

Over the past few years, our federal government has taken an increasingly active role in environmental matters related to municipalities. In the May 2001 issue of this magazine, I wrote about Environment Canada's (EC) unfolding Municipal Waste Water Effluent (MWWE) Program. That program and other initiatives like it, will have significant impacts on many municipalities across the nation.



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Ottawa is watching

MWWE rolls on

About three years ago, EC announced it would inject itself into the regulation of municipal wastewater utilities. There were many stakeholder meetings and much municipal sector input suggesting EC should work through provincial environmental departments to ensure consistency between federal and provincial requirements. EC did not heed that logical advice and, instead, moved in June 2003 to set up a parallel regulatory system. Its preferred control tool is called 'pollution prevention' (P2) planning. That sounds innocuous, but the language they used was that they wanted to 'capture' municipalities discharging over 5 ML/d (million litres per day) of wastewater effluent. They will require those municipalities to identify how their effluent varies from federal standards, how the municipalities will address the situation and when. The penalties for non-compliance will be heavy. Even though 5 ML/day sounds like a lot, it represents what an average community of 10,000 people will discharge on a continuous basis. EC could lower that threshold in the future to "capture" even more communities, and could reinterpret their objectives to include lagoons that discharge 5 ML/d—perhaps only once or twice per year. A community of as few as 1,000 people can discharge 5 ML/d if their lagoon is discharged over a two-week period in the spring, after the usual 196-day winter storage period. This would become a challenge to smaller communities as well as the cities and larger towns that are currently being targeted.

P2 plans will cost much money to develop and implement, but a bigger concern may be that EC seems to have a tendency to see municipalities as polluters, rather than what they really are—collectors and treaters of pollution created by the citizens and industries of our nation. Last year, the City of Moncton, being required by EC to submit a comprehensive report on its effluent quality, was charged by EC for not reporting that they inadvertently discharged a substance which an industry illegally flushed down the sewer. The City was unaware of the discharge. The City had prohibited the substance in their sewer bylaw, and assumed that industries would comply. Regardless, EC held the City liable.

Over the past three years, municipalities and the Canadian Water & Wastewater

Association (CWWA) – the national voice for municipal water and wastewater utilities – have lobbied persistently for a more sensible approach, and have suggested other more feasible alternatives. They have had little apparent success. However, there is recent news that offers a glimmer of hope that matters may be taking a turn for the better. On November 25, a communiqué was issued after a meeting of CCME (the Canadian Council of Ministers of the Environment) with representatives of all provinces, territories and the federal government. It included the following statement:

“(The Ministers) agreed to work together to develop a national strategy for harmonized management of municipal wastewater effluents. The strategy will be based on the principles of flexibility, respect for jurisdictional responsibilities, and a single-window approach for municipalities. It will also recognize the varying challenges and significant costs of implementation.”

Let’s hope that this is taken to heart by federal bureaucrats who were heretofore blindly heading in a more challenging direction!

Department of Fisheries & Oceans

Municipalities have lobbied throughout the MWWE stakeholder process that, if nothing else, EC had to provide a degree of certainty to municipalities with respect to enforcement of the *Fisheries Act*’s ‘Deleterious Substances’ provisions. EC has not yet done anything definitive to address this issue. As it stands, municipalities may conform to provincial discharge limits – and even EC requirements. However, armed DFO (Department of Fisheries & Oceans) officers can still charge a municipality under the *Fisheries Act* for the discharge of even the smallest quantities of substances like ammonia (a natural component of wastewater effluent) or chlorine, which is mandated by provinces for drinking water.

E2 Planning

As if the DFO and P2 planning weren’t enough, EC has rolled out requirements for Environmental Emergency (E2) planning. In the same way that they license wastewater effluent discharges, the provinces have regulations respecting storage and handling of hazardous substances, like chlorine at treatment plants. And, in the same way as provincial effluent licensing isn’t good enough for them, EC now has decided that provincial hazardous substance storage and handling regulations aren’t good enough either. Depending on circumstances, many municipalities will have to comply with parallel federal regulations. Unless the federal

and provincial environment departments follow through in the spirit of their Ministers’ communiqué of November 25, the risk will be there with either P2 or E2, that EC will demand one thing and that the provinces will demand something else.

As many municipalities have discovered, following provincial requirements is no defence if federal agencies catch you violating one of their requirements.

More to come

We can expect greater involvement by Ottawa in the affairs of municipalities. It is essential that organizations like AMM and the Canadian Water & Wastewater Association continue

to lobby on behalf of municipalities and to insist upon continued collaboration between all levels of government, to find common-sense solutions. Treating municipalities like an enemy that needs to be “captured” (this is the word EC has used) is not productive! ●

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