

Public Comments for EPA Peak Wet Weather Policy

CON

Ojai Valley Sanitary District, California:

- 3 mgd designed facility recently upgraded to an Oxidation Ditch Carousel System with Nitrogen and Phosphorus removal followed by tertiary filters and UV disinfection
- They bypass their tertiary system, not their secondary treatment units, and, therefore, the fact that the proposal does not apply to tertiary is of concern to them
- Flow through the secondary system is not a problem for Ojai
- The comments, however, are confusing and it is unclear exactly what the fix they would recommend is

National Rural Water Association:

- Proposal “will work for large utilities” but does not address the unique concerns of small and rural utilities
- Economic conditions and lack of technical expertise makes it difficult for small systems to perform complex feasibility analyses but they still agree with the idea that permit writers should work with the utility and NRWA to determine feasibility
- Suggests removing what could be interpreted as a restriction to tertiary bypass

Parkersburg Utility Board, Parkersburg, WV:

- Blending is not a bypass
- Proposed policy is inconsistent with Clean Water Act and NPDES regulations and therefore requires a full rulemaking and the appropriate notice and comment procedures that this entails
- Limiting and counterproductive to the goal of improving the environment
- Alters operation without regard to compliance to discharge parameters
- Will lead to unnecessary costs given that utilities are already upgrading within what is feasible
- If EPA moves forward, final guidance should apply to primary and tertiary units as well

Westchester County, New York, Department of Environmental Facilities:

- Policy would negatively affect Long Island Sound
- Westchester facilities were federally funded with the understanding that blending was acceptable
- Current proposal offers inadequate guidance, especially on the “No Feasible Alternative Analysis Process”, which is overly burdensome and uncertain
- Current residents already have unusual financial burden due to required upgrades on nitrogen removal and current EPA proposal would cause more financial problems

Beth Dessel (Individual):

- Proposal has negative effects for environmental health protection
- Should promote increased maintenance and capacity of sewer and wastewater systems
- Needs better storm water management
- Comment is not legitimate as Ms. Dessel is confused with regard to the proposed policy as she suggests that it is different from the NRDC and NACWA “Guidance on Peak Wet Weather Flow Diversions” (2005)

Terry Soster, KLH Engineers, Inc.:

- Confusing
 1. Need clarification regarding specific terms such as “secondary treatment”
 2. Need quantitative criteria to reduce inconsistent interpretation
- In favor of policy if it follows NPDES permit regulations

Little Rock Wastewater Utility:

- Modification needed to address crucial concerns
 1. Policy should allow POTWs with the opportunity to evaluate the conditions and comply without blending being deemed automatically illegal
 2. POTWs with judicial consent decrees that address municipality’s wet weather needs should not be subject to new requirements
- The policy makes an assumption that blended effluent is a public health and environmental threat which is a water quality standards (WQS) issue; if that’s the case then the appropriate change is to WQS and not to create a new blending policy

Upper Moreland Hatboro Sewerage Authority (via Law Offices of Bresnan & Herder):

- Takes the Hall & Associates position
- New regulatory requirements being established without undertaking rulemaking
- Policy wrongfully declares all blending as a bypass and must be subject to additional treatment requirements
- Blending was adopted by this Authority based on information on EPA’s website that it was a longstanding and acceptable engineering practice
- Appropriate targets for change, if needed, are water quality standards

Harris County, Texas, Storm Water Quality Section:

- Believes the policy is too pro-POTW and lenient
- The Guidance’s focus on “sensitive” waters should be replaced by a broader focus on “impaired” waters
- The policy is a disincentive to POTW operators to take necessary steps to improve water quality and plan for long-term improvements

Water Works & Sanitary Sewer Board of the City of Montgomery:

- Disagree that the interpretation of provisions of 40 CFR 122.4(m)(4) apply to peak wet weather flow diversions around secondary treatment units
- Change 40 CFR 133.12 if not sufficient to protect public health
- Support well structured CMOM programs

<p>Jeff Wendle, CET Engineering Services:</p> <ul style="list-style-type: none"> • Peak wet weather flow diversions may be necessary at times, but criterion for “no feasible alternative” is misguided • Inconsistency will happen in interpretation • Policy should be simple and straight forward • Scientific data is needed to quantify sources of pollution • There is more contamination in urban run-off than in occasional blending discharge
<p>Hall & Associates:</p> <ul style="list-style-type: none"> • We are familiar with this group’s concerns. Their comments are included in booklet.
<p>American Rivers, et. al:</p> <ul style="list-style-type: none"> • Sixteen organizations, including American Rivers, Sierra Club, and the U.S. Public Interest Research Group tepidly said the policy makes it clear that blending should not be a routine practice but simply does not go far enough. • Lacks clarification and strength to ensure the reduction and potential elimination of sewage discharge. Final guidance should: <ol style="list-style-type: none"> 1. Emphasize blending as a temporary, last resort use 2. Strengthen “No Feasibility Alternatives” by changing it to a rigorous “Community Ability to Fund” analysis 3. Clarify NPDES permitting agency responsibilities
<p>American Water Works Association:</p> <ul style="list-style-type: none"> • Policy should reflect potential impacts on UV disinfection • Policy should specifically provide additional safeguards where blended effluent is discharged to receiving that serve as drinking water sources • They want immediate notification requirements – not a 24 hour time-period currently in the guidance – for downstream drinking water utilities • Evaluation criteria for “highest possible treatment” and minimum treatment standards should be added to the policy
<p>City of Hamilton, Ohio:</p> <ul style="list-style-type: none"> • “Blending” can be authorized under the Clean Water Act and is not a bypass
<p>Pennsylvania Municipal Authorities Association:</p> <ul style="list-style-type: none"> • Takes the Hall & Associates approach and sites their comments
<p>Pacific Coast Shellfish Growers Association:</p> <ul style="list-style-type: none"> • Improvement over 2003 policy but still concerned • Major concerns regarding water quality for shellfish farming industry and the health of the shellfish • Wants stricter monitoring where blended effluent is discharged and may affect shellfish populations • Concurs with Washington State Department of Ecology recommendations to EPA
<p>Virginia Association of Municipal Wastewater Agencies, Inc.:</p> <ul style="list-style-type: none"> • Blending, while maintaining NPDES permit limits, is acceptable and there is no need for this policy • This is a rulemaking not guidance • Financial impacts implied by policy requires OMB review • “Feasibility Alternatives”/”Utility Analysis” too complicated and restrictive • Unclear as to how bypassing tertiary treatment units is treated under the policy

Wayne County Downriver Wastewater Treatment Facility:

- “We are pleased that the draft policy proposed in the December 22 Federal Register explicitly acknowledges that the practice is legal pursuant to Federal Regulations governing bypasses” but enumerated many concerns
- Required clarification regarding recognition of facilities serving a mixture of system types (combined and sanitary)
- Guidance should specifically make the “Cost/Benefit” analysis part of the feasibility analysis
- Final policy should not be worded to sound like formal regulation, unless EPA intends to initiate the rulemaking process

Harris County, Texas, Public Health & Environmental Services:

- Wants a more specific definition of “full utilization”
- Is concerned about the veracity of self-reported data
- Seeks a more specific definition of what constitutes “due diligence” by the utility in seeking to eliminate overflows

Illinois Association of Wastewater Agencies:

- Supported 2003 policy and views the 2005 policy as seeking to eliminate blending in the short-term
- Blending remains a necessary component of most plants and utilities with Illinois NPDES permit authorities to ensure utility managers are doing the most to limit blending
- Wants the focus to be on water quality standards as opposed to a “no-blending” position
- Wants EPA to perform a “needs assessment” before finalizing the policy
- Policy will affect over 100 excess flow plants in Illinois and rush to eliminate blending will decrease available dollars for other, more beneficial, projects
- The time-frame for reducing or eliminating blending needs more definition

City of Indianapolis Department of Public Works:

- The City is not completely against the policy, but it has major concerns with how the policy will affect CSO communities
 1. Bypass provisions do not apply to blending
 2. Seeks a deletion of the “reasonable potential” to cause or contribute to non-attainment language, noting that WQS exist already and blended effluent must be in compliance with them
 3. With regard to meeting permitted effluent limits during the anticipated bypass event, the policy needs clarification
 4. Is concerned with the applicability of EPA’s affordability guidance in determining feasibility

City of Lincoln, Nebraska Public Works and Utilities Department:

- The City supports the need for a practical policy, however, proposed policy is too general and can result in an overly strict implementation
- Strict implementation would lead to very significant costs to municipalities
- “Guidelines” would be improved with case studies and examples, such as where blending is used to avoid basement backups that might otherwise occur
- Clarify “no feasible alternatives”

Wheaton Sanitary District:

- Less support for 2005 proposed policy than 2003 policy
- Disagrees that blending can be eliminated in a short period of time
- New assumptions in policy are a burden
- Rushing to eliminate blending will reduce funds for more effective projects

City of Portland Environmental Services:

- Concerned with significant changes to blending policy that will restrict or prohibit the proven method of blending , which they view as consistent with federal and state technology and water quality standards
- Urges EPA to provide any example of failure to meet water quality standards as a result of blending in order to justify the enormous cost associated with the proposal
- Raises concerns that this policy will ultimately be extended to combined sewers

City of Vacaville, California, Public Works:

- Several concerns
 1. As interpreted, “sets a near-impossible standard for continued allowance of blending”
 2. Meeting water quality standards gets wrongfully eclipsed by application of the “no feasible alternatives” standard
 3. Could more adequately address application to advanced treatment facilities
 4. Should not apply to frequent blending during peak wet weather events, especially where I/I is not excessive
 5. Includes potentially unachievable monitoring requirements
- Need clarification regarding “no feasible alternatives”, especially with regard to lack of consideration of costs, frequency/duration of blending events or adequacy of performance

Waterkeeper Alliance:

- Comments represent opinions of Waterkeeper Alliance’s 157 member groups, as well as Clean Ocean Action and The Ecological Rights Foundation
- Weakens existing bypass provisions which should apply, as is, to blending
- Proposal will only serve to further degrade the nation’s waterways with untreated wastewater

Arlington County Department of Environmental Services:

- Arlington already invests a great deal in clean water initiatives, thereby making sure that all investments are cost effective; unclear how these initiatives may be treated under a no feasible alternatives test.
- Proposed policy is unclear about how concerns regarding cost-effectiveness will be treated
- Proposed policy is inconsistent with other current EPA policies
- Policy should undergo full rulemaking procedures
- Review of the underlying scientific issues by the NRC requested, similar to the study made by NRC on the land-application of biosolids
- Concurs with the concerns of the Virginia Association of Municipal Wastewater Agencies

<p>Association of State Drinking Water Administrators:</p> <ul style="list-style-type: none"> • Appreciates fact that many of ASDWA’s proposed changes on the 2003 policy appear in the 2005 version, including public participation, monitoring and special treatment for drinking water intakes • Comment seeks “further refinements” • Final policy should require utilities to implement a “system-specific plan” for the elimination of blending, which will help ensure that discharges do not compromise the safety of drinking water sources
<p>Citizens Campaign for the Environment:</p> <ul style="list-style-type: none"> • CCE recognizes that this proposed policy is a “definite improvement” over the 2003 proposal but has many concerns <ol style="list-style-type: none"> 1. Seeks stricter language on “implementation schedules” and “permit renewal” 2. Increased guidance and examples of what constitutes a sound “no feasible alternatives” analysis 3. Strengthened language on “sensitive waters” and “public notification”.
<p>Greater Cincinnati Water Works:</p> <ul style="list-style-type: none"> • Clarification required on several areas, including how to size disinfection units under this policy and effect on UV disinfection specifically and evaluation criteria for the no feasible alternatives test
<p>Rahway Valley Sewerage Authority:</p> <ul style="list-style-type: none"> • Establishes new regulatory requirements without undertaking rulemaking • Mandates additional construction as Authority is unaware of federal authority to dictate that a particular plant design is unlawful or required, as long as applicable effluent limitations are met. Additional comments are included
<p>Kilpatrick Stockton LLP (on behalf of Jefferson County, Alabama):</p> <ul style="list-style-type: none"> • Jefferson County has nine wastewater facilities which are all under current Consent Decrees. • Policy will cause delays in the permitting process • This is a draft regulation making changes to the bypass rule, not just interpretation of policy

<p>PRO</p>
<p>Representative Jim Saxton:</p> <ul style="list-style-type: none"> • “The new policy guidance represents a very positive step to address the significant environmental and health threats posed by discharges of inadequately treated sewage and I applaud the Agency’s efforts.”
<p>Melinda McComb (Individual):</p> <ul style="list-style-type: none"> • Volunteer in Newport, Oregon, collecting beach samples in a non-profit partnership between Surfriders and the Oregon Coast Aquarium • Need more clearly defined terms
<p>Water Environment Association of Texas:</p> <ul style="list-style-type: none"> • Guidelines provided which will help create consistency in approach for review and permitting • Concerns about the term “bypass” with regard to general understanding of public • Does not agree that Peak Wet Weather Flows can be totally eliminated

<p>Washington State Department of Ecology:</p> <ul style="list-style-type: none"> • Highly commend Nancy Stoner and Alexandra Dunn on the development of the draft policy • Document provides a common ground • Recommend possible enhancements to policy
<p>The Tennessee Izaak Walton League:</p> <ul style="list-style-type: none"> • Supports guidelines put forth by NRDC and NACWA • Need to focus on open communication and teamwork between all parties
<p>American Society for Microbiology:</p> <ul style="list-style-type: none"> • Overall support for policy but seeks heightened monitoring regimen • Concerned about inadequate control of microorganisms that pose threats to human health • Recommendations stated in attached comments
<p>Association of Metropolitan Water Agencies:</p> <ul style="list-style-type: none"> • Policy appropriately discourages reliance on diverting peak wet weather flows around secondary treatment units as a long term wet weather management approach • Good first step, however integration of current regulations is necessary
<p>King County Department of Natural Resources and Parks:</p> <ul style="list-style-type: none"> • Framework for NPDES permit writers to evaluate and approve the use of blending where appropriate • Clarification is necessary with some of its provisions
<p>No name:</p> <ul style="list-style-type: none"> • Public health professional supports concepts in proposed policy • Concerned with the need for specific monitoring requirements for specific microbials
<p>Miami-Dade County, Water and Sewer Department:</p> <ul style="list-style-type: none"> • Good balance between environmental safety and technical feasibility • Provides clarity • Concerned with EPA inadvertently excluding treatment facilities which should be within the policy's reach
<p>New York State Department of Environmental Conservation Division of Water:</p> <ul style="list-style-type: none"> • Workable, effective solution • Concerns with regard to the effect of the No Feasible Alternative Analysis Process on communities
<p>Dallas Water Utilities:</p> <ul style="list-style-type: none"> • Concerns over public notification • Concerns with funding for wastewater plant improvements
<p>Massachusetts Department of Environmental Protection:</p> <ul style="list-style-type: none"> • Currently, no non-CSO POTWs using blending • EPA policy may affect plants in the future.
<p>Metro Wastewater Reclamation District:</p> <ul style="list-style-type: none"> • Provided input on draft policy • Provides a framework for a nationally consistent improvement over the protection of human health and the environment

<p>Wisconsin Department of Natural Resources:</p> <ul style="list-style-type: none"> • Moves towards clarification of uncertainties associated with diversion • Concerns
<p>City of Albany, Oregon:</p> <ul style="list-style-type: none"> • Agrees with detailed comments submitted by a few other organizations, including the Oregon Association of Clean Water Agencies • Policy defines responsibilities of NPDES permittees in controlling and managing wet weather flows
<p>Metropolitan Wastewater Management Commission:</p> <ul style="list-style-type: none"> • Clearly states EPA's unwritten, long-standing policy that blending is legal and an environmentally sound practice
<p>Kansas Water Environment Association:</p> <ul style="list-style-type: none"> • Needs additional clarification consistent with the secondary treatment rule, state water quality standards, and acceptable engineering practices
<p>Michigan Water Environment Association:</p> <ul style="list-style-type: none"> • Policy needs some clarification before adopted <ol style="list-style-type: none"> 1. "no feasible alternatives" 2. biological treatment 3. notification and reporting requirements 4. elimination of blending over the long term
<p>Oregon Association of Clean Water Agencies:</p> <ul style="list-style-type: none"> • Two areas in need of improvement <ol style="list-style-type: none"> 1. "Applicability of the Bypass Regulations to Blending" 2. "No Feasible Alternatives Analysis Process."
<p>Oregon Department of Environmental Quality:</p> <ul style="list-style-type: none"> • Few concerns and comments relating to the twelve specific inputs and criteria for a permitting authority
<p>City of Salem, Oregon, Public Works Department:</p> <ul style="list-style-type: none"> • Allows for blending • Several concerns in which there is a need for clarification <ol style="list-style-type: none"> 1. "Applicability of the Bypass Regulations to Blending" 2. "No Feasibility Alternatives Analysis Process"
<p>Water Environment Federation:</p> <ul style="list-style-type: none"> • Looks forward to seeing it properly implemented • Additional comments are addressed
<p>East Bay Municipal Utility District:</p> <ul style="list-style-type: none"> • Proposed policy enhances the protection for public health and the environment • Improves wastewater management with regard to peak wet weather flows
<p>Charles River Watershed Association:</p> <ul style="list-style-type: none"> • Policy offers the reduction of blending for long term practice • It serves recreational water areas and is interested in keeping those areas safe for public use • Policy could be strengthened and offers some recommendations

I. Krüger, Inc.:

- Kruger, Inc. recognizes a need for a national standard
- Kruger, Inc. offers information regarding their process, ACTIFLO (ballasted flocculation) and how other groups have been interested in this process
- Clarification needed on biological treatment and peak flow treatment process versus diversion

Genesee County Drain Commissioner's Office Division of Water and Waste Services:

- WWS believes that EPA interprets blending as being legal under Federal
- Regulations Clarification is needed
 1. "No feasible alternatives"
 2. Biological treatment
 3. Notification and reporting requirements

Natural Resources Defense Council:

- NRDC was instrumental in the creation of the policy
- Policy clarifies the bypass rule and the requirement for no feasible alternatives
- NRDC is working to strengthen the NPDES permitting program