Sanitary Sewer Overflow (SSO) Initiative Information for Prospective Participants

What is the SSO initiative?
Sanitary sewer systems that are properly designed, operated, and maintained will collect and transport all of the sewage and industrial wastewater that flow into them to a wastewater treatment facility for appropriate treatment. If, however, there is significant inflow/infiltration (I/I) in the collection system; the system is not properly operated and maintained; or its capacity is inadequate for collection, storage or treatment, then sanitary sewers can overflow. A sanitary sewer overflow (SSO) is a type of unauthorized discharge of untreated or partially treated wastewater from a collection system or its components (such as a manhole, lift station, or cleanout) before it has reached a treatment facility.

Correcting the problems that cause SSOs is usually time-consuming and expensive for municipalities; thus, they may be reluctant to begin corrective actions, or they may delay such actions, until the enforcement process requires them to act.

While the TCEQ recognizes that their total elimination is unlikely, SSOs can be addressed before they affect the environment. The goals of the initiative are to reduce the number of SSOs that occur each year in Texas and to address SSOs before they harm human health, safety, or the environment and before they become enforcement issues.

Who can participate?
- Wastewater treatment facilities with sanitary sewer systems
- Subscribers (facilities consisting entirely of sanitary sewer systems)

The Field Operations Division regional staff may identify some facilities that are good candidates for participation during on-site compliance investigations or file-review investigations. This identification will be based on:
- Self-reported data indicating violations of permitted flow limitations and significant noncompliance with other permitted effluent limitations.
- SSO history (the number and volume of overflows).

- Previous notices of violation (NOVs) for SSOs.
- SSOs occurring in impaired watersheds.
- SSOs with the potential to have an impact on human health, safety, and/or the environment.
- Repeated complaints regarding SSOs.
- Corrective action for SSOs that will require longer than six months to complete. A facility currently under a compliance plan with the region for addressing SSOs can be included in the initiative if the current plan covers, or is revised to cover, all of the required elements.
- Facilities currently under formal enforcement action for SSOs are not eligible to participate in the initiative.

Participation in the initiative is not limited to those facilities identified by TCEQ personnel. Facilities may also elect to participate, and, in those cases, should contact the local TCEQ regional office to discuss that option.

How will participation in the initiative benefit our facility?
- A participating facility will not be subject to formal enforcement for most continuing SSO violations, as long as the SSOs are addressed by the SSO plan.
- Participation allows the facility to spend resources on correction as opposed to having to pay penalties associated with an enforcement order, in addition to the money required to complete corrective action.
- Participation ensures that SSOs addressed by the SSO plan will not affect the facility’s compliance history rating.

What can we expect if we agree (or elect) to participate?

Meeting with the regional staff
Following an investigation by regional personnel that has documented SSOs, the TCEQ will notify the facility by letter of the opportunity to participate in the initiative. A meeting will be held within the next 30 days to further discuss the initiative. The investigator may also discuss the investigation...
findings and explain the initiative during the compliance investigation exit interview. In that case, another meeting may not be required. (Note: If a facility has not been contacted by the regional staff but would like to discuss participation in the initiative, its representative may call the regional office to arrange a meeting.)

During the meeting regional personnel will:
• Discuss the findings of the investigation, if applicable.
• Explain that, in order to participate in the initiative, the facility must agree to conduct a sanitary sewer system evaluation of the wastewater system in order to determine the scope of the problem and to develop a plan for improving, updating, and repairing the wastewater collection system. The plan must include a time line for completing each specific task.
• Discuss the required elements of the SSO plan.
• Supply technical-assistance materials from the Small Business and Environmental Assistance (SBEA) Division.

After the meeting, regional personnel will send a letter confirming the facility’s participation that will:
• advise the facility of the findings of the SSO-related investigation;
• spell out the minimum requirements of the SSO plan; and
• allow up to 180 days for the plan to be finalized.

If the facility does not elect to participate in the initiative, the TCEQ will not afford it protection from formal enforcement for SSOs, and will issue a notice of violation for any SSO violations noted during the investigation. (Note: If a facility contacted the region to request the meeting—i.e., an investigation was not conducted by the regional office—and the facility decides not to participate in the initiative, the TCEQ will evaluate any SSO violations during the next compliance investigation and will issue an NOV at that time.)

Evaluation of the SSO plan
After the facility has submitted its SSO plan to the TCEQ, regional personnel will review it and determine if additional information is needed. If not, a letter approving the plan will be mailed to the facility. At that time a copy of the plan will also be forwarded to the Enforcement Division for inclusion in the SSO agreement.

If additional information is required, the investigator will send a letter describing the information needed and will allow up to 30 days for the facility to submit a revised plan.

What should the plan include?
The term of the SSO plan cannot exceed 10 years. The plan should include the following elements:
• A description of the cause of the SSOs and interim measures the facility will take to mitigate the effects of continuing SSOs.
• A comprehensive evaluation of the sewer system.
• A description of specific corrective measures, with milestones for addressing continuing SSOs.
• The time line for completing each corrective action.
• Provisions for the development and implementation, or the improvement, of an operations and maintenance program to ensure continued permit compliance.
• A description of all funding sources.
• A statement describing how the facility will evaluate the effectiveness of the improvements.

Where can we get assistance with developing a plan to address SSOs?
The Small Business and Environmental Assistance Division (SBEA) will be available to assist municipalities in addressing their SSO problems by providing:
• information on funding sources;
• guidance on the development and implementation of a program to manage fats, oil, and grease; and
• guidance on the development and implementation of a Capacity, Management, Operation, and Maintenance program to improve compliance and reduce environmental impacts, costs, and risks.

For additional information, contact SBEA at 512-239-3100 or the Small Business and Local Government Assistance Hotline at 800-447-2827, or e-mail <sbap@tceq.state.tx.us>.

Do we continue to report SSOs to the TCEQ if we participate in the initiative?
Yes, any noncompliance reporting requirements included in the permit provisions, the Texas Water
Code, or both will remain in effect. Site-specific notifications will still be required.

**What happens if additional SSOs occur while we are participating in the initiative?**

Participation in the initiative excludes the facility from formal enforcement for SSOs that are addressed by the SSO plan. The TCEQ does, however, still retain the right to take enforcement action under certain circumstances, which may include any of the following:

- SSOs that are intentional or result from negligence.
- Failure of the facility to respond appropriately to an SSO.
- Failure of the facility to report an SSO.
- SSOs that result in a documented impact, or have the potential for such an impact, on human health, safety, or the environment.
- Continued failure by the facility to meet the requirements of the SSO agreement.

TCEQ personnel will review each circumstance individually to determine if the agency should initiate a separate enforcement action to address a particular SSO according to current enforcement protocol.

**What if our facility chooses not to participate?**

Participation is entirely voluntary. If TCEQ personnel document an SSO at a facility not participating in the initiative, they will mail an NOV or a Notice of Enforcement (NOE), if appropriate, and monitor compliance under standard investigation and enforcement protocol. The TCEQ will not afford the facility protection from formal enforcement for continuing SSO violations.

**Is there anything that can cause our facility to be dropped from the initiative?**

Yes. The purpose of the initiative is to encourage facilities to be proactive in addressing SSOs and to offer some measure of protection from enforcement action for SSOs that occur while participating; however, under some circumstances it may be appropriate to rescind a facility's eligibility. Eligibility may be rescinded in cases such as the following:

- Failure to supply the information needed by the region to approve the SSO plan.
- Failure to provide the information needed by the Enforcement Division to develop an SSO agreement.
- Continued failure to meet the requirements of an SSO agreement.
- SSOs due to negligence.
- Failure to respond appropriately to an SSO, or to report one.
- An SSO documented to harm, or having the potential to harm, human health, safety, or the environment.

Other situations may also require a review to determine a facility’s eligibility for continued participation. Those will be evaluated case by case.

If eligibility is rescinded, a representative from either the regional office or the Enforcement Division will notify the participant of the decision. SSO violations identified in previous investigations will then be addressed under standard enforcement protocol.

**Since participation is, in part, based on reported SSOs, how will the TCEQ handle facilities that do not report SSOs?**

Facilities that do not report SSOs will be advised of the reporting requirements. The TCEQ will supply the facility’s representatives with a copy of the noncompliance notification form and the regulatory guidance *Unauthorized Discharges and Sanitary Sewer Overflows* (TCEQ publication no. RG-395), and will issue an NOV, or an NOE if appropriate, for failure to report the SSO (Texas Water Code 26.039) and for failure to prevent an unauthorized discharge (Texas Water Code 26.121). The facility may not be eligible to participate in the initiative if it continues to neglect reporting SSOs.