

California Water Environment Association Input

Regarding

**Proposed Sanitary Sewer System General
Order Reissuance**

**Diana Messina
Regulatory Manager
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

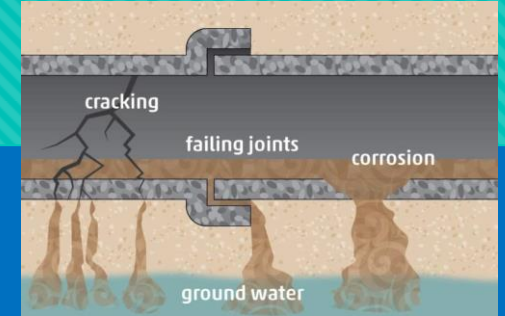
Today's Discussion

- 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

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

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

