



U.S. Environmental Protection Agency – November 2004
Compliance and Enforcement National Priority:
Clean Water Act, Wet Weather, Combined Sewer
Overflows

The United States Environmental Protection Agency (EPA) Office of Enforcement and Compliance Assurance (OECA) has established national priorities for federal fiscal years (FY) 2005 through 2007. OECA and the EPA's 10 Regions will make the following issues priorities for monitoring, compliance assistance, enforcement and cleanup actions over the next three years:

1. Clean Air Act: Air Toxics
2. Clean Air Act: Prevention of Significant Deterioration and New Source Review
3. Tribal
4. Clean Water Act: Wet Weather, including:
 - Concentrated Animal Feeding Operations
 - Combined Sewer Overflows
 - Sanitary Sewer Overflows
 - Storm Water
5. Resource Conservation and Recovery Act: Mineral Processing and Mining

After evaluating the Safe Drinking Water Act (SDWA) Microbial Rules as a national priority, the Agency determined that it was more appropriate to address the non-compliance microbial problems, which occur predominately at very small drinking water systems, through the SDWA core program. The Petroleum Refining national priority is near completion and will be assessed during the coming year to determine if sufficient progress has been made to return this priority to the core program.

Four environmental challenges that are exacerbated by wet weather were chosen as Clean Water Act (CWA) national enforcement and compliance priorities for FY 2005 through FY 2007. They are concentrated animal feeding operations, combined sewer overflows, sanitary sewer overflows and storm water runoff. Like the other national priorities, they were selected because they met the selection criteria: (1) increased national attention could lead to significant environmental benefits; (2) there were patterns of non-compliance; and (3) EPA was well-suited to take action in this strategy area.

The Combined Sewer Overflow strategy summary that follows provides clear goals to achieve maximum compliance with environmental regulations in order to protect human health and the environment.

Background

Combined sewer systems are designed to collect rainwater runoff, domestic sewage and industrial wastewater in the same pipe. During periods of rainfall or snow melt, the wastewater volume in a combined sewer system can exceed the capacity of the system or treatment plant.

When the capacity is exceeded, the excess wastewater flows directly into nearby streams, rivers or other water bodies, which may violate water quality standards. These overflows, called combined sewer overflows (CSOs), contain not only storm water but also untreated human and industrial waste, toxic materials and debris.

The national framework for control of CSOs is found in EPA's "Combined Sewer Overflow (CSO) Control Policy," published on April 19, 1994 (59 FR 18688), and later incorporated into the Wet Weather Water Quality Act of 2000. The CSO Control Policy set a January 1, 1997, deadline for combined sewer systems to meet nine minimum controls (NMCs). Two examples of NMCs are: proper operation and regular maintenance programs for the sewer system and CSOs and control of solid and floatable materials in such overflows. They are also required to develop and implement long-term CSO control plans (LTCPs) that will ultimately result in compliance with the requirements of the CWA.

Environmental Problems

CSOs are a significant cause of water quality impairment as documented in Clean Water Act, Section 305(b) reports (completed water quality assessments); overflows often affect areas frequented by the public, such as parks, beaches, backyards, city streets and playgrounds; and they represent significant threats to public health and the environment. There are approximately 836 permits in the U.S. for combined sewer systems. Affected communities are located in 32 states, including the District of Columbia, and serve approximately 46 million people, primarily in the Northeast and Midwest..

A significant number of communities with CSOs have not implemented the nine minimum controls, do not have a long-term CSO control plan in place. The central federal role in funding state wastewater treatment projects through the Clean Water State Revolving Fund is also compatible with a strong federal interest in addressing the problem. Given the scope and the serious impact of overflows, addressing CSOs as an OECA national priority has the potential to result in significant human health and environmental benefits.

Goals

The following six goals assume an active and effective partnership between EPA and the states' permit and enforcement programs.

Goal 1: By the end of FY 2007, 65 percent of all permitted CSOs will have an approved LTCP with an enforceable schedule that will ultimately result in compliance with the technology-based and water quality-based requirements of the CWA, or an action will have been initiated to achieve that result. This percentage target may require revision once a more accurate baseline is available.

Goal 2: At least 90 percent of EPA CSO actions will be targeted at high-priority CSOs. High priority CSOs are those with discharges that impact sensitive areas, are located in environmental justice areas or have a significant environmental or human health impact. The 1994 CSO Control

Policy defines sensitive areas as Outstanding National Resource Waters, National Marine Sanctuaries, waters with threatened or endangered species and their habitats, waters with primary contact recreation, public drinking water intakes or their designated protection areas and shellfish beds.

Goal 3: Evaluate and address discharges at 100 percent of CSO outfalls that are located within one mile upstream of a surface drinking water intake.

Goal 4: Concluded EPA CSO enforcement actions addressing LTCP development will have achieved, on average, a 90 percent reduction in the volume of untreated overflows when the plans are fully implemented.

Goal 5: Provide compliance assistance to all permitted CSOs that will not have an approved LTCP with an enforceable schedule that will ultimately result in compliance with the technology-based and water quality-based requirements of the CWA, or where a formal action has not been planned or initiated to achieve that result.

Goal 6: Through compliance assistance from EPA, increase the understanding of environmental requirements, improve environmental management practices and increase planned or achieved reduction, treatment or elimination of pollutants.

Strategies

Targeting activities:

- Use a wide range of compliance and enforcement tools, including the targeting of violators posing significant risks; compliance monitoring and investigations; administrative and judicial enforcement; and compliance assistance.
- Using baseline information, identify all permitted CSOs that have not yet obtained an approved LTCP with an enforceable schedule.
- Identify environmental justice areas, as defined by applicable EPA guidance, where non-compliance may result in environmental or public health concerns.
- Focus on permitted CSOs that have the potential for significant environmental or public health impacts, which could include those with discharges causing or significantly contributing to 303(d) listed (impaired and threatened) waters or areas that have known impacts such as shellfish harvest restrictions, beach advisories or fish kills.

Coordination and roles:

- Enhance coordination and communication with the permitting offices, which are trying to achieve full implementation of the CSO Policy permitting goals. This includes clearly communicating the expectation that long term control plan implementation schedules may be incorporated in permits if the relevant water quality standards allow for compliance schedules of five years or less, but must otherwise be incorporated in state or federal administrative orders or consent decrees.
- Regions will conduct discussions with their states to review baseline information and clarify

respective roles and responsibilities for all permitted CSOs requiring enforcement orders.

- Regions develop compliance monitoring, investigation and case development work plans for permitted CSOs needing federal enforcement actions to achieve LTCP schedules during the upcoming year.
- Regions will ensure compliance assistance for facilities without approved LTCPs that will not receive enforcement orders or a revised permit from EPA or a state.
- EPA Headquarters will work with regions and states to provide workshops for CSO permit holders that provide detailed information on development of LTCPs, achieving and maintaining compliance, and financial issues relevant to implementing LTCPs.
- Compliance assistance will most often be delivered by state agencies. However, where appropriate, EPA inspectors will provide guidance on LTCP development to regulated facilities during inspections.
- Regions should develop and implement a plan for capturing outcomes as the result of any planned compliance assistance activity.

Performance Measurement

Although this strategy will result in significant progress in addressing CSOs, by the end of FY 2007, a portion of the universe will still lack approved LTCPs with enforceable schedules. As a result, EPA's Office of Enforcement and Compliance Assurance will review progress to determine whether CSOs should remain a national priority in the FY 2008 to FY 2010 cycle. An appropriate exit goal would be to confirm that 90 percent or more of permitted CSOs hold an approved LTCP with an enforceable schedule. of this goal will be closely coordinated with the EPA Office of Water.