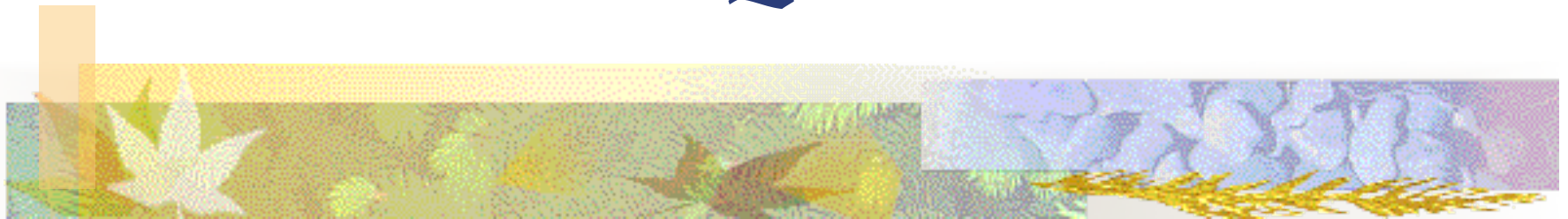


ENFORCEMENT and the DWQMS



Dianne Saxe





Overview

- DWQMS and the SDWA
- Enforcement
- Concerns



DWQMS and the SDWA

- Every municipal water system must be operated by accredited operating authority: s.13.
- So, how do you get accredited?



Accreditation

- The Benchmarks
- Accreditation Organization
- Becoming Accredited
- Staying Accredited
- MOE Oversight



The Benchmarks

- Minister approves DWQMS: s. 21
- Director may issue Directions for operating plans: s. 15
- MOE accepts or rejects each OA's Operational Plan
 - Timing?



Accreditation Organization

- Minister selects Organization : s. 22
 - Agreement with MOE : s. 24
 - Annual reports : s. 29
 - Source of funding?
 - Not a Crown agent
 - Reports all “violations” and suspensions



Becoming Accredited

- Operating authority (OA) develops / implements Operational Plan
- Operating authority applies to accreditation organization
- Accreditation organization audits OA against DWQMS and Directions: s. 24
- Accreditation organization accredits OA



Staying Accredited

- Accreditation organization audits OA against DWQMS and Directions, at least every 36 months
- Has power to suspend or revoke
- Notice to all
- Appeal process?



Overview

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Enforcement by Everyone

- Quality Management System Representative
- Top Management
- Operating Authority
- Owner
- Accreditation Organization
- MOE
- Public



QMS Representative

- “Irrespective of other Responsibilities”
- Administer the QMS
- Report to Top Management
(how often?)
- “Ensure” use of current documents
- “Ensure” staff awareness



Top Management

- “Ensure” QMS meets DWQMS standard
- “Determine, obtain or provide” resources needed
- Annual Management Review
- Identify deficiencies and action items
- Report to the Owner



Operating Authority

- Shall establish and maintain the QMS
- Shall “ensure” that everything is current and operating properly
- Shall strive to continually improve
- QMS includes internal audits



Owner

- Agreement with Operating Authority
- Shall ensure that Operating Authority is “competent and diligent”
- If not, must take reasonable steps to ensure compliance



Accreditation Organization

- Regular (external) audits of Operating Authorities
- If they find problems:
 - Note deficiencies
 - Report to MOE
 - Re-inspect
 - Short renewals
 - Suspend or revoke accreditation



MOE

- Regular inspections by abatement officers
- Formal Compliance & Enforcement Policy *O.Reg. 242/05*



Investigation?

- Real or potential health consequences?
- Environmental consequences?
- Ongoing contravention?
- Obstruction or false information?
- Compliance history



Taking enforcement action

- Reasonable and probable grounds?
- Ongoing contravention?
- Deterrent effect
- Would failure to enforce bring law into disrepute?



Public

- Can submit application for investigation of alleged contravention
- Director's obligations
- Director's response



Overview

- DWQMS and the SDWA
- Enforcement
- **Concerns**



Key Concerns

- Roles
- Resources
- Rigidity



Roles

- Who wants to be Top Management?
- How to “ensure” complete compliance
- What if an Owner doesn’ t accept recommendations?
- Risk of personal prosecution?
- *R. v. Imperial Oil*



Resources

- Top Management must:
 - “Provide evidence of its commitment to an effective QMS”
 - “Determine, obtain or provide” resources needed to “maintain and continually improve the QMS”
- Does this include all resources needed for the entire water system?



Rigidity

- Building in wiggle room in the Operational Plan
- How to combine “continuous improvement” with:
 - high risk of liability
 - massive paperwork
 - multiple inspections and
 - two levels of external approvals?



Justice O' Connor:

- *I do not intend that the operational plan should become a whole new layer of paperwork for municipal water providers...*

Questions? Comments?

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