



California
Water Boards
Protecting California's Water

Sanitary Sewer Systems WDR Review and Update Workshop

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Board Workshop

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Overview

- Outreach Conducted
- Proposed Revisions to the Draft WDR
Based on Public Comments Received
- Substantive Issues Raised in Public
Comments & Staff Recommendations
- Next Steps

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Outreach Conducted

- **Initial Outreach**
 - Staff Public Meetings in September 2009: 2 Meetings Held, 183 Participants,
 - 42 Comment Letters Received, 341 Comments,
 - Workshop with Regional Water Board Staff,
 - Coordination with California Emergency Management Agency (Cal EMA),
 - Coordination with Local Health Departments.
- **Draft SSS WDR Revisions**
 - Released for Comment Letter Solicitation on March 24, 2011,
 - 176 Comment Letters Received,
 - ~2400 Comments Aggregated To 183 Comment Summaries,
 - Comment Summaries Released on December 15, 2011 for Stakeholder Review & Comment.

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Proposed Revisions

Note: “Summary #” Refers to the Comment Summary Id#. Comment Summaries are posted on the SSO Reduction Program Web Page at:
http://www.waterboards.ca.gov/water_issues/programs/ss0/cmmnt_smmry.shtml
“Section” refers to the section of the WDR being referenced.

- **“Enrollee” Definition** (Summary #12; Section A.4)
 - Add “operate” back so, applies to owners & operators.
- **“Lateral” Definitions** (Summary #39; Section A.8 & A.9)
 - Refine per Comments Recommendations in Summary.
- **“Sanitary Sewer System” Definition** (Summary #42; Section A.10)
 - Add “construction trenches” back into definition.

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Proposed Revisions (Contd.)

- Other Definitions – Refine (Summary # See below; Section A)
 - Refine Considering Recommendations in Comment Summaries:
LRO (Summary #43), Drainage Channel (Summary #45), Storm Drains (Summary #45), wastewater (Summary #46), SW of State (Summary #47), Nuisance (Summary #48), Private & Satellite SSS (Summary #40 &150).
- Prohibition on Discharge of Toxic Substances Used for Cleanup (Summary #166 & 179; Section C.3)
 - Refine Prohibition language to read: “The discharge to any surface water body of chlorine, or any other toxic substance, used for disinfection and cleanup of wastewater spills at toxic concentrations is prohibited. This prohibition may apply to the chlorine residual in potable water used for wash down and cleanup of wastewater spills.”

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Proposed Revisions (Contd.)

- Enforcement Discretion (Summary #54; Section D.6)
 - Change “may” back to “will”.
- Funding (Summary #209; Section D.8 & Summaries #236 & 276; Section D.12(d)(vi))
 - Remove “eventual replacement” & “perpetuity” from text.
 - Add language to Section D.12(d)(vi): “as determined by careful evaluation of condition of the system”.
- Rehabilitation and Replacement (Summary #276; Section D.12(d)(iii))
 - Replace the third sentence in paragraph (d)(iii) with:
“Rehabilitation and replacement shall focus on sewer pipes that are at risk of collapse or prone to more frequent blockages”.

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Proposed Revisions (Contd.)

- Rehabilitation and Replacement (Summary #247; Section D.12(d)(iii))
 - Change “shall” back to “should”.
- **Staff Performance Assessment Program (Summary #264; Section D.12(d)(iv))**
 - **Remove Requirement D.12(d)(iv) - Staff Performance Assessment Program and add as requirement to address in D.12 (j) – SSMP Program Audits.**
- Design & Construction Standards (Summary #203; Sections D.12(e)(i) &(ii))
 - Remove “all aspects of”.

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Proposed Revisions (Contd.)

- Overflow Emergency Response Plan (Summaries # 200 & 241; Section D.12(f)(vi))
 - Remove risk and threat analysis requirement in second paragraph of D.12(f)(vi) – Risk and Threat Analysis and add as requirement to address in D.12 (j) – SSMP Program Audits.
- **Performance Targets and Program Modifications (Summaries #197, 210 & 220; Section D.12(i) & (j))**
 - **Remove Requirement D.12(i) - Performance Targets and Program Modifications and add as requirement to address in D.12 (j) – SSMP Program Audits.**
- Electronic Submittal of SSMPs (Summary #208; Section D.13)
 - Remove requirement to upload the SSMP electronically to CIWQS each time it is re-certified if it is not made available on the Enrollee web site and replace with “submit an electronic copy to the State Water Resources Control Board”.

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Proposed Revisions (Contd.)

- Record Keeping Requirements (Summary #123; MRP Section C.1.B & C.1.C)
 - Remove requirements for Enrollee to keep draft and certified SSO reports on file.
- Questionnaire & Internal SSMP Audits/Re-Certification Timelines (Summaries #197 & 207; Sections G.3 & D.13)
 - **Change Questionnaire update requirement to every two years.**
 - **Retain internal audit requirement at every two years.**
 - **Keep revised SSMP Governing Board Approval/Re-Certification requirement at every four years.**

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Substantive Issues Raised

- Re-adopting as a WDR or NPDES/WDR Hybrid Permit
- Mandatory PLSD Reporting
- Providing Coverage for Private Collection Systems

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WDR or NPDES/WDR Hybrid Permit

Commenters' Recommendations:

- (1) Do not adopt as an NPDES/WDR Hybrid permit.
- (2) Only Adopt as NPDES/WDR Hybrid permit if "affirmative defense" provisions are provided.
- (3) Adopt as a two tiered permit where enrollees who discharge treated effluent directly to waters of the United States or who have had SSOs that have reached waters of the United States would be covered under an NPDES permit and the remaining enrollees would be covered under a WDR.

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WDR or NPDES/WDR Hybrid Permit

(Contd.)

Factors to consider in adopting an NPDES or NPDES/WDR hybrid permit include:

- (1) Simplification of enforcement:
 - Would allow the State Water Board to cite Water Code § 13385 in enforcement actions.
 - Would allow for the imposition of higher monetary penalties.
- (2) If NPDES, USEPA could enforce the permit and citizens could file lawsuits for violations of the SSS WDR requirements including for SSO events and violations of reporting and notification requirements.
- (3) Issues identified at WDR adoption are still relevant. These include:
 - WDRs provide broader regulatory coverage than NPDES permits.
 - Satellite collection systems have generally not been subject to NPDES permit requirements.

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WDR or NPDES/WDR Hybrid Permit (Contd.)

- Many wastewater treatment facilities within California do not have discharges to surface water and are not subject to the NPDES permitting process.
- The NPDES/WDR hybrid permit would be more complex and require more staff resources to implement.

(4) Proposed national legislation and an EPA Rulemaking to address SSO Reporting and Notification and Sewer System Management have been revived and are currently in process.

Staff Recommendation:

- Re-adopt as a WDR rather than an NPDES/WDR Hybrid permit at this time.

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Mandatory PLSD Reporting

Definition: Spills from private collection system laterals and private residential service laterals.

Revised WDR Requirements: Enrollees are required to report PLSDs to CIWQS when they become aware of them.

Commenters' Recommendations:

- (1) Keep private lateral spill reporting voluntary;
- (2) Remove option of reporting private lateral spills from the WDR;
- (3) Keep revised SSS WDR requirement mandating reporting of PLSDs when Enrollee becomes aware of them.

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Mandatory PLSD Reporting (Contd.)

Additional Background:

- Enrollees are generally opposed to requiring reporting of PLSDs citing cost and, that they do not have legal authority to access private property to investigate them.
- To clarify, sewer agencies may exercise the following legal authorities under California law:
 - Health and Safety Code, Section 6521: A Sanitation District may make and enforce “all necessary and proper regulations” for “sanitary purposes not in conflict with laws of this State”.
 - Health and Safety Code, Section 6523.2: “In order to effect its powers, it may enter upon private property for the purpose of inspection and maintenance of sanitary and waste disposal facilities and may terminate service to property in which violation of any rule or regulation is found to exist.”

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Mandatory PLSD Reporting (Contd.)

Additional Background (Contd.):

- Public Utilities Code, Section 13570: Special Districts for sewage disposal “may make and enforce such regulations for the control of quantity, quality and flow of waste water within the boundaries of a special district as are not in conflict with the general laws of the state.”
- Public Utilities Code, Section 13572: “Rules and regulations pertaining to the control of quantity, quality or flow of waste water may provide for any or all of the following” including:
 - “Procedures for enforcement of waste water standards and regulations adopted by the district and remedies for violation thereof.”
 - “Entry by the district upon private property to make surveys, inspections or samplings.”
 - “Such other provisions as are necessary to effectuate the control of the quantity, quality and flow of waste water within a special district.”

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Mandatory PLSD Reporting (Contd.)

Additional Background (Contd.):

- Due Diligence Consideration - Enrollees should inspect PLSD events to ensure they are not SSOs.
- Additional data collection will not resolve issues with PLSDs.

Alternatives:

- Alternative 1 – Forgo additional data collection, do not require mandatory reporting of PLSDs or support voluntary PLSD reporting in CIWQS moving forward, and, in place of these requirements, modify the SSMP Legal Authority and Communication Program requirements and require records of PLSD be maintained by the enrollee.
- Alternative 2 – Keep current revised SSS WDR requirement of mandatory reporting of private lateral spills when enrollees become aware of them.

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Mandatory PLSD Reporting (Contd.)

Staff Recommendation:

- Revise SSS WDRs per Alternative 1:
 - Develop revised SSMP Legal Authority and Communication Program requirements, and
 - Require records of PLSDs be maintained in-house by the enrollee.

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Private Collection Systems

Definition: Collection systems owned by private entities (e.g., large residential and commercial developments on private property)

Revised WDR Requirements: Enroll private sanitary sewer systems meeting the pipe mileage and flow rate applicability requirements in the revised WDRs.

Commenters' Recommendations:

- (1) Require private sanitary sewer systems to be covered
- (2) Do not require coverage of private sanitary sewer systems
- (3) Regulate private sanitary sewer systems under a separate Order.

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Private Collection Systems (Contd.)

Additional Considerations:

- Water Boards are most concerned with private sanitary sewer systems that are stand-alone systems.
- Many private sanitary sewer systems meeting revised applicability criteria are connected to public systems which may exercise legal authorities over them.
- Issues with private sanitary sewer systems connected to public systems could be addressed with enhanced Legal Authority and Communication Program SSMP requirements.

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Private Collection Systems (Contd.)

Alternatives:

- Alternative 1 – Require only private collection systems that discharge directly to treatment works (i.e., WDR and NPDES permitted waste water treatment facilities) to enroll.
- Alternative 2 – Require all private sanitary sewer systems meeting the pipe mileage and flow rate applicability requirements in the revised WDRs to enroll.

Staff Recommendation:

- Revise SSS WDRs per Alternative 1:
 - Require private collection systems that discharge to private treatment works to enroll (i.e., WDR and NPDES permitted private wastewater treatment facilities) and do not require private collection systems tributary to other sanitary sewer systems to enroll.

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Next Steps

- Solicit Additional Stakeholder Input (???)
- Draft revised Sanitary Sewer Systems WDR and Associated Monitoring and Reporting Plan,
- Issue Notice of Revised WDR, Staff Report, and Response to Comments,
- Hold Adoption Hearing.

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QUESTIONS?

BOARD DIRECTION / GUIDANCE?

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