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NRDC Backgrounder

EPA's New Sewage Dumping Policy: What the Public Thinks

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In November 2003, the Environmental Protection Agency proposed changes to the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) permit requirements for municipal wastewater treatment during wet weather conditions allowing routine discharges of largely untreated sewage during rain events. EPA calls this proposal its "blending" policy because it would allow sewer operators to mix largely untreated sewage with treated sewage before discharging it into our waterways.

Because EPA's sewage dumping policy would increase sewage pollution and threaten public health, it provoked a firestorm of protest. Public health officials, state environmental officials, shellfishermen, marina operators, and tens of thousands of citizens have urged the agency to drop it. Among those weighing in against the proposal were state environmental agencies in Florida, Georgia, New Jersey and Washington, the American Public Health Association, the Pacific Coast Shellfish Growers, several county public health agencies, and the Children's Environmental Health Network.

EPA's sewage dumping policy also is controversial because it undermines current Clean Water Act treatment standards, conflicts with the law's legal requirements, allows sewer operators to discharge inadequately treated sewage even when feasible engineering alternatives exist, and threatens to undermine 30 years of progress we've made cleaning up our rivers, lakes and coastal waters. Many view EPA's new policy as "environmental backsliding" that will undermine current incentives for sewer operators to maximize treatment of sewage to protect public health and the environment. Below are excerpts from public comments filed with the EPA objecting to its sewage-dumping proposal:

Sewage Dumping Threatens Public Health

Joint Comments by the American Public Health Association; Children's Environmental Health Network; National Association of People with AIDS; Physicians for Social Responsibility; and various M.D.s and M.D./Ph.D.s

"Studies of chlorine, chlorine dioxide and ozone have demonstrated the need for physical removal of particles in preparing water for disinfection to protect against waterborne disease transmission."

"[S]olids removal... is not particularly effective at removing viruses or parasites. . . . The result is critical because viruses and parasites, such as *Giardia* and *Cryptosporidium*, cause the majority of identifiable waterborne disease outbreaks in the U.S.... Public health studies have documented that more than half of all waterborne disease outbreaks in the U.S. in the past fifty years were preceded by heavy rainfall."

“Disinfection byproducts may cause increased risk of cancer to humans. Studies have shown an increased risk of bladder, colon and rectal cancers in populations with extended exposures to chlorinated drinking water.... Use of disinfectants and exposure to disinfection by-products should be minimized, not increased, as would the case under the EPA proposal.”

Harris County (Texas) Public Health & Environmental Services

“[I]ncreased exposure to pathogens in roadside ditches, streams and bayous represents a significant health risk to humans (especially children) and animals.”

American Society for Microbiology

“[W]e are concerned that the proposed policy may provide inadequate control of microorganisms that pose significant threats to human health through contamination of sources used for potable water supplies in particular.”

“[T]here is no explicit requirement to control pathogenic microorganisms in blended discharges to acceptable levels.”

Axel C. Ringe, president, Tennessee Clean Water Network

“Pathogens (disease-producing microorganisms) found in sewage include bacteria (such as e.coli), viruses (such as hepatitis A), protozoa (such as Cryptosporidium and Giardia) and helminth worms. The pathogens in sewage can cause illnesses ranging from diarrhea, vomiting, respiratory infections, to giardiasis, cryptosporidiosis, hepatitis, and dysentery. Waterborne outbreaks are often caused by Cryptosporidium and Giardia, which are not effectively removed from blended sewage.”

Henry Gluckstern, former senior water attorney and associate regional counsel for waste, EPA Region II

“Blending is a seriously faulted response to a serious water contamination problem. Its only possible outcome will be radically higher number of illnesses and deaths among Americans. The oath that you recently undertook in assuming your position at EPA mandates that you assure the withdrawal of the blending policy.”

“Any permitted discharge during precipitation events would increase the bacterial, virus and parasitic burden [in] America’s recreational waters and drinking water supplies and, therefore, pose an endangerment to human health and the environment.”

The New Policy Is Not Workable

Georgia Department of Natural Resources

“[I]t would be difficult for the operator to predict with reasonable certainty that the blended effluent would be able to meet permit limits and protect water quality standards.”

“There will be no way of assuring that the wastewater treatment facility operators ‘fully utilize’ treatment capability before allowing blending to occur.”

“It will be very difficult to craft permits that have the proper conditions that specify when blending is appropriate (at what flow volumes and at what conditions). It will be difficult to track compliance on what could be complicated permits.”

“It will be difficult for operators (especially those who operate small systems with limited personnel and training) to determine when blending is appropriate and to execute the blending process appropriately to ensure that no violations occur.”

Michigan Department of Environmental Quality

“Because the proposed policy is vague in definition, interpretation could have an effect on federal and state enforcement actions under the federal Clean Water Act.”

“[T]he USEPA uses terms that too loosely describe acceptable engineering practices and design goals that are effectively used as the basis for accepting the alternate wet weather treatment scheme.”

Harris County (Texas) Public Health & Environmental Services

“[A] review of the proposed bypass principles indicates a high degree of reliance on self-monitoring and self-reporting to ensure compliance. Our experience has shown the determinations of compliance via self-reporting data can be unreliable.”

Dale S. Bryson, former EPA Region V water quality director

“[T]he policy as proposed will make any issued permits almost unenforceable.”

Sewage Dumping Undercuts Drinking Water Protection Efforts

Niagara County (New York) Health Department

“The vast majority of sewage wastewater treatment facilities in Niagara County discharge to waterways used as drinking water source or recreational waters.... With all the time, effort and initiatives placed on enhancing water quality, it is difficult to justify weakening standards at this point in time.”

American Water Works Association

“Currently, the [Safe Drinking Water Act] and [Clean Water Act] requirements and implementation sometimes do not adequately protect drinking water sources, especially where multiple regulatory agencies are responsible for implementation of these two acts...While the SDWA regulates the quality of treated drinking water, the CWA should protect the contributing source water.”

Sewage Dumping Encourages Poor Wastewater Management

Florida Department of Environmental Protection

“We are not familiar with any design references that allow blending as a proper management practice to handle peak flows.”

“The policy...ultimately rewards utilities where sanitary sewer systems have not been maintained to remove wet weather flows. Allowing blending at a treatment facility undermines the incentive for a system to remove wet weather I/I, leading to higher surface water discharges. Once treatment infrastructure is in place allowing blending it is not likely to be removed and better alternatives are not likely to be explored in the future.”

“[The policy] would likely encourage utilities that have significant wet weather flows to continue their reliance on ocean outfalls and deep well disposal systems rather than investing in more environmentally beneficial and less wasteful water management options.”

Georgia Department of Natural Resources

“Those POTWs with the greatest amount of infiltration problems could benefit the most regarding this policy, because they experience the greatest amount of dilution in their system.... This is especially true for small towns that may have antiquated collection systems and are in significant need of improvements.”

“[The Environmental Protection Department] anticipates that a lot of permittees will want to spend money to upgrade their POTWs to allow them to blend instead of using the money to fix their collection systems.”

Massachusetts Department of Environmental Quality

“[W]e are concerned that the draft policy ... would both promote the use of blending practices under minor storm events and allow the continued degradation of collection systems.”

Michigan Department of Environmental Quality

“The USEPA policy indicates that a permitted ‘treatment scenario’ for a POTW would not be considered a bypass, and the permittee would not have to make a demonstration that there was no feasible alternatives [sic] to the bypass. This would allow POTWs serving separate sanitary collection systems to be subject to a lesser demonstration than POTWs serving combined collections systems.”

“[T]he policy does not sufficiently separate the alternate treatment scheme from the primary dry weather treatment scheme. As the wet weather treatment scheme is not clearly isolated from the dry weather scheme in the draft policy, it should not be considered to be “equivalent to that treatment scheme.”

“The proposed ... policy states that the secondary treatment regulations do not specify the type of treatment process to be used to meet secondary treatment requirements, not to they preclude the use of nonbiological facilities. This is not entirely true, and it seems that the USEPA may be revising history as to the importance of biological treatment in forming the secondary treatment regulations.”

“The secondary treatment regulations were established, in part, to encourage municipalities to correct inflow and infiltration (I/I) problems in the collection system and to prevent the intentional dilution of wastewater to meet permit limitations. We see the potential for this proposed policy to be misused to allow the situations that the secondary treatment regulations were established to prevent.”

Department of Food and Shellfish Programs, Washington State Health Department

“Allowing the bypass of wastewater at sewage treatment plants will likely cause municipalities to de-emphasize I/I reduction programs, leading to an increased loss of sewage to ground and groundwaters during dry seasons.”

“[T]he overall cost savings discussed on the EPA website for this proposed policy may be shortsighted.”

Washington State Department of Ecology

“It also potentially allows inexpensive but unacceptable alternatives to removing excessive I/I in collection systems and the potential to allow unnecessary bypassing to reduce operating costs.”

“While EPA’s guidance policy discusses the benefits of using blending to reduce sanitary sewer overflows and combined sewer overflows, it fails to address the adverse effects, environmentally and economically, of discharging partially treated secondary waste to sensitive waterways, shellfish areas, sediment impact zones or other natural resource areas.”

American Society for Microbiology

“The proposed policy does not address the potential for pathogen (bacteria) regrowth in blended effluents subsequent to discharge.”

“Levels of disinfection that prevent pathogen regrowth may vary from system to system and as a function of storm water loading. The proposed blending policy does not explicitly address variability in disinfection efficacy.”

Sewage Dumping is Not a Long-Term Solution

Michigan Department of Environmental Quality

“The USEPA should not excuse the lack of long-term municipal collection system maintenance nationwide by establishing a policy that further relaxes the already lenient performance expectations of separate collection systems.”

New Jersey Department of Environmental Protection

“As proposed, the blending policy is flawed in its institutionalization of blending as a long term solution, its failure to require continuous disinfection, the uncertainty that will arise from its implementation, and its potential effect on the design of future POTWs.”

“By making blending a permanent compliance option, the proposed policy would encourage the development of undersized POTWs.”

Massachusetts Department of Fish and Game’s Riverways Program

“This policy is doing a disservice by not taking a holistic approach nor being pro-active in trying to craft a policy that would provide incentive and guidance to eliminate the need to bypass flows by looking at the interrelatedness of stormwater, wastewater, and water quality.”

New York State Assembly

“EPA’s proposal condones Storm Sewer Overflows instead of encouraging much needed infrastructure investment to help POTWs meet existing law and regulations...The proposed policy does not promote a real solution to the real problems of outdated, crumbling infrastructure, and associated untreated sewage discharges.”

Harris County (Texas) Storm Water Quality Section (SWQS)

“SWQS believes that providing leniency and flexibility in the form of blending is a short-term solution that precludes POTW owners/operators from developing alternative treatment strategies during peak wet-weather flows or upgrades to existing infrastructure.”

American Society for Microbiology

“The proposed blending policy recognizes current needs due to periods of wet weather, but does not provide a provision for addressing the current or future scope of the problem.”

There Are Better Alternatives to Sewage Dumping

Washington State Department of Ecology

“On pages 8 and 9 of EPA’s draft guidance policy, five non-blending options are listed to enhance treatment of wet weather flows without damaging biological treatment capabilities. Ecology believes that all of these options are viable and we encourage to use of these options instead of blending.”

Connecticut Department of Agriculture’s Bureau of Aquaculture

“Major improvements have been made during the past 15 years with wastewater pollution control facility (WPCF) renovations and advanced treatment, pumping station and sewer line upgrading and combined sewer overflow separations. These improvements have resulted in upgrading in the classifications of shellfishing areas and fewer ‘emergency’ closures due to bypass events.”

Cayuga County (New York) Health and Human Services Department

“Many communities in our area have already made the investment to fully treat all of the wastewater before discharging into the receiving water bodies, even under extremely adverse weather conditions.”

Sewage Dumping Hurts Businesses that Depend on Clean Water Connecticut Department of Agriculture’s Bureau of Aquaculture (DA/BA)

“[DA/BA] ... has concerns with regards to the impacts on the shellfish industry in Connecticut.”

“There are currently more than 67,000 acres of ... shellfish grounds within the forty-foot depth contour of Long Island Sound ... [that] support an industry that has a current annual market harvest value of \$11,000,000.00 with 320,000 bushels of shellfish (clams and oysters) harvested. Eight years ago, before a natural disease die-off ... the industry was worth \$45,000,000.00.”

Tacoma-Pierce County (Washington) Health Department

“We believe this policy would have adverse impacts on the shellfish industry in our county in all other areas with a commercial and/or recreational shellfish industry.”

East Coast Shellfish Growers Association

“The policies proposed would most certainly have a significant negative impact upon the shellfish growers represented by our group. The shellfish that we grow depend on a healthy environment, and high water quality standards are imperative to the marketability and food safety of our products.”

“[National Shellfish Sanitation Program] guidelines for shellfish-growing area classification dictates that large prohibited zones are placed around sewage outfalls.”

“[The Association] urges the EPA to take no steps, such as these changes in sewage blending requirements, which would increase contamination in our coastal waters, and endanger the livelihoods of those in the shellfish industry.”

Pacific Coast Shellfish Growers Association

“This proposal, if enacted, would almost certainly result in devastating consequences to shellfish farmers, not just in the Pacific Coast, but the Atlantic and Gulf coasts as well.”

“While we appreciate the challenges faced by municipalities, it must be realized that their failure to protect water quality leads to a ‘taking’ of our growers’ property when degraded water quality leads to closures on shellfish harvest.”

“[Health regulations] force state shellfish authorities to shut down the harvest of our shellfish if water quality drops below food safety level.... The shellfish industry across the county is already facing closures of growing areas due to impaired water quality that fails to meet the [National Shellfish Sanitation Program] standard.”

“On the West Coast alone, the farm-gate value of our shellfish exceeds \$89 million annually, which provides jobs and an important tax base in coastal communities.”

Association of Metropolitan Water Agencies

“To protect public water supply use, we must protect the ambient water quality upstream of each water intake. Reliance solely on drinking water treatment, beyond that which is needed to address naturally occurring pollutant concentrations imposes an unfair burden on communities to address preventable problems caused by manmade sources of pollution.”

Sewage Dumping Threatens Tourism

A joint letter from 14 Great Lakes advocate and environmental groups

“The Great Lakes are more vulnerable to increase pollutant loadings because it is a ‘closed system.’ [I]n 2003 there were more than 1,400 beach closures around Lake Michigan alone, many of them due to sewage overflows.”

Fayette County Commission (West Virginia)

“Many of our streams that are tributaries of the New River are already adversely impacted by bypasses from wastewater treatment plants during rainfall events. This proposed policy would make these bypasses legal, endanger public health, and possibly our tourist economy.”

Sewage Dumping is “Backsliding”

Michigan Department of Environmental Quality

“It is our position that the proposed policy provides a much less stringent measure by which a permittee could seek authorization for a blending scenario.”

Pennsylvania Department of Environmental Protection

“The apparent backsliding in the environmental and public health protection that would occur under this proposed policy is in direct conflict with the additional protections being put in place by EPA for [Concentrated Agricultural Feeding Operations, Combined Sewage Overflows, Municipal Separate Storm Sewage Systems and the Long Term 2] under the Safe Drinking Water Act.”

Washington State Department of Ecology

“This policy would reverse some of the gains achieved by POTWs in providing secondary treatment over the past 20 or 30 years.”

“We believe EPA’s approach, in some cases, represents environmental backsliding and could subject EPA to legal challenges for not upholding the Clean Water Act.”

Cayuga County (New York) Health and Human Services Department

“It is our Agency’s opinion that this proposal if enacted, would be a significant step backwards in the protection of surface water in Cayuga County as well as New York State.”

Harris County (Texas) Storm Water Quality Section (SWQS)

“SWQS generally views this policy as a relaxation of current environmental policy.”

Dale S. Bryson, former EPA Region V water quality director

“The proposed policy violates a fundamental tenet of historic national policy that says all wastewater should be treated to the maximum extent possible in keeping with the treatment units at a specific POTW.”

“It should be noted that the proposed policy is totally inconsistent with previous positions adopted by the Agency.”

“The proposed policy clearly flies in the face of public health protection and environmental protection.”

“[Principle 2] is an unmitigated disaster in terms of protecting public health and the environment. This principle undermines the 30+ years of progress made under the CWA.”

Henry Gluckstern, former senior water attorney and associate regional counsel for waste, EPA Region II

“The proposed policy would destroy the painfully made gains in water quality [that] have taken over three decades to achieve.”

Sewage Dumping Thwarts Local Environmental Protection Efforts

Connecticut Department of Agriculture’s Bureau of Aquaculture

“Some of the WPCF’s have recently switched from toxic chlorine disinfection to ultraviolet disinfection.”

“The cost already incurred by municipalities to upgrade treatment may be wasted if the final effluent quality is degraded.”

Florida Department of Environmental Protection

“The Florida Department of Environmental Protection is concerned that the proposed policy may negatively impact several areas of our current regulations, including Florida’s antidegradation policy, anti-backsliding provisions, and rules requiring utilities to properly plan for the necessary domestic wastewater facilities. We do not believe the proposed policy is compatible with the state’s efforts to encourage and promote water reuse as well as our overall water resource protection program.”

Michigan Department of Environmental Quality (MDEQ)

“A less stringent federal policy may make it more difficult for the MDEQ to require a higher standard for its regulated municipalities.”

“The concern is that the USEPA’s policy may actually undermine our protective procedures. We are concerned that these site-specific evaluations would replace other monitoring requirements, or could be used to further relax effluent limitations by considering wet weather receiving stream flows as alternates to dry weather low-flow conditions.”

Alexandra D. Dawson, legal affairs director, Massachusetts Association of Conservation Commission

“The Connecticut River next to which I live was long known as the best-landscaped sewer in the US. Swimming was actually impossible until the 1980s. The recovery of this great river since then has been one of the environments most encouraging developments. We have hosts of fishermen, and the

river carries shad, salmon and rare species such as short-nosed sturgeon. To allow blending of sewage would imperil these advances. In the cities of the lower portion of the river in Mass. Combined sewer overflows are still a problem. People down there want to swim and fish too without danger of illness or experience odors. They are gradually working out ways to uncombined the sewers from the storm drains. If you change your rule, this effort will cease and people there (not so rich as upstream) will lose hope of these benefits, and people downstream from them in Connecticut will be the victims. We have a good system going that has saved a river 400 miles long. Do not imperil this work.”

Kerry Collins, executive director, Parish Bayou Vermillion District (Louisiana)

“Instead of the EPA being the leading innovator in finding solutions, the EPA has become a drag from behind that I and others like me must overcome to achieve what should be our mutual goals. It appears the EPA is no longer the protector of the environment but the leading advocate for special interests that are attempting to weaken protections. Let others be the advocate for the special interest – we need you to be our advocate.”

The Baykeeper (New York and New Jersey)

“New York and New Jersey have worked hard to improve marine water quality in recent years – beach closures are decreasing, shellfish bed acreage is increasing and tourism revenue in our shore areas continues to climb. The EPA’s proposed policy threatens all of these positive terms, just to alleviate some wastewater treatment plants of their responsibility to maintain their sewer systems.”

Sewage Dumping is Bad for the Environment

Axel C. Ringe, president, Tennessee Clean Water Network

“When the secondary treatment process is skipped, most of the nutrient pollution, oxygen-demanding substances, and other pollutants remain in the wastewater. Therefore, as blending increases so will hypoxic zones, fish kills, habitat loss, algal blooms, and shellfish contamination.”

Citizens Oppose Sewage Dumping

More than 16,500 citizens have signed a petition urging the EPA to withdraw its sewage dumping proposal (see www.petitionsite.com).

In addition, 18,714 activists have emailed their opposition to the proposed policy on NRDC’s Earth Action Network.

Haven Livingston, beach lifeguard, surfer and marine biologist, Santa Cruz, California

“I personally have become sick for weeks with sinus infections and skin rashes due to exposure from sewage contaminated water. Our shores are valuable places we should be protecting and nurturing, not dumping our waste!”

Joan M. Howard, Pittsburg

“Who’s bright idea was this? Obviously someone more interested in saving money than protecting the American people from disease! I understand our cities are hard pressed financially in this current economy. I am sure the savings these cities would realize from dumping untreated waste will be dwarfed by the cost of treating the people who are made ill by the practice!”

Cynthia Frisch, The Pegasus Foundation

“Unlike third world countries where viruses, parasites and other pathogens are continuously discharged into waterways, America has always been the one country where people could trust the water – truly a sign of a more sophisticated system of living where knowledge and science and the goal of a better quality of life meet. To allow the water to decrease in quality is unacceptable to a nation such as our own.”

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