opposition to including biomass boilers and heaters in the bylaw, we believe that to propose a different testing regime for biomass boilers and heaters from natural gas or propane powered boilers or heaters – particularly as to the frequency proposed for mid-size biomass boilers – would involve an unnecessary expenditure of time and resources on the part of both the operator and the District, and may inflate the stated costs of the program. It would be a discriminatory practice to vary the frequency of testing by fuel type.

In conclusion, the Business Council has concerns about several aspects of the proposed amendments to Air Quality Management Bylaw 937. We request a response from the District on the following items of interest, as identified above:

1. A fuller numerical accounting supporting the rationale for the fee structure change that helps to explain that the fees proposed are to offset program costs and will not exceed the District's authority to levy undue charges. Further, we request that Metro Vancouver provide an estimate of what share of the proposed program costs is expected to be borne by permitted and regulated sources.



2. An explanation of:
  - what the expanded user fee revenue is projected to be under the proposed bylaw amendment., and
  - what specific services and related costs are to be provided out of the Air Quality budget for the benefit of all member municipalities and residents.

Related to the above, what assurance can Metro Vancouver give to permitted and regulated sources that fees will not be unduly increased, or imposed on the new class of regulated sources where none are presently proposed?

3. An explanation of how those fees were arrived at:
  - for the registration/permit, what rationale was used to support equity principles; and
  - for the variable fees by contaminant type, what methodology was used to link scientific research to determining “appropriate” fee levels.
4. Sufficient information to support Metro Vancouver’s claim that the Air Quality program, under the proposed amendments, will be revenue neutral (beyond the first year of operation).
5. Additional data from the 2005 emissions inventory on the sources of the various air contaminants that will allow independent stakeholders to determine the share of responsibility of different sectors for such emissions.

The Business Council of BC appreciates this opportunity to provide comments on the proposed amendments to Metro Vancouver’s Air Quality Management Bylaw 937. We look forward to receiving a response from District staff at their earliest convenience.

\*\*\*\*\*