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### **Advocacy Position Statement**

## **Federal Sanitary Sewer Overflow (SSO) Policy**

### **Statement of Purpose**

The American Public Works Association (APWA) seeks to inform elected officials, regulators, policy-makers and decision-makers and the public at-large of its stated position on the Federal Sanitary Sewer Overflow (SSO) Policy.

### **Statement of Position**

While the American Public Works Association (APWA) supports sound operation and management of municipally owned and operated sanitary sewer systems, APWA also recognizes the complexity and dynamics associated with the Federal and State regulatory agencies' responsibility to exercise control on unauthorized discharges under the National Pollutant Discharge Elimination System (NPDES). However increased competition for providing resources for an increasing number of unfunded mandates imposes additional challenges to the public works profession.

### **Background and Rationale**

Public Works agencies represent a significant proportion of owners and operators of sanitary sewer collection systems, operating under the auspices of the state NPDES permitting authority. Municipal agencies understand their responsibility for regular maintenance, system monitoring and environmental stewardship inherent with the proper operation of sanitary sewer systems. However budget constraints are a reality.

Wastewater agencies nationwide are facing ever-increasing collection system repair and rehabilitation needs, along with escalating operation and maintenance requirements. The Clean Water Act (CWA) provides for additional money being made available through the States' revenue bond programs and State Revolving Funds (SRFs). APWA wholeheartedly endorses the increased commitment of Federal dollars to help with SSO minimization programs and encourages additional consideration and recognition be given to distressed and/or operations serving small population communities demonstrating the need for SRF assistance or other means of funding either in loan or grant form.

The U. S. Environmental Protection Agency (USEPA) is noting the importance in monitoring the sewer system and becoming knowledgeable with the system components for which the municipality is responsible. They have proposed the Capacity, Management, Operation and Maintenance (CMOM) program to accomplish this knowledge gathering. The use of a CMOM which has been prepared specifically by the municipality to address their needs should support a local government's argument in the defense against enforcement actions related to SSOs.

Further, APWA believes USEPA should formulate national guidance to promote uniform application of the Regulations to the extent possible recognizing regional differences.

Matching available municipal resources with priority service items is becoming a more demanding exercise as needs and the public demand for a higher level of service increase. Sewer systems continually

compete with other public services including schools, police and fire, roads and recreational areas and activities. The Public Works professionals charged with sanitary sewer operations compete daily with a variety of agendas including the political pressure to reduce rapidly escalating expenses, contain user charges and minimize taxes.

APWA supports a Federal SSO Policy which achieves the following principles:

1. Provide affirmative defense to municipal owners/operators of sanitary sewer systems during and after passage of the Federal SSO Policy with regard to when NPDES permits will be renewed or issued. Extend affirmative defense to satellite collection systems by way of permit-by-rule concept for those systems not covered by an individual or general permit. For regional sewer agencies with satellite collection systems, provide a review copy of the Draft NPDES permit to the tributary municipal agency when SSO conditions are imposed on the NPDES permit holder.
2. The severity of an SSO condition and the immediate threat to public health should be the primary criteria in determining the level of requirements imposed on a municipal wastewater collection system.
3. Public health risks should be paramount in determining the scope and nature of SSO minimization efforts.
4. Under no circumstances should numeric discharge standards be applied to SSOs.
5. SSO conditions and impacts are site-specific. Remediation or corrective actions should also be site-specific.
6. Local governments should have the ability to determine the level of investment (including funding and staff or specialty resources) to address SSOs by considering the site-specific factors such as:
  - a) existence, frequency and severity of an SSO condition;
  - b) relative contribution and impact of SSOs to public health;
  - c) relative contribution and impact of SSOs to water quality including consideration of the seasonal uses of the waterbody.
7. SSOs, when appropriate, should be addressed in the context of a watershed approach.
8. Basic minimum controls should be established nationally with the implementation details to be determined locally.
9. Known SSOs should be reported by the municipal owner/operator in a timeframe appropriate to the risk and in a manner consistent with mitigation of the risk and available resources (e.g., in some circumstances, telephone notification to the regulatory agency would suffice as "reporting").
10. Public education and awareness about SSOs is an effective approach to protecting public health. Public notification is less effective because often by the time notification can be made, the SSO condition has been resolved and the risk is gone.
11. Realistic goals should be established for SSO corrective measures, both short-term and long-term, with consideration of the impact on funding for other public works programs.

12. The Federal government should authorize and implement, in conjunction with other interested stakeholders on-going SSO research program which recognizes climatic, topographical and geographic differences and:
  - a) defines the adverse impacts of SSOs on public health;
  - b) determines the contribution of SSOs to the impairment of public health relative to other sources;
  - c) determines which practices effectively and economically remedy the defined impacts; and
  - d) provides for transfer of practices and technology.
13. Balance the regulation or policy requirement with the risk presented by the SSO.
14. Prevent the duplication of regulatory practices, permitting and administration.
15. Establish measures of performance to benchmark the effectiveness of SSO programs.
16. Provide protection of local governments pursuing good faith compliance with an SSO policy or program requirement from frivolous or punitive enforcement actions.
17. Provide a nationwide protection for system operators from regulatory actions resulting from SSOs where the source is found to be the result of inadequate or failing privately owned infrastructure.

Sponsor

Water Resources Management Committee