California Water Environment Association Input

Regarding

Proposed Sanitary Sewer System General Order Reissuance

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State Water Board

CWEA Collection System Chapter Business Meeting
July 27, 2019
Thank you

For your meeting invitation

For your time invested in the “Redlines” of the existing Statewide Order, dated August 29, 2018 to inform future reissuance
Today’s Discussion

- State Water Board staff feedback pertaining to "red-line" revisions to existing General Order
- How major redline topics feed into current drafting of proposed Reissued General Order
- Regional Board and environmental group concerns incorporated throughout slides
Our Regulatory Goal for Proposed Order

- An Order that requires proactive system management to reduce “Spill” and eliminate discharges
  - Effective spill responsiveness
  - Proactive planning and management
  - Transparent reporting
- An Order that is feasible for agencies with today’s well performing systems, to comply
- An Order that addresses foundational concerns of the Enrollee, the Regional Water Boards, and environmental groups
Redlines Request Overall Clarification – Spills versus Discharges

Proposed Definitions

- “Spill” (generally replacing SS “Overflow”)
  - An unintentional release of sewage from a regulated sanitary sewer system
    - An overflow due to backup – capacity restrictions, blockages, other
    - Leakage or facility failure
- Discharge to Land - Net volume of spill that discharges to pervious land
- Discharge to a non-federal surface water - Net volume of spill that discharges to a non-federal surface water
- Discharge to a water of the US - Net volume of spill that discharges to a water of the US
Compliance Clarification for Spill Reporting

- Proposed Order will include requirements for:
  - Reporting where your spill flows
    - Includes knowing where storm drains discharge before a spill
  - Reporting of estimated spill and discharge volume and estimation method(s)
  - “Showing of your work” including preliminary assumptions
  - Confirmation or adjustment of preliminarily estimated volume
  - Firmer enforcement for intentional false reporting
Use of “Reasonable and Feasible”

- Staff agrees this is applicable to overall Order compliance
- Environmental Groups appear to agree with reasonable number of spills and feasible compliance
- Staff’s goal - Reissued Order be feasible for agencies that have shown good faith performance to comply
- Reasonable and feasible includes local council/board providing adequate resources to sewer department to support a well performing system
Redlines Request Regulatory Protection

Regulatory protection comes with clarity:

▪ Compliance with Clean Water Act (no Category 1 discharges), “versus”
▪ Compliance with General Order (area of quasi-regulatory protection)
  ▪ Numeric parameters indicating continued reduction in number of discharges, or maintenance of reasonable number of spills (2 spills per 100 miles per year)
  ▪ (this folds in effective spill responsiveness)
▪ Compliance with reporting requirements
▪ Compliance with sanitary sewer management plan requirements
## Proposed Example of Performance Metrics

<table>
<thead>
<tr>
<th>Proposed Time Schedule in Order for Reduction of Spills</th>
<th>Proposed Performance Metrics</th>
</tr>
</thead>
<tbody>
<tr>
<td>System-specific baseline performance identified per Effective Date of reissued Order</td>
<td>Average # [Cat 1-3] Spills per 100 feet per year (Average over previous 5 Years)</td>
</tr>
<tr>
<td>2 Years after Effective Date</td>
<td>90% of Baseline</td>
</tr>
<tr>
<td>Subsequent 2-year intervals</td>
<td>Incremental decrease of 10% of Baseline</td>
</tr>
<tr>
<td>(continued time schedule)</td>
<td>(continued decrease in spills)</td>
</tr>
<tr>
<td>Good Performing System</td>
<td>2 Spills / 100 miles / year</td>
</tr>
</tbody>
</table>
Discouragement of additional regional board requirements

- Addressing exfiltration as a discharge, which is what it is
  - Focusing on individual suspect systems, not sewer systems collectively
- Addressing enforceability on Sanitary Sewer Management Plan implementation – with focus on high risk system areas
- Setting up reporting for “external desktop audits”
- Placing greater focus on Penalty of Perjury Clause to address enforceability
- Taking first step in identifying larger private systems and proposing to require reporting of private spills
Redlines request Climate Change addressed individual systems, not as a whole

Proposed Additional System Planning Requirements:

- Assessment of existing system condition (includes capacity evaluation using design storms)
- Thorough risk analysis – Prioritizing high risk system areas / issues*
- Timely mitigation – Capital improvement and/or increased maintenance
- Timely update and implementation of Sanitary Sewer Management Plan

*Just as important for small less-complicated systems.
Request for Deminimus Spill Category – less than 50 gallons (Proposed Category 4)

- Staff considering recordkeeping onsite versus public reporting
- Justification includes allowance for agency to focus on larger spill causes
- Concern is with continued volume estimates of 49 gallons
- Recordkeeping must be made available upon request by Water Board staff
- Identification of misuse may trigger Enrollee-specific required reporting
- Expect this issue to be contentious
Categories and Volumes

- Category 1 – 1000 or greater, discharged to waters of the United States
- Category 2 – 1000 or greater, discharged to land or non-federal surface waters
- Category 3 – 50-999, discharged to land and/or all surface waters
- Category 4 – less than 50 gallons – discharged to land and/or surface waters.
Clarity on Sanitary Sewer Management Plan Certification Requirements

- Staff needs assistance with this – What do you want your Council/Board to certify?
- Staff understands this is an area of significant local cost savings, yet used for communication with your local board
Internal Auditing Requirements

- Proposed (at this time) 3 - 3 - 2 – Internal audit every three years. Updated Sanitary Sewer Management Plan two years later.
- Internal Audit findings to be reported for Office of Enforcement desktop external review
- Staff understands this issue may be contentious – will be discussing further with stakeholders
How should operator certification play a role in the reissued Order?

Does CWEA have a formal position on this?
Proposed Options for Annual Compliance Acknowledgement

- **A Letter to an Enrollee**, issued by the State Water Board Deputy Director of Water Quality, acknowledging well performing systems
  - Not stating full compliance with Clean Water Act.

- **List of Enrollees** acknowledged as well performing systems, on State Water Board Webpage