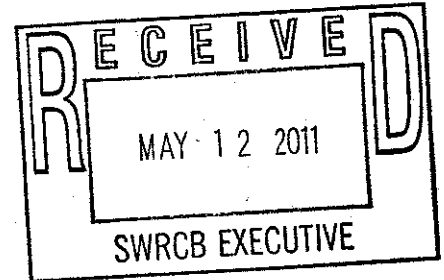


# SEASIDE COUNTY SANITATION DISTRICT

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May 13, 2011

*Via email:* [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, Sacramento, CA 95814

**Subject: SWRCB Draft SSS WDRs Dated March 22, 2011**

Dear Ms. Townsend:

The Seaside County Sanitation District (SCSD) staff appreciates the opportunity to comment on the State Water Quality Control Board's proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs). SCSD serves approximately 7,300 customers and is located in Monterey County to the north of the Monterey Peninsula adjacent to Monterey Bay. SCSD is a special district formed on March 1, 1950 and is responsible for the maintenance and operation of the sewer collection system serving the Cities of Del Rey Oaks, Sand City, and Seaside. SCSD is governed by a Board of Directors made up of elected representatives of the three cities.

The proposed revisions to the SSS WDRs represent a major departure from the program that has been successfully implemented under the existing SSS WDRs. SCSD staff is concerned about a number of the proposed revisions, especially those related to reporting of private lateral sewage discharges (PLSDs), and additional requirements to sewer system management plan (SSMP) program. As requirements become more complicated and confusing, staff time is diverted towards preparing reports and re-organizing information and operating procedures, and away from managing and conducting the appropriate operations and maintenance (O&M) activities to prevent SSOs. Also, SCSD staff does not support the proposed requirement for NPDES permitting. A one-time discharge from a sewer collection system should not be the nexus for requiring a NPDES discharge permit.

**Seaside County Sanitation District Staff Review Comments  
SWRCB Draft SSS WDRs dated March 22, 2011**

Attached, please find comments and concerns from the SCSD staff for your consideration regarding this matter. You may contact Diana Ingersoll, District Engineer at (831) 899-6825 to discuss any questions or concerns.

Sincerely,



Ray Corpuz, District Manager SCSD

Copy: David Pendergrass, Chair SCSD  
Felix Bachofner, First Vice Chair SCSD  
Kristin Clark, Second Vice Chair SCSD  
Diana Ingersoll, District Engineer SCSD  
Patrick McGreal, Legal Counsel SCSD

**Attachments:**

1. Comments on SWRCB Draft SSS WDRs dated March 22, 2011
2. SWRCB Draft SSS WDRs dated March 22, 2011
3. SWRCB Staff Report for Water Quality Order No. 2011-XXXX-DWQ

**Seaside County Sanitation District Staff Review Comments  
SWRCB Draft SSS WDRs dated March 22, 2011**

**1. Sanitary sewer system regulations should not be adopted under a two-tiered WDRs and NPDES permit.**

We strongly oppose the two-tiered WDRs and NPDES permit alternative, whereby an SSO occurring previously or in the future would trigger the requirement to apply for an NPDES permit, and agree with several points included in the Staff Report also opposing an NPDES permit. Since the existing SSS WDRs and the proposed revisions to the SSS WDRs do not authorize sanitary-sewer overflows (SSOs) to waters of the United States, there is no need for an NPDES permit. The result of triggering an NPDES permit would subject local public agencies to additional and more egregious non-governmental organization (NGO) lawsuits and higher administrative penalties with absolutely no demonstration that this would improve water quality or further reduce SSOs.

As described in the Staff Report, this alternative would also require significant additional Water Board staff resources to track and implement the different permit tiers. We understand that these staff resources are limited, and believe that they should instead be used to further improve SSO reduction efforts under the existing SSS WDRs.

**2. The basis for mandatory reporting of Private Lateral Sewage Discharges (PLSDs) is not justified and creates an inappropriate burden for public agency staff.**

The SSS WDR would require enrollees to report spills from privately owned laterals when they become aware of them. Such reporting is currently voluntary. Water Board staff has not provided adequate justification nor has it thoroughly considered the staffing and financial resources necessary to require public agencies to report PLSDs that are not affiliated with the collection system agency. The justification offered for this change is simply that the State Water Board wants to "get a better picture of" the magnitude of PSLDs and better identify collection systems with "systemic issues" with PSLs.

The Staff Report includes a reference to a study that indicated that the total volume of sewage from private laterals is about 5% of the total volume from SSOs, almost all of which never pose a threat to waters. Requiring public agencies to provide detailed information regarding such a small percentage of overflow volumes from parts of the system over which they have no control is not appropriate and would divert limited staff resources from higher priority issues that actually protect waters.

As to the goal of generating better information regarding PSL spills, we do not believe that the burden of requiring enrollees to report information or face being in noncompliance with the SSS WDR bears a reasonable relationship to the need for the information and the benefits to be obtained. Enrollees reporting spills may be liable to the property owner for errors in reporting, and property owners may claim they are entitled to compensation from the local agency for repair or replacement costs stemming from the reported spill. Under the current voluntary reporting scheme, the enrollee can weigh these factors in deciding whether to report PSL spills or not.

**Seaside County Sanitation District Staff Review Comments  
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Furthermore, if enrollees are required to report spills whether or not they occur within the enrollee's system, multiple entities (city, county, POTW, etc.) could all be required to report a single PSL spill with potentially differing estimates of volume and other information. Rather than enhance the Board's knowledge base, this will actually lead to greater confusion and require additional resources to sort out and match up the multiple reports.

We recommend that the State Water Board first work with the California Department of Public Health and local environmental health officers to determine if the desired information can be obtained through mutual agency cooperation. We believe that public health agencies have the best knowledge of overflows from laterals on private property, and are, in most instances, the most appropriate agencies to respond to these events.

**3. It is essential that State and Regional Water Board staff consider the cause for each SSO in any enforcement action.**

The existing SSS WDRs included language in Provision D.6 that provided some reassurance that, in the case of an SSO enforcement action, the State and/or Regional Water Board would consider why the SSO might have occurred and to what extent it would have been reasonably possible for the Enrollee to prevent it.

Existing language read: "*In assessing these factors, the State and/or Regional Water Boards will also consider whether...*" (emphasis added)

In the proposed revisions to the SSS WDRs, this language was changed to read: "*In assessing these factors, the State and/or Regional Water Boards may also consider whether...*" (emphasis added)

The proposed revisions to the SSS WDRs would transform the existing enforcement discretion language, which expresses a clear statement of the State Board's intent regarding enforcement priorities and responses, into a purely advisory provision, which individual regional boards are free to follow or ignore as they choose. The factors described in (a) through (g) of Provision D.6 are highly relevant to the Enrollee's efforts to properly manage, operate and maintain its system and these factors should definitely be considered in enforcement actions.

It is imperative that the existing language be retained. Enrollees should not be made to suffer consequences for conditions that are outside their reasonable control.

**4. Significant additional Sewer System Management Plan (SSMP) requirements should not be mandated until the State Water Board provides guidance and funding.**

The proposed "Risk and Threat Analysis" and "Staff Performance Assessment Program" are vague, not statistically supported, unnecessarily complicated, and overly prescriptive.

The proposed Risk and Threat Analysis of all sanitary sewer assets would be complex and resource-intensive, and would not provide incrementally more benefit than that provided by an otherwise well-operated and managed system. It is not appropriate to require every agency to implement this

**Seaside County Sanitation District Staff Review Comments  
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requirement unless the Water Board can demonstrate that those agencies complying with current requirements have been ineffective in reducing SSOs. This program should also only be required if and when adequate Water Board guidance has been developed and funding is provided.

Requiring development and implementation of the proposed Staff Assessment Program on an agency-by-agency basis is unrealistic. The expectations outlined in the proposed revisions to the SSS WDRs suggest that agency staff would be responsible for developing a program similar to the existing Technical Certification Program offered by the California Water Environment Association, which would require a substantial investment of resources to do redundant work at each agency. It is also not appropriate to require public agencies to train contractors (which are separate, private entities).

The Water Board should not implement these new requirements until detailed program guidance is provided. Also, Water Board staff has not demonstrated that the current training requirements are deficient.

- 5. SSMP sections (i) and (j) should be combined, because otherwise the requirements for routine review and revisions of the SSMP are redundant and contradictory.**

SSMP Section (i) *Performance Targets and Program Modifications* and Section (j) *SSMP Program Audits* both require the Enrollee to evaluate the effectiveness of the SSMP and correct or update the document as necessary. Section (i) indicates that this process is to occur on an annual basis, while Section (j) specifies a minimum frequency of once every two years. We recommend that Water Board staff combine these two sections and clarify the requirements.

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**Requiring de-chlorination of clean-up water is counter-productive.**

Prohibition C.3 indicates that potable water would have to be de-chlorinated before it could be used for spill clean-up (in the event water used for clean-up is not fully recovered). Putting restrictions on the use of potable water in cleaning up an SSO that is otherwise likely to violate either of the first two prohibitions simply adds further unnecessary challenges. In addition, the amount of potable water used, combined with the distance it would have to travel to reach a surface water (so the chlorine would readily degrade) does not warrant the additional on-site operational difficulty in dechlorination.

**Revisions to SSMP requirements are premature.**

We are concerned that the proposed revisions to the SSS WDRs include *significant* changes to SSMP program requirements. We strongly urge that the existing SSMP requirements be preserved as in the existing SSS WDRs. As the Staff Report indicates, development and implementation of SSMPs by SSS WDRs enrollees has just been completed and these plans need to be fully implemented so their effectiveness can be properly identified. Further, it is recognized that

**Seaside County Sanitation District Staff Review Comments  
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dramatically changing SSMP requirements before full implementation will likely lead to confusion regarding the SSMP requirements among enrollees, the public, and Water Board staff  
**Language describing SSMP requirements should be revised as follows (SSMP sections are listed in the order they appear in the proposed revisions to the SSS WDRs):**

- *Organization* - Including names, email addresses, and telephone numbers for the staff described in paragraph (b) (ii) is excessive information and inappropriate in a public document. Only the position and phone number should be included.
- *Legal Authority* - Paragraph (c) (v) should be revised to read: "Restrict, condition or prohibit new connections under certain conditions." In addition, Paragraph (c) (vi) indicates that agencies must have legal authority to "limit the discharge of roots..." It is not clear if this phrase is intended to refer to limiting root intrusion (which would be covered by good standard specifications), or to limiting the illicit discharge of debris including cut roots (which is already included in paragraph (c) (i)). In any case, the word "roots" should be removed from this paragraph.
- *Operations and Maintenance Program*
  - *Map* - Updating sewer system maps to identify and include all backflow prevention devices would be too onerous as they are not owned by the agency; this requirement should be removed.  
Also, the last section of paragraph (d) (i) should be revised to read: "A map illustrating the current extent of the sewer system shall be included in the SSMP or in a GIS." Also, this requirement needs to be clarified. It is not clear if "the current extent of the sewer system" refers to a one page map of the service area, or the entire detailed map. The latter would be impractical to include in the SSMP.
  - *Rehabilitation and Replacement* - The third sentence in paragraph (d) (iii) should be revised to read: "Rehabilitation and replacement shall focus on sewer pipes that are at risk of collapse or prone to more frequent blockages due to pipe defects." It is not correct to imply that age alone is problematic. It is incorrect to imply 'aging' is the same as 'deteriorating'.
  - *O&M and Sewer System Replacement Funding* - The first sentence in section (d) (vi) should be revised to read "The SSMP shall include budgets for routine sewer system operation and maintenance and for the capital improvement plan including proposed replacement of sewer system assets over time as determined by careful evaluation of condition of the system."
- *Design and Performance Provisions* - The addition of the phrase "all aspects of" in both paragraphs (i) and (ii) should be removed; requiring each agency to update their standards and specifications to cover every last possible minor detail of sanitary sewer system construction and inspections just to meet this requirement would create an unwarranted burden on staff. Also, the phrase is not necessary and is already implied.

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- *FOG Control Program* – Proposed revisions to (g) (iii) would simultaneously require legal authority to prohibit FOG discharges to the system and to require FOG dischargers to implement measures to prevent SSOs and blockages caused by FOG. This revised language contradicts itself, first by indicating that FOG discharges are to be prohibited, and then by including requirements for FOG dischargers. Also, the language appears to apply to both residential and commercial sources of FOG, but fails to recognize that logistical challenges may outweigh the benefits of *requiring* best management practices for residential FOG sources. We request that this existing language be preserved: “This plan shall include the following as appropriate:....The legal authority to prohibit discharges to the system and identify measures to prevent SSOs and blockages caused by FOG.”

**Notification requirements need to be clarified.**

We support the Staff Report’s indication that only Cal EMA would need to be notified when spills to surface water of any volume occur. However, Paragraph G.4 indicates that Enrollees are to provide immediate notification of SSOs to the local health officer or the local director of environmental health, contrary to the instructions indicated in Section A of the Monitoring and Reporting Program and the Staff Report. Please clarify that notification shall only to be made to Cal EMA, and indicate that Cal EMA will notify other agencies.

**Certain Monitoring and Reporting Program requirements need to be clarified.**

In addition to the request that mandatory PLSD reporting be removed from the proposed revisions to the SSS WDRs, several minor revisions should be made to clarify Monitoring and Reporting Program requirements:

- The second paragraph referring to other notification and reporting requirements is unnecessarily confusing and should be removed.
- Item 1.H under the description of mandatory information to be included in Category 2 SSO reports should be revised to read: “SSS failure point (main, lateral, etc.), if applicable.”
- Item 3.I under the description of mandatory information to be included in Category 1 SSO reports should be revised to read: “Name of surface waters impacted (if applicable and if known)...”
- Item 1.D under the minimum records to be maintained by the Enrollee should be revised to read: “...and the complainant’s name and telephone number, if known.”

# STAFF REPORT

## STATE WATER RESOURCES CONTROL BOARD WATER QUALITY ORDER NO. 2011-XXXX-DWQ STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR SANITARY SEWER SYSTEMS

### INTRODUCTION

In May 2006, the State Water Resources Control Board (State Water Board) adopted statewide general waste discharge requirements (WDRs) for sanitary sewer systems as Water Quality Order No. 2006-0003-DWQ. In 2008, the monitoring and reporting program (MRP) portion of the SSS WDRs was revised as Order No. 2008-0002-EXEC. Water Quality Orders No. 2006-0003-DWQ and 2008-0002-EXEC are referred to as the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs). The SSS WDRs were developed over 14 months in collaboration with a Sanitary Sewer Overflow (SSO) Guidance Committee that included stakeholders from the Regional Water Quality Control Boards (Regional Water Boards), publicly-owned sanitary sewer system agencies, Environmental Protection Agency (USEPA), and non-governmental environmental organizations. The purpose of the SSS WDRs was to provide consistent statewide requirements for quantifying and reducing both the number of SSOs and the volume of wastewater spilled in the state.

In September 2009, following approximately three years of SSS WDRs implementation, State Water Board staff initiated a review and update of the SSS WDRs.

Activities conducted for the review and update are summarized below.

- **Staff Public Meetings**

Staff held informal public meetings on September 15, 2009 in Orange County and on September 29, 2009 in the City of Oakland.

- **Comment Letter Solicitation**

In follow-up to the staff workshops, comment letters were solicited. A total of 38 comment letters were received from the public and four comment letters were provided by Regional Water Quality Control Boards (Regional Water Boards)

- **Workshop with Regional Water Board Staff**

A workshop with participating Regional Water Board staff from the North Coast, San Francisco Bay, Central Coast, Central Valley and San Diego Water Boards was conducted on January 19, 2010.

- **Data Review Committee**

As part of the staff workshops, a committee of stakeholders was formed to review California Integrated Water Quality System (CIWQS) SSO data collected to date. The goals of the Data Review Committee were to: (1) review the SSO data collection process and improve it to enhance the value of collected spill data for all stakeholders; (2) redesign the spill database and report forms to be event based instead of location-based since a blockage may cause overflows at several locations; and (3) evaluate and develop indices of collection system performance to be used in California. A total of 129 stakeholders



representing industry trade groups (e.g., Central Valley Clean Water Association), current enrollees, and environmental advocacy organizations (e.g., Baykeeper) registered for the Data Review Committee. Work products and progress of the group can be reviewed at the Groups Google site (<http://groups.google.com/group/sso-data-review-committee>).

- **California Emergency Management Agency (Cal EMA) Coordination**

A meeting was held with Cal EMA staff on March 4, 2010 to discuss statewide spill notification procedures in relation to the SSS WDRs. State Water Board staff gained information on how the SSO notification procedures can be streamlined in the update of the SSS WDRs.

- **Local Health Department Coordination**

Local Health Department staff was solicited to provide input on revisions to the SSS WDRs via a survey form that State Water Board staff distributed through the California Conference of Directors of Environmental Health, Land Use Committee.

In all, 341 comments in the 22 categories listed in Table 1 were received from the two staff public meetings, a workshop with Regional Water Quality Board (Regional Board) staff, a coordination meeting with California Emergency Management Agency (Cal EMA), solicited comment letters, and a survey of local health department staff.

Of all comments received, comments in the "WDRs Review and Update Timing" category were the only category of comments that were not included in the sample questions distributed to initiate comment solicitation.

The most significant issues raised from the comments received on the current SSS WDRs fall into the following categories:

- 1) **Private Laterals:** Should agencies be required to report sewage spills from private laterals when they become aware of them?
- 2) **Operator Certification:** Should collection system operators be certified?
- 3) **Notification:** Should required notification of SSO events by telephone be streamlined to reduce the number of parties to be notified and eliminate duplicative spill notifications and should enrollees be required to certify, within 24 Hours, to their Regional Water Board that they made the notification call?
- 4) **De-minimis Spill Volume:** Should small volume SSOs be exempt from notification and reporting requirements?
- 5) **Private Collection Systems:** Should private collection systems be subject to the SSS WDR?
- 6) **Prohibitions:** Should the SSS WDRs prohibit all SSOs, not just those that reach surface water or create a nuisance?

**Table 1 – SSS WDR Review & Update Comment Categories and Counts**

Comment Category	# Comments
Private Laterals	50
WDR Review and Update Timing	41
Miscellaneous Comments	27
Enforcement	23
Operator Certification	21
Notification	19
Sewer System Management Plans	18
CIWQS SSO Report Module	17
De-minimis Spill Volume	17
Questions	17
Education and Outreach	13
Reporting	13
Data review Committee	12
Private Collection Systems	11
Prohibitions	8
WDR Interpretation	8
Combined Collection Systems	7
WDR - NPDES	6
Sampling	4
Seasonal Facilities	4
Wastewater Treatment Plant Spills	4
GIS Maps	1
<b>Total</b>	<b>341</b>

- 7) **WDRs-NPDES:** Should the order be a National Pollutant Discharge Elimination System (NPDES) Permit or Waste Discharge Requirements (WDRs)?
- 8) **Sewer System Management Plans:** Should the requirements for Sewer System Management Plans be modified?

During the adoption process for the SSS WDRs in 2005-2006, many of the issues reflected in comments for this review and update were also prominent and formed a nexus of issues that shaped the current form of the SSS WDRs.

**SUBSTANTIVE COMMENTS AND STAFF RECOMMENDATIONS**

A brief summary of comments received in the categories noted above and staff recommendations for addressing them in the SSS WDRs update are provided below by comment category.

## PRIVATE LATERALS

Commenters suggested that:

- (1) The SSS WDRs should be updated to require mandatory reporting of private lateral sewage discharges (PLSDs);
- (2) PLSD reporting should remain voluntary; and
- (3) The option of reporting PLSDs, voluntary or otherwise, should be removed from the WDRs.

Based on data from the San Diego Regional Water Board, where PLSD reporting has been mandatory, and a study of Orange County PLSDs occurring from 2002 through 2006:

- There are likely as many PLSDs as SSOs;
- The total volume of sewage from PLSDs is about 5% of the total volume of sewage from SSOs; and
- A PLSD event has the potential to cause similar impacts to surface waters as an SSO event.

In addition, the fact that PLSD spills are loosely associated with the reporting collection system has created disincentives for enrollees to report PLSDs and, indirectly, disincentives for enrollees to maintain ownership of laterals.

To get a better picture of the magnitude of private lateral spills in California, to better identify collection systems with systemic issues with private laterals, and to level the field of enrollee spill reporting, State Water Board staff (hereinafter "staff") has included requirements in the draft SSS WDRs to mandate reporting of PLSDs when enrollees become aware of them. This is an alternative to keeping or eliminating voluntary reporting provisions. In addition, staff is streamlining the PLSD reporting form, adding features to allow batch upload of spills to CIWQS functionality, and making changes to the California Integrated Water Quality System (CIWQS) SSO Reports module to clarify that these spills are not from enrollee-owned sewer pipes.

## OPERATOR CERTIFICATION

Commenters suggested that the SSS WDRs:

- (1) Should be updated to require certification of collection system operators; and
- (2) Should not be updated to do this.

Comments stated that collection system performance improves when certified operators are employed, but issues of union bargaining, compensation, and cost and availability of training may be significant.

Staff recognizes that collection system operator certification can improve collection system performance and SSS WDRs compliance. However, staff has decided to not add operator certification requirements to the draft SSS WDRs at this time. Staff does not have data fully supporting the need to require collection system operator licensing; the State Water Board does not have the resources to develop and implement a licensing program for collection system

operators; and the increased costs of certifying collection system operators or employing certified operators may become an economic burden to small and disadvantaged communities.

## NOTIFICATION

Commenters suggested that the SSS WDRs spill notification requirements:

- (1) Should be simplified, because they are burdensome; and
- (2) Should be made more stringent.

Health and Safety Code section 5411.5 requires the local health department to be contacted directly for all spills that reach surface water. Water Code section 13271, however, established the Office of Emergency Services (OES) (now Cal EMA) as the point of contact for reporting sewage spills. Water Code section 13271 requires that "reportable amounts" of spilled sewage, defined in the California Code of Regulations Title 23, section 2250 as 1,000 gallons or more of sewage, be reported to Cal EMA. Subsequently, Cal EMA must notify the Regional Water Board and the local health department.

The current MRP portion of the SSS WDRs requires notification of Cal EMA, the local health department, and the Regional Water Board for any spill amount.

Staff is proposing to eliminate the duplicative notifications to the Regional Water Boards and local Health Departments in the MRP portion of the draft SSS WDRs and, to require that only Cal EMA be notified when spills to surface water of any volume occur. In addition, staff would also pursue a rulemaking to modify California Code of Regulations Title 23, section 2250 to state that a "reportable amount" is any amount of sewage spilled to surface water.

In terms of the two hour notification call required for spills that reach or may reach surface waters of the state, staff modified this requirement in the MRP portion of the SSS WDRs to be consistent with Water Code section 13271 by adding the conditions under which the two hour notification time line applies as follows:

....the Enrollee shall, as soon as possible, but not later than two (2) hours after (A) that person has knowledge of the discharge, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures, notify the California Emergency Management Agency (Cal EMA).

This change will help resolve issues regarding meeting the two hour notification requirement where site access, lack of phone service, and/or response activities result in delayed (i.e., over two hours) spill notification calls. This will allow enrollees to better prioritize spill response based on specific conditions of the spill and/or spill site. With the current requirement that the notification call be made in two hours, enrollees may, in some cases, have to forgo immediate corrective actions to abate a spill in order to make the notification call on time which may result in overall greater impacts to public health and the environment than if corrective actions were taken immediately.

The requirement to certify within twenty-four hours to the Regional Water Board that Cal EMA was notified was also removed in the draft SSS WDRs based on comments from Regional Water Board staff in some regions indicating that this was not necessary since Cal EMA notifies them immediately when they receive a spill report. Note that individual Regional Water Boards may impose additional notification and reporting requirements in their regions.

## DE MINIMIS SPILL VOLUME

Commenters suggested that the SSS WDRs should be updated to either significantly simplify or eliminate notification and reporting requirements for low volume spills.

All spills from collection systems are relevant since they are failures that prevent proper system functioning. In addition, they provide valuable information regarding the physical condition and adequacy of collection system operation and maintenance.

Currently, Category 1 SSOs are defined as spills of any volume to surface water or a drainage channel, a discharge of any volume to a storm drain that is not fully captured and, spills 1,000 gallons or more regardless of spill destination. Category 2 SSOs are defined as all other SSOs.

In the interest of public health and the environment, staff has retained the requirement that all spills be reported in the MRP portion of the draft SSS WDRs. In addition, staff has retained requirements that enrollees provide notification for spills of any volume that reach surface water. To address issues raised regarding the resources required to provide notification and reporting for small volume spills, staff has modified the spill report forms to streamline the reporting requirements for all SSOs. Staff has streamlined the reports by reducing data entry and by providing the capability to batch upload all Category 2, Category 1, and PLSD spills to CIWQS. In addition, changes in the draft SSS WDRs notification requirements set forth under the "Notification" category above will simplify notification and reduce the time required for notification for all spills.

## PRIVATE COLLECTION SYSTEMS

With respect to requiring private collection systems to be enrolled under the SSS WDRs, commenters recommend:

- (1) That the SSS WDRs should be amended to require private collection systems to be covered under the WDRs; and
- (2) That the SSS WDRs should not be amended to do this.

Private collection systems include satellite systems connected to enrollee collection systems (e.g., shopping malls, private gated communities, mobile home parks) and other private collection systems that have NPDES or WDR permitted treatment systems. Currently, some spills from private collection systems, where the private collection system is connected to a collection system enrolled in the SSS WDRs, are voluntarily reported as PLSDs by enrolled collection system staff.

Regulating private collection systems will bring equity to the SSO Reduction Program because it would be regulating public and private collection systems with an even hand. Regulating private collection systems will also resolve issues with federal facility participation in the SSS WDRs.

The draft SSS WDRs require coverage of private collection systems since spills from private systems appear to be as prevalent as spills from publicly owned systems and including private collection systems will bring equity to the program. The enrollment applicability criteria in the draft SSS WDRs is based on mileage of sewer pipe owned and the magnitude of peak daily discharge from the system. The proposed applicability requirements also affect public enrollees by relieving some of the smallest and most fiscally challenged collection system agencies from

the requirements of the SSS WDRs. The draft SSS WDRs enrollment applicability criteria are as follows:

1. Applicability Criteria and Deadlines for Application – All public and private entities that currently own sanitary sewer systems within the State of California meeting both of the following two applicability criteria must apply for coverage under the SSS WDRs within six (6) months of their adoption. Additionally, public and private entities that acquire sanitary sewer systems meeting both of the two applicability criteria noted below or whose sanitary sewer systems are expanded in size such that they will now meet both of the two applicability criteria noted below, after the date of adoption of the SSS WDRs, must apply for coverage under the SSS WDRs at least three (3) months prior to operation of those facilities.

Applicability Criteria:

- (a) The sanitary sewer system has a connected system of pipes greater than one mile in contiguous length, and
- (b) The sanitary sewer system collects and conveys, on any single day, more than 25,000 gallons per day of untreated or partially treated wastewater to a publicly or privately owned treatment facility or sanitary sewer system.

For the purpose of establishing applicability for enrollment on the basis of flows, either the measured peak daily flow rate or calculated peak daily flow rate based on industry accepted peak wastewater generation rates for land uses in the sanitary sewer system service area may be used.

Application is made by mailing a completed Notice of Intent (NOI) form to the State Water Board. Blank NOI forms can be downloaded in PDF format from the State Water Boards SSO Reduction Program web page at [http://www.waterboards.ca.gov/water\\_issues/programs/ssr/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/ssr/index.shtml). A separate NOI is required for each sanitary sewer system to be enrolled for coverage under the SSS WDRs.

2. Enrollees who own multiple sanitary sewer systems meeting the above applicability criteria and that are not physically connected are required to enroll each distinct sanitary sewer system separately under the SSS WDRs if they are managed as distinct assets in the form of separate sanitation districts, under separate operations and maintenance and/or capital improvement budgets, or are otherwise managed as distinct and separate sanitary sewer systems.
3. Where an Enrollee owns at least one sanitary sewer system meeting the applicability criteria in (1) above in addition to sanitary sewer systems with connected systems of pipes less than one mile in contiguous length that are not physically connected to their enrolled sanitary sewer system, the Enrollee is required to comply with the requirements of the SSS WDRs for those sanitary sewer systems under one mile in contiguous length and manage them under a Sanitary Sewer Management Plan.

## **PROHIBITIONS**

Commenters suggested that the SSS WDRs should be amended to prohibit all SSOs, not just those to surface waters and those that create a nuisance.

SSO data collected to date indicates that spills that do not reach surface water are high frequency but low volume (i.e., 87% of reported SSOs have not reached surface water and account for 18% of the total reported volume of wastewater spilled, whereas 13% of SSOs reach surface water and account for 82% of the total reported volume of wastewater spilled). As this data clearly demonstrates, the highest risk spills have been covered by the explicit prohibitions in the current SSS WDRs.

To eliminate confusion regarding what constitutes a prohibited spill; staff has adjusted the prohibition and added definitions. Specifically, the prohibition of discharges to "waters of the United States" has been changed in the draft SSS WDRs to a prohibition against spills to "surface waters of the state" where "surface waters of the state" have been defined as any surface water body, including saline waters, within the boundaries of the state. "Surface waters of the state" do not include groundwater.

## **NPDES Permit Option**

Commenters recommended:

- (1) Adopting the SSS WDRs as a National Pollutant Discharge Elimination System (NPDES) permit under the federal Clean Water Act;
- (2) Adopting the SSS WDRs as a two-tiered WDRs and NPDES permit; and
- (3) Re-adopting the SSS WDRs as only WDRs.

### NPDES Permit

With respect to recommendation #1 above, past court decisions addressed the states' and the United States Environmental Protection Agency's (U.S. EPA) ability to regulate discharges that are "potential" under an NPDES permit and have affirmed that an NPDES permit cannot regulate "potential" discharges. Because not all SSOs reach or result in a discharge to waters of the United States, not all SSOs would require an NPDES permit or violate the NPDES permitting requirements. Therefore, staff is concerned as to whether an NPDES permit could be issued to every collection system owner in the state until and unless their collection system had an SSO that resulted in a discharge to waters of the United States.

As background information, the U.S. EPA is developing national regulations for SSO notification, reporting, and collection system asset management. When the U.S. EPA adopts national requirements for sanitary sewer systems, the State Water Board may be required to adopt the SSS WDRs as an NPDES or two-tiered WDRs and NPDES permit.

### Two-Tiered WDRs and NPDES Permit

With respect to recommendation #2 above, a two-tiered WDRs and NPDES permit would require Enrollees that have had at least one SSO that has reached waters of the U. S. to seek coverage under the NPDES permit. Enrollees who have never had any SSO that reached waters of the United States would be required to seek coverage under the WDRs. When an

Enrollee covered under the WDRs reports an SSO that has reached waters of the U. S., the Enrollee would have to switch coverage from the WDRs to the NPDES permit.

Under this permitting scheme, the issue of "potential" discharges associated with the NPDES permit would be avoided since only agencies that have a demonstrated history of at least one discharge to waters of the United States would be required to seek coverage under the NPDES provisions of the permit.

The Water Boards have not traditionally used NPDES permits to regulate satellite collection systems that are not owned or operated by a POTW. In addition, to date the U.S. EPA has not implemented a national program for regulation of satellite collection systems under the NPDES program; however, U.S. EPA is working on such national requirements for sanitary sewer systems.

The San Francisco Bay Regional Water Quality Control Board has issued collection system permits to agencies with satellite collection systems connected to the East Bay Municipal Utility District regional collection system that contain both WDR and NPDES provisions. These include Clean Water Act and Porter Cologne prohibitions, Federal standard conditions, and require compliance with the SSS WDRs.

In all, approximately 35% of Enrollees reported spills that reached surface water. So, under the two-tiered permit proposal, approximately 35% of current enrollees would be subject to an NPDES permit.

Advantages of adopting the SSS WDRs as a two-tiered WDRs and NPDES permit include:

- This will simplify enforcement somewhat by allowing the State Water Board to cite Water Code section 13385 in enforcement actions, allowing a lower burden of proof for spill enforcement, and allowing for the imposition of higher monetary penalties.
- This change would allow for third-party (e.g., U.S. EPA, citizens, NGOs) lawsuits to not only address Clean Water Act violations for discharges to waters of the United States as is currently provided for but also for violations of the notification, reporting, and SSMP development provisions of the NPDES permit.

Issues with adopting the SSS WDRs as a two-tiered WDRs and NPDES permit include:

- An NPDES permit would prohibit spills to waters of the United States whereas the draft SSS WDRs prohibit spills to surface waters of the state which is a broader prohibition covering a wider range of water bodies in the state.
- The two-tiered WDRs and NPDES permit would be more complex and require more staff resources to implement. These additional staff resources would be better utilized towards improving the current Sanitary Sewer Overflow Reduction Program and conducting enforcement of the SSS WDRs.

Additional staff resources required to manage a two-tiered permit would include, but not be limited to: ensuring each collection system is properly enrolled under the correct permit type (i.e., WDRs or NPDES) and enrollments are transitioned from WDRs to NPDES when NPDES permit triggers occur. In addition, Enrollees may challenge being transitioned into the NPDES permit based on self reported spill data. This may require



more staff resources to make findings in specific cases that discharges to waters of the United States actually occurred.

- Allowing the U.S. EPA to develop the NPDES program for collection systems first and then adapting to the federal program will result in less confusion and potential back-tracking compared to the state forging NPDES policy in this area and having to adapt later to national requirements that may differ from adopted state requirements.

#### WDRs

For recommendation #3 above, the SSS WDRs would be re-adopted as WDRs-only. This is the form of the sanitary sewer systems permit the SSO Guidance Committee and State Water Board determined at the time of original adoption in 2006 would best accomplish the goals of the SSO Reduction Program.

Advantages of adopting the SSS WDRs as WDRs-only include:

- The draft SSS WDRs prohibit spills to surface waters of the state which is a broader prohibition covering a wider range of water bodies in the state than an NPDES permit which would limit the prohibition to spills to waters of the United States.
- Porter-Cologne covers all existing and proposed waste discharges that could affect the quality of state waters thereby avoiding the issue of "potential" discharges associated with application of an NPDES permit. In addition, WDRs under Porter-Cologne can address both protection of water quality as well as the prevention of public nuisance associated with waste disposal (*id.* §13263). There is no equivalent NPDES provision to address a prohibition against creating nuisance conditions.
- The SSS WDRs have been well established over the past four years and are functioning as WDRs. The SSO Reduction Program has been implemented as WDRs and keeping the program as WDRs will result in minimal confusion and disruption to the SSO Reduction Program and its enrollees. In comparison, the NPDES permitting of satellite collection systems is a relatively new and untested mechanism for regulating sanitary sewer systems.

Issues with adopting the SSS WDRs as WDRs-only include:

- Enforcement of WDRs under the Porter Cologne Water Quality Control Act requires a higher burden of proof for spill enforcement than an NPDES permit and WDRs do not allow for the imposition of monetary penalties as large as an NPDES permit.
- WDRs do not allow for third-party (e.g., U.S. EPA, citizens, NGOs) lawsuits to address violations of the notification, reporting, and SSMP development provisions of the WDRs.

However, State Water Board staff has conducted and continues to conduct enforcement for participation under the current SSS WDRs both in terms of failure to provide spill reports, no-spill certifications, and SSMP development and for failure to enroll for coverage under the WDRs.

Staff considers that the current SSS WDRs are functioning well as WDRs and that administering a two-tiered WDRs and NPDES permit would create administrative complexities because agencies would be subject to different orders depending upon their history of SSOs and, agencies would need to be transitioned from WDRs to an NPDES permit when the NPDES

triggers occur. Staff considers that the time required to constantly maintain agencies under the correct form of sanitary sewer systems permit would be better utilized in further improving the SSO reduction Program and conducting enforcement. There is also uncertainty in what U.S. EPA will propose as national NPDES sanitary sewer system requirements. Adopting an NPDES permit component at this time may result in the need to change the permit again if the U.S. EPA implements an NPDES permit for satellite sanitary sewer systems. This could result in more confusion among enrollees and Water Board staff and increased staff resources to change the permit again. Therefore, staff prefers to wait until after U.S. EPA develops regulations for sanitary sewer systems before changing the SSS WDRs to an NPDES permit or two-tiered WDRs and NPDES permit.

### **SANITARY SEWER MANAGEMENT PLANS**

Commenters recommended that:

- Sewer System Management Plan (SSMP) requirements be changed and/or clarified in the revised WDRs;
- SSMP requirements should not be changed at this time; the State Water Board should wait until two to three years after the SSMPs are fully implemented to make any changes; and
- Extension of the SSMP development and implementation timelines should be provided in the revised WDRs.

Commenters recommend the following changes to the SSMP requirements:

- Changing and clarifying the Fats Oils & Grease Control Program requirements;
- Adding requirements to address unsecured access to collection system components and require access vulnerability assessments;
- Requiring inclusion of information regarding use of automated monitoring in the collection system;
- Clarifying the System Evaluation and Capacity Assurance Plan (SECAP) requirements and deadlines;
- Requiring that a private sewer lateral inspection and replacement program be included in the SSMP;
- Requiring risk assessment and mitigation planning for sewer force main failures;
- Requiring satellite and receiving collection systems to plan for management of peak wet weather flows;
- Requiring schedules for asset replacement and development of design and performance standards for sewer rehabilitation and replacement;
- Requiring financial analysis and planning that ensures adequate funding of the SSMP;
- Clarifying schedule requirements for internal audits; and
- Changing the ordering of required SSMP elements in the WDRs.

Development and implementation of SSMPs by SSS WDRs enrollees has just been completed statewide and these plans need to be allowed to be fully implemented so their effectiveness and shortcomings can be identified. Dramatically changing SSMP requirements before full implementation could lead to confusion regarding the SSMP requirements amongst enrollees, the public, and Water Board staff. However, some of the issues raised in the comments noted above and issues observed with several SSMPs reviewed during collection system audits have been addressed in the draft SSS WDRs.

SSMP items addressed in the draft SSS WDRs include adjusting audit and governing board approval schedules, clarifying items required to be included in the SSMP, addition of more prescriptive language in relation to requirements for training of operators and contractors, addition of more prescriptive language in relation to addressing O&M and CIP budgets and funding sources in the SSMP, and changes to the requirements for SSMP submission to the State Water Board. Additional items will be addressed by staff through the development of guidance documents and fact sheets.

DRAFT - March 22, 2011

STATE WATER RESOURCES CONTROL BOARD  
ORDER NO. 2011-XXXX-DWQ

STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS  
FOR  
SANITARY SEWER SYSTEMS  
(SSS WDRs)

The State Water Resources Control Board (State Water Board) finds that:

1. The SSS WDRS for sanitary sewer systems is the result of a review and update of Order No. 2006-0003-DWQ and will improve wastewater spill data collection and oversight of sanitary sewer system management. The implementation of the general Waste Discharge Requirements (WDRs) for sanitary sewer systems under Order No. 2006-0003-DWQ adopted in May 2006 has provided the State Water Board with information to assess water quality problems caused by wastewater spills from sanitary sewer systems. It has also provided uniformity in reporting on the number of wastewater spills, the wastewater volume spilled, and the causes of wastewater spills in the state.
2. The provisions of the SSS WDRs implement California Water Code requirements that specify that notification be provided when wastewater spills to waters of the state occur (Water Code section 13271), that a report of the spill be filed with the Water Boards (Water Code section 13193(c)), and that the waste from the spill be cleaned up and its effects be abated (Water Code section 13304).
3. Both the lineal footage of pipe and the volume of wastewater transported by a sanitary sewer system are significant indicators of the potential for the sanitary sewer system to have wastewater spills that can affect human health and the environment. To ensure that the number of wastewater spills and the volume of wastewater spilled in the state are reported and oversight of sewer system management is provided, all publicly and privately owned entities, including federal and state agencies, municipalities, counties, districts, private residential and commercial development owners, mobile home park owners, and other entities that own sanitary sewer systems in the State of California meeting both of the following two applicability criteria are required to comply with the terms of the SSS WDRs. Such entities are hereinafter referred to as "Enrollees".

Applicability Criteria:

- (a) The sanitary sewer system has a connected system of pipes greater than one mile in contiguous length, and
  - (b) The sanitary sewer system collects and conveys, on any single day, more than 25,000 gallons per day of untreated or partially treated wastewater to a publicly or privately owned treatment facility or sanitary sewer system.
4. Enrollees who own multiple sanitary sewer system meeting the above two applicability criteria and that are not physically connected are required to enroll each distinct sanitary sewer system separately under the SSS WDRs if they are managed as distinct assets in the form of separate sanitation districts, under separate operations and maintenance and/or capital improvement budgets, or are otherwise managed as distinct and separate sanitary sewer systems. This will facilitate the tracking of wastewater spills from each

distinct collection system in the state and ensure all collection system assets are managed properly and spills from them are reported.

5. To ensure all of an Enrollee's collection system assets are managed properly and spills from them are reported, where an Enrollee owns at least one sanitary sewer system meeting the two applicability criteria in Finding No. 3 and additional sanitary sewer systems with connected systems of pipes less than one mile in contiguous length not physically connected to the Enrollee's enrolled sanitary sewer system, the Enrollee must comply with the SSS WDRs for those sanitary sewer systems they own that are under one mile in contiguous length and manage them under a Sanitary Sewer Management Plan.
6. Several sanitary sewer systems in the State of California are combined. They collect and convey both wastewater and storm water. These combined sanitary sewer systems are owned by entities that also own publicly owned treatment works that have been issued National Pollutant Discharge Elimination System (NPDES) permits. Requirements for proper operation and maintenance of these combined sanitary sewer systems are incorporated via standard conditions in their NPDES permits. Requirements for spill reporting from these combined sanitary sewer systems shall be incorporated in their Monitoring and Reporting Programs (MRPs).
7. Sanitary sewer overflows (SSOs) and Private Lateral Sewage Discharges (PLSDs) are overflows from sanitary sewer systems of wastewater including domestic sewage as well as industrial and commercial wastewater, depending on the pattern of land uses in the area served by the sanitary sewer system. SSOs and PLSDs often contain high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease and other pollutants. SSOs and PLSDs may cause a public nuisance, particularly when raw untreated wastewater is discharged to areas with high public exposure, such as streets or surface waters used for drinking, fishing, or body contact recreation. SSOs and PLSDs may pollute surface or ground waters, threaten beneficial uses and public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters.
8. Sanitary sewer systems experience periodic failures resulting in discharges to waters of the state. Many factors (including factors related to geology, design, construction methods and materials, age of the system, population growth, and system operation and maintenance), affect the likelihood of an SSO. A proactive approach that requires Enrollees to ensure that a system-wide operation, maintenance, and management plan is in place will reduce the number and frequency of SSOs within the state. This approach will in turn decrease the risk to human health and the environment caused by SSOs.
9. Major causes of SSOs and PLSDs include but are not limited to: grease blockages, root blockages, debris blockages, sewer line flood damage, manhole structural failures, pipe failures, vandalism, pump station mechanical failures, power outages, excessive storm or ground water inflow/infiltration, sanitary sewer system age, construction related material failures, lack of proper operation and maintenance, insufficient capacity, and contractor-caused damages. Many SSOs and PLSDs can be prevented by having adequate facilities, source control measures, and proper operation and maintenance of the sanitary sewer system.

10. It is the State Water Board's intent to gather additional information on the causes and sources of SSOs and PLSDs to augment existing information and to determine the full extent of SSOs and PLSDs and consequent public health and/or environmental impacts occurring in the State.
11. Both uniform SSO and PLSD reporting and a centralized statewide electronic database have been developed and implemented to collect information to allow the State Water Board and Regional Water Quality Control Boards (Regional Water Boards) to effectively analyze the extent of SSOs and PLSDs statewide and their potential impacts on beneficial uses and public health. The attached Monitoring and Reporting Program No. 2011-XXXX-DWQ is necessary to ensure compliance with the SSS WDRs.
12. Information regarding SSOs and PLSDs must be provided to Regional Water Boards and other regulatory agencies in a timely manner and be made available to the public in a complete, concise, and timely fashion.
13. Some Regional Water Boards have issued WDRs or WDRs that serve as National Pollution Discharge Elimination System (NPDES) permits to sanitary sewer system owners and/or operators within their jurisdictions. The SSS WDRs establishes minimum requirements to prevent SSOs. Although it is the State Water Board's intent that the SSS WDRs be the primary regulatory mechanism for sanitary sewer systems statewide, Regional Water Boards may issue more stringent or more prescriptive WDRs for sanitary sewer systems. Upon issuance or reissuance of a Regional Water Board's WDRs for a system subject to the SSS WDRs, the Regional Water Board will coordinate its requirements with stated requirements within the SSS WDRs, to identify requirements that are more stringent, to remove requirements that are less stringent than the SSS WDRs, and to provide consistency in reporting.

#### **SEWER SYSTEM MANAGEMENT PLANS**

14. To facilitate implementation of asset management principles including proper maintenance, operations, management, and funding of sanitary sewer systems, the SSS WDRs requires each Enrollee to develop and implement a system-specific Sewer System Management Plan (SSMP) for each sanitary sewer system enrolled for coverage under the SSS WDRs. To be effective, SSMPs shall include provisions to provide proper and efficient management, operation, and maintenance of sanitary sewer systems, while taking into consideration risk management and cost benefit analyses. Additionally, the SSMP shall contain a spill response plan that establishes standard procedures for immediate response to an SSO in a manner designed to minimize water quality impacts and potential nuisance conditions.
15. Many local public agencies in California have already developed SSMPs and implemented measures to reduce SSOs. These entities can build upon their existing efforts to establish a comprehensive SSMP consistent with the SSS WDRs. Other public and private entities, however, will require technical assistance and, in some cases, funding to improve sanitary sewer system operation and maintenance in order to develop SSMPs and measures to reduce SSOs.

16. SSMP certification by technically qualified and experienced persons can provide a useful and cost-effective means for ensuring that SSMPs are developed and implemented appropriately.

#### REGULATORY CONSIDERATIONS

17. The Federal Clean Water Act largely prohibits any discharge of pollutants from a point source to waters of the United States except as authorized under an NPDES permit. In general, any point source discharge of wastewater effluent to waters of the United States shall comply with technology-based, secondary treatment standards, at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the Clean Water Act.
18. In addition, the Basin Plans adopted by the Regional Water Boards in the San Francisco Bay, Central Valley, Lahontan, Santa Anna, and San Diego regions contain discharge prohibitions that apply to the discharge of untreated or partially treated wastewater. Finally, the California Water Code generally prohibits the discharge of waste to land prior to the filing of any required report of waste discharge and the subsequent issuance of either WDRs or a conditional waiver of WDRs.
19. California Water Code section 13263 provides that the State Water Board may prescribe general WDRs for a category of discharges if the State Water Board finds or determines that:
- The discharges are produced by the same or similar operations;
  - The discharges involve the same or similar types of waste;
  - The discharges require the same or similar treatment standards; and
  - The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

The SSS WDRs establish requirements for a class of operations, facilities, and discharges that are similar throughout the state.

20. The issuance of the SSS WDRs to Enrollees will:
- (a) Reduce the administrative burden of issuing individual WDRs to each Enrollee;
  - (b) Provide for a unified statewide approach for the reporting and database tracking of SSOs and PLSDs;
  - (c) Establish consistent and uniform requirements for SSMP development and implementation;
  - (d) Facilitate consistent enforcement for violations.
21. The beneficial uses of surface waters that can be impaired by SSOs and PLSDs include, but are not limited to, aquatic life, drinking water supply, body contact and non-contact

recreation, and aesthetics. Surface waters throughout the state support these uses to varying degrees.

22. The implementation of requirements set forth in the SSS WDRs will ensure the reasonable protection of past, present, and probable future beneficial uses of water and the prevention of nuisance. The requirements implement the water quality control plans (Basin Plans) for each region and take into account the environmental characteristics of hydrographic units within the state. Additionally, the State Water Board has considered water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect water quality in the area, costs associated with compliance with these requirements, the need for developing housing within California, and the need to develop and use recycled water.
23. The provisions of the SSS WDRs are issued pursuant to the authority set forth in the following Water Code and Health and Safety Code provisions:
- (a) Water Code section 13271 that requires any person who "causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state" to provide immediate notification to the California Emergency Management Agency "as soon as (A) that person has knowledge of the discharge, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures". Provisions of the SSS WDRs implement this Water Code requirement.
  - (b) Water Code section 13193(c) that requires a report be filed with the appropriate Regional Water Board when a spill or overflow from a sanitary sewer system to waters of the state occurs. Provisions of the SSS WDRs implement this Water Code requirement.
  - (c) Water Code section 13263 that requires a water board to, after any necessary hearing, prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. Section 13263 requires, among other things, that the water board take into consideration the need to prevent nuisance.
  - (d) Health and Safety Code section 5411 that states "No person shall discharge sewage or other waste, or the effluent of treated sewage or other waste, in any manner which will result in contamination, pollution or a nuisance." Provisions of the SSS WDRs implement this Health and Safety Code requirement.
  - (e) Water Code section 13304 that requires persons who discharge wastes to waters of the state in violation of any waste discharge requirement, other order, or prohibition to cleanup the waste and abate the effects of the waste. Provisions of the SSS WDRs implement this Water Code requirement.
  - (f) Water Code section 13267(b)(1) that provides the authority for Water Board staff to require technical or monitoring program reports when conducting investigations of any persons, political agency, or entity who have discharged waste. Reports required for these investigations may be in addition to routine



- reporting requirements specified in the SSS WDRs and associated Monitoring and Reporting Program.
- (g) Water Code section 13267(c) that provides the authority for State and Regional Water Board staff to inspect facilities to determine compliance with waste discharge requirements. Routine inspections of Enrollee sanitary sewer systems will be implemented to ensure compliance with the SSS WDRs.
  - (h) Water Code section 13267(f) that provides that the State Water Board may carry out the authority of the Regional Water Boards. The State Water Board and Regional Water Boards will work together in implementing the SSS WDRs and enforcing its provisions.
  - (i) Water Code section 13383 (a) that authorizes the State and Regional Water Boards to establish monitoring, inspection, entry, reporting, and record-keeping requirements for any person who discharges, or proposes to discharge, to navigable waters and any person who introduces pollutants into a publicly owned treatment works. Section 13383 (b) authorizes the State and Regional Water Boards to require any person subject to this section to establish and maintain monitoring equipment or methods and provide information as required.
24. The SSS WDRs are consistent with State Water Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California). The SSS WDRs impose conditions to prevent impacts to water quality, does not allow the degradation of water quality, will not unreasonably affect beneficial uses of water, and will not result in water quality less than prescribed in State and Regional Water Board plans and policies.
25. The action to adopt the SSS WDRs is exempt from the California Environmental Quality Act (CEQA, Public Resources Code §21000 et seq.) because it is an action taken by a regulatory agency to assure the protection of the environment and the regulatory process involves procedures for protection of the environment. (California Code Regulations, Title 14, §15308). In addition, the action to adopt the SSS WDRs is exempt from CEQA pursuant to California Code Regulations, Title 14, §15301, to the extent that it applies to existing sanitary sewer systems that constitute "existing facilities" as that term is used in §15301, and §15302, to the extent that it results in the repair or replacement of existing systems involving negligible or no expansion of capacity.
26. The Monitoring and Reporting Program No. 2011-XXXX-DWQ, which is incorporated by reference in the SSS WDRs, specifies the sewer spill notification and reporting requirements of the SSS WDRs.
27. The Staff Report, which is incorporated by reference in the SSS WDRs, contains supplemental information that was also considered in establishing these requirements.
28. The State Water Board has notified all known affected sanitary sewer system owners and all known interested persons of the intent to prescribe general WDRs in the form of the SSS WDRs for sanitary sewer systems.

29. The State Water Board conducted a public hearing on XXXX X, 2011, to receive oral and written comments on the draft SSS WDRs.

**IT IS HEREBY ORDERED**, that pursuant to California Water Code section 13263, the Enrollees, their agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted there under, shall comply with the following:

**A. DEFINITIONS**

1. **Combined Sanitary Sewer System** - A system of pipes, pump stations, sewer lines, or other conveyances used to collect and convey wastewater and storm water runoff.
2. **Data Submitter** - Any individual authorized by a legally responsible official (LRO) to enter data into the online sanitary sewer overflow (SSO) database on behalf of an enrolled agency.
3. **Drainage Channel** - For the purposes of the SSS WDRs, a drainage channel is defined as a man-made or natural channel that conveys runoff as part of a separate storm water collection system.
4. **Enrollee** - A public or private entity that:
  - (a) Owns a sanitary sewer system that contains segments of pipe greater than one mile in contiguous length and that collects and conveys, at any time, more than 25,000 gallons per day of untreated or partially treated wastewater to a publicly or privately owned treatment facility or sanitary sewer system in the State of California; and
  - (b) Submitted a complete and approved application for coverage under the SSS WDRs.
5. **Lateral** - Segment(s) of pipe that connect(s) a home, building, or satellite sewer system to a sewer main.
6. **Legally Responsible Official (LRO)** - Any individual authorized to enter and certify data into the online sanitary sewer overflow (SSO) database on behalf of an enrolled agency.
7. **Nuisance** - Water Code section 13050, subdivision (m), defines nuisance as anything that meets all of the following requirements:
  - (a) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
  - (b) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

- (c) Occurs during, or as a result of, the treatment or disposal of wastes.
8. **Private Lateral** – Privately owned sewer piping that is tributary to an Enrollee's sanitary sewer system. The responsibility for maintaining private laterals can be solely that of the Enrollee or private property owner; or it can be shared between the two parties. Sewer use agreements dictate lateral responsibility and the basis for a shared arrangement.
  9. **Private Lateral Sewage Discharge (PLSD)** - Wastewater discharges caused by blockages or other problems within laterals are the responsibility of the private lateral owner and not the Enrollee. Discharges from sanitary sewer systems which are tributary to the Enrollee's sanitary sewer system but are not owned by the Enrollee and do not meet the applicability requirements for enrollment under the SSS WDRs are also considered PLSDs.
  10. **Sanitary sewer overflow (SSO)** - Any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system upstream of a treatment plant head-works. SSOs include:
    - (a) Overflows or releases of untreated or partially treated wastewater that reach surface waters of the state. This includes all wastewater releases to storm drain pipes that are tributary to waters of the state that are not fully recovered;
    - (b) Overflows or releases of untreated or partially treated wastewater that do not reach surface waters of the state; and
    - (c) Wastewater backups into buildings and on private properties that are caused by blockages or flow conditions within the Enrollee owned portion of a sanitary sewer system.
  11. **Sanitary sewer system** – Any system of publicly or privately owned pipes, pump stations, sewer lines, or other conveyances, upstream of a wastewater treatment plant head-works used to collect and convey wastewater to a treatment facility or downstream sanitary sewer system. Temporary storage and conveyance facilities attached to the sanitary sewer system (such as vaults, temporary piping, wet wells, impoundments, tanks, etc.) are considered part of the sanitary sewer system and discharges into these temporary storage facilities are not considered SSOs. The term "collection system" shall have the same definition as a sanitary sewer system for the purposes of the SSS WDRs.

For purposes of the SSS WDRs, sanitary sewer systems include only those systems meeting both of the following applicability criteria:

    - (a) The sanitary sewer system has a connected system of pipes greater than one mile in contiguous length, and
    - (b) The sanitary sewer system collects and conveys, on any single day, more than 25,000 gallons per day of untreated or partially treated wastewater to a publicly or privately owned treatment facility or sanitary sewer system.
  12. **Satellite sanitary sewer system** – Any system of publicly or privately owned pipes, pump stations, sewer lines, or other conveyances meeting the definition of a "sanitary

- sewer system" that is tributary to another system of publicly or privately owned pipes, pump stations, sewer lines, or other conveyances meeting the definition of a "sanitary sewer system".
13. **Spill** - Generic term referring to any discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system upstream of a wastewater treatment plant head-works.
  14. **Storm Drain** - For the purposes of the SSS WDRs, any pipe that is part of a separate storm water collection system used for collecting and conveying runoff.
  15. **Untreated or partially treated wastewater** - Wastewater that has not been treated to meet applicable regulatory standards for discharge to waters of the state.
  16. **Surface waters of the state** - Means any surface water, including saline waters, within the boundaries of the state. "Surface waters of the state" do not include groundwater.

## B. APPLICATION REQUIREMENTS

1. **Applicability Criteria and Deadlines for Application** - All public and private entities that currently own sanitary sewer systems within the State of California meeting both of the following two applicability criteria must apply for coverage under the SSS WDRs within six (6) months of their adoption. Additionally, public and private entities that acquire sanitary sewer systems meeting both of the two applicability criteria noted below or whose sanitary sewer systems are expanded in size such that they will now meet both of the two applicability criteria noted below, after the date of adoption of the SSS WDRs, must apply for coverage under the SSS WDRs at least three (3) months prior to operation of those facilities.

### Applicability Criteria:

- (a) The sanitary sewer system has a connected system of pipes greater than one mile in contiguous length, and
- (b) The sanitary sewer system collects and conveys, on any single day, more than 25,000 gallons per day of untreated or partially treated wastewater to a publicly or privately owned treatment facility or sanitary sewer system.

For the purpose of establishing applicability for enrollment on the basis of flows, either the measured peak daily flow rate or calculated peak daily flow rate based on industry accepted peak wastewater generation rates for land uses in the sanitary sewer system service area may be used.

Application is made by mailing a completed Notice of Intent (NOI) form to the State Water Board. Blank NOI forms can be downloaded in PDF format from the State Water Boards SSO Reduction Program web page at [http://www.waterboards.ca.gov/water\\_issues/programs/ssso/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/ssso/index.shtml). A separate NOI is required for each sanitary sewer system to be enrolled for coverage under the SSS WDRs.

2. Enrollees who own multiple sanitary sewer systems meeting the above applicability criteria and that are not physically connected are required to enroll each distinct sanitary sewer system separately under the SSS WDRs if they are managed as distinct assets in the form of separate sanitation districts, under separate operations and maintenance and/or capital improvement budgets, or are otherwise managed as distinct and separate sanitary sewer systems.
3. Where an Enrollee owns at least one sanitary sewer system meeting the applicability criteria in (1) above in addition to sanitary sewer systems with connected systems of pipes less than one mile in contiguous length that are not physically connected to their enrolled sanitary sewer system, the Enrollee is required to comply with the requirements of the SSS WDRs for those sanitary sewer systems under one mile in contiguous length and manage them under a Sanitary Sewer Management Plan.
4. Applications under the SSS WDRs – In order to apply for coverage pursuant to the SSS WDRs, a legally authorized representative for each Enrollee must submit a complete application package. Current Enrollees of Order No. 2006-0003-DWQ are required to submit a new application package for coverage under the SSS WDRs. Within sixty (60) days of adoption, State Water Board staff will send specific instructions on how to apply for coverage under the SSS WDRs to all current Enrollee's of Order No. 2006-0003-DWQ and all known potential Enrollees that own sanitary sewer systems. Potential Enrollees that do not receive notice may obtain applications and instructions online on the Water Board's website at [http://www.waterboards.ca.gov/water\\_issues/programs/sso/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/sso/index.shtml).
5. Coverage under the SSS WDRs – Permit coverage will be in effect once a complete application package has been submitted and approved by the State Water Board's Division of Water Quality.

### C. PROHIBITIONS

1. Any SSO that results in a discharge of untreated or partially treated wastewater to surface water of the state is prohibited. This includes:
  - (a) Discharges to storm drains that are not fully captured and returned to the sanitary sewer system or captured and otherwise appropriately disposed of if the storm drain is tributary to a surface water of the state, and
  - (b) Discharges to drainage channels if the drainage channel is a surface water of the state or tributary to a surface water of the state.
2. Any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in California Water Code § 13050(m) is prohibited.
3. The discharge of chlorine, or any other toxic substance used for disinfection and cleanup of wastewater spills to any surface water body is prohibited. This prohibition applies to the chlorine residual in the potable water used for wash down and clean-up of wastewater spills.

**D. PROVISIONS**

1. The Enrollee must comply with all conditions of the SSS WDRs. Any noncompliance with the SSS WDRs constitutes a violation of the California Water Code and is grounds for enforcement action.
2. It is the intent of the State Water Board that sanitary sewer systems be regulated in a manner consistent with the SSS WDRs. Nothing in the SSS WDRs shall be:
  - (a) Interpreted or applied in a manner inconsistent with the Federal Clean Water Act, or supersede a more specific or more stringent state or federal requirement in an existing permit, regulation, or administrative/judicial order or Consent Decree, except that the SSS WDRs shall apply to all surface waters of the state as herein defined;
  - (b) Interpreted or applied to authorize an SSO that is illegal under either the Clean Water Act, an applicable Basin Plan prohibition, or water quality standard, or the California Water Code;
  - (c) Interpreted or applied to prohibit a Regional Water Board from issuing an individual NPDES permit or WDRs, superseding the SSS WDRs, for a sanitary sewer system, authorized under the Clean Water Act or California Water Code;  
or
  - (d) Interpreted or applied to supersede any more specific or more stringent state or federal requirement in an existing permit, WDR, regulation or enforcement order issued by a Regional Water Board.
3. In the event of an SSO, the Enrollee shall take all feasible steps to prevent untreated or partially treated wastewater from discharging into surface waters of the state by way of storm drains or drainage channels by blocking and removing the wastewater, where feasible, from the storm drains or drainage channels at a point upstream of the surface water body.
4. The Enrollee shall report all SSOs in accordance with Section G of the SSS WDRs. In addition, the Enrollee shall report PLSDs they become aware of in accordance with Section G of the SSS WDRs.
5. When a sanitary sewer overflow occurs, the Enrollee shall take all feasible steps and necessary remedial actions to 1) control or limit the volume of untreated or partially treated wastewater discharged, 2) terminate the discharge, and 3) recover as much of the wastewater discharged as possible for proper disposal, including any wash down water.

The Enrollee shall implement all remedial actions to the extent they may be applicable to the discharge and not inconsistent with an emergency response plan, including the following:

- (a) Interception and rerouting of untreated or partially treated wastewater flows around the wastewater line failure;

- (b) Vacuum truck recovery of SSOs and wash down water;
  - (c) Cleanup of debris at the overflow site;
  - (d) System modifications to prevent another SSO at the same location;
  - (e) Adequate sampling to determine the nature and impact of the release;
  - (f) Adequate public notification to protect the public from exposure to the SSO;  
and
  - (g) Other factors as deemed necessary by the Enrollee.
6. In any enforcement action, the State and/or Regional Water Boards will consider the appropriate factors under the duly adopted State Water Board Enforcement Policy. Consistent with the Enforcement Policy, the State and/or Regional Water Boards shall consider the Enrollee's efforts to contain, control, and mitigate SSOs when considering the California Water Code Section 13327 factors. In assessing these factors, the State and/or Regional Water Boards may also consider whether:
- (a) The Enrollee has complied with the requirements of the SSS WDRs, including requirements for reporting and developing and implementing a SSMP;
  - (b) The Enrollee can identify the cause or likely cause of the discharge event;
  - (c) There were no feasible alternatives to the discharge, such as temporary storage or retention of untreated wastewater, reduction of inflow and infiltration, use of adequate backup equipment, collecting and hauling of untreated wastewater to a treatment facility, or an increase in the capacity of the system as necessary to contain the design storm event identified in the SSMP. It is inappropriate to consider the lack of feasible alternatives, if the Enrollee does not implement a periodic or continuing process to identify and correct problems;
  - (d) The discharge was exceptional, unintentional, temporary, and caused by factors beyond the reasonable control of the Enrollee;
  - (e) The discharge could have been prevented by the exercise of reasonable control described in a certified SSMP for:
    - Proper funding, management, operation and maintenance,
    - Adequate treatment facilities, sanitary sewer system facilities, and/or components with an appropriate design capacity, to reasonably prevent SSOs (e.g., adequately enlarging treatment or collection facilities to accommodate growth, infiltration and inflow (I/I), etc.),
    - Preventive maintenance including cleaning; root control; and fats, oils, and grease (FOG) control,
    - Installation of adequate backup equipment, and
    - Inflow and infiltration prevention and control to the extent practicable;

- (f) The sanitary sewer system design capacity is appropriate to reasonably prevent SSOs; and
  - (g) The Enrollee took all reasonable steps to stop and mitigate the impact of the discharge as soon as possible.
7. The Enrollee shall properly fund, manage, operate, and maintain all parts of the sanitary sewer system owned or operated by the Enrollee, and shall ensure that the system operators (including employees, contractors, or other agents) are adequately trained and possess adequate knowledge, skills, and abilities to perform their duties including implementation of adequate emergency response procedures.
  8. The Enrollee shall allocate adequate funding and other resources to ensure that the proper maintenance, operation, management, and eventual replacement and repair of its sanitary sewer system are provided for by establishing a proper rate structure, accounting mechanisms, and auditing procedures to ensure an adequate measure of revenues and expenditures. These procedures shall comply with applicable laws, regulations, and generally acceptable accounting practices.
  9. The Enrollee shall provide adequate capacity to convey base flows and peak flows, including flows related to wet weather events. Capacity shall meet or exceed the design criteria as defined in the Enrollee's SSMP, System Evaluation and Capacity Assurance Plan section, for all parts of the sanitary sewer system owned by the Enrollee.
  10. The Enrollee shall develop and implement a written Sewer System Management Plan (SSMP) and make it available to the State and/or Regional Water Board upon request. A copy of this document shall be publicly available at the Enrollee's office and/or available on the Internet. The SSMP Development Plan and Schedule and the final SSMP must both be approved by the Enrollee's governing board at a public meeting.
  11. In accordance with the California Business and Professions Code sections 6735, 7835, and 7835.1, all engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. Specific elements of the SSMP that require professional evaluation and judgments shall be prepared by or under the direction of appropriately qualified professionals, and shall bear the professional(s)' signature and stamp. For purposes of complying with the SSS WDRs, professional evaluation and judgments shall be provided by a professional engineer registered in California, at a minimum, for the System Evaluation and Capacity Assurance Plan.
  12. The mandatory elements of the SSMP are specified below. If the Enrollee believes that any element of this section is not appropriate or applicable to their sanitary sewer system, that element is not required until the mandatory element is applicable to the Enrollee's sanitary sewer system. The Enrollee, however, shall still address each element listed below in its SSMP and justify why that element is not applicable in the SSMP. The SSMP shall be developed and approved by the deadlines listed in the SSMP Time Schedule below. The SSMP and all its components shall be considered living documents that need to be amended as conditions change in the service area or in system operations, management, or funding.



**Sewer System Management Plan (SSMP)**

- (a) **Goal:** The goal of the SSMP is to provide the plan and schedule to properly manage, operate, and maintain all parts of the sanitary sewer system owned by the Enrollee. This will help reduce and prevent SSOs, as well as mitigate any SSOs that do occur.
- (b) **Organization:** The SSMP must identify:
- (i) The name(s), email address(es), and telephone number(s) of the responsible or authorized representative(s) as described in Section J.
  - (ii) The names, email addresses, and telephone numbers for current governing board members including the board chair and names, email addresses, and telephone numbers for agency management, administrative, and maintenance positions responsible for implementing specific measures in the SSMP program including Legally Responsible Official(s) and Data Submitter(s) registered with the State Water Board. The SSMP must identify lines of authority through an organization chart or similar document with a narrative explanation of each individual's role and responsibility; and
  - (iii) The chain of communication for reporting SSOs, from receipt of a complaint or other information, including the person responsible for reporting SSOs to the State Water Board and other agencies, if applicable, such as the County Health Officer, the County Environmental Health Agency, the Regional Water Board, and/or the California Emergency Management Agency (Cal EMA).
  - (iv) The website address where the Enrollee's SSMP can be accessed, if applicable.
- (c) **Legal Authority:** Each Enrollee must demonstrate, through sanitary sewer system use ordinances, service agreements, or other legally binding procedures, that it possesses the necessary legal authority to:
- (i) Prevent illicit discharges into its sanitary sewer system (examples may include I/I, storm water, chemical dumping, unauthorized debris and cut roots, etc.);
  - (ii) Require that sewers and connections be properly designed, constructed, and maintained;
  - (iii) Ensure access in easements, right of ways, and any other areas sanitary sewer system facilities are installed for maintenance, inspection, or repairs of the sanitary sewer system and for any portions of the service lateral owned or maintained by the Enrollee;
  - (iv) Limit flows to the sanitary sewer system from connected sources including service laterals and satellite collection systems;

- (v) Ban new connections;
- (vi) Limit the discharge of roots, fats, oils, and grease and other debris that may cause blockages; and
- (vii) Enforce any violation of its sewer ordinances and, if applicable, collect penalties.

In addition, the Enrollee shall specify whether they own and maintain service laterals, and the portion(s) owned and/or maintained including pipe, clean outs, and backflow prevention devices. Any policies and procedures related to requirements for sewer easements shall also be addressed in this section of the SSMP.

- (d) **Operations and Maintenance Program:** The SSMP shall include those elements listed below that are appropriate and applicable to the Enrollee's system:
- (i) **Map:** Maintain an up-to-date map of the sanitary sewer system, showing, at a minimum, all gravity line segments and manholes, pumping facilities, pressure pipes and valves, siphons, backflow prevention devices, and storm water conveyance facilities. A map illustrating the current extent of the sewer system shall be included in the SSMP;
  - (ii) **O&M:** Describe routine preventive operation and maintenance activities by staff and contractors, including a system for scheduling regular maintenance and cleaning of the sanitary sewer system with more frequent cleaning and maintenance targeted at known problem areas. The Preventative Maintenance (PM) program shall have a system to document scheduled and conducted activities, such as work orders.  
  
The SSMP shall identify the name(s) of contractors conducting routine work on the sewer system for implementation of the SSMP and a description of services provided;
  - (iii) **Rehabilitation and Replacement:** Adopt a rehabilitation and replacement plan to identify and prioritize system deficiencies and implement short-term and long-term rehabilitation actions to address each deficiency. The program shall include regular visual and TV inspections of manholes and sewer pipes, and a system for ranking the condition of sewer pipes and scheduling rehabilitation and/or replacement. Rehabilitation and replacement shall focus on sewer pipes that are at risk of collapse or prone to more frequent blockages due to pipe defects and aging. Finally, the rehabilitation and replacement plan shall include a capital improvement plan that addresses proper management and protection of the infrastructure assets. The plan shall include a time schedule for implementing the

short-term and long-term plans plus a schedule for developing the funds needed for the capital improvement plan.

This section shall also include a description of any private sewer lateral inspection and replacement programs implemented within the sewer system service area;

- (iv) **Staff Assessment Program:** The Enrollee must develop and implement a Staff Assessment Program (Assessment Program) for its sanitary sewer collection system operations staff, from line staff through supervisors, including contractors, or others performing or overseeing collection system O&M. The Assessment Program shall identify any staff deficiencies in meeting requirements for competently performing collection system O&M activities required by the Enrollee to adequately maintain sanitary sewer system assets. This includes review of current staff job duties, training, skill sets and/or abilities against the requirements needed by the Enrollee to comply with the SSS WDRs. The Assessment Program shall be updated at least every 12 months. All deficiencies identified shall be addressed by the Enrollee, including any needed changes including but not limited to adjustments to O&M procedures and staff training activities.
  - (v) **Contingency Planning:** Identify the most critical collection system assets and operating procedures including components posing the highest risks and threats for an SSO. Contingency planning shall include a list of the most critical replacement part inventories that should be maintained by the Enrollee.
  - (vi) **O&M and Sewer System Replacement Funding:** The SSMP shall include budgets for routine sewer system operation and maintenance and for the capital improvement plan including proposed replacement of sewer system assets over time due to normal asset aging. Budgets shall include costs, revenues, and revenue sources for funding the work over a sufficient period to demonstrate the agency's ability to properly fund the sewer system in perpetuity.
- (e) **Design and Performance Provisions:** Each Enrollee shall adopt and implement sewer design, construction, inspection, and testing standards and specifications including:
- (i) Design and construction standards and specifications for the installation of all aspects of new sanitary sewer systems including pump stations and other appurtenances; and for the rehabilitation and repair of existing sanitary sewer systems; and
  - (ii) Procedures and standards for inspecting and testing all aspects of the installation of new sewers, pumps, and other appurtenances and sanitary sewer system rehabilitation and repair projects.

- (f) **Overflow Emergency Response Plan:** Each Enrollee shall adopt and implement an SSO emergency response plan that identifies measures to protect public health and the environment. At a minimum, this plan shall include the following:
- (i) Proper notification and reporting procedures so that the primary responders and regulatory agencies are informed of all SSOs in a timely manner;
  - (ii) A program to ensure appropriate response to all overflows including documentation of steps needed to prepare for natural disasters, hazardous weather events, and other severe circumstances that will affect sewer system operation. Program documentation should include contracts or agreements in place that may be needed in the event of SSOs to help mitigate the discharge;
  - (iii) Procedures to ensure prompt notification to appropriate regulatory agencies and other potentially affected entities (e.g. health agencies, Regional Water Boards, water suppliers, etc.) of all SSOs that potentially affect public health or reach surface waters of the state in accordance with the Monitoring and Reporting Plan (MRP). All SSOs shall be reported in accordance with the MRP, the California Water Code, other State Law, and other applicable Regional Water Board WDRs or NPDES permit requirements. The SSMP should identify the officials who will receive immediate notification;
  - (iv) Procedures to ensure that appropriate staff and contractor personnel are aware of and follow the Emergency Response Plan and are appropriately trained in emergency response;
  - (v) Procedures to address emergency operations, such as traffic and crowd control and other necessary response activities; and
  - (vi) A program and procedures to ensure that all reasonable steps are taken to contain and prevent the discharge of untreated and partially treated wastewater to surface waters of the state that includes a risk and threat analysis of all sanitary sewer system assets. The program shall also specify steps to minimize or correct any adverse impact on the environment resulting from SSOs including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the discharge.

The risk and threat analyses shall identify the highest risks and threats ranked in order posed by sewer system failures such as but not limited to gravity sewer main lines, laterals, force mains, air relief valves, pumping facilities, and other facilities or equipment the failure of which could be expected to produce an SSO. The analyses shall include the expected consequences of each identified failure. The analyses shall also include system-specific activities, procedures, and strategies employed by the Enrollee to help minimize the risks and threats of

SSOs with consideration given to known problem areas identified within the collection system.

- (g) **FOG Control Program:** Each Enrollee shall evaluate its service area to determine whether a Fats, Oils, & Grease (FOG) control program is needed. If an Enrollee determines that a FOG program is not needed, the Enrollee shall provide justification for why it is not needed. If FOG control is needed, the Enrollee shall prepare and implement a FOG source control program to reduce the amount of these substances discharged to the sanitary sewer system. This plan shall include the following as appropriate:
- (i) An implementation plan and schedule for a public education outreach program that promotes proper disposal of FOG;
  - (ii) A plan and schedule for the disposal of FOG generated within the sanitary sewer system service area. This may include a list of acceptable disposal facilities and/or additional facilities needed to adequately dispose of FOG generated within a sanitary sewer system service area;
  - (iii) The legal authority to prohibit discharges to the system and to require FOG dischargers to implement measures to prevent SSOs and blockages caused by FOG;
  - (iv) Requirements to install grease removal devices (such as traps or interceptors), design standards for the removal devices, maintenance requirements, BMP requirements, record keeping and reporting requirements;
  - (v) Authority to inspect grease-producing facilities and enforce for violations of the local FOG control requirements. The FOG Control Program shall identify required staffing levels to inspect and enforce the FOG ordinance;
  - (vi) An identification of sanitary sewer system sections subject to FOG blockages and establishment of a cleaning maintenance schedule for each section; and
  - (vii) Development and implementation of source control measures for all sources of FOG discharged to the sanitary sewer system for each section identified in (vi) above.
- (h) **System Evaluation and Capacity Assurance Plan:** The Enrollee shall adopt and implement a capital improvement plan (CIP) that will provide hydraulic capacity of key sanitary sewer system elements for dry weather peak flow conditions, as well as the appropriate design storm or wet weather event. At a minimum, the plan shall include:
- (i) **Evaluation:** Actions needed to evaluate those portions of the sanitary sewer system that are experiencing or contributing to an SSO discharge

caused by hydraulic deficiency. The evaluation shall provide estimates of peak flows (including flows from SSOs that escape from the system) associated with conditions similar to those causing overflow events, estimates of the capacity of key system components, hydraulic deficiencies (including components of the system with limiting capacity) and the major sources that contribute to the peak flows associated with overflow events.

- (ii) **Design Criteria:** Where design criteria required in section (e) above have not been established, do not exist, or are deficient, undertake the evaluation identified in (i) above to establish appropriate design criteria.
  - (iii) **Capacity Enhancement Measures:** The steps needed to establish a short-term and long-term CIP to address identified hydraulic deficiencies, including prioritization, alternatives analysis, and schedules. The CIP may include increases in pipe size, I/I reduction programs, increases and redundancy in pumping capacity, and storage facilities. The CIP shall include an implementation schedule.
  - (iv) **Schedule:** The Enrollee shall develop a schedule of completion dates for all portions of the capital improvement program developed in (i)-(iii) above. This schedule shall be reviewed and updated consistent with the SSMP review and update requirements as described in sections D.13 and D.14.
  - (v) **Funding:** The SSMP shall include budgets for capital improvements to the sewer system that are identified in (iii) above. Budgets shall include costs, revenues, and revenue sources for funding the work over a sufficient period of time to demonstrate the agency's ability to properly fund the sewer system capital improvements.
- (i) **Performance Targets and Program Modifications:** The Enrollee shall develop performance targets and incorporate necessary program modifications to monitor the Enrollee's progress in reducing SSOs over time. The performance targets and program modifications must be reviewed on an annual basis and shall include at a minimum the following steps:
- (i) Identify performance targets and illustrate SSO trends, including: SSO frequencies and volumes. Results for performance target attainment and spill trends shall be included and routinely updated in the SSMP;
  - (ii) Collect and maintain appropriate records and information to establish and prioritize the performance targets;
  - (iii) Link each performance target with the appropriate SSMP element(s);
  - (iv) Monitor the effectiveness and success of each SSMP element in meeting each performance target developed;

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- (v) Update SSMP elements, as appropriate, to achieve the performance targets; and
- (vi) Maintain an SSMP Change Log that includes a list of all modifications and changes made to the SSMP including date and identification of staff responsible for implementing each change.
- (j) **SSMP Program Audits:** As part of the SSMP, the Enrollee shall conduct periodic audits, appropriate to the size of the system and the number of SSOs. At a minimum, these audits shall occur every two (2) years and a report of the audit results shall be prepared and attached to the SSMP. This audit shall evaluate the effectiveness of each SSMP element in a narrative fashion including a discussion of progress in attaining performance targets and a discussion of the Enrollee's compliance with all SSMP requirements. Any identified deficiencies in the SSMP shall be identified in the audit along with the corrective actions taken or planned to be taken to correct them.
- (k) **Communication Program:** The Enrollee shall communicate, at a minimum, on an annual basis with the public regarding the development, implementation, and performance of its SSMP. The communication system shall provide the public the opportunity to provide input to the Enrollee as the program is developed, implemented, and modified.

The Enrollee shall also communicate, at a minimum, on an annual basis with any sanitary sewer systems that are tributary and/or satellite to the Enrollee's sanitary sewer system. Correspondence to document the communication activities specified above must be included in the Enrollee's SSMP.

13. Both the Enrollee's SSMP Development Plan and Schedule and their initially developed SSMP that is ready for implementation shall be certified by the Enrollee to be in compliance with the requirements set forth above and shall be presented to the Enrollee's governing board for approval at a public meeting. The Enrollee shall certify that the SSMP and its subparts comply with the SSS WDRs within the time frames identified in the time schedule provided in section D.14 below.

To complete this certification, the Enrollee's authorized representative must complete the SSMP certification portion in the Online SSO Database by entering the completion or revision date in the appropriate SSMP milestone box and selecting the "Certify" button, on the online form.

The current SSMP shall be posted on the Enrollee's internet site and/or made available in paper format to the public at an Enrollee's customer service or other publicly accessible location. In addition, Enrollees shall provide the web site address on the CIWQS Collection System Questionnaire where their SSMP is posted or, if the SSMP is not posted to an Enrollee internet site, upload an electronic copy of the current SSMP to the Online SSO Database every time the SSMP is re-certified.

The SSMP shall be updated and re-certified on the Online SSO Database, at a minimum, every two (2) years and shall include any significant program changes resulting from the SSMP program audits.

Re-certification by the governing board of the SSMP is required when significant updates to the SSMP are made that significantly change the scope and/or costs associated with implementing the SSMP and, at a minimum of, every four (4) years. To complete the re-certification process, the Enrollee shall include a copy of the governing board approval document in the revised SSMP, enter the data in the Online SSO Database as described above, post the document for public access as described above, and upload a copy of the revised SSMP to the Online SSO Database as described above.

14. The Enrollee shall comply with the following requirements according to the schedules noted below, as applicable. These time schedules do not supersede existing requirements or time schedules associated with other permits or regulatory requirements.

(a) New Enrollees – Privately Owned Sanitary Sewer Systems:

- (i) New Enrollees who own private sanitary sewer systems meeting the applicability requirements in section B above are required to meet the schedule specified in the table below for applying for coverage under the SSS WDRs and for SSMP development.
- (ii) New Enrollees who own private sanitary sewer systems that expand in size or who acquire new private sanitary sewer systems after adoption of the SSS WDRs where the applicability requirements in section B above apply, are required to meet the schedule specified in the table below for SSMP development. Enrollees shall apply for coverage under the SSS WDRs at least three (3) months prior to operation of the facilities.

(b) New Enrollees – Publicly Owned Sanitary Sewer Systems:

- (i) New Enrollees who own public sanitary sewer systems that expand in size or who acquire new public sanitary sewer systems after adoption of the SSS WDRs, where the applicability requirements in section B above apply, are required to meet the schedule specified in the table below for SSMP development. Enrollees shall apply for coverage under the SSS WDRs at least three (3) months prior to operation of the facilities.
- (ii) New Enrollees who own public sanitary sewer systems that met the applicability requirements of Order No. 2006-0003-DWQ but, were never enrolled in Order No. 2006-0003-DWQ and that meet the applicability requirements in section B above are required to apply for coverage under the SSS WDRs upon their adoption or as soon thereafter as practicable. The schedule for SSMP development will be determined by Water Board staff upon submission of the application for coverage under the SSS WDRs.
- (iii) New Enrollees who own public sanitary sewer systems that met the applicability requirements of Order No. 2006-0003-DWQ but were subsequently un-enrolled from coverage under Order No. 2006-0003-DWQ and that meet the applicability requirements in section B above



are required to meet the schedule specified in the table below for applying for coverage under the SSS WDRs and for SSMP development.

**E. SSS WDRs AND SSMP AVAILABILITY**

A copy of the SSS WDRs and the most current certified SSMP shall be maintained at appropriate locations for public access (such as the Enrollee's offices, facilities, and/or Internet homepage) and shall be available to sanitary sewer system operating and maintenance personnel at all times.

**F. ENTRY AND INSPECTION**

The Enrollee shall allow the State or Regional Water Boards or their authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the Enrollee's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of the SSS WDRs;
2. Have access to and copy, at reasonable times, any records that shall be kept under the conditions of the SSS WDRs;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the SSS WDRs; and
4. Sample or monitor at reasonable times, for the purposes of assuring compliance with the SSS WDRs or as otherwise authorized by the California Water Code, any substances or parameters at any location.

**Sewer System Management Plan Time Schedule**

Task and Associated Section	Completion Date			
	Population > 100,000 <sup>1</sup>	Population between 100,000 and 10,000 <sup>1</sup>	Population between 10,000 and 2,500 <sup>1</sup>	Population < 2,500 <sup>1</sup>
Application for Permit Coverage <b>Section B</b>	6 months after WDRs Adoption			
Reporting Program <b>Section G</b>	6 months after WDRs Adoption			
SSMP Development Plan and Schedule <b>No specific Section</b>	3 months after enrolling for coverage <sup>2</sup>	6 months after enrolling for coverage <sup>2</sup>	9 months after enrolling for coverage <sup>2</sup>	12 months after enrolling for coverage <sup>2</sup>
Goals and Organization Structure <b>Section D 13 (a) &amp; (b)</b>	6 months after enrolling for coverage <sup>2</sup>		12 months after enrolling for coverage <sup>2</sup>	
Overflow Emergency Response Program <b>Section D 13 (f)</b>	18 months after enrolling for coverage <sup>2</sup>	24 months after enrolling for coverage <sup>2</sup>	30 months after enrolling for coverage <sup>2</sup>	33 months after enrolling for coverage <sup>2</sup>
Legal Authority <b>Section D 13 (c)</b>				
Operation and Maintenance Program <b>Section D 13 (d)</b>				
FOG Control Program <b>Section D 13 (g)</b>				
Design and Performance <b>Section D 13 (e)</b>	30 months after enrolling for coverage <sup>2</sup>	33 months after enrolling for coverage <sup>2</sup>	42 months after enrolling for coverage <sup>2</sup>	45 months after enrolling for coverage <sup>2</sup>
System Evaluation and Capacity Assurance Plan <b>Section D 13 (h)</b>				
Final SSMP, incorporating all of the SSMP requirements <b>Section D 13</b>				

1. To establish population, use peak population served by the sanitary sewer system or calculate population converting peak flow using established values for flow per person or flow per equivalent dwelling unit and average persons per dwelling unit from U.S. Census or other local data.
2. Sanitary sewer systems currently enrolled in Order No. 2006-0006-DWQ are required to follow their bi-annual SSMP audit schedule to address the clarifications and additions to their SSMP required by the SSS WDRs.

## G. GENERAL MONITORING AND REPORTING REQUIREMENTS

1. The Enrollee shall furnish to the State or Regional Water Board, within a reasonable time, any information which the State or Regional Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the SSS WDRs. The Enrollee shall also furnish to the Executive Director of the State Water Board or Executive Officer of the applicable Regional Water Board, upon request, copies of records required to be kept by the SSS WDRs.
2. The Enrollee shall comply with the attached Monitoring and Reporting Program No. 2011-XXXX-DWQ and future revisions thereto, as specified by the Executive Director. Monitoring results shall be reported at the intervals specified in Monitoring and Reporting Program No. 2011-XXXX-DWQ. Unless superseded by a specific enforcement Order for a specific Enrollee, these reporting requirements are intended to replace other mandatory routine written reports associated with SSOs.
3. All Enrollees shall obtain SSO Database accounts and receive a "Username" and "Password" by registering through the California Integrated Water Quality System (CIWQS). These accounts will allow controlled and secure entry into the SSO Database. Additionally, within 30-days of receiving an account and prior to recording spills into the SSO Database, all Enrollees shall complete the "Collection System Questionnaire", which specifies pertinent information regarding a Enrollee's collection system. The "Collection System Questionnaire" shall be updated, at a minimum, every 12 months.
4. Pursuant to Health and Safety Code section 5411.5, any person who, without regard to intent or negligence, causes or permits any untreated wastewater or other waste to be discharged in or on any waters of the state, or discharged in or deposited where it is, or probably will be, discharged in or on any surface waters of the state, as soon as that person has knowledge of the discharge, shall immediately provide notification of the discharge to the local health officer or the local director of environmental health. Discharges of untreated or partially treated wastewater to storm drains and drainage channels; whether man made, natural or concrete-lined; that are not fully recovered, shall also be reported.
5. Pursuant to California Water Code section 13271, any SSOs of reportable quantity, as specified in the California Code of Regulations § 2250, discharged in or on any waters of the state, or discharged in or deposited where they are, or probably will be, discharged in or on any waters of the state shall be reported to Cal EMA.

## H. CHANGE IN OWNERSHIP

1. The SSS WDRs are not transferable to any person or party. The existing Enrollee shall submit a notice in writing to the State Water Board and applicable Regional Water Board at least three (3) months in advance of any proposed transfer of an entire sanitary sewer system enrolled under the SSS WDRs. Where just portions of an Enrollee's sanitary sewer system are to be transferred, refer to section H.2.

The notice shall include a written agreement between the existing and new Enrollee containing a specific date for the transfer of responsibility and coverage between the existing Enrollee and the new Enrollee under the SSS WDRs. This agreement shall include an acknowledgement that the existing Enrollee is liable for violations up to the transfer date and that the new Enrollee is liable from the transfer date forward.

The new Enrollee shall apply for coverage of the new facilities under the SSS WDRs at least three (3) months prior to their operation.

2. Where portions of an Enrollee's sanitary sewer system are transferred to any person or party, the Enrollee shall submit the notice required in H.1 above with a narrative description of the partial transfer and a map showing portions of the sanitary sewer system that are to be transferred. In addition, historic spills that occurred in the transferred portion(s) of the sanitary sewer system shall be identified in the notice using the California Integrated Water Quality System (CIWQS) spill report Event ID number or by providing reports with known facts about the spill if spills from the facilities were not reported to CIWQS.

#### **I. INCOMPLETE REPORTS**

If an Enrollee becomes aware that it failed to submit any relevant facts in any report required under the SSS WDRs, the Enrollee shall promptly submit such facts or information by formally amending the report in the Online SSO Database.

#### **J. REPORT DECLARATION**

All applications, reports, or information shall be signed and certified as follows:

1. All reports required by the SSS WDRs and other information required by State or Regional Water Boards shall be signed and certified by a person designated as 1) for a municipality, state, federal or other public agency, as either a principal executive officer or ranking elected official, or by a duly authorized representative of that person, as described in J.2, or 2) for a private entity as either the individual(s) who own(s) the sewer system or by a duly authorized representative of those persons or person. For purposes of electronic reporting, an electronic signature and accompanying certification that complies with the Online SSO database procedures, meets this certification requirement.
2. An individual is a duly authorized representative only if:

- (a) The authorization is made in writing by a person described in J.1; and
- (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity.

The "duly authorized representative" is referred to as the "Legally Responsible Official" (LRO) for the purposes of reporting for the SSS WDRs. Enrollees may designate multiple LROs for the purposes of complying with the SSS WDRs. Enrollees may also designate one or more "Data Submitters" (DSs) to facilitate reporting for the SSS WDRs.

**DRAFT - March 22, 2011**

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Data Submitters may enter spill report and other reporting data into the CIWQS SSO Module but can not certify entered data.

**K. CIVIL MONETARY REMEDIES FOR DISCHARGE VIOLATIONS**

1. The California Water Code provides various enforcement options, including civil monetary remedies, for violations of the SSS WDRs.
2. The California Water Code also provides that any person failing or refusing to furnish technical or monitoring program reports, as required under the SSS WDRs, or falsifying any information provided in the technical or monitoring reports is subject to civil monetary penalties.

**L. SEVERABILITY**

1. The provisions of the SSS WDRs are severable, and if any provision of the SSS WDRs, or the application of any provision of the SSS WDRs to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of the SSS WDRs, shall not be affected thereby.
2. The SSS WDRs do not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the Enrollee from liability under federal, state or local laws, nor create a vested right for the Enrollee to continue the waste discharge.

**CERTIFICATION**

The undersigned Clerk to the State Water Board does hereby certify that the foregoing is a full, true, and correct copy of the SSS WDRs duly and regularly adopted at a meeting of the State Water Resources Control Board held on XXXX X, 2011.

AYE:

NO:

ABSENT:

ABSTAIN:

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Jeanine Townsend  
Clerk to the Board