

August 1, 2003

M. J. R. Jocelyn Paré
Director General,
Environmental Technology Advancement Directorate
Environment Canada
Place Vincent Massey
18th floor, 351 St. Joseph Blvd.,
Hull, Québec K1A 0H3

Dear M. Paré:

Gazette Notice Part 1 Vol. 137, No. 23 – June 7, 2003. CEPA, 1999
Proposed Notice Requiring The Preparation and Implementation of Pollution Prevention Plans for Ammonia Dissolved in Water, Inorganic Chloramines and Chlorinated Wastewater Effluents

Reference code: **P2MWWE**

The Canadian Water and Wastewater Association (CWWA) is the national voice of the municipal water and wastewater services sector across Canada. CWWA supports measures to achieve environmental sustainability and recognizes that there are needs to manage or reduce the discharge into the aquatic environment of ammonia and inorganic chloramines as found in chlorinated wastewater effluents. These needs are site specific and will depend on the quantities and conditions of the discharge and the characteristics of the receiving environment.

CWWA has distributed information on the proposed Notice to member municipalities and regional wastewater Associations and to other municipalities and stakeholder Associations across Canada. We have received and collected comments on the Notice and have had several meetings of the CWWA Effluents and Discharges Committee to discuss and develop the Association's response to the Notice. Mr. John Clarke of the Atlantic Region Office and Mr. Shawn Michajluk of the Ontario Region Office attended the July 17th meeting of this Committee.

The response falls into two broad categories: jurisdictional and technical. There are two attachments to this letter covering CWWA's comments on the Notice from these two aspects. They reflect the concerns of municipalities and related Associations from across Canada and the specific deliberations of CWWA's Effluents and Discharges Committee of experts from medium and large municipal services and their private sector service providers. The members of this Committee are all senior and experienced wastewater managers, and their collective experience represents more than a thousand years of professional service, dedication and excellence. Sixteen municipalities participated actively in the development of this position, and many more have indicated their support in the form of passing Resolutions of Council, communicating with



their respective MP, MLA, and Minister of Environment. Copies of those Resolutions, as received by CWWA will be forwarded to Environment Canada.

The **jurisdictional and process comments** arise from the fact that the provinces and territories already regulate municipal wastewater systems in respect to these substances. The Association's position is that the federal government should not introduce and impose directly any new control instruments or requirements where there are existing provincial and territorial instruments and requirements that could be used to achieve the objectives of the federal legislation. We therefore actively and continuously encourage federal authorities to work with and through the provincial and territorial jurisdictions to achieve our common goals respecting the performance of these services, e.g., environmental sustainability. Our position regarding **process** is that the Department has not followed fully nor comprehensively, the requirements of the federal Regulatory Analysis and Impact Policy of exploring, evaluating and reporting on all options available to the Minister in proposing a control instrument under Subsection 77 (6).

The **technical comments** relate directly to the contents of the proposed Notice. They address such matters as its scientific basis and accuracy, and its overall and specific functionality, effectiveness, and efficiency. Our objective in making these comments is to ensure that the measure is well founded scientifically, will contribute positively to the best use of scarce financial and other resources in the achievement of significant environmental objectives (i.e., cost-effective and beneficial risk management), and is clear, comprehensible and efficient. "Paper-work" burdens and whether or not compliance is readily, fairly and economically achievable are also of concern. The submission of **technical comments** should **NOT** be interpreted as CWWA support or approval for the proposal made in the Notice.

In addition to the responses attached, CWWA wishes to express four broad comments that we feel should be taken into account.

1. CWWA is concerned with the perception fostered in many Environment Canada documents, including the Notice that municipal wastewater systems "create" or are the "source" of pollution. With few exceptions related to by-products generated by treatment processes (as required by regulatory authorities and intended to meet public health and other objectives), municipal wastewater systems collect and treat pollutants that are generated by others. Wastewater collection and treatment systems are publicly provided not-for-profit vectors of pollutant transport and their purpose is to reduce pollution.



2. CWWA is also concerned that although there may be discharges of these substances at or above the proposed objectives' levels, there is no demonstrated environmental impact to compare with the evident costs that will be incurred in developing and implementing the plans. CWWA believes that a strong scientifically based approach to managing these substances will reduce extreme and unnecessary costs in the long run. The detection of a stressor in the environment does not mean that the environment is stressed and thus the removal of such stressors should not necessarily be the objective.
3. CWWA is concerned that the 60-day comment period granted in the Notice (June 7 to August 5, 2003) is unrealistic given the summer season and the fact that most municipal councils (who are the owners of the systems) are in recess as is Parliament. We have requested an extension of 60 days for this comment period. However to ensure that comments are submitted within the period, this letter and the attachments are submitted with the reservation that we or other stakeholders may submit other comments that should be taken into account, within a further period of 60 days, after August 5, as necessary.
4. CWWA remains unconvinced as to the validity of the interpretation that this Notice does not constitute a regulation and as such is exempted from the requirement to conduct a Regulatory Impact Analysis and publish a Statement of the Analysis (RIAS). Nor is CWWA convinced that the nature of the notice precludes the possibility that a reasonable effort would enable Environment Canada to estimate the benefits that might be derived or the costs incurred – assumptions as to the responses to the Notice can be made (see below). The Notice establishes firm criteria that identify persons who have to conform and establishes specific actions that they must perform and specifies the contents of those actions (i.e., the contents of declarations and the factors the plans must contain). It also establishes firm timelines within which the actions must be commenced and concluded and finally identifies punishments that may be imposed on conviction in the event that the actions are not taken. This is clearly a legally enforceable instrument of some significant impact on the sector; not only in terms of the process of developing plans, but the implications of having to report they have been implemented. Large sums of money will be spent to demonstrate and implement due diligence. A RIAS is, in the mind of CWWA, an obligation imposed by federal policy on Environment Canada, and an obligation that has not been fulfilled.

Finally, it is CWWA's belief that the current Notice will:

- affect more than 700 municipalities by either the Total Residual Chlorine or the Ammonia discharge criteria;
- result in these municipalities being directed to prepare and implement plans to reduce the release of these substances;



- result in the expenditure of more than \$80 millions for the plan preparation and reporting phase;
- result in the expenditure of more \$10 billions nationally to implement the plans in capital and increased operating costs (based on initial estimates made by just 3 major municipalities); and
- divert scarce capital and operating funds and human resources away from other environmental and health issues to one that it has not been demonstrated as to be having real (as in observed) environmental impacts.

It is for this reason that CWWA requests that after the comments are received and the Department completed its internal formulation of the Final Notice, Environment Canada host with CWWA and its members, a national workshop of stakeholders to review the proposed Final Notice before it is published.

Conclusion

CWWA believes that alternatives do exist to the proposed requirement that would respect current provincial and territorial jurisdiction, authorities and instruments; that would foster inter-governmental cooperation; that would respond to environmental risk management priorities and management capabilities; and that would be more effective and efficient than the current proposal.

To achieve this, CWWA believes that Environment Canada should:

- announce a suspension of the 18 month requirement to publish the Final Notice, pursuant to Subsection 92 (1),
- not proceed with this Notice without the specific agreement of the provinces and territories,
- invite CWWA and its members and the administrators of the provinces' and territories' wastewater management programs to meet in a common workshop to develop a control instrument under CEPA that would meet the objectives of CEPA while respecting the role of the provinces and territories and harness their statutory powers to achieve the CEPA objectives.



CWWA and its members are ready to work with Environment Canada, and with the provinces and territories, to find an appropriate and effective solution to Environment Canada's obligations and objectives. Please let me know how we can be of assistance.

Yours sincerely,

T. D. Ellison
Executive Director

On behalf of the Utility Members of CWWA who own or operate wastewater collection and treatment systems.

cc: Board of Directors
Effluents Committee
CWWA Website
Provinces and Territories

Attachments:
Comments on Jurisdictional and Process concerns
Comments on Technical Concerns.

Gazette Notice Part 1 Vol. 137, No. 23 – June 7, 2003. CEPA, 1999

Proposed Notice Requiring The Preparation and Implementation of Pollution Prevention Plans for Ammonia Dissolved in Water, Inorganic Chloramines and Chlorinated Wastewater Effluents

Jurisdictional and Process Comments, Concerns and Proposals

Municipal wastewater treatment plants have been established and operated by municipalities for many decades under provincial and territorial government statutory control and instruments. Their primary function is to collect and treat sanitary wastes in the achievement of public health and environmental goals. The treatment requirements imposed include both ammonia and total residual chlorine discharge management. As such, these wastewater treatment services are of an entirely different character to industrial waste effluent streams. It is CWWA's position that this characteristic requires recognition of the role of the provinces and territories.

CWWA's major concern is for jurisdictional overlap and the consequent condition of dual requirements and the concomitant confusion and contradiction of detail. Additionally, CWWA believes that the current proposal, in the interests of "simplification" and "inclusion of a greater number of systems" has lost sight of the principle of environmental risk management based on science and observation of the local environment.

CWWA requests that Environment Canada (under the provisions of Subsection 92 (1)), suspend the requirement to publish the Final Notice within 18 months of the publication of the proposed Notice on the grounds that substantial changes to the Notice are required to be made to the proposal. The proposed P2 planning requirements are significantly different from previously alluded to requirements. The apparent simplification of requirements to accommodate smaller municipal discharges and to reduce costs of compliance is counter-productive to proper risk management. Many effluent streams that are resulting in significant environmental loadings are excluded from the requirement, whereas effluent streams with low relative loadings but higher concentrations are included. There has been no consideration given to City-Regional issues that exist across Canada, causing the P2 process to focus on the end point dischargers rather than the conveyors upstream to the system. A pollution prevention planning process must include a collaborative effort by all parties involved. Further, requiring municipalities to proceed through this planning requirement when a long-term strategy is being negotiated with the provinces and territories represents an unnecessary and costly step, which is likely to be irrelevant in the longer term.

Significant changes are needed to this proposal, both in respect to the technical response provided and on the jurisdictional and process response.

CWWA in particular requests that Environment Canada formally and publicly consult jointly and simultaneously with the municipal system owners and operators and the provincial/territorial regulatory stakeholders before proceeding to publish any Final Notice. CWWA, whose membership includes Utility Members, that are organizations owning or operating wastewater systems, is competent to participate and is willing to arrange such a consultation.

CWWA believes that alternative instruments would be more effective than the proposed instrument and achieve the stated goals of risk management in a more efficient manner.

The problems with the Pollution Planning Instrument include the facts that:

- Wastewater treatment system removes pollutants for which they are not the source.
- Ammonia is a natural byproduct of human waste that cannot be removed at source.
- The pollution prevention strategy is intended to keep persistent toxic substance out of the system. It does not work well in removing them from within the system.
- Most municipalities have extensive sewer by-law programs intended to limit such pollutants from the system.
- The federal notice confuses pollution prevention measures with pollution control measures

These alternative instruments include:

1. The preparation of a Code of Practice based on risk management principles that would allow all municipalities to design and implement (under direct provincial and territorial government supervision with federal government oversight) an ammonia and total residual chlorine management program;
2. The development of guidelines for some form of environmental effects monitoring for ammonia and discharges, taking into account other activities occurring in the watershed;
3. A requirement that provinces and territories (not individual municipalities) as managers of control instruments already available or used to manage ammonia and total residual chlorine discharges, develop an ammonia and total residual chlorine management plan on at the provincial or territorial level. This should follow environmental risk assessments of the receiving waters watersheds from municipal discharges taking into account other activities in the watershed, transboundary watershed issues, and the availability of funds necessary to implement reduction strategies where identified.

In the event that these alternatives do not produce the desired results, the federal government could then initiate direct requirements on municipalities in those provinces and territories where the desired results have not been obtained.

The essence of these instruments is to leave municipalities under the control of the provinces and territories and facilitate the achievement of the environmental goals, while providing to Environment Canada an oversight role and function.

CWWA remains concerned that Environment Canada has done nothing to address the issue of the *Fisheries Act*. The Notice indicates under article 4 (2) (vi), a recognition that there is an issue of fairness, consistency and predictability, and that this will be addressed when the long-term strategy is developed. CWWA considers it important that this be addressed before the Final Notice.

Justification

The Canadian Water and Wastewater Association's (CWWA) position in respect to direct regulation of the municipal water and wastewater sector is that the federal government should not introduce or impose directly any new control instruments where there are existing provincial

and territorial instruments and requirements that could be used to achieve the objectives of the federal legislation.

CWWA therefore has actively and continuously encouraged federal authorities to work with and through the provinces and territories to achieve our common goals respecting the performance of these services (e.g., meeting public health and environmental sustainability objectives, etc.).

The discharges of ammonia, chloramines and chlorinated wastewater effluents are all substances currently regulated or potentially regulated under provincial and territorial statutory authorities.

Therefore, during and throughout the stakeholder consultation process, CWWA and its members proposed that Environment Canada work with and through the provinces and territories to use existing (provincial and territorial) statutory authorities and instruments as the means of meeting the environmental objectives inherent in a “regulation or instrument respecting preventive or control actions in relation to the substance” (Paragraph 77 (6) (c)).

Over the period from January, 2001 when the first Stakeholder meeting took place in which 23 municipal representatives and CWWA stated verbally and subsequently in writing this preference, there has been little indication that Environment Canada has considered or reported consideration of any alternative to requiring under CEPA that municipalities develop and implement pollution prevention plans.

While it is noted that Subsection 90 (1.1) reads:

In developing proposed regulations or instruments respecting preventive or control actions in relation to substances specified on the List of Toxic Substances in Schedule 1, the Ministers shall give priority to pollution prevention actions.

CWWA observes that this is not a limiting requirement.

Further, Environment Canada’s “Fact Sheet” on CEPA.1999 suggests that the “instruments” under paragraph 77(6)(c) can include (but are not limited to) regulations, pollution prevention plans, environmental emergency plans, codes of practice, and release guidelines. It is also noted that while all of these documents can have some form of legal effect, several of them are not legally enforceable by themselves (e.g. guidelines, codes). The Fact Sheet also specifically states that all instruments will be developed “in consultation with ... other levels of government”. CWWA believes that with the agreement and support of the provinces and territories and the sector itself, Environment Canada has a number of alternatives to the current proposal; that these alternatives would provide flexibility in finding an effective and efficient solution, and that they would harness and not ignore or attempt to override the substantial provincial and territorial powers and experience. Avoiding jurisdictional overlap in and of itself has merit. The provinces and territories and the municipal sector all seek to protect the environment and enhance its sustainability.

Specific and detailed recommendations were made for the development of:

- a Code of Practice based on best practices (that while not enforceable under CEPA) could have been used as a substantive reference by provinces and territories in their regulation of this sector and would have contributed greatly to a uniform approach;

- guidelines to assess environmental effects of discharges;
- a Pollution Prevention Planning requirement applicable to the provinces and territories as to how they would, using their existing statutory powers to manage the release of these substances by municipalities in their effluent streams, to reduce the discharge of these substances on a watershed risk management basis; and
- a suggestion that only failing a satisfactory response by a province or territory would the federal government take direct action in imposing a control instrument on an owner in that province or territory.

All of these recommendations were submitted in good faith and in the firm belief that they would enable Environment Canada to achieve the necessary environmental goals within the time frames established in CEPA. CWWA believes that these are still achievable.

By using the provisions of Subsection 92 (1) and suspending the 18 month period and by opening joint discussions with the provinces and territories and the owners and operators of the systems, CWWA believes it is absolutely possible to develop an effective and efficient solution that will be in harmony with the longer term effluent management strategy being initiated, will respect traditional provincial and territorial roles and provide municipalities with continued assurance that they have only one window of entry. CWWA suggests that this model might well be a model for the longer-term strategy.

The suspension of the 18-month period is clearly authorized in subsection 92 (1) that reads (with underlining added for emphasis):

92. (1) Subject to subsection (2), any regulation or instrument respecting preventive or control actions in relation to a substance shall be made and published in the *Canada Gazette* within 18 months after the publication of the proposed regulation or instrument under subsection 91(1) or (6), unless a material substantive change is required to be made to it.

Subsection 92 (2) is not relevant since it applies to a situation where a Board of Review has been established.

CWWA also notes that the control instrument proposed for road salt (a Best Management Practices Guide) was chosen over a Pollution Prevention Planning instrument on a number of bases that are equally applicable to ammonia and chloramine discharges. This decision is still stated on Environment Canada's Web Site at <http://www.ec.gc.ca/nopp/roadsalt/en/rms.htm>.

CWWA has indicated repeatedly its willingness and the willingness of its members to work intensively with Environment Canada and with the provinces and territories to develop the necessary instrument within the time frame; the objective has always been to facilitate a solution that would meet our common environmental goals yet not result in municipalities having to undertake in parallel and separate streams of activities addressing the management of these three substances.

A legal opinion obtained by CWWA has indicated after an examination of CEPA, *the Statutory Instruments Act*, *the Interpretation Act*, *Hansard* and the Oxford Reference Dictionary of

English, and by comparison to the *Ontario Bill of Rights* which uses similar language, that there is great flexibility in the provisions of CEPA, and in particular that any or all of these options proposed could be used.

In particular, the legal opinion, which will be supplied on request, states:

I therefore conclude that a document with some form of legal effect, directed to third parties with the power to regulate wastewater treatment plants, could be *an instrument respecting preventive or control actions in relation to a toxic substance* within the meaning of s. 77(6) of CEPA.

The required actions could be restricted to those cases where the substance is actually creating environmental and/or health risks, and could take into account cost and other environmental priorities.

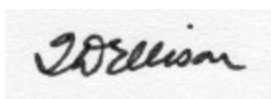
Conclusion

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To achieve this, CWWA believes that Environment Canada should:

- announce a suspension of the 18 month requirement to publish the Final Notice, pursuant to Subsection 92 (1),
- not proceed with this Notice without the specific agreement of the provinces and territories,
- invite CWWA and its members and the administrators of the provinces' and territories' wastewater management programs to meet in a common workshop to develop a control instrument under CEPA that would meet the objectives of CEPA while respecting the role of the provinces and territories and harness their statutory powers to achieve the CEPA objectives.

Respectfully submitted:



T. D. Ellison
Executive Director
Canadian Water and Wastewater Association

On behalf of the Utility Members of CWWA who own or operate wastewater collection and treatment systems.

Technical Comments, Concerns and Proposals for Revision

CWWA has the following Overall and General Comments and Specific Comments related to individual provisions of the Notice.

Overall and General Comments

There are a number of major technical issues the Canadian Water and Wastewater Association and its membership have with the Notice included in the Canada Gazette Part dated June 7, 2003 with respect to Pollution Prevention (P2) Planning for Ammonia Dissolved in Water, Inorganic Chloramines, and Chlorinated Wastewater Effluents.

Of fundamental importance, CWWA believes and requests that two additional exclusionary provisions be included in the Notice (the first and existing one applies to systems discharging less than 5000 m³/day). These are that:

- a) any system that has been assessed by the municipality concerned for environmental effects to the aquatic ecosystem into which it is discharging, and has been found to have no significant chronic or acute effects taking into account other activities in the watershed, and
- b) any system that has had an effluents management plan (generically speaking) approved by a province or territory that covers any of these three substances,

should be exempted from the Notice requirements.

These issues not in order of any priority or appearance in the Notice, include:

- 1) The basic misconceptions that wastewater collection and treatment systems can reduce ammonia loadings to their systems through pollution prevention techniques, and those municipalities themselves are the polluters. Municipal systems are the vectors only;
- 2) The fact that the owner, not the operator, of a system is responsible for developing and implementing the plans – raises the issue of which official should sign the declarations;
- 3) There are still many implications towards “end of pipe” conditions and not to the recognition of the receiving body characteristics and

quality. In the case of ammonia, consideration to site-specific conditions of the receiving water body are crucial;

- 4) That references to pollution prevention and pollution control are used somewhat interchangeably throughout the Notice, causing confusion as to the intent of the P2 planning and how it can in fact be of value for the prevention of a substance like ammonia – CWWA would prefer references to “management plans” as a more direct and less confusing term;
- 5) The uncertainty as to whether or not the Notice applies to marine waters as well as freshwaters, and if so, to what extent;
- 6) The uncertainty as to whether or not the Notice applies to combined sewer overflows, stormwater facilities and/or discharge points, and by-passes or spills;
- 7) The lack of guidance provided as to a standard sampling methodology and/or analytical methodology to achieve limits established in the Notice – in particular many of the monitoring requirements are well beyond current practices, may lack methodology and defined standards of practice both for sampling and analysis;
- 8) The requirement for “any time” results creates a potential of taking samples that might capture spike concentrations and the results of poor or inaccurate sampling, rather than true averaged values over a period of time (is monitoring to be continuous for all facilities and discharges?);
- 9) The perceived if not real, cumbersome amount of reporting (in exquisite administrative detail) to validate planning and implementation steps and declarations that continues throughout the overall time frame of 60 months where the only issue seems to be are the details correct, not is the plan beneficial;
- 10) The requirement to file criteria is not based on any obvious science, and Environment Canada gives no rationale for the receiving stream 7.5 pH combined with 16-mg/L effluent ammonia concentrations. There is a significant problem with combining effluent ammonia concentration with receiver pH in determining the predicted level of unionized ammonia. This state does not actually occur at the discharge point and in most cases vastly overstates the potential toxicity in the receiver. There is also the real problem of monitoring for receiving water pH for systems with extended discharge pipes and diffusers;
- 11) References to “upstream”, an unfortunate choice of words for a lake or ocean environment; reference to monitoring in surface waters

without guidance as to where (spatially) in the surface waters (throughout the column, cross channel, etc.; is there a mixing zone?);

- 12) References to monitoring ammonia nitrogen (the total could be X mg/L but the proportion of unionized ammonia (the toxic component) could vary depending on water pH and temperature, then switching reference to an unionized ammonia limit as an objective;
- 13) Water conservation as proposed is a long-term strategy which is contrary to ammonia management, would then logically suggest the substances should be reported as loadings, not concentrations;
- 14) Use of terminology such as “shall”, “may”, “shall consider” and “must” provides a sprinkling of discretion but in the limit none what so ever;
- 15) Use of the unconstrained phrase “to the fullest extent” is problematic. This is not a Risk Management Objective, it contains no risk assessment and therefore should be replaced with “do a risk assessment and risk management where necessary”;
- 16) The criteria implies that when pH is greater than 7.5 then diffusers are not applicable, and when pH is less than 7.5, a discharge at a depth of 15 times the pipe (or diffuser portal diameter) implies that any ammonia concentration is acceptable. Again this is arbitrary and does not provide any scientific basis for protection of fish;
- 17) The long-term strategy should make clear that the CCME guideline is not site-specific and that site-specific approaches are encouraged. The CCME environmental quality guidelines should only be used when other (site-specific) work is absent;
- 18) The long-term strategy allows open-ended enforcement of reducing all substances listed on Schedule 1 of CEPA for an unspecified length of time. It is not clear whether this list could be expanded or what limits will be set for each substance. We cannot assess the impacts on our members.

CWWA is also very concerned that municipalities who do conform to this requirement should not become more vulnerable to the *Fisheries Act* charges when, in good faith, they have declared a plan and the progress towards implementing it.

Since there is considerable work to be undertaken by municipalities (owners of wastewater collection and treatment systems) and there are definite financial implications for implementing the plan including infrastructure investments and changes, CWWA believes that Environment

Canada should indicate the order of magnitude of environmental benefits it expects can be achieved. It should be noted that if the long-term strategy is towards denitrification, this may disfavour anaerobic treatment technology and add considerable costs to municipalities with limited land resources for required expansions.

CWWA suggests that Environment Canada provide a guidance document that specifies sampling protocols, analytical methodologies, and any conversions required to ensure that each “owner” is measuring the same toxics in a consistent and comparable manner.

Secondly, since the Notice indicates this P2 Plan is an interim step in a long-term strategy, and since information reported on existing management of wastewater collection and treatment systems may be of value to the development of this strategy there is considerable information that could be collected, used, and communicated to others to achieve the intent of CEPA 1999 and a sustainable environment.

FINALLY, THESE TECHNICAL COMMENTS SHOULD NOT BE CONSTRUED AS IMPLYING SUPPORT FOR THE PROPOSAL.

Specific Comments, Concerns and Suggestions.

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
Section 1. Definitions		
<p>"ammonia nitrogen" or (NH₃-N) means the nitrogen component of total ammonia. Total ammonia is the sum of the un-ionized (NH₃) and ionized (NH₄⁺) species that exist in equilibrium in water. Analytical methods measure and typically report on ammonia nitrogen as opposed to total ammonia. An ammonia nitrogen concentration of 16 mg/L is equivalent to a total ammonia concentration of 20 mg/L.</p>	<p>The definition here and the subsequent text of the Notice imply the need to monitor ammonia nitrogen. The total ammonia nitrogen could be X mg/L but the proportion of un-ionized ammonia - the toxic component - will vary depending on water pH and temperature).</p> <p>Paragraph 4 (7) (b) refers to an un-ionized ammonia limit.</p>	<p>CWWA suggests consistency in terminology in reference to ammonia to eliminate confusion amongst operators and regulators in analyses and reporting and suggest the substitution of the following definition:</p> <p>“ammonia nitrogen means the nitrogen component of total ammonia which is the sum of un-ionized and ionized species which exist in equilibrium in water. The un-ionized portion is the toxic component and can be determined from charts based on pH, temperature and ammonia nitrogen values.”</p>
<p>"effluent" means untreated, partially treated or treated wastewater that is released to surface water from a wastewater collection system or wastewater treatment system.</p>	<p>It is not clear if this includes CSOs, stormwater, bypasses, and spills? If CSOs in the reporting period are included, depending on seasonal climatic conditions, the number of municipalities affected could significantly vary although studies have shown no significant impact from ammonia as a result of CSOs. CSOs shouldn't be included in this proposed plan.</p>	<p>Add at the end of the definition “during dry weather flow conditions.”</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
"fresh water" means water with a total dissolved solids content less than 1 000 mg/L.		
"person" means any person that owns a wastewater collection system or wastewater treatment system.	In the majority of cases, the owner of these systems would be the municipality which suggests that a duly authorized member of Council or the Clerk of the Council for completing and submitting Declarations and requests for Waivers regarding the P2 plan	CWWA which includes within its Membership "owners and operators of ... systems" has requested the opportunity to meet jointly with Environment Canada and the provincial/territorial regulatory authorities to thoroughly review this proposal as it may be modified, prior to its being published as a Final Notice. CWWA has also requested that the comment period be extended to provide councils to debate the issues resulting from the proposed P2 approach
"surface water" means a lake, pond, marsh, spring, stream, river, estuary or marine body of water, or other surface watercourse.	CWWA notes that surface water is sometimes referred to in provisions of the Notice, and at other times the reference is to Fresh water.	
"total residual chlorine" or TRC means the concentration of free chlorine and combined chlorine (including inorganic chloramines) and it is essentially synonymous with reactive chlorine.		
"wastewater" means a combination of liquid or waterborne sewage, industrial wastes, commercial wastes or institutional wastes.		Suggest a slight revision: "wastewater" means a combination of liquid or waterborne sewage, which may sometimes contain industrial wastes, commercial wastes or institutional wastes.

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>"wastewater collection system" or "wastewater treatment system" means any works for the collection, transmission, treatment and release of wastewater or any part of such works.</p>	<p>There are situations in which a lower tier municipality owns and operates the collection system while the treatment plant is owned and operated by another municipality. There are various combinations and patterns of ownership versus location of discharge that require consideration – not all of which are reflected in operating agreements between the lower and upper tier municipalities.</p> <p>CWWA believes this text must be clarified to indicate that the owner of the system with an average annual discharge $\geq 5000\text{m}^3/\text{day}$ is responsible i.e. a CSO may belong to a lower tier government but as long as it doesn't discharge an average of $\geq 5000\text{m}^3/\text{day}$ then they do not have to file a plan, the owner of the actual final discharge files the plan.</p>	<p>CWWA suggests that this definition be split into two as follows:</p> <p>"wastewater collection system" means any works for the collection or transmission of wastewater to a point of transfer or discharge, or any part of such works." Such systems discharging into a wastewater treatment plant without any possibility of discharge into the environment are excluded from this Notice.</p> <p>"wastewater treatment system" means any works for the treatment and subsequent release of wastewater or any part of such works. Such systems discharging only to land surfaces are excluded from this Notice.</p>
<p>Section 2. Person or class of persons required to prepare and implement a pollution prevention plan</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>2. Person or class of persons required to prepare and implement a pollution prevention plan</p>	<p>There is use of the terms pollution prevention plan, pollution prevention planning, pollution control, throughout the Notice. Pollution prevention and pollution control are very different activities. Ammonia, in any case, is not a substance that can be prevented since it is the result of human function.</p>	<p>CWWA requests Environment Canada provide a definition of each of the terms used and a clear concise explanation of how EC sees ammonia (for instance) as being relevant to a P2 plan.</p> <p>In the alternative, and this is much our preference, CWWA suggests that the best approach would be to refer to pollution prevention plans as “management plans” e.g. Ammonia Management Plan, Chloramines Management Plan, Chlorinated Wastewater Effluent Plan</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>This notice applies to any person who, on the date of publication of the Final Notice, owns a wastewater collection system or wastewater treatment system where the annual average effluent release during 2004 from that system to surface water is greater than or equal to 5 000 m³ per day and <u>where any of the following three conditions are met:</u></p>	<p>Please note earlier comment that the person referred to will probably have to be the municipal (Village, Town or City) Clerk acting on behalf of the municipality concerned. Please note request for clarification of CSOs. This condition means that a municipality that has the final average discharge of < 5000 m³/day is excluded regardless of meeting any of the following three conditions.</p> <p>CWWA believes that a second exclusionary condition should be allowed for a municipality that has determined there are environmental effects from its discharges that are significant or significant in comparison with other activities in the watershed. Some municipalities for example are discharging effluents with ammonia nitrogen level less than ambient levels in the receiving body. It is not good risk management to demand they reduce their ammonia levels when the chronic or acute effect that may be occurring is derived from other watershed conditions.</p>	<p>CWWA requests that an additional section 2.1 be inserted at the end of section 2 as follows:</p> <p>2.1. Notwithstanding the provisions of section 2, where the owner of a wastewater collection system or a wastewater treatment system discharging 5 000 m³ per day or more has conducted an environmental effects study on the receiving body of water and has determined that there are no significant chronic or acute effects on the receiving body of water of the effluents discharged taking into account other activities in the watershed, the requirements of this Notice do not apply to that owner.</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(1) the concentration of total residual chlorine (TRC) in the release exceeded 0.02 mg/L at any time during 2004.</p>	<p>at any time causes uncertainty. Most plants monitor TRC on a daily basis and would have average values calculated over longer periods of time (e.g., per month). There is the risk of sampling and catching a spike concentration resulting from maintenance activities (e.g. cleaning of UV bulbs) rather than a truly representative sample of chlorine releases from normal processes to the receiving environment. There is no provision (as is allowed under provincial and territorial rules to immediately re-sample if an out-of-zone result is obtained which may indicate an sampling error rather than a quality error.</p> <p>Even if de-chlorinating their wastes there may be times when chlorine is used within the system and can be released to the environment</p> <p>CWWA has a concern about the low level of detection for total residual chlorine. The current detection limit is 0.1 mg/L and CWWA is not aware of a cost effective and reliable method to confidently detect to 0.02 mg/L in wastewater samples, outside of government laboratories.</p>	<p>Modify the text to read: “the average concentration of total residual chlorine (TRC) in the release from chlorination processes exceeded 0.02 mg/L during 2004.”</p> <p>An additional definition should be included: “average concentration is the arithmetic average of all values found under a sampling basis of 5 data points per month uniformly applied through the designated sampling period.”</p> <p>That EC must provide sampling and analytical methodologies and procedures to be used to ensure each facility is reporting consistently with others. The reviewers of this document believe that if there is a request to monitor and report on any of these substances in the P2 [or Management] Plan, then it is crucial that there be guidance as to the methodologies to be used. There will be no way to ascertain reductions over time on a national basis if everyone is not measuring and/or reporting in a consistent manner if this is one of the reasons behind this Notice.</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(2)</p> <p>(a) the concentration of ammonia nitrogen (NH₃-N) in the effluent exceeded 16 mg/L at any time during the period of June 1, 2004, to September 30, 2004; and</p>	<p>at any time causes uncertainty as with TRC</p> <p>Note: an earlier suggestion was that an additional criterion should be added here “and the average level of nitrogen was above 3 mg/l for the entire period” – this may be appropriate to BNR plants, but is it reasonable.</p>	<p>Modify the text to read: “the average concentration of ammonia nitrogen (NH₃-N) in the effluent exceeded 16 mg/L during the period of June 1, 2004, to September 30, 2004; and.”</p>
<p>(b) the depth of water over the effluent release point, at any time during the period of June 1, 2004, to September 30, 2004, is less than 15 times the diameter of the discharge pipe or the diameter of a diffuser port in the discharge pipe.</p>		<p>Modify the text to read: “the average depth of water over the effluent release point during the period of June 1, 2004, to September 30, 2004, is less than 15 times the diameter of the discharge pipe or the diameter of a diffuser port in the discharge pipe.”</p>
<p>(3)</p> <p>(a) the effluent release is to fresh water; and</p>		<p>CWWA suggests that the same apply to freshwater releases as to marine releases as far as sampling (and application of “at any time”) and dilution are concerned.</p>
<p>(b) the concentration of ammonia nitrogen (NH₃-N) in the effluent exceeded 16 mg/L at any time during the period of June 1, 2004, to September 30, 2004; and</p>	<p>As above amend at any time to read average concentration</p>	<p>Substitute the following text: “the average concentration of ammonia nitrogen (NH₃-N) in the effluent exceeded 16 mg/L during the period of June 1, 2004, to September 30, 2004; and”</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(c) the pH of the surface water upstream of the effluent release point exceeded 7.5 at any time during the period of June 1, 2004, to September 30, 2004.</p>	<p>As above amend at any time to read average concentration</p> <p>CWWA is concerned about the reference to an “upstream” site for monitoring purposes.</p> <p>CWWA believes that temperature is as relevant as pH but that any measurement of the three should either be in the pipe or in the receiving water body but not a combination of the two.</p> <p>“providing pH, temperature, ammonia and TRC measurements at a point representative of the receiving environment prior to receiving the final discharge” The key point is to be able to measure a reduction in these substances over time as it relates to the plan and the receiving environment conditions</p>	<p>CWWA suggests the following: “the average pH and temperature of the surface water in the area adjacent to the effluent release point exceeded 7.5 and 12 °C during the period of June 1, 2004, to September 30, 2004”</p>
<p>Section 3. Activities in relation to which the plan is to be prepared</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>3. Activities in relation to which the plan is to be prepared</p> <p>When the persons identified in section 2 prepare and implement their pollution prevention plans in relation to ammonia, inorganic chloramines and chlorinated wastewater effluents, the Minister requires that the scope of the plan include the following activities: for persons who meet the conditions in subsection 2(1)</p>	<p>Note, CWWA has requested an exclusionary criterion, 2.1, related to environmental effects monitoring.</p>	<p>CWWA requests “management plans” be substituted for “pollution prevention plans”</p>
<p>(1) disinfection of wastewater using chlorine or chlorine compounds and release of effluent to surface water. for persons who meet the conditions in subsection 2(2) or 2(3)</p>	<p>There are situations in which facilities use chlorine in maintenance activities or during emergency situations and will do so only sporadically. This should apply only to plants that only use chlorine as their primary disinfectant.</p>	<p>CWWA suggests that this condition be modified to read: (1) disinfection of wastewater using chlorine or chlorine compounds as the basic continuing process and release of effluent to surface water.</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(2) collection and/or treatment of wastewater and the release of effluent to surface water. Persons identified in section 2 may, if they so wish, include activities related to separate storm water systems or the management of sludge, residuals and biosolids in their pollution prevention plans.</p>	<p>CWWA recognizes that this is a proactive approach leading to the long-term strategy; however, this goes beyond the intent of the original three CEPA toxic substances.</p> <p>If the plans are not being read by anyone, what is the added value for considerable extra work on the part of the owner?</p> <p>CWWA suggests if the intention of the P2 plans is to promote environmental sustainability, this request and the linkage between this immediate action and the proposed long-term strategy is laudable. However, CWWA feels that someone (other than an ENGO requesting the plan under a Freedom of Information policy) must be reading and evaluating the plans to achieve the most “bang for the buck” for this exercise.</p>	<p>CWWA requests the deletion of this subsection.</p>
<p>Section 4. Factors to consider in preparing the plan</p>		
<p>4. Factors to consider in preparing the plan</p> <p>The Minister requires all persons identified in section 2 to consider the following factors when preparing their pollution prevention plans:</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(1) Following detailed scientific assessments, ammonia, inorganic chloramines, and chlorinated wastewater effluents, were found to be toxic under the <i>Canadian Environmental Protection Act, 1999</i> (CEPA 1999). As such, the substances were added to the List of Toxic Substances (Schedule 1 of CEPA 1999) as it is considered that they are entering the environment in a quantity or concentration or under conditions that have or may have an immediate or long-term harmful effect on the environment. Persons subject to this notice shall consider that these substances are "toxic" as defined in CEPA 1999.</p> <p>(a) The long-term strategy's vision is to ensure that across the country, the release of wastewater effluents does not pose unacceptable risks to ecosystem health, human health and fisheries resources.</p> <p>(b) To achieve this vision, activities to deliver the following outcomes will be pursued:</p>	<p>This subsection is far too literary and should be made precise.</p> <p>EC should acknowledge that ammonia is naturally occurring and every Canadian is a source that is neither controllable nor preventable.</p> <p>Ammonia may be toxic under the CEPA definition but EC has recognized that there are also very site specific conditions in which this occurs</p> <p>since this is EC's vision then acceptance of another trigger for determining the need for developing a plan should be considered</p>	<p>Subsection (1) should read simply:</p> <p>(1) Although scientific assessments have resulted in ammonia, inorganic chloramines and chlorinated wastewater effluents as being listed as Toxic Substances under CEPA, Environment Canada recognizes that the presence of a stressor in the environment does not mean the environment is stressed.</p> <p>Paragraphs (a) and (b) can remain.</p> <p>As previously requested as a new section 2.1 should provide an exclusionary criterion valid for owners of a system that have undertaken a study assessing the environmental impact of the system on the receiving environment and where there is shown to be no impact, that the owner be relieved of filing a P2 plan and declaration"</p>
<p>(i) implementation of preventative and control actions for toxic substances and other pollutants from industrial, commercial and institutional sources, including government operations, that discharge those substances to wastewater collection systems and wastewater treatment systems;</p>	<p>(i) The powers granted to municipalities by the provinces and territories to perform these functions are limited.</p>	<p>CWWA requests the deletion of the words "preventative and" in subparagraph (I) since it is extra-vires of most municipal authorities.</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
(ii) water conservation measures supported by water metering;	(ii) these measures while being undertaken for other reasons will exacerbate ammonia management problems.	CWWA requests the deletion of subparagraph (ii) as not being relevant to the situation.
(iii) wastewater treatment systems equivalent in performance to secondary treatment with additional treatment where required;	(iii) Depending on the site, this may be an irrelevant consideration	CWWA requests the deletion of subparagraph (III) as not being relevant to the situation.
(iv) a sustainable approach to financing wastewater collection systems and wastewater treatment systems that will ensure ongoing operation, maintenance and upgrading;	(iv) The power granted to municipalities by the provinces and territories to achieve these goals is limited and quite variable, and may be subject to Utility Commission review.	
(v) working with other levels of governments, and stakeholders as appropriate, to develop objectives for specific "CEPA-toxic" and deleterious substances released from wastewater systems;	(v) CWWA has requested this opportunity and continues to offer its support and assistance to EC in developing objectives for specific toxic substances under CEPA	
(vi) reference to these objectives in future CEPA instruments and a regulation under the <i>Fisheries Act</i> with the desired outcome of a fair, consistent and predictable application of CEPA 1999 and the <i>Fisheries Act</i> . The deposit of a deleterious substance of any type in water frequented by fish is prohibited by the <i>Fisheries Act</i> .		CWWA requests the deletion of subparagraph (vi) as not being relevant to the situation.

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(3) In working towards the long-term strategy described in subsection 4 (2), the Minister is taking a first-step, using the instrument of pollution prevention planning in accordance with the requirements of subsection 91(1) of CEPA 1999, to begin managing the risks posed by ammonia (see footnote 4), inorganic chloramines and chlorinated wastewater effluents. The risk management objectives that have been set for the substances define what the Minister expects persons to achieve through this instrument.</p> <p>Persons subject to this notice shall consider achieving the following risk management objectives:</p>	<p>The words prevention planning appears here and remains confusing.</p> <p>CWWA notes the words "... the Minister expects persons to achieve through this instrument." This conflicts with the words in the following sentence: "Persons ... shall consider"</p>	<p>In view of the fact that no known methods exist for measuring the criterion set out in subsection (3), CWWA requests that the subsection be deleted.</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(a) for inorganic chloramines and chlorinated wastewater effluent:</p> <p>(i) achieve and maintain a concentration of total residual chlorine (TRC) that is less than or equal to 0.02 mg/L in the effluent released to surface water within 48 months of the publication date of the Final Notice;</p>	<p>There are no known means of monitoring at the levels indicated.</p> <p>CWWA requests that there be more guidance provided to municipalities as to the derivation of CCME water quality Guidelines and the relevance of the proposed guidelines provided (chloramines, ammonia, etc.).</p> <p>Clarify that these numbers are not achievable (i.e. can't analyze these substances in such low levels in routine facility monitoring. They are research-based numbers and therefore detected under very "clean" and "sensitive" conditions. If EC believes these numbers can be determined, they should specify the analytical processes and methodologies, and ascertain if they are readily available.</p>	<p>As requested above for the entire subsection, It is requested that this paragraph "achieve and maintain a concentration of total residual chlorine (TRC) that is less than or equal to 0.02 mg/L" be deleted.</p>
<p>(b) for ammonia:</p> <p>(i) reduce to the fullest extent the amount of ammonia in the effluent released to surface water within 48 months of the publication date of the Final Notice.</p>	<p>to the fullest extent What exactly does this mean? Reduce to the fullest extent technically possible, economically feasible, possible with available technology and available resources, etc. An alternative could be "optimizing the system to the extent possible given the technical, economic, and site specific conditions of the area."</p>	<p>CWWA requests that this be substituted for "to the fullest extent" - "Do a risk assessment and risk management where necessary to determine the level of ammonia control necessary"</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(4) Pollution prevention activities include processes, practices, materials, products, substances or energy that avoid or minimize the creation of pollutants and waste and reduce the overall risk to the environment or human health. Pollution prevention planning is a means of addressing the release, to the environment, of toxic substances or other pollutants from a given system's operations. The result of pollution prevention planning is the implementation of preventive and/or control actions, giving preference to preventive actions.</p>	<p>This effectively redefines pollution prevention as defined in the Act.</p>	<p>CWWA requests that the second sentence of this subsection be deleted, or the text reflect CWWA's earlier request that the term Management Plan be used.</p>
<p>(a) In order to achieve the risk management objective described in paragraph 4(3)(b), persons identified in subsection 2(2) and subsection 2(3) shall consider the following activities when preparing and implementing their pollution prevention plans:</p>		
<p>(i) Conducting process audits within 18 months of the publication date of the Final Notice and implementing actions based on the audit findings within 48 months of the publication date of the Final Notice. One reference for process audits is an Environment Canada report entitled <i>Treatment Processes for the Removal of Ammonia from Municipal Wastewater</i>. The report also describes ways to identify and evaluate best available technologies for ammonia removal that are economically achievable. Refer to section 15 of this notice for information on obtaining a copy of this report.</p>	<p>This is a pollution control action, outside the definition of pollution prevention.</p>	

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(ii) Identifying the concentrations or quantities of ammonia in the wastewater discharged to the wastewater collection system from industrial, commercial, and institutional facilities, including government facilities, within 18 months of the publication date of the Final Notice and implementing actions to reduce the concentrations or quantities of ammonia discharged from these facilities within 48 months of the publication date of the Final Notice. One reference regarding the reduction of concentrations or quantities of ammonia from these facilities is a National Research Council document entitled <i>Wastewater Source Control A Best Practice By The National Guide to Sustainable Municipal Infrastructure</i>. Refer to section 15 of this notice for information on obtaining a copy of the Best Practice document.</p>	<p>While this is pollution prevention within the meaning of the Act, the effect that this will have on the average ammonia nitrogen discharge is minimal – possibly less than 3%.</p>	

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(b) The purpose of disinfecting and reducing the levels of pathogens in wastewater effluent released to surface water is to protect water quality for downstream uses including human consumption of water and the use by humans of fisheries resources. In order to achieve the risk management objective described in paragraph 4(3)(a) and while maintaining the protection to water quality, persons identified in subsection 2(1) shall consider alternative disinfectants such as ultraviolet irradiation and ozone, or dechlorination, when preparing and implementing their pollution prevention plan.</p>	<p>The conditions imposed on the system by provincial or territorial instruments should also be a consideration.</p>	

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(5) The long-term strategy described in subsection 4 (2) refers to the control of "CEPA toxic" substances and other pollutants from industrial, commercial and institutional sources, including government operations, that discharge those substances to wastewater collection systems and wastewater treatment systems. When preparing and implementing their pollution prevention plans, persons subject to this notice shall consider taking actions to reduce the discharge from these facilities of the following substances which are specified on Schedule 1 of CEPA 1999:</p> <ul style="list-style-type: none"> (a) nonylphenol and its ethoxylates (b) effluents from textile mills that use wet processing (c) mercury (d) lead (e) hexavalent chromium compounds (f) inorganic cadmium compounds (g) inorganic arsenic compounds 	<p>This effectively moves this from an instrument addressing 3 named substances to an instrument addressing 10 substances.</p> <p>Even if the subsection remains discretionary, there is a force directing the expansion of the plan beyond its legal limits.</p> <p>These should be included in the Long Term Strategy, the issues are complex, no guidance is given as to expectations for outcomes.</p>	<p>CWWA requests the deletion of this subsection.</p>
<p>One reference for information on wastewater source control is <i>Wastewater Source Control A Best Practice By The National Guide to Sustainable Municipal Infrastructure</i>. The Best Practice document identifies a sewer use by-law as a basic element of a source control program. Refer to section 15 of this notice for information about obtaining a copy of the Best Practice document.</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(6) When preparing and implementing their pollution prevention plans, persons subject to this notice shall consider implementing changes, including infrastructure design changes, to the wastewater collection system, to the wastewater treatment system and to the type and location of the effluent release point (outfall) within 48 months of the publication date of the Final Notice.</p>	<p>Within the financial and operational planning cycles typical extant in the municipal sector – plus the obligations of undertaking environmental impact assessments and provincial or territorial approvals to infrastructure changes, this “consideration” is barely achievable and reflects a considerable naivete of how these services are managed and regulated.</p>	<p>CWWA requests that the provision for with “48 months” be changed to within “60 months”.</p>
<p>(7) The long-term strategy described in subsection 4(2) includes ensuring that the risks to ecosystem health posed by wastewater effluent released to surface water are reduced. <i>The Canadian Council of Ministers of the Environment Canadian Water Quality (CCME-CWQ) Guidelines for the Protection of Aquatic Life (2000)</i> are intended to provide guidance for the protection of freshwater and marine life in aquatic ecosystems. The CCME-CWQ Guidelines (see footnote 5) are meant to protect all forms of aquatic life and all aspects of the aquatic life cycles.</p>	<p>How does this relate to the need to reflect site-specificity?</p>	

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>(a) When preparing and implementing their pollution prevention plans, persons identified in subsection 2(1) shall consider developing and implementing a monitoring program for the surface water receiving the release of their effluent in relation to the CCME-CWQ Guidelines of 0.0005 mg/L reactive chlorine species for the protection of freshwater life, and 0.0005 mg/L chlorine-produced oxidants for the protection of marine (saltwater) life. (Note that reactive chlorine species and chlorine-produced oxidants are typically measured as total residual chlorine.)</p>	<p>CWWA notes that neither of these objectives is measurable in practicable terms in the receiving environment. The chlorine levels require special techniques and the un-ionized ammonia is generally calculated from measured ammonia, pH and temperature.</p>	
<p>(b) When preparing and implementing their pollution prevention plans, persons identified in subsection 2(2) and subsection 2(3) shall consider developing and implementing a monitoring program for the surface water receiving the release of their effluent in relation to the CCME-CWQ Guideline of 0.019 mg/L un-ionized ammonia for the protection of freshwater life. (Note that due to limited ammonia toxicity data on marine (saltwater) organisms, there was insufficient information to derive a guideline and as a result, no marine guideline has been recommended.)</p>	<p>CWWA notes that this objective is not measurable in practicable terms in the receiving environment. The chlorine levels require special techniques and the un-ionized ammonia is generally calculated from measured ammonia, pH and temperature.</p> <p>If there is no marine guidelines how can a wastewater treatment plant operator or the owners of a collection system produce a P2 plan related to marine discharges for ammonia?</p>	
<p>Section 5. Period within which the plan is to be prepared</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>5. Period within which the plan is to be prepared</p> <p>The Minister requires that the plan be prepared and is being implemented within 24 months of the publication date of the Final Notice.</p>	<p>CWWA notes that a request for extension of time can be requested.</p>	
Section 6. Period within which the plan is to be implemented		
<p>6. Period within which the plan is to be implemented</p> <p>The Minister requires that the plan must be implemented within 60 months of the publication date of the Final Notice.</p>	<p>Does “implemented” in this requirement mean completed? Earlier requirements are that a declaration be made that the plan is being implemented (but not completed).</p>	<p>Without clarification to this issue, CWWA requests this section be deleted.</p>
Section 7. Content of Plans		
<p>7. Content of Plans</p> <p>Persons preparing the plan are to determine the appropriate content of their own plan; however, the plan must meet all the requirements of the Final Notice. It must also contain the information required to file the Declaration of Preparation referred to in section 9 and have the capacity to generate the information required to file the Declaration of Implementation referred to in section 10.</p>	<p>There is a mixture of intents and objectives in this section that are confusing, and optional and mandatory requirements.</p> <p>Until CWWA knows the contents of the Final Notice it is hard to comment on this point.</p>	<p>CWWA requests that this section be revised by EC, as it is not clear precisely what is needed, and CWWA hesitates to suggest a clarification.</p>
Section 8. Requirement to keep plan		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>8. Requirement to keep plan</p> <p>Under section 59 of CEPA 1999, all persons identified in section 2 shall keep a copy of the plan at the place in Canada in relation to which the plan is prepared. Where a single plan is prepared for more than one wastewater collection or treatment system, a copy of that plan must be kept at each location.</p>		<p>CWWA requests this section to be reworded to read: “The owner of a system for which a plan has been made shall maintain a copy of the plan at his or her principal place of business.”</p>
<p>Section 9. Declaration of Preparation</p>		
<p>9. Declaration of Preparation</p> <p>Under subsection 58(1) of CEPA 1999, persons identified in section 2 shall file, within 30 days after the end of the period for the preparation of the plan specified in section 5 or extended under section 13, a written <i>Declaration that a Pollution Prevention Plan has been Prepared and is being Implemented Ammonia, Inorganic Chloramines and Chlorinated Wastewater Effluents</i>, using the form given in Schedule 1 of the Final Notice, to the Minister. Where a person has prepared a single plan for more than one wastewater collection or treatment system, a separate Declaration of Preparation must be filed for each of those systems. Section 18 provides further information on completing and filing this form.</p>	<p>The section could be clarified since it now indicates that you could have one plan for 5 systems but 5 Declarations.</p>	<p>Reword the section to simply state, “The owner of a system or systems for which a plan has been made shall submit a declaration of preparation for the plan and the system or systems included.”</p>
<p>Section 10. Declaration of Implementation</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>10. Declaration of Implementation</p> <p>Under subsection 58(2) of CEPA 1999, persons identified in section 2 shall file, within 30 days after the completion of the implementation of the plan, a written <i>Declaration that a Pollution Prevention Plan has been Implemented Ammonia, Inorganic Chloramines and Chlorinated Wastewater Effluents</i>, using the form given in Schedule 5 of the Final Notice, to the Minister. Where a person has prepared a single plan for more than one wastewater collection or treatment system, a separate Declaration of Implementation must be filed for each of those systems. Section 18 provides further information on completing and filing this form.</p>	<p>See earlier comments regarding the meaning of the completion / implementation of the plan. If there are capital expenditures for the construction of new infrastructure in the plan, the process of implementing this aspect of the plan is likely to be well beyond a 60-month time frame.</p>	<p>CWWA requests that this section be revised to read:</p> <p>“Sixty months after the date of the Final Notice or earlier as maybe appropriate, the owner of a system for which a plan has been prepared shall submit a declaration indicating the state of completion of the plan.”</p>
<p>Section 11. Filing of amended declarations</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>11. Filing of amended declarations</p> <p>Under subsection 58(3) of CEPA 1999, where a person specified in section 2 has filed a declaration under section 9 or 10, and the declaration contains information that, at any time after the filing, has become false or misleading, that person shall file an amended declaration to the Minister within 30 days after the time that the information became false or misleading, using the appropriate form referred to in section 9 or 10.</p>	<p>CWWA finds the use of the words “false or misleading” to be offensive especially when the matter can pertain simply to the identity or means of contacting a person.</p> <p>There is likely to be a real, cumbersome amount of reporting to validate planning and implementation. This continues throughout the planning period of 60 months. This could result in a considerable pressure on the resources available, including in Environment Canada.</p> <p>Why a 30 day notice of change! These are not public safety issues. Maybe the industrial P2 model is not appropriate to the MWWWE sector?</p>	<p>CWWA requests the rewording of this section to simply read: “The owner of a system for which a declaration has been filed shall notify the Minister within 30 days of any changes pertinent to the declaration.”</p>
<p>Section 12. Use of a plan prepared or implemented for another purpose</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>12. Use of a plan prepared or implemented for another purpose</p> <p>Under subsection 57(1) of CEPA 1999, a person may use an existing pollution prevention plan, or other plan in respect of pollution prevention prepared or implemented for another purpose to satisfy the requirements of section 2 to 8 of the Final Notice. Under subsection 57(2) of CEPA 1999, where a person uses a plan that does not meet all the requirements of the Final Notice, the person shall amend the plan so that it meets all of those requirements or prepare an additional plan that meets the remainder of those requirements. Persons using existing plans must nonetheless file a Declaration of Preparation under section 9, a Declaration of Implementation under section 10, and any amended declarations under section 11.</p>	<p>By amending another plan, if available, to meet the needs of this plan, it is possible that the person doing so ends up with two contradictory plans.</p>	<p>CWWA requests section be changed to read: “Notwithstanding any of the other requirements of this Notice, where a plan has been submitted to and accepted by a province or territory having jurisdiction, regarding the management of any of these substances, that person is exempted from this requirements of this Notice, provide he or she notifies the Minister of that condition.”</p> <p>This section should be placed within Section 2 as Section 2.2.</p>
<p>Section 13. Extension of time</p>		
<p>13. Extension of time</p> <p>Under subsection 56(3) of CEPA 1999, where the Minister is of the opinion that further time is necessary to prepare the plan as specified in section 5 or to implement the plan as specified in section 6, the Minister may extend the period for a person who submits a written <i>Request for Time Extension Ammonia, Inorganic Chloramines and Chlorinated Wastewater Effluents</i>, using the form given in Schedule 3 of the Final Notice, before the expiry of the date referred to in the applicable section 5 or section 6 or before the expiry of any extended period. Section 18 provides further information on completing and filing this form.</p>	<p>There is no obligation on the Minister to make a timely response.</p>	<p>CWWA requests this section to be amended to read:</p> <p>“Any person subject to the provisions of this Notice may request of the Minister using the form specified in Schedule 3 an extension of time to complete any of the required stages and shall provide explanation of the need for such an extension of time. The Minister shall examine the reasonableness of the request and respond within 60 days of the day the request was made. If the request is denied, then the reasons for denial shall be set out.”</p>

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
Section 14. Application for waiver of factors to consider		
<p>14. Application for waiver of factors to consider</p> <p>Under subsection 56(5) of CEPA 1999, the Minister may waive the requirement for a person to consider a factor specified in section 4 where the Minister is of the opinion that it is not reasonable or practicable to consider that factor on the basis of reasons provided by that person when submitting a written <i>Request for Waiver of the Requirement to Consider a Factor or Factors Ammonia, Inorganic Chloramines and Chlorinated Wastewater Effluents</i>, using the form given in Schedule 2 of the Final Notice. Such a request must be made before the expiry of the period within which the plan is to be prepared, referred to in section 5. Section 18 provides further information on completing and filing this form.</p>	<p>There is no obligation on the Minister to make a timely response.</p>	<p>CWWA requests this section to be amended to read:</p> <p>“Any person subject to the provisions of this Notice may request of the Minister using the form specified in Schedule 2 for a waiver of the requirement to consider any of the factors required to be consider, and shall provide explanation of the need for such a waiver. The Minister shall examine the reasonableness of the request and respond within 60 days of the day the request was made. If the request is denied, then the reasons for denial shall be set out.”</p>
Section 15. More information on pollution prevention planning		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>15. More information on pollution prevention planning</p> <p>To obtain a copy of Environment Canada's document <i>Proposed Risk Management Strategy for Ammonia Dissolved in Water, Inorganic Chloramines and Chlorinated Wastewater Effluents under CEPA 1999, May 2003</i> refer to the CEPA Registry Web site at http://www.ec.gc.ca/CEPARegistry/documents/part/mwwe/summary.cfm.</p> <p>To obtain a copy of the report <i>Treatment Processes for the Removal of Ammonia from Municipal Wastewater</i> (Environment Canada, 2003, ISBN 0-662-33551-1) contact Environment Canada's Inquiry Centre at 1-800-668-6767.</p> <p>To obtain a copy of the <i>Wastewater Source Control A Best Practice By The National Guide to Sustainable Municipal Infrastructure (March 2003)</i> document, refer to the National Research Council National Guide to Sustainable Municipal Infrastructure's Web site at http://www.infraguide.gc.ca or contact them at 1-888-330-3350.</p> <p>To obtain a copy of the CCME document <i>Guidance on the Site-Specific Application of Water Quality Guidelines in Canada: Procedures for Deriving Numerical Water Quality Objectives. (2003)</i> refer to the CCME Web site at http://www.ccme.ca/publications/pubs_updates.html#102 or contact CCME by phone at (204) 948-2090.</p> <p>Additional information on pollution prevention and preparing pollution prevention plans is available from the National Office of Pollution Prevention Web site (www.ec.gc.ca/nopp), the Canadian Pollution Prevention Information Clearinghouse (www.ec.gc.ca/cppic), and Environment Canada's regional offices.</p>	<p>This document is actually sold by the Queen's Printer, Government of Manitoba. Why not provide the direct contact details.</p> <p style="text-align: center;">31</p>	

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
Section 16. Reference Code		
<p>16. Reference Code</p> <p>For administrative purposes, all communication with Environment Canada concerning this notice shall refer to the following reference code: P2MWWE</p>	<p>Is “this notice” the proposed notice or the Final Notice?</p>	
Section 17. Environment Canada contact information		
<p>17. Environment Canada contact information</p> <p>For questions about this notice, or more information about pollution prevention planning, contact Environment Canada's regional offices:</p>	<p>How does Environment Canada plan on ensuring consistency of information and interpretation?</p>	
Section 18. Forms		

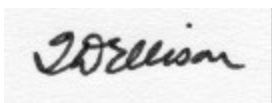
TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>18. Forms</p> <p>Forms referred to in this notice are available from and are to be submitted to: Executive Director, National Office of Pollution Prevention, c/o CEPA 1999 Part 4 Pollution Prevention Plans, Environment Canada, 351 Saint-Joseph Boulevard, 13th Floor, Hull, Quebec K1A 0H3.</p> <p>Copies of this notice, and instructions for completing the associated forms (Schedules 1 to 5) are available at http://www.ec.gc.ca/nopp.</p> <p>Schedules 1 to 5 referred to in this notice can be completed electronically at http://www.ec.gc.ca/nopp in part, the information submitted in response to this notice on Environment Canada's Green Lane Web site. All persons submitting information to the Minister are entitled to submit a request under section 313 of CEPA 1999 that specific information be treated as confidential. Refer to the "Instructions for Completing the Schedules of the <i>Canada Gazette</i> Notice Requiring the Preparation and Implementation of Pollution Prevention Plans for Ammonia, Inorganic Chloramines and Chlorinated Wastewater Effluents" for more information.</p>	<p>CWWA notes that there are a number of technical issues with respect to the forms, and has not had time to generate a specific set of comments on them.</p>	
<p>EXPLANATORY NOTE</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p style="text-align: center;">EXPLANATORY NOTE</p> <p style="text-align: center;"><i>(This note is not part of the notice.)</i></p> <p>Compliance</p> <p>Compliance with CEPA 1999 is mandatory under subsection 272(1) of CEPA 1999. Subsection 272(2) of CEPA 1999 defines the penalties for persons who commit offenses under CEPA 1999. Subsections 273(1) and 273(2) further outline the terms and penalties of those persons providing false or misleading information. Penalties under both subsection 272(2) and 273(2) include fines of not more than \$1,000,000, imprisonment for a term of not more than three years, or both.</p> <p>For additional information on CEPA 1999 and the <i>Compliance and Enforcement Policy for the Canadian Environmental Protection Act, 1999</i> and on applicable penalties, please contact the Enforcement Branch at (819) 994-0907. The Policy is available at: http://www.ec.gc.ca/ceparegistry/documents/policies/candepolicy/toc.cfm</p>	<p>CWWA notes that this Notice is not designated as a regulation, yet is sets out criteria that would lead a person to determine that they are required to respond, mandatory responses, time frames for response and penalties for providing false or misleading information. CWWA fails to understand how this is not a statutory instrument, and therefore why a Regulatory Impact Analysis Statement was not prepared.</p>	
<p>Schedule 1</p>		

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>Schedule 1 4.5.2 Releases to Surface Water</p> <p><i>4.5.2.1 Inorganic Chloramines and Chlorinated Wastewater Effluents</i></p> <p><i>Note: Complete this section only if the "Substance and Activity" identified in Part 3.0 of this Declaration is (A) Inorganic Chloramines and Chlorinated Wastewater Effluents</i></p> <p>Report in the table below the average flow of wastewater effluents, in m³/day, and the Total Residual Chlorine (TRC) maximum concentration, in mg/L. The average flow should be calculated using a minimum of five (5) data points per month. The total residual chlorine maximum should be determined based on a minimum of five (5) data points per month.</p>	<p>CWWA has not had time to conduct a thorough analysis of the schedules and will endeavour to do so and submit comments shortly. However, in view of the substantive changes CWWA believes are needed to the Notice itself, there are obvious changes required to the schedules.</p> <p>CWWA has already commented on the requirement for monitoring and reporting, and in particular the references to "at any time". Specific sampling conditions should be set out, and not in the schedules.</p>	

TEXT OF NOTICE	COMMENTS OR CONCERNS	PROPOSED SUGGESTIONS
<p>4.5.2.2 Ammonia</p> <p><i>Note: Complete this section only if the "Substance and Activity" identified in Part 3.0 of this Declaration is (B) Ammonia.</i></p> <p>In the first three columns of the table below, the average flow of effluent in m³/day, pH and temperature, in degrees Celsius, of the wastewater effluent should be calculated using a minimum of five (5) data points per month. In the fourth column, the ammonia nitrogen (NH₃-N) maximum concentration in the effluent should be determined based on a minimum of five (5) data points per month. In the fifth column, the average pH of the receiving environment should be calculated using a minimum of five (5) data points per month from upstream of the effluent release point. Finally, in the last column, the average depth, in metres, of water over the release point should be calculated based on five (5) data points per month.</p>	<p>The measurement of these parameters poses practical difficulties and costs. CWWA discussed whether or not some of the data are not publicly available from senior level government monitoring programs of the water bodies.</p>	

Respectfully submitted:



T. D. Ellison
 Executive Director
 Canadian Water and Wastewater Association

On behalf of the Utility Members of CWWA who own or operate wastewater collection and treatment systems.