

August 5, 2003

The Honourable David Anderson, Minister
Environment Canada
28th Floor, 10 Wellington St.
Terrasses de la Chaudière
Hull, Quebec K1A 0H3

Dear Minister;

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 is not opposed to the management of ammonia, chloramine or chlorinated effluent discharges, CWWA is opposed to the mechanism chosen to do so.

CWWA thanks you for your agreement to extend administratively the comment period for this Notice by 30 days – it will be useful to Municipalities that like Parliament have summer recesses. In the interim CWWA and some of its membership have submitted a response as required, qualifying the response with the understanding that when municipal “owners” have reconvened in the Fall, their comments will still be considered in your staff’s deliberations of the comments received.

The concerns reflected in our submission to Dr. Jocelyn Paré, Director General of the Environmental Technology Advancement Directorate are those 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.

CWWA requests that you suspend the requirement to “publish the final notice in the Canada Gazette within 18 months after the publication of the proposed regulation or instrument under 91(1) or (6)” due to the need to make “a material substantive change” – a provision allowed in subsection 92 (1).

CWWA believes that there are more effective ways than that proposed to achieve our mutual goals of managing the releases of ammonia, chloramines and chlorinated effluents.

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 – further, CWWA believes that the provinces and territories would be willing to use these existing instruments to achieve Environment Canada's goals and CWWA would support Environment Canada in this initiative;
- federal government already has a de facto agreement of the provinces and territories to develop a long term strategy to manage wastewater effluents – in which case it begs the question as to why one would proceed with a separate initiative for these three substances now at very considerable expense to the municipalities affected;
- Department did not follow 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) – CWWA offered in writing suggestions involving: (a) a pollution prevention requirement to be imposed as a control instrument in respect of the provinces or territories as competent agencies having existing and direct regulatory jurisdiction over these discharges, or b) the development of a Code of Practice – similar to that being followed in respect to Road Salts - that would provide a basic level of due diligence to municipalities and their provincial and territorial regulatory authorities to meet and exceed – CWWA notes that other alternatives are also available; and that the
- pollution prevention planning instrument under CEPA will neither address nor alleviate the inherent problems associated with uncertainty for municipalities between the federal *Fisheries Act*, existing provincial/territorial legislation, and the proposed approach under CEPA, 1999 in the management and discharge of municipal effluents – indeed some major municipalities have expressed the concern that preparing and filing a pollution prevention plan enhances their liability under the *Fisheries Act*.

CWWA believes that effective and efficient 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 the provision of Subsection 92 (1) regarding “a material substantive change”,
- 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 legislative obligations and environmental objectives.

Yours respectfully,

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
Dr. Barry Stemshorn, ADM EPS