

What's that smell?

By Ward Peck
Staff Writer

In 1991, the cities of Biddeford and Saco finalized a new contract with the Maine Energy Recovery Company, which reformulated the relationship between the three parties. Contained in the contract was a mechanism that would allow the cities to fine the company for odor emissions released by the facility.

The odor complaint protocol was designed to provide an avenue for the public to hold the facility accountable for the odors it produces.

Officials in both Saco and Biddeford concede that the results have fallen far short of its goal.

In the dozen years the protocol has been in place, MERC has been fined once for odor violations. Yet, according to Mike Eon of Twin Cities Renaissance, a group critical of MERC, close to 1,000 calls have been placed to the complaint line. Eon said he got this number by doubling the 467 calls the Saco police department logged between 1993 and the present. He said the doubling was based on his premise that Biddeford has received at least as many calls.

A manager at the answering service where the complaints are logged said statistics on calls could not be released without MERC's consent.

Ken Robbins, general manager at MERC, responding to Eon's claim, said, "I think you'd need to go back quite a few years to tally up 1000 odor complaints about all sources in the community with the Enviro-line. We've received about 100 over the last two years, and in the vast majority of those cases, the cities' response agent determined there was no odor present at the site of the complaint, and the company response agent was not summoned."

Yet, some critics of the protocol say the system is poorly designed for the intended purpose of fining MERC for odor emissions.

According to Biddeford mayor Wallace Nutting, "the arrangement is too cumbersome and time-consuming to be effective. The process should be streamlined."

THE PROTOCOL

The process itself involves a number of steps that need to take place before an odor results in a fine.

The process is initiated when a call is made to the Enviroline answering service.

According to Biddeford police Chief Roger Beaupre, Enviroline is administered by Maine Energy. "It's a little like the foxes watching the hen house," Beaupre said.

Beaupre said he has documented a number of occasions when a citizen calls the police department directly about an odor complaint. "We tell them to call Enviroline and it can be as much as 15 minutes to a half hour before Enviroline calls us back," he said.

The protocol stipulates that once a complaint is received, the complainant's name, address and telephone number is recorded. The answering service then calls MERC and the police department in the city where the call originated. An officer on patrol is dispatched to the scene of the complaint to determine if an offensive odor is present and if so, if it is likely originating at MERC.

Beaupre said that this initial determination is important because MERC has been accused of odors emanating from someplace else. "We had problems with the sewage treatment plant a few years back, or sometimes the smell is coming from a dumpster."

If the officer finds a MERC odor present, the officer notifies the dispatcher that an investigation is required and a response agent, usually another police officer who has undergone training, is dispatched to a "neutral" location, according to the protocol.

MERC is also notified that an investigation is required. The two response agents, one from the city and one from MERC, have a half-hour to arrive at the pre-arranged meeting place. From there they are to travel to the location of the complaint together.

If the Maine Energy agent is more than 10 minutes late, the city response agent is to make the determination alone. If the city's response agent is more than 30 minutes late, the complaint is ruled invalid.

The response agents are equipped with a set of eight glass vials containing concentrations of the chemical n-butanol. Each vial is numbered one through eight, with the vial marker '1' containing a very diluted mixture of n-butanol and '8' containing a high concentration of n-butanol.

Each agent sniffs the air, and then sniffs each vial, starting with vial '1'. The idea is to match the intensity of the odor in the air with the intensity of the odor in the vials. An odor must be more intense than the odor perceived when sniffing vial '3' in order for a fine to be levied. Furthermore, both response agents must agree that the odor exceeds this threshold. If there is disagreement, a second city response agent is called to make a final, binding judgement.

AN IMPERFECT SYSTEM

Chief Bradley Paul of the Saco Police Department sees many flaws in the system. "Is a clumsy process at best," Paul said. Among the systems shortcomings the chief sees is the amount of time it takes to make a determination. Any delay gives MERC an opportunity to curtail its operation in order to get out of the fine.

"Its like us getting a complaint about a gambling ring and before we go to check it out, we call the home to let them know we are coming."

Robbins takes issue with this charge, "The protocol gives us a troubleshooting mechanism and a feedback loop that makes us aware when we have an odor problem," Robbins said. "I find there's something a little baffling about that argument: Because we're involved in the odor going away, there is something wrong with the system. Isn't the point to make sure odors are kept to a minimum?"

Beaupre rejects this argument, "there aren't supposed to be any odors at all. If the purpose of the protocol is to let MERC know there's an odor, it would make sense. The purpose is to fine MERC for releasing odors they aren't supposed to emit in the first place."

Eon agrees, "That's not the way it's supposed to work. The plant was billed as being unobtrusive. They are not supposed to emit a stench, not emit a stench and then run around closing windows."

Both police chiefs and the mayors of Biddeford and Saco all maintain that the time between a complaint being lodged and a determination being made works to MERC's advantage. "It can be 45 minutes or more between the time a complaint is made and the sniffers are on the scene, that's a lot of time for a smell to go away," Paul said.

Both police chiefs noted a disparity between the intensity determination made by the city's representative and MERC's.

"In my opinion, MERC low-ball's the intensity. I'm not certain we have ever documented a MERC representative finding the facility in violation," Paul said. He stressed that he was not implying the company was coercing or intimidating the representative to find in the company's favor, however, he felt that having a person employed by the company judge whether or not it would be fined represented a conflict of interest.

Beaupre has come to similar conclusions. "It's remarkably consistent, our assessments are always a half a point to a point higher than theirs," Beaupre said.

Paul believes the disparity may have less to do with company loyalty than it does with the MERC representatives work environment. "A lot of it has to do with the fact that they are accustomed to the smell. If you are in an environment with a strong smell, after a while you stop noticing it," he said.

Robbins said that the work environment does not compromise the MERC representative's ability to make a judgement. He said the company's representatives mostly work in the front office and in the event a shift supervisor needs to be dispatched from the production floor, that person is instructed to change their clothes and wash up.

OTHER ENFORCEMENT OPTIONS

If officials from both municipalities find the protocol ineffective, why is it still in use?

Mark Robinson of Twin Cities Renaissance believes the cities should abandon the protocol and enact ordinances that provide a better mechanism for fining odor emissions.

Jeffrey Meyers, a lawyer representing Biddeford on environmental issues in the on-going negotiations, finds that tact problematic. "While the city has not waived its right to pursue an ordinance related to odor emissions, the protocol is bound by contract." He also that MERC might interpret an ordinance that supercedes the contract as a breach of the agreement.

Meyers pointed out that, MERC is subject to odor restrictions mandated by the Maine Department of Environmental Protection.

"There's nothing in place to keep the MEDP from enforcing these

restrictions,” Meyers said. He said the MDEP has not enforced those requirements because it maintains the existing agreement between the facility and the cities is in place, negating a need for MDEP oversight.

Randy McMullen of MDEP believes MERC is managing its odors effectively. “The complaints we get are down drastically from five years ago,” McMullen said. “I’ve been called out for two complaints and neither of them were related to MERC.” McMullen said that the MDEP would step in if MERC was creating a nuisance but he has not seen much evidence that it is.

NEXT WEEK: VOC’s

Robbins said odor emissions would be slashed if MERC were al-

lowed to increase the height of its odor control stacks. “We have invested a lot of money, approximately \$4,000,000 in the latest system, and we continue to work on improvements. One that we have not been allowed to implement is a simple 28-foot increase to the discharge vents. This would have a major reduction on odor impact,” Robbins said.

Meyers maintains raising the stack height will not solve MERC’s odor problems.

“Our engineers believe it will help some of the time, but not all of the time. Twenty-eight feet is not significant.”

Meyers added the current technology Robbins refers to is inadequate for dealing with another discharge emanating from MERC: Volatile Organic Compounds, or VOC’s.