This is the fifth of twelve quarterly reports of the Department of Environmental Quality’s (DEQ) progress in addressing the 77 recommendations contained in a report released by the Office of Regulatory Reinvention (ORR) on February 21, 2012. The recommendations were developed by the Environmental Advisory Rules Committee (ARC) whose members were appointed by the ORR and were tasked with conducting a comprehensive review of the department’s regulations and offering recommendations for improvement. Please send comments or questions regarding this report to Dave Fiedler, DEQ’s Regulatory Affairs Officer, at fiedlerd@michigan.gov or call 517-335-6927.

AIR QUALITY DIVISION

Recommendation A-1: Air Toxic Rules

The Air Quality Division’s (AQD’s) Air Toxics Workgroup held their second and third meetings on January 17, 2013 and March 5, 2013. The due date for final draft rules is August 1, 2013.

Recommendation A-2: Mercury Rules

The AQD submitted a new request for rulemaking (RFR) to amend the Michigan Mercury Rules. It was submitted to the Office of Regulatory Reinvention (ORR) on March 14, 2013 and was approved on April 9, 2013. The AQD worked with stakeholders on drafting changes to the Michigan Mercury Rules. The strike-bold draft rules and the Regulatory Impact Statement and Cost Benefit Analysis (RIS/CBA) has been submitted to ORR. This rule package is identified as ORR 2013-021 EQ.

Recommendation A-3: Additional Rule 201 (Permit to Install) Exemptions

The Exemption Workgroup held their second and third meetings on January 24 and March 6, 2013. The due date for final draft rules is August 1, 2013.

Recommendation A-4: Rule 206 Process Deadlines

The draft strike-bold version of the rules and RIS/CBA were submitted to ORR on March 20, 2013. This rule package is identified as ORR 2012-107 EQ. ORR approved the RIS/CBA and forwarded the rules on to the Legislative Service Bureau.

Recommendation A-5: Dispersion Modeling Guidance Document

A draft policy and procedure was presented to the Air Advisory Council at their March 1, 2013 meeting.

Recommendation A-6: Averaging Times and Testing (COMPLETED)

A finalized policy and procedure, identified as AQD-018, was presented to the Air Advisory Council at their March 1, 2013, meeting. This procedure can be found on the DEQ Policy and Procedures Web site.
Recommendation A-9: Visible Emission Limitations

A draft policy and procedure was presented to the Air Advisory Council at their March 1, 2013, meeting. AQD staff are redrafting the policy and procedure base upon this input.

Recommendation A-10: Rescind Rule 330, Electrostatic Precipitator Control Systems. (COMPLETED)

Rule 330 requires electrostatic precipitators (ESPs) at listed source types to have automatic control systems that are set to provide maximum control. Rule 330 was promulgated in 1980 as part of Michigan's control strategy to address attainment of the federal standards for total suspended particulates and was also approved to address emissions of particulates from iron and steel sources, as part of the Reasonable Available Control Technology State Implementation Plan in 1992. This rule duplicates requirements in Rule 910 and is obsolete with respect to state-of-the-art ESP systems. Rule 330 was rescinded, effective April 1, 2013.

Recommendation A-11: General Nuisance Rule

Discussion on this topic continued at both the January 16, 2013, and March 1, 2013, meetings of the Air Advisory Council.

Recommendation A-14: Permit to Install Exemptions

The Exemption Workgroup held their second and third meetings on January 24, 2013, and March 6, 2013. The due date for final draft rules is August 1, 2013.

Recommendation A-16: Renewable Operating Permits - Volatile Organic Compounds from Small Sources (COMPLETED)

RULES 611 and 707(3)-(4) DISCUSSION

Rule Requirements and History

Rules 611 and 707 contain requirements for the operation of cold cleaners. Rule 611 applies to existing cold cleaners placed into operation before July 1, 1979, and Rule 707 applies to new cold cleaners placed into operation on or after July 1, 1979. Rule 707(3) and (4) identify requirements for all new cold cleaners. Rules 611 and 707 do not apply to cold cleaners subject to the National Emission Standards for Hazardous Air Pollutants for halogenated solvent cleaners in 40 CFR Part 63, subpart T.

Rules 611 and 707, which became effective on January 19, 1980, were part of Michigan’s control strategy to address ozone and Rule 611 is a required Reasonable Available Control Technology (RACT) rule. The federal Clean Air Act required a State Implementation Plan to reduce volatile organic compound (VOC) emissions from various source types to address non-attainment with the National Ambient Air Quality Standard for ozone.

ORR Recommendation A-16

The DEQ should work with stakeholders to simplify the process for demonstrating compliance with Rules 611 and 707(3) and (4) for Renewable Operating Permit (ROP) facilities.

Analysis

All major sources are subject to ROP requirements under Rules 210-217 and Title V of the Clean Air Act. Per Rule 213(2), the ROP must contain conditions that ensure compliance with all applicable requirements. This includes the applicable requirements of Rules 611 and 707 for any source that has a cold cleaner.
A template table was developed to include any ROP for a source with a cold cleaner that is either grandfathered or exempt from new source review under Rules 281(h) or 285(r)(iv). This template is structured to be a flexible group to include new and/or existing cold cleaners on-site into a single table. It includes all specific provisions of each rule to provide for maximum flexibility and allows for cold cleaners to be added or replaced without having to modify the ROP. The template table clearly identifies all applicable requirements for proper operation of cold cleaners. It also includes material limits on solvents as a means to prevent emission units subject to subpart T from improperly using the table and identifies the permit to install exemption requirements. The table provides a clear basis of compliance for the permittee.

The cold cleaner template table has undergone review by stakeholders on several occasions. The most recent review was conducted during the ROP Lean Process Initiative during the fall of 2011, the same time the ORR review activities were taking place. A workgroup consisting of both AQD staff and industrial representatives reviewed all existing ROP templates and sought comments through the Michigan Manufacturer’s Association. Through the Lean process, no comments on the cold cleaner table were received and the workgroup did not recommend any changes.

**Recommendation**

Through the Lean Process Initiative, the AQD worked with stakeholders to streamline the ROP process, including demonstrating compliance with Rules 611 and 707, and it was determined that no changes were needed to the ROP cold cleaner template table. This recommendation has been completed.

**Recommendation A-20: Putting a Hold on the 18-Month Construction Window for a PTI**

The draft strike-bold version of the rules and RIS/CBA was submitted to ORR on March 20, 2013. This rule package is identified as ORR 2012-107 EQ. ORR approved the RIS/CBA and forwarded the rules on to the Legislative Service Bureau.

**REMEDIATION AND REDEVELOPMENT DIVISION (RRD)**

**Recommendation R-2: Part 201/213 Vapor Intrusion Policy and Procedure**

The Part 201/213 Vapor Intrusion Policy and Procedure was revised and updated to include comments provided by stakeholders during the May 1 to August 1, 2013, comment period. All 180 comments were tabulated and a brief discussion on which comments were incorporated into the document and why was completed. The policy was presented to the Office of Waste Management and Radiological Protection’s Remediation Advisory Team (RAT) and they gave their approval of the policy. The policy is currently under review by senior management and is expected to be completed soon. Following approval by senior management, the Department vapor intrusion policy and procedure will be finalized and signed by Director Wyant and posted to the DEQ Policy and Procedures Web site. A notice will be sent out on the DEQ listserv notifying interested parties of the newly-finalized document.

**Recommendation R-3: Revising Part 201 Cleanup Criteria**

The process of putting the Part 201 Cleanup Criteria workgroup together is in progress. It is anticipated that the workgroup will include members of the Collaborative Stakeholder Initiative (CSI) group and will be expanded to include some health practitioners whose expertise was requested in the pathway analysis process. The DEQ toxicology unit drafted a set of rules this past quarter as a starting point for discussion.
Recommendation R-4: Part 201 Rules (COMPLETED)

During the CSI process, an effort was made to incorporate the critical rule language into statute to eliminate the need for rules. This was intended to streamline the process further and complete the process sooner. As of today, there are no efforts being undertaken to promulgate rules other than for the criteria. Therefore, this recommendation has been completed.

Recommendation R-6: Effective Solubility and Free Phase Contamination

The Nonaqueous-Phase Liquid (NAPL) Management Policy and Procedure has been drafted and reviewed by the CSI stakeholder group. It is being prepared for internal review and will then be advertised via the DEQ listserv and posted on the DEQ Web site for comment by the stakeholders. Once the policy and procedure is completed, this recommendation will be considered complete.

Recommendation R-8: Definition of Background Concentrations for Hazardous Substance in Soil and Groundwater.

A Policy and procedure will be necessary to close this out and is being considered.

Recommendation R-9: Due Care for Indoor Air Inhalation at a Property Subject to MIOSHA Standards. (COMPLETED)

The stakeholder process included the Deputy Director for MIOSHA and Department of Community Health representatives in developing the statutory language for indoor air inhalation due care considerations. This recommendation is considered completed.

Recommendation R-10: Soil Relocation Statute MCL 324.20120c and Associated Rules

A new policy and procedure is being drafted to address this recommendation.

Recommendation R-11: Source Control

The recommendation will require additional discussion with stakeholders and a statutory amendment. See comments under Recommendation R-13.

Recommendation R-13: Part 201 Due-Care Plans Submitted As Response-Activity Plans for SBA Loans

The CSI stakeholder group has been expanded to include more representation from financial lenders, developers, and the Michigan Municipal League. The goal will be for statutory changes in the fall of 2013.

Recommendation R-14: Boron Standard for Groundwater

See comments under Recommendation R-3.

Office of Waste Management and Radiological Protection

Recommendation RM-2 Beneficial Reuse

The DEQ continues to work with industry on this issue and is expecting a first draft of legislation from the Legislative Service Bureau.
Recommendation RM-7: Hazardous Waste User Charge and Manifest Systems

Two specialists from the Office of Waste Management and Radiological Protection (OWMRP) attended a two-day electronic manifest meeting hosted by the U.S. Environmental Protection Agency (U.S. EPA) in early March to continue their efforts to move the electronic manifest informational submittal system forward in a way that works best for the Industry and the DEQ.

Water Resources Division

Recommendation W-2: Mercury Rule for NPDES Permits

As of March 7, 2012, the Water Resources Division (WRD) has modified the amount of staff time spent on mercury compliance activities and how staff evaluate Mercury Pollutant Minimization Plans (PMP). Specific changes are outlined below:

- WRD will no longer collect low-level mercury data (utilizing EPA Method 1631) during routine compliance sampling inspections at facilities that have reduced mercury discharges to less than 10 ng/l.
- Sampling will be done on a case-by-case basis at facilities with greater than 10 ng/L to document noncompliance in implementing mercury control requirements.
- District staff will be providing a cursory review of all submittals and approve if appropriate (e.g. program appears to be making progress and addressing permit requirements).

Table 1

In addition, WRD has modified the Standard Operating Procedure for reviewing PMPs (WB-011, Procedure for the Review of Pollutant Minimization Programs and Annual Reports) with the following modifications noted in Table 1:

<table>
<thead>
<tr>
<th>Mercury Levels</th>
<th>Review and approval process for revisions to PMPs that were previously approved</th>
<th>Annual Report Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effluent concentration &lt;5 ng/l and in compliance with the level currently achievable (LCA)</td>
<td>Limited cursory review by district staff to make sure it appears appropriate (permittee is not backing off program). No involvement by Permits Section. Approve if adequate.</td>
<td>Cursory review (including the summary of results and actions) by district staff only, then file (rules require submittal of annual report, it doesn't require our review)</td>
</tr>
</tbody>
</table>
| Effluent concentration =>5 ng/l and <10 ng/l and in compliance with the LCA | District determines effluent concentration trend over the last couple of years.  
  - If trend is decreasing, then handle as above (<5 ng/l).  
  - If trend is flat or increasing, then as below (=>10 ng/l). | District determines effluent concentration trend over the last couple of years.  
  - If trend is decreasing, then cursory review (including the summary of results and actions)  
  - If trend is flat or increasing, then detailed district review. No |
The Part 8 Rules (323.1203(o)) state that the department will consider intake toxic substances to be from the same body of water if the department finds that the intake toxic substance would have reached the vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the permittee and there is a direct hydrological connection between the intake and the discharge points. An intake toxic substance shall be considered to be from the same body of water if the permittee’s intake point is located on a Great Lake and the outfall point is in close proximity to the intake point and is located on a tributary of that Great Lake.

Recommendation W-7: Sanitary Sewer Overflows Control

The WRD sent a second letter (see attachment 1) to the U.S EPA, dated February 5, 2013, asking some additional questions regarding the federal combined sewage overflow (CSO) and sanitary sewer overflow (SSO) requirements specific to Oakland County. The U.S. EPA’s response is in a letter dated March 14, 2013, (see attachment 2). The WRD will be working with the Oakland County Water Resources Commissioner on an alternative approach.

W-18: NPDES Water Treatment Additives

Process to Receive Approval to Discharge Select Water Treatment Additives (WTA)

Select WTAs are those commonly used chemical products that are added as conditioners to improve the water quality for use in a system or process, condition and treat the water to make it suitable for discharge, are considered to not adversely affect aquatic life, are a single chemical (i.e., not a mixture of chemicals), and can be regulated through a facility’s NPDES permit with a chemical specific water quality-based effluent limit (WQBEL), using a parameter that mitigates the WTA toxicity (i.e., pH limits that mitigate a pH adjusting WTA).

The following commonly used disinfectants and dechlorinating agents, flocculents, pH adjusters, water softeners, and oxygen scavengers are included on the List of Select Water Treatment Additives (click on list).

The process to receive approval to use and subsequently discharge Select WTAs to a surface water of the state from a National Pollutant Discharge Elimination System (NPDES) permitted outfall includes the following:
1. The receipt of a complete form Notice to Discharge Select Water Treatment Additives For Permitted Facilities Under the (NPDES). The form must be sent via e-mail to wrdpermits@michigan.gov.

2. Upon receipt of your email request, you will receive an automatic response. The automatic response is required prior to the discharge of any select WTA to a surface water of the state from a NPDES permitted outfall.

3. Only those Select WTAs included on the list are authorized under this process. The process to receive approval to discharge any WTA not included on the List of Select Water Treatment Additives is outlined, above.

4. The corresponding WQBEL for the Select WTA must already be included in the NPDES permit for the outfall from which the WTA will be discharged.

5. Required sampling to fulfill NPDES permit requirements must be conducted on effluent discharged from the outfall during a representative time period of Select WTA usage and discharge.

6. The facility must already possess a NPDES permit, and the outfall from which the Select WTA will be discharged must already be permitted under the NPDES permit.

**LIST OF SELECT WATER TREATMENT ADDITIVES**

NOTE: Approval to discharge additives on this list must be obtained by the WRD prior to use and discharge of the additive. Additives that contain the following chemicals as a single constituent in the product (plus water) are considered to be Select WTAs.

Table 1. Select Water Treatment Additives - disinfectants and dechlorinating agents.

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Product Type</th>
<th>NPDES Limited Parameter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calcium hypochlorite</td>
<td>Disinfectant</td>
<td>TRC and pH</td>
</tr>
<tr>
<td>Sodium hypochlorite</td>
<td>Disinfectant</td>
<td>TRC and pH</td>
</tr>
<tr>
<td>Chlorine gas</td>
<td>Disinfectant</td>
<td>TRC and pH</td>
</tr>
<tr>
<td>Sodium thiosulfate</td>
<td>Dechlorinating Agent</td>
<td>TRC and pH</td>
</tr>
<tr>
<td>Sodium sulfate</td>
<td>Dechlorinating Agent</td>
<td>TRC and pH</td>
</tr>
<tr>
<td>Sodium bisulfite</td>
<td>Dechlorinating Agent</td>
<td>TRC and pH</td>
</tr>
<tr>
<td>Sodium metabisulfite</td>
<td>Dechlorinating Agent</td>
<td>TRC and pH</td>
</tr>
</tbody>
</table>

Table 2. Select Water Treatment Additives - flocculants.

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Product Type</th>
<th>NPDES Limited Parameter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ferric chloride</td>
<td>Flocculant</td>
<td>pH</td>
</tr>
<tr>
<td>Aluminum sulfate (alum)</td>
<td>Flocculant</td>
<td>pH</td>
</tr>
</tbody>
</table>

Table 3. Select Water Treatment Additives - pH adjusters and water softeners.

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Product Type</th>
<th>NPDES Limited Parameter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hydrochloric acid (muriatic acid, hydrogen chloride)</td>
<td>pH Adjuster and Water Softener</td>
<td>pH</td>
</tr>
<tr>
<td>Phosphoric acid</td>
<td>pH Adjuster and Phosphorus and pH</td>
<td></td>
</tr>
<tr>
<td>Constituent</td>
<td>Product Type</td>
<td>NPDES Limited Parameter</td>
</tr>
<tr>
<td>------------------</td>
<td>----------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>Sodium bisulfite</td>
<td>Oxygen Scavenger</td>
<td>pH and DO</td>
</tr>
</tbody>
</table>

Table 4. Select Water Treatment Additives - oxygen scavengers.
Completion of this form with all applicable information is mandatory and is required by Part 31 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. The discharge of a Water Treatment Additive without review and approval may result in commencement of an enforcement action. Failure to comply with these provisions may result in fines of up to $25,000 per day and the possibility of imprisonment, in accordance with Act 451, PA 1994, Part 31.

**FACILITY INFORMATION**

<table>
<thead>
<tr>
<th>FACILITY NAME</th>
<th>FACILITY CONTACT (FIRST AND LAST NAME)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ADDRESS</th>
<th>FACILITY CONTACT EMAIL</th>
<th>PHONE NUMBER</th>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>CITY</th>
<th>ZIP CODE</th>
<th>COUNTY</th>
<th>NPDES PERMIT NUMBER/CERTIFICATE OF COVERAGE (COC) NUMBER</th>
</tr>
</thead>
<tbody>
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</table>

**WATER TREATMENT ADDITIVE DISCHARGE INFORMATION**

<table>
<thead>
<tr>
<th>WATER TREATMENT ADDITIVE (WTA)/CHEMICAL CONSTITUENT(s) OF WTA</th>
<th>OUTFALL(S) WTA WILL BE DISCHARGED FROM</th>
<th>DURATION OF DISCHARGE (DAYS PER WEEK / HOURS PER DAY)</th>
<th>MAXIMUM DOSAGE RATE</th>
<th>WTA CONCENTRATION IN THE FINAL DISCHARGE</th>
<th>TYPE OF REMOVAL TREATMENT (IF ANY) THE WTA RECEIVES PRIOR TO DISCHARGE</th>
</tr>
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<tbody>
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</table>

1.) **DOES THE OUTFALL FROM WHICH THE WTA(s) WILL BE DISCHARGED HAVE THE APPLICABLE NPDES LIMIT PER THE LIST OF SELECT WTA’S?**

- [ ] YES – CONTINUE TO ITEM 2
- [ ] NO – WTA IS NOT AUTHORIZED TO BE DISCHARGED UNDER THIS PROCESS.

2.) **APPLICABLE NPDES LIMIT PER THE LIST OF SELECT WTA’S.**

Note: required sampling to fulfill NPDES permit requirements must be conducted on effluent discharged from the outfall during a representative time period of Select WTA usage and discharge.

**CERTIFICATION**

State of Michigan regulations require this form be signed as follows:

- **Corporation:** By the principal executive officer or vice president or higher, or his/her designated representative if the representative is responsible for the overall operation of the facility from which the discharge described originates.
- **Partnership:** By a general partner
- **Sole Proprietorship:** By the proprietor
- **Municipal, State, or Other Public Facility:** By a principal executive officer, the mayor, village president, city or village manager, or other duly authorized employee

**Note:** If the signatory is not listed above, but is authorized to sign the Application please provide documentation of that authorization.

I certify, under penalty of law, that this document and all attachments were prepared by me, or under my direction or supervision in accordance with a system to assure qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person(s) who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I understand that my signature constitutes a legal agreement to comply with the requirements of the appropriate NPDES Permit. I certify under penalty of law that I possess full authority on behalf of the legal owner/permittee to sign and submit this Notice to Discharge.

<table>
<thead>
<tr>
<th>Printed Name</th>
<th>Title</th>
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</thead>
<tbody>
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<td></td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
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</tr>
</tbody>
</table>

IF YOU HAVE ANY QUESTIONS ABOUT THE PREPARATION OF THIS FORM, PLEASE CALL 517-373-4633.

RETURN THIS COMPLETED FORM, AND ANY ATTACHMENTS TO WRDPERMITS@MICHIGAN.GOV OR MAIL:
February 5, 2013

Ms. Tinka G. Hyde, Director
Water Division
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Dear Ms. Hyde:

I am writing to, once again, seek your clarification on the federal rules and requirements regarding sanitary sewer overflows (SSO) and combined sewer overflows (CSO). However, this time I am asking, on a site specific basis, if enforcement discretion and the United States Environmental Protection Agency's (USEPA) Integrated Municipal Storm Water and Wastewater Planning Framework provide sufficient flexibility to allow a nontraditional permanent solution to SSO capture and treatment under most wet weather events as detailed below.

Last April, we sent a letter to you asking for interpretation of federal rules and requirements pertaining to a specific question regarding SSOs and CSOs. In that letter we stated that the Department of Environmental Quality has operated under the interpretation that federal rules do not allow an SSO that is not already tributary to a permitted combined sewer outfall to be routed to a CSO treatment facility as the final SSO correction program. In May, we received a response from you that supports how we operate by stating that if such an SSO were to be routed to a CSO treatment facility, then any discharge from the facility would then have to meet federal secondary treatment requirements. CSO treatment facilities in Michigan meet water quality standards at all times but are not designed to meet federal secondary treatment requirements. We appreciate your response to our previous question, and have enclosed both letters for your convenience.

Recently, we met with the Oakland County Water Resources Commissioner (OCWRC) and his staff to discuss this issue, and we now have two additional questions. The situation that first prompted us to ask for your interpretation of federal rules was specifically from Oakland County. Before we ask our additional questions, the situation is described in greater detail below.

By way of background, Oakland County's Evergreen-Farmington Sewer Disposal District (District) is tributary to the city of Detroit's combined sewer system and the Detroit Wastewater Treatment Plant (WWTP). The outflow from the District is transported preferentially in Detroit sewers to the WWTP for preferential secondary

[Signature]
treatment during wet weather events, but still may become part of a downstream CSO to the Detroit River under very limited circumstances. Historically, the Evergreen Farmington District had combined areas that were tributary to 36 untreated CSOs, and more expensive separate sanitary areas that were not tributary to these combined outfalls but had and continue to have SSOs. The separate areas had an original administrative order from the late 1980s that called for correction of SSOs. This order needed to be amended in the early 2000s to address continuing SSOs. The 36 CSOs were all eliminated under several National Pollutant Discharge Elimination System permits in the mid-1990s by constructing three CSO Retention Treatment Basins (RTBs). These RTBs were designed to ensure that water quality standards would be met at times of discharge, but not designed to meet secondary treatment requirements. In order to fulfill the amended SSO order, the OCWRC has undertaken several projects, though additional work remains. The amended order was written to preclude the possibility of sending excess sanitary flow from the sanitary sewer areas to these CSO RTBs, except while the order was being implemented or during emergency conditions (i.e. an extreme storm event that is greater than the remedial design event from our SSO Policy). As you can see, the OCWRC has been proactive and deserves a great deal of credit for eliminating water quality issues due to CSOs, and for moving along with its order to correct its SSOs.

The OCWRC has stated that as part of their Long Term Corrective Action Plan, they would control one of their largest SSO discharges with a tunnel project that has an estimated cost of $36 million. Further, they would be able to avoid expenditure of an additional $12 million and eliminate another SSO by routing wet sanitary flow (under a revised SSO correction order) to one of the existing CSO RTBs as a permanent solution. The OCWRC states that this solution is cost-effective and allows the OCWRC to use their resources to tackle control of other SSOs in the District with an integrated approach. The OCWRC expects that:

- Under current conditions, excess sanitary flow would be diverted to the RTB about once per year on average (this would be permissible under the current Order);
- Under future conditions, the frequency of discharge of excess sanitary flow into the RTB would likely be reduced by making additional operational changes and/or interceptor system changes though this frequency has yet to be determined;
- The excess sanitary flow would be a small fraction of the influent and effluent volumes of the RTB;
- The peak influent flow rate of 14 cfs excess sanitary flow to the RTB, would be a small fraction of the total peak design flow rate of 700 cfs for the RTB;
- Water quality standards in the receiving waters would continue to be met at the time of discharge from the RTB, and
- All of the above statements would be verified through a demonstration project.
Ms. Tinka G. Hyde, Director  
Page 3  
February 5, 2013

Given your first response this past May, we are now asking if, 1) the USEPA's Integrated Municipal Storm Water and Wastewater Planning Framework (dated June 2012), and/or 2) the potential to use enforcement discretion allows flexibility in this circumstance to permit this project as the permanent solution.

We appreciate your input on the two new questions that are being posed on this issue. If you have any questions or need further clarification, please feel free to contact me; Mr. Pete Oslund, Chief, Field Operations Section-Lakes Erie and Huron, Water Resources Division (WRD), Michigan Department of Environmental Quality (MDEQ), at 517-373-1982; or Mr. Phil Argiroff, Chief, Permits Section, MDEQ, at 517-241-1341.

Sincerely,

[Signature]

William Creal, Chief  
Water Resources Division  
517-335-4176

Enclosures  
cc: Mr. Pete Oslund, MDEQ  
Mr. Phil Argiroff, MDEQ
William Creal, Chief
Water Resources Division
Michigan Department of
Environmental Quality
P.O. Box 30473
Lansing, Michigan 48909

Re: Questions Regarding Potential Remedies to Permanently Address Sanitary Sewer Overflows

Dear Mr. Creal:

This letter is in response to your February 5, 2013 letter in which you asked whether U.S. Environmental Protection Agency's Integrated Municipal Stormwater and Wastewater Planning Framework (dated June 2012), and/or the use enforcement discretion would allow separate sanitary wastewater flow to be treated and discharged through a combined sewer overflow (CSO) treatment unit as a permanent solution to a sanitary sewer overflow (SSO) problem.

The answer to your question is that routing sewage from a sanitary sewer system to a CSO treatment facility cannot be permitted as a permanent solution to an SSO problem unless discharges from that facility are subject to effluent limitations based on secondary treatment. The project that you described in your February 5, 2013 letter could only be considered an interim solution, not a permanent solution. Under the Integrated Municipal Stormwater and Wastewater Planning Framework, an integrated project plan must lead to meeting all applicable legal requirements, but can allow for flexible scheduling and other considerations. The proper exercise of enforcement discretion would provide similar flexibility but likewise must result in full compliance with the regulatory requirements.

As we explained in our May 31, 2012 letter to you, discharges prior to the headworks of a Publicly Owned Treatment Works (POTW) treatment facility from a wet weather treatment facility that receives flows from a collection system with only combined sewers are considered to be combined sewer overflows (CSOs). CSOs are subject to effluent limitations based on BAT/BCT or any more stringent limitations necessary to attain water quality standards. However, discharges from a wet weather treatment facility that directly accepts flows from multiple collection systems, which include flows from a sanitary sewer collection system as well as from a combined sewer systems would be subject to effluent limitations based on the secondary treatment regulations at 40 CFR Part 133 or any more stringent limitations necessary to attain water quality standards.
We hope that this letter will assist the Michigan Department of Environmental Quality in resolving questions regarding this issue. Please contact Patrick Kuefler, at (312) 353-6268, if you have any questions.

Sincerely,


Tinka G. Hyde
Director, Water Division

cc: Mr. Pete Ostlund, MDEQ
    Mr. Phil Argiroff, MDEQ
    Mr. Dave Feldler, MDEQ