



Association of
Metropolitan
Sewerage Agencies

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Northeast Ohio Regional
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January 14, 2005

Vice President
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Benjamin Grumbles
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Ariel Rios Building (4101M)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Treasurer
Dick Champion, Jr.
Director
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**RE: 2004 REPORT TO CONGRESS ON COMBINED AND SANITARY
SEWER OVERFLOWS AND AMSA'S RECOMMENDED NEXT STEPS**

Secretary
Christopher M. Westhoff
Assistant City Attorney
City of Los Angeles
Department of Public Works
Los Angeles, CA

Dear Assistant Administrator Grumbles:

My staff and I read with great interest your Office's August 2004 *Report to Congress on the Impacts and Controls of CSOs and SSOs (Report)*. The Association of Metropolitan Sewerage Agencies (AMSA) commends you and your staff for producing such a comprehensive and high quality report. AMSA applauds the *Report's* finding that our nation's wastewater treatment agencies have made significant investments in, and progress toward, controlling sewer overflows. While the *Report* does not provide specific policy recommendations on combined and sanitary sewer overflow control, AMSA believes it sends a clear message on what the federal government, through a meaningful partnership with states and municipalities, must do next to ensure further progress in reducing sewer overflows. To help ensure continued progress, AMSA prepared the attached Action Plan to outline what we believe these next steps should be.

AMSA looks forward to working with EPA to develop regulatory policies and enforcement strategies in line with this Action Plan that will help municipalities make further progress on sewer overflow control. The Association will also be sending its Action Plan to all members of Congress in order to continue the national dialogue on wet weather issues. Please do not hesitate to contact me at 202/833-4653 if you have any questions regarding the attached Action Plan.

Sincerely,

Ken Kirk
Executive Director

CC: Thomas V. Skinner, Acting Assistant Administrator, U.S. EPA, Office of
Enforcement and Compliance Assurance
James A. Hanlon, Director, U.S. EPA, Office of Water, Office of Wastewater
Management
Linda Y. Boornazian, Director, U.S. EPA, Office of Water, Office of
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AMSA Action Plan – Strategic Recommendations Based on EPA's 2004 Report to Congress on Combined and Sanitary Sewer Overflows

January 2005

Although Congress did not ask for, nor did EPA provide, specific policy recommendations on combined sewer and sanitary sewer overflow (CSO & SSO) control, the Association of Metropolitan Sewerage Agencies (AMSA) believes EPA's August 2004 *Report to Congress on the Impacts and Controls of CSOs and SSOs (Report)* sends a clear message on what the federal government, through a meaningful partnership with states and municipalities, must do next to ensure further progress in reducing sewer overflows. As the following summary of key findings from the *Report* makes clear, our nation's wastewater treatment agencies have made significant investments in, and progress toward, controlling sewer overflows. This Action Plan sets forth the recommendations of the wastewater treatment community on the next steps that should be undertaken regarding overflow control.

AMSA looks forward to working with EPA to develop regulatory policies and enforcement strategies that are in line with this Action Plan's recommendations (pp. 3-4) that will help municipalities make further progress on sewer overflow control.

I. THE REPORT'S KEY FINDINGS

EPA's *Report* is a comprehensive collection of existing data and information on overflows from combined and sanitary sewer systems. EPA's characterization of the frequency and volume of CSOs and SSOs as well as other wet weather contributors, including urban stormwater runoff, provides a comprehensive assessment of the current wet weather picture nationwide. AMSA, on the whole, agrees with EPA's assessment of the current situation and believes some of the data points demand specific mention. For purposes of this Action Plan, the data can be classified into several key categories, including overflow frequency and volume, health impacts, and cost.

A. Overflow Frequency and Volume

Combined Sewer Overflows

AMSA agrees with EPA that municipalities are making progress in controlling CSOs. The nation's wastewater treatment agencies are improving public health and the environment as illustrated by the trends in CSO control. The annual number of CSOs has declined by 28% since the issuance of the 1994 CSO Control Policy and the total volume of those overflows has decreased by 21%. More progress, however, can be made to further limit the frequency of CSOs (approximately 43,000 per year) as well as the volume (850 billion gallons per year). The CSO Control Policy has been a landmark environmental success and the trend already exists to further reduce CSOs as witnessed by the percentage increase from 34 to 59% of CSO long-term control plans that have been submitted to permitting authorities.

Sanitary Sewer Overflows

The progress in CSO control rests on one simple fact — a CSO Control Policy exists. The situation for SSOs is quite different. Municipalities are making progress on SSOs in the absence of a policy. Although EPA's figures for SSO frequency (23,000-75,000) remain consistent, the Agency lowered its prior estimates of SSO volume **by two orders of magnitude, to 3-10 billion gallons per year (down**

from 311 billion gallons per year). Despite the ongoing efforts of the wastewater treatment community to further reduce the frequency and size of SSOs, AMSA recommends the development of a national SSO policy to ensure continued and consistent progress (see *AMSA's Recommended Actions* below).

These CSO and SSO volume figures demand a context. When municipal discharges are looked at in their totality, the annual volume of CSO and SSO discharges are small compared to other sources. Approximately 11,425 billion gallons of *treated wastewater* and 10,068 billion gallons of urban stormwater runoff enter the nation's waters each year. Of the total combined 'municipal discharges' (CSOs, SSOs, treated wastewater, and urban runoff) CSOs represent only approximately 4% of the volume and SSOs less than 1%.

B. Health Impacts and the Local Watershed Approach

Wastewater treatment agencies are committed to further reducing CSOs and SSOs, acknowledging that sewer overflows contain pollutants that could cause or contribute to water quality impairment and adverse human health impacts. The *Report* noted that gastro-intestinal illnesses have been linked to overflows in a few cases. As public servants charged with cleaning up the nation's waterways, wastewater treatment agencies take these impacts very seriously. But EPA needs to develop sound enforcement and regulatory policies based on the key facts as set forth in its *Report* — namely that there is little evidence of widespread human health impacts occurring as a result of CSOs and SSOs and that overflows tend to occur when the likelihood of exposure is greatly reduced (e.g., during periods of heavy rainfall or snowmelt when people are not swimming).

The *Report* also notes that CSO and SSO impacts manifest themselves at the local watershed level. EPA has recognized the benefits of using a watershed approach to water quality challenges and AMSA agrees with the *Report* that CSO and SSO impacts require a local and holistic watershed-based solution to address all sources of pollution affecting water quality. It is also critical to understand that many SSOs occur not at the wastewater treatment plant but in the collection system, often a completely separate entity from the wastewater treatment agency. Based on these facts, AMSA is recommending the development of a national policy on SSOs similar to the policy that already exists for CSOs. These ideas are set forth more fully in the *Recommendations* section below.

C. The Costs of Overflow Control

There is always a certain hesitation to discuss cost in the context of a public health issue. The nation's wastewater treatment agencies, however, are charged not only with carrying out the goals of the Clean Water Act but also with doing so within the confines of local budgets. Since passage of the Clean Water Act in 1972, much progress has been made in improving water quality throughout the country. With the help of the federal grants program, dry weather flows are effectively managed within our collection systems and treatment facilities. Wet weather flows, which sometimes result in CSOs and SSOs, are now the focus of many communities. Many of these communities are facing staggering costs, without federal grant assistance, to address these wet weather overflow issues. In fact, as EPA has captured in its *Report*, wet weather control is the single greatest cost challenge facing CSO & SSO communities. EPA estimates that the costs associated with controlling CSOs and SSOs over the next 20 years are \$50.6 billion and \$88 billion respectively, and even these dramatic estimates may

understate the actual cost, especially if EPA continues to take a zero-tolerance approach to SSOs. AMSA believes that given the progress already being made by municipalities and the limited overall impacts of CSOs and SSOs, EPA must take a sound approach that balances these daunting costs with sometimes limited benefits. This approach would help ensure communities have the flexibility to develop overflow control programs that best meet their needs.

II. AMSA'S RECOMMENDED ACTIONS

A. Sound CSO Enforcement and Regulatory Policy

The CSO Control Policy lays out the objectives of the program and provides key milestones along the way. While implementation of the Policy has not occurred as quickly as originally envisioned, no one can dispute the progress that has been made to date. The key to continued progress in further limiting CSOs lies in the development and approval of long-term control plans (LTCP) for every CSO community to achieve compliance with water quality standards. AMSA believes National Pollutant Discharge Elimination System (NPDES) permits, not enforcement or consent orders, should be the primary tool for imposing these LTCP obligations.

A major impediment to meeting the goals of the CSO Control Policy (i.e., compliance with water quality standards), is that the existing standards are not based on the actual uses of CSO-impacted waterbodies. The impact of this disconnect is the development of LTCPs that can never achieve full compliance with all water quality standards under all operating conditions. The CSO Control Policy recommends that use attainability analyses be used to determine the appropriate use for a particular receiving water, but this step in the LTCP process is poorly defined and rarely successful. As a result, CSO communities are unable to develop LTCPs that regulatory agencies consider approvable.

To remedy these problems, AMSA believes that EPA and the states must be authorized to provide CSO communities with site-specific criteria that will be used to evaluate their LTCPs. These criteria must be established based on appropriate uses for the receiving water and must contain achievable goals based on the goals of the CSO Policy. EPA, water quality standards authorities, and CSO communities should work together to ensure that water quality standards are reviewed and revised as appropriate to reflect the actual uses of CSO-impacted waterbodies. In the absence of this approach, what will likely dominate the horizon is the uneven application of standards, expensive and unnecessary construction, and resource-wasting enforcement actions.

B. The Need for a Flexible SSO Policy

A national policy on SSOs remains an essential missing piece of the complex overflow puzzle. Without a regulatory policy and/or program on SSOs, EPA's current enforcement policies are forcing many communities to commit tremendous resources in a fruitless attempt to eliminate *all* SSOs. The *Report's* characterization of SSOs nationwide provides some much-needed clarity regarding the proper direction for a national SSO program.

EPA's revised volume estimate of 3-10 billion gallons per year of SSO discharges is two orders of magnitude lower than the estimate provided in the Agency's draft SSO proposal from January 2001.

The current high-end estimate of 10 billion gallons of SSO discharges is a fraction of the volume of CSO discharges (160 billion gallons) that will continue even after full compliance with the CSO Control Policy.

AMSA understands that SSOs can have adverse environmental and human health impacts on a local level and its members remain committed to reducing the frequency of SSOs. For this reason, AMSA has continued to advocate for a national SSO program and believes EPA's new *Report* provides further justification for such a program to ensure consistent and effective management of the nation's collection systems.

AMSA recommends the development of a national SSO policy that recognizes the risk posed by SSOs nationally and is modeled after the CSO Control Policy, thereby providing the flexibility necessary to address adverse impacts when manifested at a local level and to direct resources to those areas that pose the greatest risk. The CSO Control Policy clearly acknowledges that a zero tolerance policy for CSOs is not appropriate. AMSA believes that the same approach should apply to SSOs. AMSA recommends the following:

- Develop a national SSO policy that enables the use of holistic, watershed-based approaches that will ensure that available, limited resources can be used to provide controls for the wet weather overflow problem — whether CSO, SSO, and/or stormwater — that is having the greatest impact, thus maximizing environmental and public health benefit;
- Establish a national municipal collection system permitting program, which will include satellite collection systems, using the management, operation, and maintenance (MOM) concept as the standard for measuring compliance, and including a capacity assurance standard; and
- Conduct any additional scientific studies necessary on the issue of environmental or public health impacts to ensure sound regulatory and enforcement policy (e.g., more work is needed to further define the relative impacts of urban stormwater runoff and overflows and to discern between human and nonhuman sources of pathogens).

Again, AMSA looks forward to working with EPA to develop regulatory policies and enforcement strategies that will ultimately help municipalities make further progress on sewer overflow control. To aid in this effort, AMSA is working on a model SSO policy that will contain the specific language that municipalities believe is critical for a workable SSO program. AMSA plans to share this proposal when it is completed in early 2005 with EPA and Congress. If you have any questions regarding this Action Plan please contact AMSA's Director of Regulatory Affairs, Chris Hornback at 202/833-2672 or chornback@amsa-cleanwater.org.