

**WATER COMMITTEE ISSUE SUMMARIES**  
**WET WEATHER ISSUES**  
**NOVEMBER 2003**

There are two primary wet weather-related regulatory issues of concern to publicly-owned treatment works (POTWs) and the Tri-TAC Water Committee. The two issues are Sanitary Sewer Overflow regulations and Blending.

**Sanitary Sewer Overflows**

**Background:** In 1994, USEPA began a stakeholder process to develop a federal regulatory mechanism for sanitary sewer overflows (SSOs). This stakeholder process (conducted under the Federal Advisory Committee Act, or FACA) ended its deliberations in 1999. In early January, 2001, USEPA sent a draft SSO regulation to the Federal Register, but when President Bush came into office shortly thereafter, he pulled the publication of the rule (which is also known as the CMOM regulations (for Capacity, Management, Operation and Maintenance) and the rule still remains an unofficial draft, unpublished. As of April 2003, Tracy Mehan, USEPA Assistant Administrator for Water, stated that the draft CMOM rule is a “nonstarter” until USEPA resolves the outstanding Blending issue.

**Enforcement:** Independent of the SSO/CMOM Federal regulation/rule process, in 2000, USEPA issued the Compliance and Enforcement Strategy Addressing Combined Sewer Overflows and Sanitary Sewer Overflows. This strategy called for each USEPA Region to develop an enforcement response plan, including an inventory of SSO violations and a description of how 20% of the priority systems with SSO violations would be addressed each year (using CWA as authority). Section 308 Information Request letters were sent out to many collection system agencies in Southern California and a few in Northern California, and included a request for self-assessment and an inventory of satellite agencies. Audits of selected agencies have been performed in the last couple of years by the USEPA Office of Enforcement, Region 9, with a focus on Southern California agencies, but also including some collection system agencies in Northern California. As a follow up to these 308 information request letters, Administrative Orders have been issued to the City of San Diego, City of Laguna Beach, City of Carpinteria, City of Folsom, City of Los Angeles and most recently Los Angeles County Sanitation Districts (LACSD). The USEPA Region 9 has not been willing to share the criteria upon which they have prioritized their SSO enforcement actions.

**SSO permits and General Orders:** There have been a range of activities to develop NPDES permits or General Waste Discharge Requirements (WDRs) for specific collection systems or blanket permits/orders for given regions. The City of Folsom was issued an NPDES permit for their collection system, and the Santa Ana Regional Board (Region 8) recently adopted region-wide General WDRs for collection system agencies. The San Francisco Bay Regional Board recently adopted a resolution to work with POTWs and collection system agencies, to develop a reporting system and CMOM standard, as an initial step prior to developing a regulatory permit/order approach.

Most recently, there have been indications that the State Water Resources Control Board (SWRCB or State Board) would like uniformity in how the various Regional Boards approach this issue. Ken Theisen, of the Santa Ana Regional Board, and the principal staff person for the development of the Santa Ana Region General Order for SSOs, is initiating an effort to develop a statewide General Order, likely modeled after the Santa Ana Order. The State Board is supporting this effort although it appears that no State Board staff have been assigned to it yet.

**Issues:** The main area of concern for POTWs on this issue continues to be the language in many of the permits/orders which prohibits SSOs. Even with affirmative defense language that the Santa Ana Region has in their General Order, a direct prohibition against SSOs (which will always occur at some frequency) raises public policy and compliance concerns. Further, the driver of this issue in the state has been Southern California beach closures and other regions may not have the same relative water quality priorities.

### **Blending**

**Background:** Blending is a common practice utilized by wastewater agencies for the past 30 years whereby POTWs, during periods of wet weather, blend secondary effluent, with a portion of primary effluent, to protect their secondary process from hydraulic washout. When this type of Blending occurs, permit limits are generally still being met. A draft policy outline (“current thinking”) on Blending was developed by USEPA in January 2001, which allowed the practice of blending under specified industry standards.

**Status:** After a significant stakeholder input from AMSA and WEF, EPA drafted a second round of blending guidance. Most recently, USEPA has released a comprehensive draft document in the Federal Register which allows Blending under certain circumstances.

*Contact: Ben Horenstein, EBMUD or Monica Oakley, LWA*

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