

SEWAGE REGULATIONS

In January of this year the BC Seafood Alliance was invited to be the commercial fishing representative on an existing Transport Canada working group that is being consulted on a pilot set of new regulations and implementation standards, under the *Canada Shipping Act*, on sewage pollution. The working group had its first meeting in December of 2002. The working group currently includes representation from Chamber of Marine Carriers (tugboats), Chamber of Shipping, BC Council of Yacht Clubs, Marine Trades Association, BC ferries, Coastguard, DFO, Environment Canada, Georgia Strait Alliance, BC Shellfish Growers Association. The province has refused to participate, likely because it fears the potential cost of such an initiative.

The new regulations are to come into effect in on September 23, 2003 but will not be fully implemented until September 23, 2008. The initial task is to look at the draft national regulations in a West Coast context for review by the national Canadian Marine Advisory Committee (CMAC) in May followed by national consultations. Additionally the working groups will oversee a cost-benefit analysis and a test application of one or more of the most controversial provisions.

It would appear that Transport Canada has made a decision and the regulations are going to happen. All the user groups that have been part of the working groups longer than the BC Seafood Alliance have accepted in principle that the new regulations, which effectively prohibit the dumping of sewage within 12 nautical miles of land, are coming. The only questions are how to make the regulations as sensible, workable and enforceable as possible. Mutual Marine (associate members of the BC Seafood Alliance) will be attending the working group with the BC Seafood Alliance there are liability issues for them. The group has set an aggressive schedule of five-hour meetings every two weeks in order to meet the September 2003 deadline.

The working group is looking at draft framework regulations that dovetail with the international requirements (MARPOL Annex 4) drafted in the early 1970s but only coming into force on September 23, 2003. The regulations are required by Canada's accession to MARPOL. Canada cannot enforce MARPOL provisions on sewage on foreign ships (such as cruise ships) unless there are parallel domestic regulations. The regulations will apply to all "ships," i.e. all vessels that are not powered by oars or other manual means, except for naval vessels. One of the issues is that the maritime users want to see regulations that exactly parallel MARPOL in terms of stringency whereas environmental groups and the BC Shellfish Growers Association want to see tougher standards. The question of application to First Nations was raised and the groups was told that early consultation with them is a priority once there is a working draft of the new regulations.

These new regulations will replace existing pleasure/non-pleasure craft sewage pollution prevention regulations across the country, which currently in BC only apply in designated "no-dump" areas. The working group is working word by word through the

existing regulations and MARPOL Annex IV to integrate the provisions of the latter. This initiative is rather frightening given the potential cost implications for commercial fishing vessels. The key provisions of the new regulations are that:

- Ships without a toilet cannot discharge sewage; and,
- Ships with a toilet must either be fitted with an approved functioning Marine Sanitation Device (MSD) or with a holding tank sufficient for the normal duration of the voyage (estimated at 2-2 1/2 gallons per person per day). Holding tanks may only be discharged at approved pumping facilities or in an orderly fashion 12 miles or more offshore.
- The sole exceptions are emergencies or force majeure.

Based on what is being proposed, in most cases, commercial fish boats will have to install holding tanks. The main supplier of Marine Sanitation Devices is Hydroxyl—their smallest weighs 4.5 tonnes and costs \$500K. Apparently there are some suppliers of smaller, more practical devices but the working group has not yet got to this discussion. There is also an assumption that the new regulations will create commercial opportunities for suppliers that do not currently exist. One reason why the working group want standards that exactly match MARPOL is that this means that US Coastguard approved devices can be used in Canada thereby increasing choice and reducing cost.

Sewage that has been treated by a Marine Sanitation Device can be discharged between 3 and 12 miles if it meets certain levels. MARPOL provides for a “most probable number” of 250 parts (200 is the level for swimming). NGOs and BCSGA want to see this reduced to 14 parts at least in no-dump zones and other areas such as Baynes Sound. Rather than enshrining this in the regulations, it may be possible to look at some form of administrative closure to protect shellfish beds or other sensitive marine environments.

The draft regulations currently require that “governments” ensure the provision of adequate pumping facilities. Again, the Transport Canada assumption is that implementation of the regulations will provide a commercial incentive for installing facilities. Governments may also provide incentives and even subsidies to encourage more such facilities. There are apparently 22 such facilities currently in the Gulf of Georgia with six more opening in the next month or so.

One issue that is not at all clear is what happens to the current “no-dump” zones. The environmental groups and the BC Shellfish Growers Association are pushing for some provision to ensure that they continue during the implementation period. By 2008, the entire coast will become a no-dump zone. In the meantime, environmental groups and BC Shellfish Growers Association are pressing for an extension of existing no-dump zones—for instance, the BC Shellfish Growers Association has just written to Minister Thibault asking for Baynes Sound (all of it) to be added to the list. In this case, it is thought there will be reluctance to add additional areas before 2008, but your members should be aware of the possibility.

To date, the working groups has not yet really dealt with enforcement of the regulations, but commercial fishing vessels come under Transport Canada. Even those under 15 gross tons may require certification. Additionally, each vessel will have to record full details of each pumping out or discharge offshore in the Ship's Log or other formal record for enforcement purposes.

Transport Canada acknowledges that there will costs and practical implications for all users. Tugs and fishboats will probably have the most difficulty in complying. Just as with fish boats, there is little room for either a holding tank or a Marine Sanitation Device on a tug and an operator on a log tow cannot easily stop off to pump out or run offshore. The tugboat representatives are also particularly concerned about competitiveness. When this becomes law, their members will install and enforce the requirements on their crews, but their less responsible competitors probably will not. They fear that most of the enforcement efforts will be directed at them so that Transport Canada can say it's achieved 80 per cent compliance while it ignores the other 20 per cent. They will be the best allies for the commercial fishing sector. However, it would appear cost and inconvenience will not be grounds for exemption—that's why there's a five-year implementation period. The BC Seafood Alliance raised this point — with fish boats, it's not just the cost of the holding tank but the need to retrofit to accommodate it that will be expensive, but such objections were dismissed by Transport Canada.

To sum up, Canada has to implement sewage pollution regulations that at a minimum mirror MARPOL. There is no prospect of an exemption for fish boats. The commercial fishing sector's only options are:

- To seek as much lead time as possible in order to comply;
- Try to ensure that the regulations are no more stringent than the international requirements (MARPOL Annex 4)
- Argue for financial incentives to ensure rapid and effective compliance
- Work to identify suppliers of cheap, available equipment

It would appear that Transport Canada had already made a decision to move ahead with the new regulations. These new regulations have the potential to be a very serious and costly issue for the commercial fishing sector. The commercial fishing sector will likely need to put our views on record sooner rather than later about the impracticability and cost of fish boat compliance. It may also be the case that the East Coast can bring to bear more influence than we can.