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Federation of Canadian Municipalities

Fédération canadienne des municipalités

Response by the Federation of Canadian Municipalities to Environment Canada's Proposed Regulatory Framework for Wastewater

January 31, 2008



Since 1901

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Introduction

In October 2007, Environment Canada released a consultation document outlining a Proposed Regulatory Framework for Wastewater. The Framework's broad objectives are to develop wastewater effluent regulations and administrative mechanisms under the authority of the Fisheries Act, and to develop risk-management actions for sources of pollutants often found in wastewater.

In a concurrent process, the Canadian Council of Ministers of the Environment (CCME) has developed a Canada-Wide Strategy for the Management of Municipal Wastewater Effluent. The primary objectives of the Canada-wide approach are to ensure owners of wastewater-management systems have regulatory clarity under a harmonized framework, and that the strategy is supported by a sustainable funding strategy. The core elements of the draft CCME Strategy form the basis of Environment Canada's regulatory framework.

FCM agrees with the fundamental objectives of the Proposed Regulatory Framework and the draft Canada-wide Strategy. The requirement for municipal facilities to achieve the equivalent of secondary treatment of wastewater effluent is ambitious, but it is necessary if we are to protect human health and the environment from potentially harmful substances.

Municipal wastewater management in Canada

The CCME has identified municipal wastewater effluent as one of the largest sources of pollution, by volume, discharged to surface water bodies in Canada.¹ As the order of government with primary responsibility for the management of wastewater systems, municipal governments play a key role in protecting human health and the environment from the potentially harmful effects of wastewater effluent.

The degree of wastewater treatment varies considerably across Canada. According to the Municipal Water Use Database (MUD) survey, 63 per cent of the population served by sewers in British Columbia had secondary or advanced treatment in 1999. However, in the Atlantic provinces, nearly half of the population served by sewer systems released untreated wastewater directly into inland and coastal waters.²

New requirements in the context of a municipal infrastructure deficit

When viewed in isolation, the costs associated with meeting the new requirements appear substantial but manageable. However, the projected costs must be viewed in the context of Canada's current municipal infrastructure deficit.

In 2007, an FCM-McGill³ survey estimated Canada's municipal infrastructure deficit at \$123 billion, with the deficit related to water supply, wastewater and stormwater systems estimated to be approximately \$31 billion. For the most part, the deficit in this area can be attributed largely to the aging of underground

infrastructure, as well as accelerated deterioration of assets as they approach the end of their service life.

The deficit identified in the FCM-McGill study describes the amount of resources that would be required to bring existing infrastructure up to current standards. It does not, however, include estimates for new infrastructure or for upgrades required to meet future standards, such as those presented in Environment Canada's proposed regulatory framework. As the CCME's Technical Supplement 1: Economic Plan states, "it can be reasonably assumed that the infrastructure requirements imposed by the Strategy will be mostly in addition to existing levels of expenditure."⁴

These additional costs, which will be in addition to funding needs for current infrastructure, are estimated to be in the range of \$10.3 to \$13.1 billion over a 30-year implementation timeframe.

In addition to the capital and other costs associated with meeting the proposed new requirements, the CCME has also indicated that "where it is determined that addressing the combined sewer overflows are the higher priority, funding may need to be directed towards combined sewer overflows prior to developing or upgrading wastewater facilities to meet the proposed national performance standards."⁵

It has been estimated that the capital costs associated with upgrading these combined sewers across Canada will be in the range of several billions of dollars, in addition to the estimated \$10.3 to \$13.1 billion to respond to the core elements of the proposed strategy.

The Technical Supplement identifies announcements made in Budget 2007 as a possible source of funding for upgrades to municipal wastewater facilities, citing the \$8-billion extension to the Gas Tax Fund and the seven-year, \$8.8-billion Building Canada Fund as important resources. However, with the total municipal infrastructure deficit topping \$123 billion, it is not reasonable to assume that the bulk of infrastructure funding received through the Gas Tax Fund or the Building Canada Fund will be directed primarily to upgrading or building new municipal wastewater systems. The funding needs of municipi-

¹ Canadian Council of Ministers of the Environment (CCME). http://www.ccme.ca/ourwork/water.html?category_id=81. Site last updated December 10, 2007.

² Environment Canada: The State of Municipal Wastewater Effluents in Canada. Indicators and Assessment Office, Ecosystem Science Directorate, Environmental Conservation Service, Environment Canada. Available at: www.ec.gc.ca/soer-ree (2001)

³ Federation of Canadian Municipalities: *Danger Ahead: the Coming Collapse of Canada's Municipal Infrastructure*. Saeed Mirza, McGill University, November 2007. www.fcm.ca

⁴ CCME. *Canada-Wide Strategy for the Management of Municipal Wastewater Effluent – DRAFT. Technical Supplement 1: Economic Plan*. Pp3-4. September, 2007.

⁵ CCME. *Canada-Wide Strategy for the Management of Municipal Wastewater Effluent – DRAFT. Technical Supplement 1: Economic Plan*. Pg 5. September, 2007.

palities are both pressing and diverse and include much-needed maintenance and improvements to existing roads and bridges, public transit systems, drinking-water systems, waste management, and cultural, social and community facilities.

Focusing a significant portion of currently available funding on meeting new standards for wastewater would mean diverting funding away from other urgent and immediate needs.

And, while most municipal governments subject to new requirements will agree that improvements in wastewater treatment are necessary, the pressure to respond to other, and perhaps more urgent needs, remain.

What is clearly needed is a new, targeted source of funding designed to meet the fiscal pressures imposed by the new regulations. In the absence of such dedicated funding, the new regulations become an unfunded federal mandate that local property taxpayers will have to absorb.

What will the new requirements mean for Canadian municipalities?

In addition to increased capital costs, municipal governments will be given responsibilities related to environmental risk assessment, wastewater effluent characterization, annual monitoring, and public reporting. While a limited number of municipalities do have the in-house technical expertise to undertake risk assessment and effluent characterization activities, for most municipal governments this will represent a new and as yet unfunded activity. FCM agrees with the CCME's assessment that senior governments should consider establishing a specific short-term funding mechanism to assist municipal governments in the first five years as they undertake wastewater effluent characterization and environmental risk assessment.⁶

For many of Canada's municipalities—including those that have already achieved the equivalent of secondary treatment—the process of achieving new requirements will also lead to additional costs related to biosolids management. With the current regulatory framework for biosolids varying significantly among different provinces and territories, the establishment of a process similar to the one just conducted for municipal wastewater effluent may be necessary. FCM also recommends that the Government of Canada support the efforts of organizations and coalitions, such as the Canadian Biosolids Partnership, as a way of facilitating the dissemination of best-management practices and expanding biosolids research capacity.

To help cover the costs associated with new requirements, municipal governments will also be encouraged to introduce water conservation programs. The introduction of a user-pay

system based on full-cost accounting principles, for example, can encourage greater water-use efficiency, generate additional revenue to help cover the costs of new requirements, and increase the longevity of water and wastewater systems. However, it would be a mistake to think that the introduction of such a system would generate the capital necessary to pay for needed system upgrades and construction. In addition, many smaller communities will not be able to generate enough revenue through such a system to cover even the full costs of providing water and wastewater services.

Flexibility for small, rural and northern communities

The regulatory framework proposes a process that will take into account the limited capacity of smaller communities to respond to administrative requirements, such as monitoring and reporting. Requirements for these communities will be designed to reflect the scale and complexity of operations and will ensure human health and the environment are protected at a reasonable cost.

FCM supports an approach that recognizes the limited capacity of small, rural and northern communities to respond to new requirements. However, less stringent administrative requirements for smaller communities must not compromise the ability of these systems to protect human health and the environment. All Canadians deserve a clean, safe environment, and rural, remote and northern communities are no exception.

Alternative standards and other requirements for Northern communities are to be established by 2013. FCM recommends that the Government of Canada develop a research program that will assess the effectiveness of a range of wastewater management systems under Arctic and remote conditions. Flexibility should be given to those communities that must use alternative wastewater-management systems, particularly where the technology may be relatively untested. FCM also urges the Government of Canada to work closely with communities in the North to ensure new requirements are fair, equitable and feasible.

Federally mandated source reduction must be the cornerstone of new regulations

The CCME's draft Canada-wide Strategy and Environment Canada's Proposed Regulatory Framework both emphasize the need for managing and reducing pollutants at their source. Under the Government of Canada's 2006 Chemicals Management Plan, manufacturers, importers and industrial users of high-priority substances will be required to provide information on potential toxicity, bioaccumulation and persistence. FCM strongly encourages the Government of Canada to use the authority identified in the Chemicals Management Plan to establish regulations and risk-management actions under the Canadian Environmental Protection Act.

⁶ CCME. *Canada-Wide Strategy for the Management of Municipal Wastewater Effluent – DRAFT. Technical Supplement 1: Economic Plan*. Pg 5. September, 2007.

Without adequate source controls, municipal governments are forced to treat a broad range of pollutants through municipal wastewater-management systems. This places the burden of protecting human health and the environment from harmful substances primarily on municipal governments, rather than having it shared by all orders of government. It is strongly recommended that the federal government serve as the primary regulator of toxic and other harmful substances, and that it work with provincial, territorial and municipal governments in ensuring that harmful pollutants currently contained in municipal wastewater are reduced or eliminated at their source. This is particularly important for substances such as endocrine disruptors that currently cannot be treated by municipal wastewater-treatment facilities.

While the model municipal by-law proposed by the CCME would afford municipalities the opportunity to have greater control over the amount of toxins entering the local environment, the costs of implementing and enforcing a new by-law could limit the effectiveness of such measures. Any new or additional responsibilities, such as those that would be created through a source reduction by-law, must also be accompanied by an appropriate level of resources. Under current and projected funding allocations, municipal governments would not be able to implement and enforce adequately a municipal by-law aimed at source reduction.

Summary of recommendations

FCM recognizes that greater attention must be paid to the potentially harmful effects of municipal wastewater effluent in Canada. The approach outlined by the CCME and subsequently by Environment Canada demonstrates a clear understanding of the need for improved performance and for investment in Canada's water and wastewater infrastructure. FCM applauds the CCME and the Government of Canada for taking action to address what has become a pressing concern for many Canadians. However, FCM does not agree that current funding programs are sufficient to address both existing and new requirements. With the municipal infrastructure deficit currently standing at \$123 billion, municipal governments must meet many varied and urgent needs with limited resources.

To deal with concerns over funding, FCM recommends that the Government of Canada establish a dedicated Municipal Wastewater Fund that is in addition to infrastructure funding announced in Budget 2007. The fund would be available to municipal governments for the purposes of:

- Covering the direct costs of compliance with new regulations (estimated to be approximately \$10-13 billion over 30 years); and
- Covering the indirect costs of compliance, including the costs of dealing with combined sewers and enhancing biosolids management activities (estimated to be several billion dollars over 30 years).

In addition to funding concerns, FCM recommends that the Government of Canada:

- Strengthen its approach to pollution prevention by taking a clear lead in ensuring harmful substances are reduced at the source. Municipal governments must not be seen as the last line of defence when it comes to protecting human health and the environment from the harmful effects of industrial and other pollutants;
- Invest in research to assist northern communities in identifying the most cost-effective, efficient and appropriate technology for use in extreme climatic conditions;
- Establish a consistent policy framework and provide support for research into best management practices for biosolids;
- Ensure all communities, including those in rural, remote and northern regions, are provided with an equitable level of protection from the harmful effects municipal wastewater effluent;
- Include municipal governments in all relevant consultations, and in particular the discussions that will lead to the establishment of requirements for the North by 2013;
- Ensure municipal governments have access to the necessary guidance, tools and resources to complete effluent characterization and environmental risk-assessment processes, and introduce water conservation programs and incentives; and
- Include municipal government representatives on any national task force or advisory body working on the implementation of new requirements.