www.regulations.gov or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: May 25, 2010.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 2010–13072 Filed 5–28–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2010–0464; FRL–9156–7]

Stakeholder Input; National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Sanitary Sewer Collection Systems, Municipal Satellite Collection Systems, Sanitary Sewer Overflows, and Peak Wet Weather Discharges From Publicly Owned Treatment Works Treatment Plants Serving Separate Sanitary Sewer Collection Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is announcing plans to hold several "listening sessions" beginning in June 2010 to obtain information from the public on certain issues EPA is considering. EPA is considering whether to propose to modify the National Pollutant Discharge Elimination System (NPDES) regulations as they apply to municipal sanitary sewer collection systems and sanitary sewer overflows (SSOs) in order to better protect the environment and public health from the harmful effects of sanitary sewer overflows and basement back ups. The Agency is considering whether to propose possible modifications to the NPDES regulations, including establishing standard permit conditions for publicly owned treatment works (POTW) permits that specifically address sanitary sewer collection systems and SSOs, and clarifying the regulatory framework for applying NPDES permit conditions to municipal satellite collection systems. The Agency is also considering whether and how it should resolve several longstanding issues that are the subject of the December 22, 2005 draft Peak Flows Policy. This draft Policy attempted to clarify EPA's interpretation that the existing "bypass" provision of the NPDES regulations applies to peak wet weather diversions at POTW treatment plants that are recombined with the flows from the secondary treatment units prior to discharge. The Agency is considering whether to adopt this or a revised Policy and/or address questions about peak flow as part of an SSO rulemaking to allow for a holistic and integrated approach to reducing SSOs while at the same time addressing peak flows at the POTW treatment plant.

In addition to submitting information at the listening sessions, the public may also provide input to the Agency directly through e-mail, fax or mail in order to help the Agency shape any possible future regulatory proposals. The Agency is undertaking this outreach to help advance the Clean Water Act objective to restore and maintain the chemical, physical and biological integrity of the nation's waters (CWA, Section 101(a)).

DATES: EPA is asking for statements and input from the interested public on or before August 2, 2010.

ADDRESSES: Submit your statements or input, identified by Docket ID No. EPA–HQ–OW–2010–0464, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting input.
- *E-mail: OW–Docket@epa.gov,* Attention Docket ID No. EPA–HQ–OW–2010–0464.
- *Fax:* 202–566–9744.
- *Mail:* Water Docket, U.S. Environmental Protection Agency, Mail code: 4203M, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–OW–2010–0464.
- *Hand Delivery:* Water Docket, EPA Docket Center, EPA West Building Room 3334, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. EPA–HQ–OW–2010–0464. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your input to Docket ID No. EPA–HQ–OW–2010–0464. EPA's policy is that all input received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the input includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your input. If you send an e-mail with input directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the input that is placed in the public docket and made available on the Internet. If you submit an electronic input, EPA recommends that you include your name and other contact information in the body of your input and with any disk or CD–ROM you submit. If EPA cannot read your input due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your input. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: For further information about this notice, contact Charles Glass, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202–564–0418 or e-mail: *glass.charles@epa.gov.*

Public Listening Sessions: EPA will hold several informal public listening sessions to gather input on actions that EPA is considering. The public listening sessions will include a brief background on SSOs and peak flows that will be followed by an opportunity for the public to provide input on possible paths forward. Written and oral statements will be accepted at the public listening sessions. Input generated from what was learned at a public listening session will be compiled and archived. The information gathered at these sessions, will be available on the Internet at *http://www.epa.gov/npdes/sanitaryseweroverflows.* Brief oral statements (three minutes or less) will be accepted at the sessions, and written statements will be accepted.

The dates and locations of the listening sessions are as follows:

■ June 24, 2010, 10 a.m. to 3 p.m. at EPA Region 10 Office, 1200 Sixth Avenue, Seattle, WA 98101.

■ June 28, 2010, 10 a.m. to 3 p.m. at EPA Region 4 Office, 61 Forsyth Street, SW., Atlanta, GA 30303.

■ June 30, 2010, 10 a.m. to 3 p.m. at EPA Region 7 Office, 901 N. 5th Street, Kansas City, KS 66101.

■ July 13, 2010, 10 a.m. to 3 p.m. at EPA HQ Office, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

In addition to the listening sessions held throughout the country, EPA will hold a "virtual" listening session via a webcast on July 14, 2010, from Noon–4 p.m. EST. The same format will be followed as the in-person listening sessions. After a presentation from EPA, members of the public may call in and give brief (three-minute) statements. Audience members will be able to listen to the webcast and all public statements through their computer speakers.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How can I get copies of this document and other related information?

1. *Docket.* EPA has established an official public docket for this matter under Docket ID No. EPA–HQ–OW–2010–0464. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., Washington, DC. Although all documents in the docket are listed in an index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the EPA Docket Center Public Reading Room, open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at *http://www.epa.gov/fedrgstr/.*

Electronic versions of this notice and other SSO documents are available at EPA's SSO Web site *http://www.epa.gov/npdes/sanitaryseweroverflows.*

An electronic version of the public docket is available through EPA's electronic public docket and input system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public input, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search", then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.A.1.

Submitting CBI. Do not submit this information to EPA though regulations.gov or e-mail. Clearly mark all of the information that you claim to be CBI. For CBI information on computer discs mailed to EPA, mark the surface of the disc as CBI. Also identify electronically the specific information contained in the disc or that you claim is CBI. In addition to one complete version of the specific information claimed as CBI, you must submit a copy that does not contain the information claimed as CBI for inclusion in the public document. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

It is important to note that EPA's policy is that public input, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the input contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies any input containing copyrighted material, EPA will provide a reference to that material in the version of the document that is placed in EPA's electronic public docket. The entire printed submittal, including the copyrighted material, will be available in the public docket.

Documents submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Input that is mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

B. How and to whom do I submit input?

You may submit input electronically, by mail, through hand delivery/courier, or in person by attending one of the 5 listening sessions. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your input. Please ensure that your input is submitted within the specified input period.

1. *Electronically.* If you submit electronic input as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your input. Also include this contact information on the outside of any disk or CD–ROM you submit, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the submitter of the input and allows EPA to contact you in case EPA cannot read your submittal due to technical difficulties or needs further information on the substance of your input. EPA's policy is that EPA will not edit your input, and any identifying or contact information provided in the body of the text will be included as part of the input that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your submittal due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your input.

i. *EPA Dockets.* Your use of EPA's electronic public docket to provide input to EPA electronically is EPA's preferred method for receiving input. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting input. Once in the system, select "search", and then key in Docket ID No. EPA–HQ–OW–2010–0464. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it.

ii. *E-mail.* Input may be sent by electronic mail (e-mail) to *ow-docket@epa.gov,* Attention Docket ID No. EPA–HQ–OW–2010–0464. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the submittal that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD–ROM.* You may submit input on a disk or CD–ROM that you mail to the mailing address identified in this section. These electronic submissions will be accepted in Microsoft Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send the original and three copies of your input to: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OW–2010–0464.

3. *By Hand Delivery or Courier.* Deliver your input to: Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID No. EPA–HQ–OW–2010–0464. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays).

II. Background

In order to help the public prepare for the listening sessions, the following background information is provided.

Wastewater collection systems collect domestic sewage and other wastewater from homes and other buildings and convey it to wastewater sewage treatment plants for proper treatment and disposal. The collection and treatment of municipal sewage and wastewater is vital to the public health in our cities and towns.

The efficiency of treatment at a wastewater treatment plant depends strongly on the performance of the collection system. When the structural integrity of a sanitary sewer collection system deteriorates, high volumes of infiltration (including rainfall-induced infiltration) and inflow can enter the sewer system. High levels of inflow and infiltration (I/I) increase the hydraulic load on treatment plants, which can reduce treatment efficiency, lead to bypassing a portion of the treatment process, or in extreme situations make biological treatment facilities inoperable (*e.g.,* wash out the biological organisms that treat the waste).

In the United States, municipalities historically have used two major types of sewer systems. One type, combined sewers, is designed to collect both sanitary sewage and storm water runoff in a single-pipe system. Sewer builders designed this type of sewer system to provide the primary means of surface drainage and drain precipitation flows away from streets, roofs, and other impervious surfaces. State and local authorities generally have not allowed the construction of new combined sewers since the first half of the 20th century. The other major type of domestic sewer design is sanitary sewers (also known as separate sanitary sewers). Sanitary sewers are not installed to collect large amounts of runoff from precipitation events or provide widespread drainage, although they typically are built with some allowance for higher flows that occur during storm events for handling minor and non-excessive amounts of I/I that enter the system.

SSOs, which are releases of raw sewage, can result when there is a failure in a sanitary sewer collection system. EPA generally uses the term SSO to describe releases of sewage that result in a discharge to waters of the United States, as well as releases that do not result in a discharge to U.S. waters, including sewage backups into buildings. A number of factors can cause or contribute to an SSO, including high levels of I/I; blockages caused by roots, grease, sediment or other materials; structural, mechanical or electrical failure; and third party actions or activities.

Municipal sanitary sewer collection systems are an extensive, valuable, and complex part of the nation's infrastructure. The collection system of a single large municipality can include thousands of miles of pipe and represent an investment worth billions of dollars. The underlying challenges affecting the performance of collection systems are influenced by a number of factors including the following:

- Much of the nation's sanitary sewer infrastructure is old; some parts of this infrastructure date back over 100 years. Over the time period associated with building these systems, a wide variety of materials, design and installation practices, and maintenance/repair procedures have been used, many of which are inferior to those available today;
- Infrastructure has deteriorated with time and continues to age;
- Investment in infrastructure maintenance and repair has often been inadequate;
- The location of problems (*e.g.,* roots, debris) and other variables may continually change throughout a system;
- Systems may fail to provide capacity to accommodate increased sewage delivery and treatment demand from increasing populations; and
- Institutional arrangements relating to the operation of sewers may present a barrier to effective operation and maintenance of sewer systems. Almost all building laterals in a municipal system are privately owned. In many municipal systems, a high percentage of collector sewers are owned by private entities or municipal entities other than the entity operating the major interceptor sewers.

The proper operation and maintenance of collection system assets is critical to minimizing the frequency and volume of SSOs. Municipalities need to manage their assets effectively and ensure adequate and sustainable funding to support appropriate investments.

The main concern regarding raw sewage releases associated with SSOs is typically pathogens, including bacteria, viruses, and protozoa. SSOs can contain other pollutants, including nutrients, toxics from industrial, commercial and residential sources, and wastewater solids and debris. SSOs are of special concern to public health because they may expose citizens to bacteria, viruses, intestinal parasites, and other microorganisms that can cause serious illness such as gastroenteritis, hepatitis, cryptosporidiosis, and giardiasis. Sensitive populations, children, the elderly and those with weakened immune systems, can be at a higher risk of illness from exposure to sewage from SSOs.

The discharge of untreated sewage in SSOs can contaminate waters, in some cases causing water quality problems and threats to public health. SSOs may also cause raw sewage to flow into basements, parks, recreational streams,

beaches, on city streets and backyards, and other areas where people are in close contact with the overflow. The public can be exposed to raw sewage from SSOs through street flooding, recreational contact such as swimming and fishing, drinking contaminated water and collection system back-ups into homes. The threat to public health and the environment posed by SSOs is not necessarily limited to large volume or extended-duration overflows. Some of the greatest threats from SSOs stem from viruses and pathogens which can present a public health threat even in small volume, intermittent overflows.

Statutory and Regulatory Overview

SSOs that reach waters of the United States are point source discharges and, like other point source discharges, are generally prohibited unless authorized by an NPDES permit. Sanitary sewers are part of the treatment works under the Clean Water Act and discharges from sanitary sewers have historically been viewed as required to achieve secondary treatment in order to be eligible to receive an NPDES permit. Moreover, SSOs, including those that do not reach waters of the United States, may be indicative of improper operation and maintenance of the sewer system, and thus may violate other NPDES permit conditions. The NPDES regulations establish standard permit conditions which must be included in all NPDES permits, as well as additional standard permit conditions to be included in all NPDES permits for publicly owned treatment works (POTWs) (*see* 40 CFR 122.41 and 122.42). Standard permit conditions in a permit for a POTW apply to all portions of the collection system for which the permittee has ownership or has operational control. Standard permit conditions that have particular application to SSOs and municipal sanitary sewer collection systems include provisions that address a duty to mitigate (§ 122.41(d)); proper operation and maintenance (§ 122.41(e)); noncompliance reporting (§ 122.41(l)(6) and (7)); recordkeeping (§ 122.41(j)(2))

Previous Activities To Address SSO Requirements

In 1994, a number of municipalities asked EPA to establish a Federal Advisory Committee (FAC) of key stakeholders to make recommendations on how the NPDES program should address SSOs. This request came soon after EPA had published the Combined Sewer Overflow Control Policy in 1994, which was designed to provide greater national clarity and consistency in the way NPDES requirements apply to combined sewer overflows (CSOs). In part, the municipalities indicated a desire for greater national clarity and consistency in the way NPDES requirements apply to SSOs. The municipalities indicated that they believed that eliminating all SSO discharges was technically infeasible and, as a result, municipalities tasked with the responsibility of operating these systems could not comply with an absolute prohibition on SSOs. The municipalities suggested a need for a workable regulatory framework which allowed EPA and NPDES authorities to define compliance endpoints in a manner that was consistent with engineering realities and the health and environmental risks of SSOs.

EPA then convened a national "SSO policy dialogue" among a balanced group of representatives from key stakeholder organizations. EPA asked the individual stakeholders to provide input on how best to meet the SSO policy challenge. In 1995, EPA chartered an Urban Wet Weather Flows Federal Advisory Committee (FAC) with the goal of developing specific recommendations addressing cross-cutting wet weather issues and to improve the effectiveness of the Agency's efforts to address wet weather pollutant sources under the NPDES program. The Urban Wet Weather Flows Federal Advisory Committee reconvened the SSO policy dialogue group as its SSO Subcommittee.

The SSO Subcommittee met twelve times to develop a draft paper and on October 20, 1999, with unanimous support from the members, completed a framework to address SSOs. In the draft paper the Subcommittee supported basic principles with the following suggested NPDES permit requirements:

(1) Capacity, management, operation and maintenance (CMOM) programs for municipal sanitary sewer collection systems;

(2) A prohibition on SSOs, which includes a framework for raising a defense for unavoidable discharges;

(3) Reporting, public notification, and recordkeeping requirements for municipal sanitary sewer collection systems and SSOs; and

(4) The interim use of remote treatment facilities (or peak excess flow treatment facilities).

In addition, the Subcommittee unanimously supported a set of principles for municipal satellite collection systems and watershed management, although members did not develop detailed language addressing these topics.

EPA prepared a Notice of Proposed Rulemaking (NPRM) to reflect the work achieved by the FAC. The NPRM was never formally released to the public or sent to the **Federal Register** for publication, but instead was withdrawn in January 2001 for further review. The draft NPRM would have proposed NPDES standard permit conditions for municipal sanitary sewer collection systems that were aimed at providing a more efficient approach to controlling SSOs through better management, increased public notice, and a focus on system planning.

In August 2004 the Agency presented to Congress the "Report to Congress: Impacts and Control of CSOs and SSOs". The report found that CSOs and SSOs can have impacts on human health and the environment at the local watershed level. The report identified a broad range of technologies available to municipalities to control the impacts of CSOs and SSOs, documented the extent of the problem, and provided a baseline for future policy actions. In the Report to Congress, EPA estimated that between 23,000 and 75,000 SSOs occur each year in the United States, resulting in releases of between 3 billion and 10 billion gallons of untreated wastewater.

Previous Activities To Address Peak Flow Requirements

One standard permit condition in the NPDES regulations is the bypass provision at 40 CFR 122.41(m). The provision defines bypass to mean the "intentional diversion of waste streams from any portion of a treatment facility." The regulation prohibits bypasses except where necessary for essential maintenance to assure efficient operation and where effluent limitations are not exceeded. For all other bypasses, the Director of the NPDES program may take enforcement action against a permittee for a bypass, unless:

(A) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime; and

(C) The permittee submitted the notices required by the regulation.

The bypass regulation provides that the Director of the NPDES authority may approve an anticipated bypass, after considering its adverse effects, if the Director determines that the bypass will meet the criteria identified in the regulation and listed above. Approval of an anticipated bypass does not "authorize" the bypass, rather an

approval of an anticipated bypass describes the circumstances in which the NPDES authority will not take an enforcement action against the permittee for a prohibited bypass. The bypass provision was promulgated in 1979, and has remained in effect since that time.

On November 7, 2003, in response to requests from many stakeholders, EPA requested public comment on a draft policy to address the issue of NPDES requirements for discharges from POTWs serving separate sanitary sewers where peak wet weather flow is routed around biological treatment units and then blended with the effluent from the biological units prior to discharge. Under the November 7, 2003, approach, a wet weather diversion around biological treatment units that was blended with the wastewater from the biological units prior to discharge would not have been considered to constitute a prohibited bypass if certain criteria were met.

EPA received significant public comment on the 2003 document, including over 98,000 comments opposing adoption of such a policy due to concerns about potential human health risks of diverting a portion of the flow around secondary treatment units during wet weather events. EPA also received a letter signed by 73 members of Congress asking that EPA not move forward with finalizing the policy. On May 19, 2005, EPA indicated that, after consideration of the comments, the Agency did not intend to finalize the 2003 proposal. On July 26, 2005, Congress enacted the FY 2006 Department of the Interior, Environment, and Related Agencies Appropriations Act (Pub. L. 109–54). Section 203 of this Act provides that none of the funds made available in the Act could be used to finalize, implement or enforce the November 7, 2003, proposed blending policy.

In October 2005, the Natural Resources Defense Council (NRDC) and the National Association of Clean Water Agencies (NACWA) provided EPA with their joint proposal recommending further action that the Agency should take regarding peak flows. The NRDC/NACWA recommended approach includes an interpretation of the bypass regulation that is significantly different from the November 7, 2003, document in that it would clarify that the bypass provision applies to wet weather diversions at POTW treatment plants serving separate sanitary sewers including those in which the diverted stream is blended with the secondary effluent before discharge.

On December 22, 2005, EPA requested public comment on a draft Peak Flows Policy that reflects the approach of the NRDC/NACWA recommendation. The 2005 draft Policy explains how the NPDES authority should determine whether requests for approval of anticipated peak wet weather flow diversions at POTW treatment plants serving separate sanitary sewer collection systems, which are recombined with flow from the secondary treatment units prior to discharge, should be approved or denied under 40 CFR 122.41(m)(4)(ii). The approach in the draft Policy is based on language in the bypass regulation that provides that if the NPDES authority determines that the criteria of § 122.41(m)(4)(i) will be met, the NPDES authority may approve an anticipated bypass of peak wet weather flow diversions around secondary treatment units. EPA has not, to date, finalized the draft Policy.

III. Input on Issues That EPA Is Considering

EPA is considering whether to develop a more specific broad-based regulatory framework for sanitary sewer collection systems under the NPDES program. The Agency is considering proposing standard permit conditions for inclusion in permits for publicly owned treatment works (POTWs) and municipal sanitary sewer collection systems. The permit conditions EPA is considering would address the following areas: reporting, overflow right-to-know, notice of public health officials and recordkeeping requirements for SSOs, capacity assurance, management, operation and maintenance requirements for municipal sanitary sewer collection systems; and possible regulatory requirements or provisions for SSOs that are caused by exceptional circumstances.

EPA is also seeking the views of the interested public on the implications for peak excess flow treatment facilities in the municipal sanitary collection system and the treatment of peak flows that reach POTWs. The Agency is considering clarifying and modifying the regulatory framework for applying NPDES permit conditions, including applicable standard permit conditions, to municipal satellite collection systems. Municipal satellite collection systems are sewer systems owned or operated by a municipality that conveys wastewater to a POTW operated by a different municipality.

In addition, the Agency is considering clarifying when municipal satellite collection systems must obtain a permit.

With today's notice of the scheduled public meetings, EPA is asking for public input on the following preliminary considerations that will inform EPA's thinking on the issues that will be the subject of these meetings.

1. Should EPA propose to clarify its standard permit conditions for SSO reporting, recordkeeping and public notification?

Current requirements require all NPDES permits to contain the standard permit conditions at 40 CFR 122.41(l)(6) and (7) for noncompliance reporting. When incorporated into a permit, these standard conditions require permittees to report any instance of noncompliance to the NPDES authority. SSOs that result in discharges to waters of the United States or result from improper operation and maintenance of the collection system constitute noncompliance, which the permittee must report under these provisions. The existing requirements in 40 CFR 122.41(l)(6) and (7) require the permittee to report orally to the NPDES authority within 24 hours of becoming aware of the event if the noncompliance may endanger health or the environment. A written submission must follow within 5 days of the time the permittee becomes aware of the noncompliance, unless the Director waives the written report. The standard permit condition at 40 CFR 122.41(l)(7) requires the permittee to report all other instances of noncompliance in writing at the time discharge monitoring reports are submitted.

At a minimum, all NPDES permits must contain the standard permit condition at 40 CFR 122.41(j)(2) for recordkeeping. When incorporated into a permit, this provision, among other things, requires permittees to retain copies of all reports required by the permit for a period of at least 3 years from the date of the report. This requirement includes retaining records of the required noncompliance reports of SSO events that result in discharges to waters of the U.S. Additional reporting and recordkeeping requirements may have been included in a permit on a case-by-case basis.

The existing NPDES standard permit conditions do not establish monitoring or public notification requirements for SSOs.

The Agency is considering proposing to clarify and expand standard permit requirements to establish a comprehensive framework for monitoring, reporting, public notification, and recordkeeping for SSOs from municipal sanitary sewer collection systems. EPA requests input on the following types of questions:

• Is there a need for establishing this framework and, if so, which SSO events should be subject to reporting, recordkeeping and public notice requirements?

• Should EPA clarify that such requirements apply to SSOs that do not result in a discharge to waters of the United States, including sewage backups into buildings?

• Which SSO events should be reported immediately?

• What criteria should be used to determine if notice of public health officials is appropriate for an SSO event?

• Should EPA establish minimum requirements for monitoring SSOs to alert the municipal operator in a timely manner? If so, what are appropriate methods, technologies or management programs for monitoring SSOs?

• Should EPA require immediate notification to the public of SSOs? If so, for which SSOs and how and when should the public be notified?

The potential changes are authorized by, and would implement, CWA sections 304(i), 308 and 402(a).

2. Should EPA propose to develop a standard permit condition with requirements for capacity, management, operations and maintenance programs based on asset management principles?

Under existing regulations at 40 CFR 122.41, all NPDES permits must contain two standard conditions addressing operation and maintenance: proper operation and maintenance requirements at 40 CFR 122.41(e) and duty to mitigate at 40 CFR 122.41(d). These provisions require the permittee to properly operate and maintain its collection system as well as take all reasonable steps to minimize or prevent SSO discharges to waters of the United States that have a reasonable likelihood of adversely affecting human health or the environment. In addition, these provisions, along with a prohibition on SSOs to waters of the U.S., are the basis for requiring permittees to provide adequate sanitary sewer collection system capacity.

EPA is considering proposing to add a new standard condition that would clarify EPA's expectations for appropriate capacity, management, operation and maintenance (CMOM) program requirements. The major components of such a CMOM standard permit condition could include general conditions; a general requirement to develop and implement a CMOM program; and documentation requirements, including a written summary of the program, an overflow emergency response plan, a system evaluation and capacity assurance plan, and the results of a program audit. The concept of CMOM also has a significant nexus with Asset Management approaches, which are becoming an industry standard for infrastructure management. The CMOM may present an appropriate framework or context for a possible permit condition.

EPA requests information on successful programs that have been implemented to manage, operate, and maintain their systems. In addition, EPA requests input on:

• What is the need for a CMOM standard permit condition?

• What are the appropriate components and core attributes of a CMOM standard permit condition and what is their nexus with Asset Management practices?

• If adopted, how should a CMOM provision be tailored for small municipalities?

• Would integrating system evaluation and capacity assurance planning efforts for the collection system with planning efforts to address peak flow issues at the treatment plant encourage more holistic approaches?

3. Should EPA propose to require permit coverage for municipal satellite collection systems?

Many municipal sanitary sewer collection systems are not entirely owned or operated by a single municipal entity. A municipal entity that operates a treatment plant may be responsible for conveying and/or treating wastewater from sewers of other municipalities. The term "municipal satellite collection system" refers to a collection system that is owned or operated by a municipality other than the municipality that provides treatment for wastewater added throughout the system. The term "regional collection system operator" refers to a collection system operator who is responsible for the treatment plant(s) that receives wastewater from municipal satellite collection systems. Regional municipal collection system operators who provide wastewater treatment may only operate a relatively small portion of the collection system, such as major interceptors or collector sewers in certain areas. In extreme cases, the regional authority or district (and traditional NPDES permit holder) does not own or operate any part of the collection system, only the treatment plant.

Poorly performing municipal satellite collection systems can be major contributors to peak flow problems in regional collection systems. In addition, investment in maintenance, repair and enhanced capacity of municipal satellite collection systems has often lagged behind that for regional municipal collection systems. This lag in investment is generally due to institutional issues such as lack of responsibility by municipal satellite collection system operators for problems downstream in the collection system or at a treatment plant, even where the municipal satellite collection system may have been a significant source of capacity problems downstream. In addition, direct oversight by EPA and NPDES States has been limited.

Municipal satellite collection systems can also experience overflows. The Agency believes it may be important to clarify who is required to report these events to the NPDES authority and how they should be reported, in order to protect human health and the environment.

EPA is considering clarification of the framework for regulating municipal satellite collection systems under the NPDES permit program. EPA welcomes input on the questions whether (and which) municipal satellite collection system should be required to obtain an NPDES permit, and whether EPA should require these systems to meet standard permit conditions related to reporting, public notification, and recordkeeping; CMOM requirements; and prohibition along with other standard permit conditions throughout municipal collection systems including satellite portions.

4. What is the appropriate role of NPDES permits in addressing unauthorized SSOS that are caused by exceptional circumstances?

Even municipal collection systems that are operated in an exemplary fashion may experience unauthorized discharges under exceptional circumstances. EPA requests input on the appropriate role of NPDES permits in addressing such exceptional events. The current NPDES standard permit conditions provide two provisions, the bypass provision at 40 CFR 122.41(m) and the upset provision at 40 CFR 122.41(n), that were designed to address violations that occur under exceptional circumstances. The bypass provision generally prohibits bypasses, but also provides criteria for when the NPDES authority may excuse a bypass by exercising enforcement discretion and not bring an enforcement action for a violation. The upset provision allows a permittee to raise an affirmative defense to a violation of a technology-based effluent limitation. The Agency is considering developing a standard permit condition that would provide a

framework for evaluating the specific circumstances of overflows from a municipal sanitary sewer collection system that result in a discharge to waters of the U.S. and consideration of those circumstances to excuse those discharges, either through the exercise of enforcement discretion or through establishment of an affirmative defense. The Agency requests input on the appropriate criteria that should be used in such a provision.

5. How should EPA address peak flows at POTW treatment plants?

The Agency is considering the direction to take to resolve several long standing issues that are the subject of the December 22, 2005 draft Peak Flows Policy. This draft Policy attempted to clarify EPA's interpretation that the existing "bypass" provision of the NPDES regulations applies to peak wet weather diversions at POTW treatment plants that are recombined with the flows from the secondary treatment units prior to discharge. The Agency is considering whether to embrace the approach explained in the draft Policy and/or to propose to address these issues in any SSO rulemaking. Addressing the issues in the context of possible SSO rulemaking would allow for a holistic and integrated approach to reducing SSOs while at the same time addressing peak flows at the POTW treatment plant. In addition, EPA would like to receive public input on the limited number of cases where infrequent discharges from wet weather treatment facilities located in sanitary sewer collection systems have been authorized or approved and issued a permit by an NPDES authority. The Agency would like to receive feedback from the public on the need for requirements for these facilities and any technologies that are utilized in the sanitary sewer system to treat discharges.

6. What are the costs and benefits of CMOM programs and asset management of sanitary sewers?

EPA is soliciting input from the general public concerning the impact of the proposed rule in terms of costs on covered entities and benefits of proposed rule requirements. Specifically, EPA is seeking information on asset management approaches, integrated utility planning, or other mechanisms that are used to ensure the sustainability and cost effectiveness of investments and enhance public health and environmental benefits. The Agency is seeking input on the potential incorporation of these techniques or others that are similar in any proposed modifications to the NPDES regulations.

In addition, examples of other information that is needed from the public include: the number of municipalities currently implementing CMOM and the components of their CMOM programs; information on costs incurred by basement backups as well as the frequency that they occur; and the number and location of municipal satellite systems and the cost effectiveness of extending permitting requirements to them.

7. Are there other considerations?

EPA requests input on other considerations, such as environmental justice issues associated with this Notice. In particular, EPA requests input on environmental justice considerations associated with establishing requirements for municipal satellite collection systems.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: May 26, 2010.

Peter S. Silva,

Assistant Administrator, Office of Water.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0747; FRL–9156–6]

RIN 2040–AE90

National Primary Drinking Water Regulations; Announcement of the Results of EPA's Review of Existing Drinking Water Standards and Request for Public Comment and/or Information on Related Issues; Extension of the Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending by 30 days the public comment period for the National Primary Drinking Water Regulations; Announcement of the Results of EPA's Review of Existing Drinking Water Standards and Request for Public Comment and/or Information on Related Issues, which was published in the **Federal Register** on March 29, 2010. The purpose of that notice was to invite commenters to submit any new, relevant peer-reviewed data or information pertaining to the four NPDWRs identified in that action as candidates for revision (*i.e.* acrylamide, epichlorohydrin, tetrechloroethylene and trichloroethylene). This information will inform EPA's evaluation as the Agency moves forward with the regulatory revisions for these four NPDWRs. This extended comment period will afford greater opportunity to all interested parties to review and submit comments on the notice.

DATES: Comments must be received on or before July 1, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2008–0747, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Water Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Water Docket, EPA Docket Center (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2008–0747. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of