



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MEMORANDUM

SUBJECT: January 1, 1997, Deadline for Nine Minimum Controls in Combined Sewer Overflow Control Policy

FROM: Robert Perciasepe  
Assistant Administrator  
Office of Water *Bob Perciasepe*

*[Signature]*  
Steven A. Herman  
Assistant Administrator  
Office of Enforcement and Compliance Assurance

TO: Water Management Division Directors, Regions I-X  
Regional Counsels, Regions I-X  
State Directors

The purpose of this memorandum is to call your attention to the January 1, 1997, deadline for implementation of the nine minimum controls by National Pollutant Discharge Elimination System (NPDES) permittees that have combined sewer systems. Implementation of the nine minimum controls is the first key milestone identified in the Combined Sewer Overflow Control Policy (CSO Policy) and is a top Agency priority. We emphasize the importance of meeting this deadline, and we urge you to take the steps necessary to achieve it.

On April 19, 1994, EPA published its Combined Sewer Overflow (CSO) Control Policy in the Federal Register (59 FR 18688). The CSO Policy was developed during a negotiated policy dialogue which included representatives from States, environmental groups, and municipal organizations. CSOs consist of mixtures of sanitary sewage, industrial wastewater and storm water runoff. During storm events, a major portion of the combined flow may be discharged untreated into the receiving water. As noted in the CSO Policy (59 FR at 18689):

CSOs can cause exceedances of water quality standards (WQS). Such exceedances may pose risks to human health, threaten aquatic life and its habitat, and impair the use and enjoyment of the Nation's waterways.

The CSO Policy describes a phased process for achieving control of CSOs and compliance with the technology-based and water quality-based requirements of the Clean Water Act. The

first phase involves prompt implementation of best available technology economically achievable (BAT)/best conventional pollutant control technology (BCT). At a minimum, BAT/BCT includes the nine minimum controls, as determined on a best professional judgment (BPJ) basis by the permitting authority. The first phase also includes development of a long-term CSO control plan that will provide for attainment of water quality standards (WQS).

The nine minimum controls are measures that can reduce CSOs and their effects on receiving water quality and that should not require significant engineering studies or major construction. They are as follows:

- \* Proper operation and maintenance;
- \* Maximum use of the collection system for storage;
- \* Review and modification of pretreatment requirements;
- \* Maximization of flow to the publicly owned treatment works (POTW) for treatment;
- \* Prohibition of CSOs during dry weather;
- \* Control of solid and floatable materials in CSOs;
- \* Pollution prevention;
- \* Public notification of CSO occurrences and impacts;
- \* Monitoring of CSO impacts and the efficacy of CSO controls. See 59 FR at 18691.

The nine minimum controls are to be implemented, with appropriate documentation, "as soon as practicable but no later than January 1, 1997." 59 FR at 18691.

EPA's guidance Combined Sewer Overflows: Guidance for Nine Minimum Controls (EPA-832-B-95-003, May 1995) discusses how to implement the nine minimum controls and to document their implementation. This document may be obtained through EPA's Water Resource Center (Tel. 202-260-7786) (E-mail [waterpubs@epamail.epa.gov](mailto:waterpubs@epamail.epa.gov)) or through the National Small Flows Clearinghouse (Tel. 1-800-624-8301).

As already noted, implementation of the nine minimum controls is a top Agency priority, and we believe it is an essential component of a municipality's CSO control program. We intend to track the status of implementation closely during FY 1997 through a CSO program performance plan developed under the Government Performance and Results Act. Under the performance plan, EPA Regional and State permitting authorities will be expected to compile and report data to EPA Headquarters during the second quarter of FY 1997, and periodically thereafter, regarding various aspects of CSO program implementation, including implementation of the nine minimum controls by their CSO communities.

The CSO Policy contemplates that implementation of the nine minimum controls should become an enforceable obligation through inclusion in "an appropriate enforceable mechanism." 59 FR at 18691. For those permits subject to renewal before January 1, 1997, the new permits should include a provision requiring implementation of the nine minimum controls by January 1, 1997. For permits not subject to renewal before January 1, 1997, the permitting authority should reopen the current permit to add a provision requiring implementation of the nine minimum controls by January 1, 1997, if cause exists pursuant to 40 CFR 122.62(a) or (b) or analogous State regulations. An administrative order to require implementation of the nine minimum controls would normally be appropriate in instances where the CSO permittee is in violation of a permit condition, including violation of a permit limit incorporating narrative standards (such as no discharge of floatables, or no discharge of toxics in toxic amounts) or where there is a violation of a permit condition prohibiting exceedance of a numeric State water quality standard.

EPA has encouraged permittees to move forward to implement the nine minimum controls prior to inclusion of such a requirement in a permit or other enforceable mechanism, and we recognize that many communities have made significant progress in implementing the nine minimum controls and in developing or implementing long-term control plans. Permittees should be reminded that EPA's approach, as stated in the CSO Policy, not to seek civil penalties for past CSO violations will not apply unless the nine minimum controls are implemented by January 1, 1997. See 59 FR at 18697.

EPA Regions and States are encouraged to continue compliance assistance efforts to ensure implementation of the nine minimum controls by January 1, 1997.

If you have questions concerning this memorandum, please contact either John Lyon of the Office of Regulatory Enforcement (Tel. 202-564-4051) or Ross Brennan of the Office of Wastewater Management (Tel. 202-260-6928).