



Solid Waste Resources
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MEMORANDUM

TO: Bill Karsten, Chairman and
Members of Solid Waste Resource Advisory Committee

CC: Mike Labrecque, P.Eng., Director, T&PW

FROM: Jim Bauld, Manager, Solid Waste Resources

DATE: June 10, 2009

**SUBJECT: Service Nova Scotia and Municipal Relations -
Composting Facility Guidelines**

On April 27, 2009, Warden Lloyd Hines, President, UNSM, received a letter from the Honourable Mr. Hurlburt, Minister, Service Nova Scotia and Municipal Relations, which gave the required one year notice of the commencement of a rather lengthy and unclear process wherein the Province, after consulting with each municipality that owns or has sponsored a compost facility, will formally implement the 2006 Composting Facility Guidelines, replacing the 1996 Composting Guidelines.

The Province advised three years ago that they were moving toward the adoption of new composting regulations, which are intended to ensure a higher quality and value of finished compost. Several other Provinces have formally adopted the new higher standard Composting Facility Regulations, which was the output of a lengthy industry lead evaluation process in Quebec. The results of the study by the Provincial agency BNQ in Quebec, was the adoption of the new higher standard Composting Facility Guidelines by the Canadian Council of Minister of Environment in 2007, with the understanding that each province was to administer their own respective process of formally promulgating the new regulations.

The Province of NS engaged a consultant for the purpose of assessing the implications (operational and financial) for each compost facility owner/sponsor of the adoption of the new Composting Facility Guidelines in NS. As Minister Hurlburt's letter indicates, the implications range from the upgrading of the compost curing pad, to the replacement (partial or total) of

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existing compost facilities in NS. Composting facility infrastructure in NS is very mature as compared to the remainder of Canada, due to the banning of landfill disposal of all organics in November 1998.

For the HRM, who is the sponsor of two compost facilities, being Miller Composting and New Era Technologies Ltd., the implications of the formal adoption of the 2006 Composting Facility Guidelines are to be determined. Mr. Robert Carmichael, Partner, Cox & Palmer (who prepared the 1997 and 1998 HRM Agreement with Miller and NETL respectively), has advised that the notice from Minister Hurlburt does not constitute a change-of-law, but rather is the commencement of a process (to be defined) that will initiate the Change-of-Law clause in both HRM Compost Facility Agreements.

As specified in the Change-of-Law clause in the HRM Compost Facility Agreement, NETL and Miller are required to substantiate if the implementation of the 2006 Compost Facility Guidelines, "directly causes an increase in the costs of the Contractor in conducting the Construction Work or in providing the Operating Services". Miller and NETL are required to warrant that the resultant operational and/or compost facility recapitalization, as approved by NS Environment, complies with the new higher standard 2006 Composting Facility Guidelines. Once substantiated, then HRM will meet with NETL and Miller for the purpose of adjusting their Operating Fee and/or Book Value Schedule (of their compost facility) at the time when the change-of-law occurs. If the Parties are unable to agree to the appropriate adjustment in the Operating Fee within thirty days, either party may refer the matter to an arbitrator for determination in accordance with the provisions of the Arbitration Act of NS.

Members of the Solid Waste/Resource Advisory Committee are advised of this matter as the letter from Minister Hurlburt has provided formal notification to the UNSM. Staff will provide an update to SWRAC as the process becomes clearer.



Attachment

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Service Nova Scotia and Municipal Relations
Office of the Minister

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APR 27 2009

Warden Lloyd Hines
President, UNSM
1809 Barrington Street, Suite 1106
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Dear Warden Hines:

Under the provisions of the *Municipal Government Act* (Section 519), the Minister of Service Nova Scotia and Municipal Relations is required to provide prior notice of any legislation, regulation or administrative action undertaken by or on behalf of the Government of the Province of Nova Scotia that would have the effect of decreasing the revenues received by municipalities or increasing the required expenditures of municipalities in Nova Scotia. This letter is provided as notice of such changes for the fiscal year 2010-11.

Solid Waste

A study was undertaken to assess the ability of existing composting infrastructure to produce mature compost, in reference to the revised Provincial Composting Facility Guidelines (2006). After consulting with key stakeholders, the consultant proposed a range of technical and operational options to ensure that facilities could meet the new maturity standards. For the majority of the facilities, expansion of curing areas with potential capital costs of \$10,000-60,000/hectare will be the method selected for achieving compliance. However, facility replacement could cost in the order of \$1.4-13.6 million to achieve 40,000 tonne capacity.

Nova Scotia Environment will work with the municipalities to undertake an evaluation process, which is expected to take at least six months to assess their individual requirements. The Department will then develop a time line for achieving compliance, providing municipalities with between one and three years to upgrade or replace their facilities. Capital expenditures for the construction of curing pads could commence in 2010-2011, but new facility construction is not anticipated prior to fiscal year 2011-2012.

Emergency Management

The Emergency Management Office (EMO) is considering making modifications to the *Emergency Management Act* and Regulations that would require municipalities to complete evaluations of their level of preparedness on a regular basis and submit reports of these evaluations to EMO. EMO is also considering making modifications to the *Emergency Management Act* and Regulations that would require municipalities to update their emergency management plans and/or By-laws as a result of these evaluations.

Other Issues

There are two other items that I am bringing to your attention as a reminder or because of the potential long-term financial or other impact on municipalities. These are:

1. New fees for water and wastewater facility operator certificate renewals - These were introduced in 2005, when the regulations were amended, but do not take effect until the old certificates expire in 2009-2010. A 12 month notice letter was sent to the UNSM and meetings were held with the Union in 2005. This will serve as a reminder of the changes.

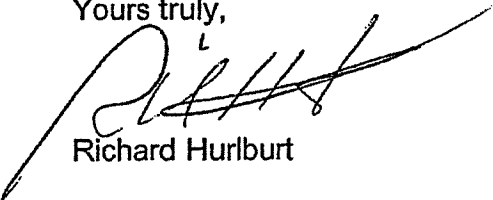
2. Municipal Waste Water Effluent Strategy - This 30 year Strategy outlines the standard for effluent discharge into receiving waters, was adopted by the Canadian Council of the Ministers of Environment in February 2009 and will result in increased costs to municipalities over its life. However, there is an initial three-year period allocated by the Strategy to prepare implementation plans and to work out the details of financial impacts. This means that there will be no cost to municipalities in fiscal year 2010-2011 resulting from it.

3. Effective April 1, 2010, the Department of Justice will implement a change with respect to the Privacy Review Officer Act to include municipalities. The Act will create an ability for Governor-in-Council to appoint a Review Officer for privacy specific complaints under FOIPOP.

4. The Department of Health is currently in discussions concerning policies with respect to the municipal taxation of Nursing Homes, which could affect the amount of municipal taxes that the nursing homes are required to pay.

There has been ongoing consultation with municipalities throughout the process of preparing the Strategy and a Joint Advisory Committee has been created with municipal representation to advise on the process as it moves forward.

Yours truly,



Richard Hurlburt