

CUPE

Submission

**by the Canadian Union of Public Employees
(CUPE)**

to the

Department of the Environment

Wastewater Systems Effluent Regulations

May 19, 2010

CUPE is pleased to have the opportunity to support the effort of the Department of the Environment to implement and harmonize federal Wastewater Systems Effluent Regulations. These changes to the Fisheries Act will support the Canadian Council of Ministers of the Environment (CCME) Canada-wide Strategy for the Management of Municipal Wastewater Effluent.

The Canadian Union of Public Employees (CUPE) is Canada's largest union. We represent over 600,000 public employees and over 150,000 workers in the municipal sector. Most of the men and women who operate, maintain and deliver municipal water and wastewater services across the country are members of CUPE.

CUPE supports efforts to set and enforce federal wastewater standards. We recognize the national scope and importance of these regulations and applaud any attempt to ensure our water is clean and safe and that our environment is protected and sustainable for future generations.

Introduction

CUPE is concerned that the Regulatory Impact Analysis Statement (RIAS), submitted by Environment Canada and currently under consultation as published in the Canada Gazette Part I, does not accurately reflect the extent to which these regulations will impact our communities.

We are particularly concerned that the costs associated with these regulations are underestimated and misleading, and that sufficient funding and resources are not being properly allocated or even considered.

Without realistically considering the costs and the subsequent impact of these regulations on our wastewater facilities and our communities, we cannot properly plan for a successful transition to harmonized wastewater effluent standards. We support efforts to set and enforce federal standards that address the need to clean and protect our environment, but without proper financial support we risk undermining the goals and objectives of the new wastewater regulations. Furthermore, our communities are vulnerable to the contrary interests of the private sector if they are implemented as planned.

It is clear in the RIAS that the Federal government will not be providing additional funding. The owners and operators of most wastewater facilities are municipalities that will have to bear the brunt of the majority of the costs. Receiving eight cents for every income tax dollar collected does not render cities financially able to shoulder these costs alone.

Municipalities own, operate, and have jurisdictional control over our water facilities because they have the expertise and are best suited for the job. In this role they should not be financially penalized. Implementing Federal legislation should not be used as a means to offload the costs and the federal responsibility to support our water facilities onto municipalities.

Our public wastewater operators are the backbone of these facilities and the key to the successful implementation of these new regulations. As wastewater treatment is a service provided for the common good, it is the role of all levels of government to provide support. This includes financial support for infrastructure and facility upgrades and wastewater operator training/certification needs.

We are concerned about the particular needs facing small communities as their population and property tax base may not generate sufficient revenue to support the necessary facility upgrades. Smaller communities also face unique barriers, such as recruiting and retaining qualified wastewater operators.

CUPE does not consider alternative funding mechanisms such as full cost recovery or public private partnerships (P3s) to be viable funding options. These are mechanisms that download costs onto individuals and provide a gateway to the privatization and commodification of our water. Federal government support for these mechanisms reinforces our position that the full impact of these regulations has not been properly accounted for. The extent to which private sector involvement compromises the health and wellbeing of our communities cannot be underestimated, particularly in light of the current Canada-European Union Comprehensive Economic and Trade Agreement (CETA) negotiations.

Misleading costs

The CCME had originally estimated the total cost of implementing these regulations over 30 years to be between \$10 billion and \$13 billion. However, using an 8% discount rate, Environment Canada claims a much lower total cost of \$5.9 billion.

Maintaining the initial calculation rate provided by the CCME that accounts for inflation by 2% and 4% over 20 and 30 years respectively, would have lent itself to a more accurate calculation (assuming all costs are considered). Using this higher discount rate effectively lowers the projected future costs and frames the argument put forward by Environment Canada that these regulations will be “affordable for our communities”.

When the private sector bids to procure public projects, a common tactic they employ to skew project costs in their favor is to calculate future costs using a discount rate of 6% or higher. An 8% discount rate is among the highest. In the United Kingdom, the recommended discount rate is 3.5%. Calculations using a higher discount rate are increasingly being discredited as costs in the long term inevitably increase beyond these initial projections.¹ For projects and costs valued at hundreds of millions of dollars, a small change in the discount rate makes a huge difference. Calculations used to assess the Capital Regional District’s (CRD) sewage treatment facility in Victoria, BC found that using a discount rate of 5.19% more accurately reflected the private sector costs that increased by over \$120 million.² It is disheartening to see the Federal government employing these similar tactics, misrepresenting costs in favor of a case for minimal federal government financing and investment.

Statistics Canada stated in 2007 that 63% of wastewater treatment assets were extended beyond their useful life.³ We need to spend at least \$31 billion in upgrades to our existing capital stock to maintain our overall water and wastewater system. If we add an additional \$56.6 billion we would raise our system to a standard that meets the actual needs of our communities and environment. The current deficit facing our wastewater and stormwater systems alone is estimated at \$19.9 billion. New infrastructure needs are estimated to be around \$20.9 billion.⁴ The projected total cost of \$5.9 billion is misleading.⁵

¹ Parks, Ron. and Terhart, Rosanne. Blair, MacKay, Mynett. Valuations Inc. Evaluation of Public Private Partnerships. Costing and Evaluation Methodology. <http://www.cupe.bc.ca/sites/default/files/bw-final-report.pdf>

² Ibid.

³ Statistics Canada. Age of Public Infrastructure: A Provincial Perspective. Catalogue no. 11-621-MIE-No.067.

⁴ Saeed Mizra, PhD. Canada’s infrastructure deficit a sad legacy for future generations. Special Report: Municipal Infrastructure – the need for Alternate Revenue. *Municipal Leader*. 2009. <http://www.amm.mb.ca/PDF/Magazine/Winter2009/SR-complete.pdf>

Costs projected in the RIAS negate the context unto which these regulations are being introduced. It is simply impossible to ignore our leaking pipes and deteriorating facilities. They are the elephant in the room, as we discuss upgrading our wastewater facilities to implement these new wastewater systems effluent regulations.

These new regulations will require facilities to be operating at a minimum secondary level of wastewater treatment. Capital costs associated with upgrading water facilities to meet the national effluent quality standards may be absorbed into the projected deficits and costs noted above. In the context of a \$31 billion deficit that includes deferred maintenance costs, it is certain that funding is required beyond the capital cost of \$3.2 billion, and the overall total of \$5.9 billion, as projected by Environment Canada. The Halifax Regional Municipality (HRM) alone has calculated costs of close to \$2 billion⁶; already amounting to one third of the total projected costs.

Water operator training is critical

These new regulations will require changes to current monitoring and reporting systems and require facilities to be operating at a minimum secondary level of wastewater treatment. Water operators currently working in facilities where the level of treatment is below a secondary level of treatment may require re-certification in addition to training.

The regulations fail to even consider the costs associated with supporting water operators needing training and re-certification to upgrade their qualifications as a result of these regulations.

Federal regulations are currently in place requiring mandatory certification of all water facilities and operators in Canada. Operator training and certification is under the jurisdiction of each province and territory. CUPE supports high quality training and certification and advocates for operator training that can be accessed without financial or other barriers. Proper financial support is imperative.

Workers currently in water and wastewater facilities are nearing retirement; the next few years are of critical importance. Up to 50% of the estimated workforce will be retired in the next 5-10 years⁷. According to a labour market study conducted by the Canadian Federation of Municipalities and ECO Canada, most critical positions that are going to be affected are facility managers and senior water operators who are over the age of 50 years. Many operators nearing retirement may actually choose to retire rather than submit themselves to the new educational requirements of these regulations. Without proper planning, we risk losing a wealth of experience based knowledge and expertise.

Already, water and wastewater facilities report having difficulty hiring for all positions and this general trend is expected to worsen in the near future as increasing numbers of senior people

⁵ Broken down as follows: Capital cost of approximately \$3.2 billion, operating and maintenance costs of \$1.9 million and other non-capital costs of \$777 million.

⁶ Halifax Regional Municipality Official Website. Press Release: Cost-Sharing Agreement Needed for Billion-Dollar New Federal Wastewater Rules. <http://www.halifax.ca/mediaroom/pressrelease/pr2010/100415AtlanticMayors-Cost-sharingAgreementneededforWastewaterRules.html>

⁷ Environmental Labour Market Research (ELM). Municipal Water and Waste Management. Labour Market Study. <http://www.eco.ca/pdf/Municipal%20English.pdf>. Accessed May 13, 2010.

retire.⁸ This experience is exacerbated in small communities and in First Nations communities where the labour pool is much smaller.

It is incumbent on Environment Canada to consider this situation as they prepare to implement these regulations. Several municipalities surveyed actually stated that hiring qualified operators was the largest challenge they currently face in their water and wastewater treatment facilities.

Lack of access to proper resources for water and wastewater operator training is a major issue. Accounting for course fees, travel, accommodations, and lost wages and productivity; training is expensive. Municipalities are facing increasing certification costs of their water operators, potentially costing thousands of dollars. According to one operator, as a result “municipalities are often only in a position to provide funding for the bare minimum training needed”.⁹

Requirements such as effluent monitoring, record keeping and reporting; maintaining and calibrating any new monitoring equipment; preparation of response plans, temporary and transitional authorizations; and meeting new treatment levels are contingent on the availability of properly trained water operators. It is curious that these regulations would omit to consider the training and certification of water operators as a consideration. Without these qualified workers it is certain that the regulations will not be properly implemented. Quite simply, who is expected to do this work?

CUPE is aware that wherever the argument is made of a lack of trained personnel in water facilities, there is a danger that employers will argue to contract-out these services. This is exactly what happened in Sackville, New Brunswick in 2007 following the implementation of new provincial staffing requirements. City council voted to contract out the operation of its water treatment plant arguing there was a lack of qualified personnel to implement necessary water quality programs. Lack of proper planning and adequate public funding should not be used as justification for contracting-out these services. Municipal water operators currently provide the majority of wastewater services in Canada and have clearly established themselves as the experts in this field. As public sector workers their priority is the health and safety of our communities and the environment.¹⁰

Keeping it public

The RIAS makes the false claim that these regulations are “expected to be affordable for communities”¹¹, claiming communities can avail of alternative funding mechanisms and federal infrastructure programs that have wastewater projects as an eligible investment category.

It is misleading to suggest that current funding available from federal infrastructure programs will sufficiently support municipalities implementing these regulations. Funds currently supporting wastewater infrastructure include the Green Infrastructure Fund (GIF), a fund of \$1 billion spread out over 5 years, and the Building Canada Fund (BCF), a fund of \$8.8 billion spread over a 7 year period. Both funds support wastewater projects, although not exclusively, and are time limited and set to conclude in 2014. Phased timelines as outlined by Environment Canada suggest these regulations may come into force for many facilities between 2012 and 2014. Given that the majority of these funds have already been allocated, facility operators and

⁸ Ibid.

⁹ Ibid.

¹⁰ CUPE Education Literacy Program. Up to the Certification Challenge. A Study of Education Initiatives to Support CUPE Members. September 2005.

¹¹ Canada Gazette Part I. March 20, 2010. WasteWater Effluent Regulations. Page 500

owners will be unable to avail of this funding. Future funding commitments are uncertain at this time.

Alternative funding arrangements such as full cost recovery and public private partnerships, as presented in this RIAS statement, need to be addressed. P3s exacerbate income inequality, endanger equitable access to water, and undermine democratic, public decision making regarding our vital services and resources. The negative impact they will have on communities will be long term.

Full cost recovery was cited as a priority and the “most desirable option of funding most wastewater infrastructure as it is open, transparent, accountable and sustainable.”¹² Yet, our public funding and governance structures already allow for open, transparent, accountable and sustainable options, in addition to being accessible and affordable. Raising our water rates to account for infrastructure and delivery costs differentially affects low income earners; it is the poorest in our society who will feel the impact of full cost recovery most acutely as it is regressive in essence.¹³ CUPE does not support full cost recovery as it endangers our equitable access to water. Our right to water should be reflected in pricing structures and our funding policies.

It is becoming increasingly evident in Canada, and in countries around the world, that P3s are a bad deal for communities. To present them as a viable funding option is to negate the reality that P3s cost more over the long term, are highly risky, provide lower service quality, and lock governments into long term contracts with the private sector effectively undermining local control and democratic, accountable processes.

The City of Hamilton-Wentworth is an example. After awarding a contract to Philips Utilities Management Corporation for water and wastewater treatment, the community faced ten years of environmental and financial disasters, and mismanagement. The workforce was cut in half within eighteen months, millions of litres of raw sewage spilled into Hamilton Harbour, homes were flooded and major additional costs were incurred. Numerous charges over years were laid by the Ontario Ministry of the Environment against the contractor for not meeting effluent standards. The private water contract changed corporate hands four times. In 2004, City Council ended its experiment with privatization and brought operation of its water and wastewater systems back in-house.¹⁴

The RIAS on several occasions makes vague references to needing all levels of government to *prioritize* wastewater infrastructure funding in order for these regulations to be successfully implemented. For local governments it is not simply a question of priorities. The indirect consequence of prioritizing the implementation of these federal regulations will ensure scarce resources are strained and re-allocated, leading to increased cuts to vital municipal services or through user fees charged to individuals. Municipalities constantly have to choose between funding services, or repairing their crumbling buildings and roads. The Gas Tax, and restricted revenue generated through property taxes do not allow municipalities to properly finance services and infrastructure investment.

¹² Canada Gazette Part I. March 20, 2010. WasteWater Effluent Regulations.

¹³ CUPE. Submission to Ontario Ministry of Public Infrastructure Renewal. Expert Panel on Long-Term Water and Wastewater Infrastructure. Investment and Financing Strategy.

¹⁴ Public Works. Lets be clear. City of Hamilton-Wentworth, Ontario Contracted-In Water: Public Excellence. May 2007. http://cupe.ca/updir/Hamilton_Contracted-In_Water_Public_Excellence.pdf

Small communities are most vulnerable

We agree with Environment Canada when concern is raised that small and/or declining communities will experience financial difficulty implementing these regulations.

Where facility upgrades are necessary, small communities simply do not have the revenue generating capacity to raise the necessary funds. Provinces experiencing the greatest impact of the regulations include Nova Scotia, Newfoundland and Labrador and the Yukon, jurisdictions dominated by small, coastal communities.

Smaller communities face barriers regarding the recruitment and retention of wastewater operators. They tend to lose their more qualified operators to larger municipalities who can offer higher salaries creating skill shortages, particularly in facilities with higher levels of treatment. Even larger facilities are experiencing challenges recruiting operators with advanced levels of certification. Smaller facilities are likely to be without newer technology, such as the monitoring equipment required under these regulations.

With a low population base, full cost recovery as an alternative strategy would raise water rates to unacceptable levels in these communities.

We are encouraged by the suggestion made by Environment Canada that small communities will require additional financial support and timeline considerations. Proposals such as “Government Service Partnerships” or “regionalization” have the potential to mitigate the barriers small communities face, but we do exercise caution in extending our support. CUPE supports public-public partnerships, where multiple communities and facilities support each other by pooling their assets, supporting operator training, achieving economies of scale, and lowering their costs, provided the ultimate goal is to ensure publicly provided services are accessible and affordable to the community. These partnerships should not be used to “bundle” projects and municipalities in order to attract private sector investment.¹⁵

Water threatened under new trade agreements

CUPE is actively monitoring the current negotiations related to the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) and is aware that the European Union is actively negotiating access to our municipal water and wastewater treatment entities. If this agreement is “successfully” negotiated, municipal water facilities would be required to provide private European multinational corporations unbridled access to our water.¹⁶ Europe’s largest and most notorious private service providers are its major water companies, including Veolia and Suez, both of which signed a joint business “Declaration in Support of a Canada-EU Trade and Investment Agreement.”¹⁷

There are serious questions that need answers regarding the impact of this trade agreement on our ability to maintain control over our water. In the absence of proper funding these new wastewater regulations render our water increasingly vulnerable to these agreements.

Allowing our wastewater facilities to enter into operating agreements with private service providers would effectively amount to signing away our right to any control over our water.

¹⁵ PPP Canada. SUMMARY CORPORATE PLAN 2009-2014, OPERATING AND CAPITAL BUDGETS 2009/10. Page 12

¹⁶ Sinclair, Scott. Canadian Center for Policy Alternatives (CCPA) 2010. Negotiating from Weakness. Canada EU trade treaty threatens Canadian purchasing policies and public services. <http://www.caw.ca/en/8887.htm>

¹⁷ CUPE Ontario and the Council of Canadians. Say bye to buy local. A Primer on Trade Deals Impacting Canada.

Once our water services are privatized it will be very difficult to bring them back under public control.

An important opportunity

These new regulations are an opportunity for the federal government to directly invest in a National Wastewater Treatment Upgrade Fund, while promoting and creating good, green jobs. CUPE has previously called on the federal government to finance the full cost of the upgrades necessary to meet these new federal wastewater treatment standards. This investment should also support wastewater operator training and certification costs.

CUPE also supports the establishment of a National Water Infrastructure Fund consisting of \$3.7 billion immediately, with \$3.1 billion for each of the following 10 years to reverse the water and wastewater infrastructure deficit within a decade.

The focus currently being placed on our wastewater infrastructure presents the federal government with an opportunity to address our growing infrastructure deficit while supporting sustainable Canadian communities and creating green jobs for our economy. Canada has already missed a similar opportunity when deciding to only commit 8% of their stimulus money to environmental projects following the economic crisis. Countries such as South Korea and China committed 79% and 34% respectively.¹⁸

Many jobs in water and wastewater are “green jobs”. Green jobs advance an environmental sustainability agenda and have the potential to expand far beyond our current environmental protection and improvement efforts. With dedicated funding for wastewater facility upgrades, we could be using this as an opportunity to support additional green jobs that focus on upgrading facilities to use less energy, cut greenhouse gas emissions and that incorporate water reclamation and reuse programs.

Conclusion

The benefits of harmonized, federal wastewater effluent standards that protect our water are certainly abundant. We cannot put a price tag on the value of protecting our environment and our water commons for future generations. It is indeed priceless.

According to one water and wastewater treatment expert, “At the end of the day, all aspects of the water and wastewater treatment are grossly underfunded by various levels of government, which has impacts from facilities to operator training.”¹⁹

Due to the potential impact on our communities, the implementation of these regulations must be raised to the status of a national priority and financial resources must be allocated accordingly.

wl/cope 491

¹⁸ REUTERS: China, South Korea lead in green stimulus funding. <http://www.reuters.com/article/idUSTRE58N0TV20090924>

¹⁹ Environmental Labour Market Research (ELM). Municipal Water and Waste Management. Labour Market Study. <http://www.eco.ca/pdf/Municipal%20English.pdf>. Accessed May 13, 2010. Page 11.