



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
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OPTIONAL FORM 99 (7-99)

FAX TRANSMITTAL

# of pages 3

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NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

Song Her, Clerk to the Board  
State Water Resources Control Board  
1101 I Street, 24<sup>th</sup> floor  
Sacramento, CA 95814

5/2/06 Item 7  
SSORP  
deadline: 4/24/06

Dear Ms. Her:

We are submitting comments on the State Water Resources Control Board's March 24, 2006 proposed Statewide General Waste Discharge Requirements for Sewage Collection Agencies (WDR). We commend the Board for developing a statewide strategy to reduce sanitary sewer overflows from collection systems. We offer suggested modifications to clarify the WDR requirements and the basis for these requirements as described in the fact sheet. EPA supports the proposed WDR and we urge the Board to adopt the WDR with these modifications.

This WDR has grown out of a collaborative process involving numerous stakeholder groups in the SSO Guidance Committee. In the course of developing this WDR, the Board grappled with and resolved a number of difficult issues. The Board decided to issue the WDR as a non-NPDES WDR, provide enforcement considerations for unavoidable spills and retain the standard federal provisions in NPDES permits for Publicly Owned Treatment Works (POTWs) collection systems. EPA agrees with the Board's resolution of each of these issues. Having resolved these issues, our remaining comments deal with clarification of terminology and procedures in the WDR and Fact Sheet.

**Relationship of the Proposed General WDR to Existing WDRs and NPDES Permits**

In the "Incorporating Existing Permits" section of the Fact Sheet, the Board recognizes that, after adoption of the proposed WDR, some sanitary sewer systems may be subject to requirements in existing WDRs and NPDES permits as well as the new statewide general WDR. As POTW-owned sewer systems must be covered by an NPDES permit, these systems will inevitably be covered by both the new statewide WDR and their NPDES permits. EPA agrees with the principles and procedures described in the Fact Sheet and paragraph 11 of the proposed WDR for minimizing confusion between requirements of the new WDR and existing sanitary sewer system requirements (including NPDES permits). We offer to work with Board staff to develop additional guidance for Regional Board permit writers to help minimize conflicting permit requirements and ensure as much consistency as possible. We recognize NPDES permit modifications must comply with EPA's anti-backsliding regulation (40 CFR 122.44(l)), which can be addressed in our joint guidance.

The Fact Sheet recognizes that NPDES permits for POTWs must retain at least the standard federal NPDES provisions, including three provisions that apply to collection systems (proper operations and maintenance, duty to mitigate, and the requirement to report non-compliance). We are concerned, however, that the description of the proposed WDR as the "primary regulatory mechanism for sanitary sewer systems" may create confusion about the continued relevance of NPDES permits. To alleviate any misunderstanding, we recommend adding the following points to the Fact Sheet:

1. The WDR is intended to be the primary mechanism for establishing *detailed and comprehensive statewide* requirements for all collection systems.
2. The WDR operates in conjunction with any NPDES permit required under the Clean Water Act. The general WDR cannot substitute for a NPDES permit.
3. The Board recognizes that, for some sanitary sewer systems, the Regional Boards may need to impose more stringent requirements than those contained in the proposed WDR. In these cases, the Regional Boards retain the option to impose the more stringent or remedial requirements in an enforcement order instead of in an NPDES permit or WDR.

### Waters of the United States

In the March 2006 version of the proposed WDR, the Board substituted the term "waters of the United States" for the term "surface water". We agree that "waters of the United States" should be used in the spill prohibition at section C of the WDR. On the other hand, for purposes of reporting requirements, because the term "waters of the United States" has a complex legal meaning, we recommend use of more widely understood terminology in the WDR Monitoring and Reporting Program. Sections A.1 and 2, which could use the term "surface water" or "receiving water" instead of "waters of the United States." Section A.8.D should be changed to require reporting of the facts pertaining to the final spill destination by using commonly understood physical descriptions such as street and curb, storm drain or surface water. Section A.10.B should require reporting of the amount spilled to storm drains or surface water.

### Clarifying Edits


We offer the following edits to clarify provisions in the WDR and Fact Sheet:

1. The definition of SSO at section A.1 of the WDR should be changed to read "...diversion of untreated *or partially treated* wastewater...". The prohibition at section C.1 of the WDR should be modified to read "...discharge of untreated *or partially treated* wastewater..."
2. Paragraph 16 of the WDR uses the qualifier "largely" in the first sentence and "in general" in the second sentence. In our view, neither qualifier is appropriate and both should be deleted.
3. In the Fact Sheet section titled "NPDES v. WDR", to be more accurate, we suggest changing the third sentence in the first paragraph to read as follows: *Since not all SSOs result in a discharge to waters of the U.S, not all SSOs violate the Clean Water Act discharge prohibitions*. We further suggest adding the following as a parenthetical at the end of, or as a footnote to, the preceding sentence: *though such SSOs may reflect a failure to properly operate and maintain facilities as required by each NPDES permit.*

4. In the Fact Sheet section titled "Incorporating Existing Permits", we recommend changing the last sentence in the fifth paragraph to read as follows: *In addition, the Regional Boards must ensure that existing NPDES permits retain the standard federal NPDES provisions and clarify that the standard provisions discussed above apply to the permittee's collection system.*

Thank you for considering our comments. EPA is prepared to assist the State and Regional Boards in implementing this important new WDR. If you have any questions regarding our comments, please contact me or Ken Greenberg. Mr. Greenberg will be attending the May 2 hearing to express our support for the proposed WDR.

Sincerely,

 24 April 2006  
Alexis Strauss, Director  
Water Division