



# **Sanitary Sewer Overflow 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. However, if there is significant inflow or infiltration (I/I), the collection system is poorly operated and maintained, or the system lacks adequate capacity to collect, store, or treat flows for treatment, sanitary sewer overflows (SSOs) can occur. An SSO is an unauthorized discharge of untreated or partially treated wastewater from a collection system or its components (e.g., a manhole, lift station, or cleanout) before reaching a wastewater treatment facility.

Correcting the problems that cause SSOs is usually time-consuming and expensive for municipalities; thus, they may delay corrective actions until the system or a portion of the system fully fails to function or until the enforcement process requires them to act.

While the TCEQ recognizes that the total elimination of SSOs is unlikely, these discharges 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?**

- publicly owned wastewater treatment facilities with sanitary sewer systems
- publicly owned subscribers (facilities consisting entirely of sanitary sewer systems)

The Field Operations 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 harm human health, safety, or the environment.
- Repeated complaints regarding SSOs.
- Corrective action for SSOs that will require longer than six months to complete. A system 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.

Systems currently under formal enforcement action for SSOs are not eligible to participate in the initiative. Participation is not limited to systems identified by TCEQ personnel. Municipalities 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 system?

- A participating system will not be subject to formal enforcement by the TCEQ for most continuing SSO violations, as long as the SSOs are addressed by the SSO plan. *Note:* Participation in the TCEQ's SSO Initiative does not preclude enforcement action by the federal Environmental Protection Agency.
- Participation allows the municipality to direct resources toward corrective actions, as opposed to having to pay penalties associated with an enforcement order in addition to the corrective actions.
- Participation ensures that SSOs addressed by the SSO plan will not affect the system's compliance-history rating.

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

### *Meeting with the regional staff*

After a regional investigation or file review that has documented SSOs, the TCEQ will notify the municipality by letter of the opportunity to participate in the initiative. A meeting may be held within the next 30 days to further discuss the initiative, if requested by the potential participant. The investigator may also discuss the investigation findings and explain the initiative during the compliance investigation exit interview. In that case, a meeting may not be required. (*Note:* If a municipality 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 authorized representative of the system must sign a Notice of Intent to Participate in the SSO Initiative (NOI) (Form TCEQ-20630). In signing this form, the participant agrees 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 and budgetary funding to support the proposed corrective actions.
- Discuss the required elements of the SSO plan.
- Explain that plans based solely on grants and loans will not be approved. Budgetary plans for funding must be included.
- Supply technical assistance materials from the Small Business and Environmental Assistance Division.

After the signed NOI form is received by the TCEQ, regional personnel will send a letter confirming the system's participation. The letter will:

- advise the participant of the findings of the SSO-related investigation;
- acknowledge the system's participation in the initiative;
- allow up to 180 days for the plan to be finalized; and
- explain the requirements for continued eligibility in the initiative.

If the system does not elect to participate in the initiative, the TCEQ will not afford it protection from formal enforcement for SSOs, and will follow standard investigation and enforcement protocol regarding any SSO violations noted during the investigation. (*Note: If a municipality contacted the region to request the meeting—i.e., an investigation was not conducted by the regional office—and the system decides not to participate in the initiative, the TCEQ will evaluate any SSO violations during the next compliance investigation.*)

### ***Evaluation of the SSO Plan***

After the participant has submitted its SSO plan to the TCEQ, regional personnel will review it and determine if additional information is needed. If so, the investigator will contact the participant; otherwise, the investigator will mail the participant a letter approving the plan. At that time, the regional office will forward a copy of the plan to the Enforcement Division for inclusion in the SSO agreement. Once the Enforcement Division receives the plan, it will assign an enforcement coordinator to draft the SSO agreement. The coordinator will also review the plan to determine if it is complete. If additional information is required, the coordinator will contact the participant.

## 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 system will take to mitigate the effects of continuing SSOs.
- A comprehensive evaluation of whatever portions of the collection system will be included in the SSO plan.
- 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 compliance.
- A description of all funding sources, including budget allocations. Plans that do not include budgeted funding will not be approved.
- A statement describing how the participant will evaluate the effectiveness of the improvements.

*Note:* For more information on specific elements that may be included in an SSO plan, please see Form TCEQ-20595, SSO Agreement Annual Progress Report.

## Where can we get assistance with developing a plan to address SSOs?

The Small Business and Environmental Assistance Division will be available to assist municipalities in addressing their SSO problems by furnishing:

- 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, call the Small Business and Local Government Assistance Hotline at 800-447-2827, visit <[www.TexasEnviroHelp.org](http://www.TexasEnviroHelp.org)> or send an e-mail to <[sbap@tceq.texas.gov](mailto:sbap@tceq.texas.gov)>.

## 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 remain in effect. Site-specific notifications are still required.

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

Participation in the initiative excludes the system 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 to respond appropriately to an SSO.
- Failure 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 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 system chooses not to participate?

Participation is entirely voluntary. If TCEQ personnel document an SSO at a system 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 system protection from formal enforcement for continuing SSO violations.

## Is there anything that can cause our system 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 system'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 within the set time frame.
- Failure to provide the information needed by the Enforcement Division to develop an SSO agreement.
- Failure to include budgetary allocations as a funding source.
- 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 as having harmed, or as having the potential to harm, human health, safety, or the environment.

Other situations may also require a review to determine a system'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 treat systems that do not report SSOs?**

Systems that do not report SSOs will be advised of the reporting requirements. The TCEQ will supply the system's representatives with a copy of the noncompliance notification form and the regulatory guide *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 system may not be eligible to participate in the initiative if it continues to neglect reporting SSOs.