

THE SANITARY SEWER OVERFLOW (SSO) RULE

The last several years have seen a significant increase in regulatory attention and activity associated with reducing sanitary sewer overflows (SSOs), which is the release of untreated wastewater from manholes, sewer lines, pumping stations or treatment works. The Clean Water Act and NPDES regulations already prohibit SSOs that reach waters of the United States. Now a proposed Sanitary Sewer Overflow (SSO) Rule is specifically targeted toward municipal sanitary sewer collections. The proposed rule recommends three new NPDES permit conditions for publicly owned treatment works (POTW) and municipal sanitary sewer collection systems. Using four major elements, it defines a framework under the NPDES program for regulating municipal satellite collection systems.

1. Regulation of municipal satellite collection systems

A municipal satellite collection system is a collection system that meets the following 3 criteria:

- It is owned by a municipality.
- It is used to convey municipal sewage or industrial waste to a publicly owned treatment works (POTW) that operates under an NPDES permit.
- The owner/operator is not the owner/operator of the POTW with the NPDES permit.

The provision will include NPDES permit application requirements and extend permit conditions to municipal satellite collection systems, including proper operation and maintenance, mitigation of SSOs, 24-hour reporting of SSOs and non-compliance reporting.

Individual permits for satellite collection systems will not be required if the POTW owner extends requirements to associated satellite collection systems via written ordinances or service agreements. If this approach is ineffective in eliminating SSOs, then individual permits for satellite collection systems will be required.

2. Capacity, management, operation, and maintenance (CMOM) requirements

- Properly manage, operate, and maintain all parts of the wastewater collection system.
- Provide adequate capacity to convey normal flows and peak flows.
- Take all feasible steps to prevent and mitigate the impact of sanitary sewer overflows (SSOs).
- Provide notification to parties that may be affected by pollutants released during an SSO event.
- Develop a written summary of your CMOM program and make it available upon request to any interested party.

The goals of a CMOM program focus on collection system operation and maintenance, capacity assurance, elimination and mitigation of SSOs and public notification.

3. Revised prohibition of SSOs

The revised prohibition provision includes 4 components:

- The general prohibition.
- Enforcement relief for discharges caused by severe natural conditions.
- An affirmative defense for discharges caused by others factors beyond the control of the owner/operator.
- Assignment of the burden of proof.

The affirmative defense is one the most controversial parts of the proposed SSO Rule. This provision allows enforcement relief from discharges beyond the reasonable control of the owner/operator. Municipal stakeholders negotiated vigorously to include this affirmative defense, whereas EPA enforcement staff argued against weakening the enforcement provisions of the existing NPDES program.

4. Increased record-keeping, reporting, and public notification

The revised reporting, public notification, and recordkeeping provision includes the following 6 components:

- A revised definition of sanitary sewer overflow.
- Immediate notification (24 hours) and follow-up reports.
- Discharge monitoring reports.
- Annual report that summarizes the date, location, and volume of all SSOs that occurred that year.
- Recordkeeping.
- Additional public notification.