

Kelly C. Mack

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

7/21/2021

In the Matter of:

**City of Maumee
400 Conant Street
Maumee, Ohio 43537**

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**Director's Final Findings
and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are being issued to the City of Maumee, Ohio ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03, 6111.46 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent, and successors in interest liable under Ohio law.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111., and the rules promulgated thereunder.

"Sewer System" means all parts of the sanitary sewerage system that Respondent owns or over which it has operational control.

"Sanitary Sewer Overflow" or "SSO" means an overflow, spill, or release of wastewater from a sanitary sewer system that occurs on a street or the ground such that it has reasonable potential to reach waters of the state without treatment. SSOs do not include WIBs unless the WIB is discharged or otherwise released to a stream or street or where it can enter a storm sewer system.

"Water in Basement" or "WIB" means wastewater that backups into buildings and that are caused by blockages or flow conditions in a sanitary sewer other than a building lateral.

WIBs do not include the backup of sewage caused by a blockage or other malfunction in a building's lateral sewer.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent owns and operates a sewer collection system (Sewer System) which collects sanitary flow from the City of Maumee, Ohio and transports it to the Lucas County sanitary sewerage system for treatment at a wastewater treatment plant owned and operated by Lucas County.
2. Respondent was subject to Director's Final Findings and Orders dated November 25, 1985 which were then subsequently modified on June 13, 1988 and January 8, 1992, hereinafter referred to as CSO Orders. At the time of the CSO Orders, Respondent's system was a "combined system", meaning that it was specifically designed to convey both sanitary waste and storm water in the same collection pipe.
3. Under the CSO Orders, Respondent implemented a series of projects that resulted in the Sewer System becoming a separate sewer system meaning that Respondent separated their sanitary and storm water flows.
4. Overflows from a separately sewered collection system hereinafter referred to as SSOs are prohibited under the federal Clean Water Act.
5. According to the United States Environmental Protection Agency ("U.S. EPA"), SSOs of raw or diluted sewage pose a risk to public health and the environment. See, *Compliance and Enforcement Strategy for CSOs and SSOs*, April 27, 2000 ("U.S. EPA Strategy"). The U.S. EPA Strategy states at page 8:

"SSOs typically have high concentrations of bacteria from fecal contamination, pathogens and nutrients, all of which are significant contributors to the impairment of lakes, rivers, and streams. Aside from the pollutant impact on surface waters, sanitary sewer overflows frequently occur in areas that may be frequented by pedestrian traffic and pets, providing a likelihood of direct contact with pathogenic bacteria and viruses in the wastewater, and posing a significant public health risk."
6. The U.S.EPA Strategy was developed to address and remedy the threat to public health and the environment caused by overflows from municipal sewer collection systems.
7. SSO discharges to waters of the state, as defined in ORC § 6111.01, which can occur through storm water sewers, are prohibited under ORC § 6111.04, except in accordance with a valid, unexpired permit.

Respondent does not hold a valid, unexpired permit for SSO discharges to waters of the state and therefore such discharges are in violation of ORC § 6111.04. Each SSO discharge occurrence is a separate violation of ORC § 6111.04.

8. On Friday, July 10, 2020, Ohio EPA was contacted by an official from the City of Maumee seeking to discuss issues related to its sewer collection system.
9. On Tuesday, August 4, 2020, Ohio EPA and City of Maumee met by Teams/ phone to discuss issues within Maumee's Sewer Collection System. During that meeting, Respondent indicated that there are several points in the collection system where sewers overflow during heavy rain events and that Respondent pumps certain manholes to relieve flow in the system and prevent sewage from backing up into homes or occupied structures. These sewage overflows bypass treatment and directly enter waters of the state.
10. Respondent holds an NPDES permit for its storm sewer collection system under the Small MS4 General Permit OHQ00004. Under that permit, the City has an obligation to report illicit discharges identified discharging into its storm sewer collection system, including SSOs as part of its annual report.
11. Pursuant to ORC § 6111.07, no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
12. Respondent failed to report any SSOs from its collection system in violation of the permit and ORC §6111.07.
13. Pursuant to Ohio Administrative Code (OAC) Rule 3745-7-04(B)(1)(b), Respondent is required to have an appropriately certified operator to inspect and oversee its sewer collection system. Pursuant to OAC Rule 3745-7-04(B)(1)(b) Respondent's system is a Class II sewer collection system.
14. Pursuant to OAC Rule 3745-7-04(C)(2)(b), the owner of a class II sewerage system shall ensure that a professional operator of record or a professional operator that is certified in the field of wastewater collection or wastewater treatment, performs visits to any portion of the sewerage system at least five days per week. The owner of the sewerage system shall maintain documentation regarding the authorization of individuals other than the professional operator of record to perform these visits. The individual performing the visit shall document the visit in a logbook and report any problems to the professional operator of record.
15. In violation of OAC Rule 3745-7-04(C)(2)(b), Respondent failed to ensure that an appropriately certified operator performed oversight of its sewer collection system. Prior to the effective date of these Orders, Respondent addressed this

violation by hiring an appropriately certified operator.

16. Respondent has taken action to begin addressing issues related to both capacity and reporting requirements as follows.
 - (a) Respondent has begun an inspection schedule for all regulators and overflows within its system on a monthly basis, in addition to inspections conducted following any rain event exceeding 1 inch.
 - (b) Respondent constructed weir walls at applicable regulators to increase capacity within the sanitary sewer collection system.
 - (c) Respondent installed a flow meter at its pumping station to accurately report on volume and operations.
 - (d) Respondent conducted a survey of each regulator and constructed overflow location for the purpose of installing flow meters to allow for accurate reporting of SSOs and to assist in modeling the sewer system.
 - (e) Respondent conducted a GIS survey of its sanitary sewer system and is nearing completion of same concerning its stormwater system for use in model development and asset management.
17. On November 2, 2020 and December 14, 2020, staff from Ohio EPA and the City of Maumee met to discuss the current situation with SSOs and short term and long-term solutions that are underway and other steps that will be necessary to attain compliance with ORC Chapter 6111.
18. Pursuant to ORC § 6111.03(H), the Director may issue, modify, or revoke orders to prevent, control, or abate water pollution by prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state.
19. Pursuant to ORC § 6111.46, the Ohio EPA is required to exercise general supervision of the construction, operation and maintenance of sewage collection, treatment, and disposal systems, and may adopt and enforce orders governing such systems and requiring submission of records of construction, operation and maintenance, including plans and descriptions of existing sewage treatment and disposal systems.
20. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the plan approval and permit to install requirements of ORC §§ 6111.44 and 6111.45 and Ohio Administrative Code (OAC) Chapter 3745-42.
21. The Director has given consideration to, and based her determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the

purposes of ORC Chapter 6111.

V. ORDERS

1. It is the goal of these Orders that Respondent properly manage, operate, and maintain all parts of its Sewer System at all times in accordance with these Orders and to:
 - a. Provide adequate capacity to convey base flows and peak flows for all parts of the sanitary sewer collection system;
 - b. Take all feasible steps to stop SSOs and WIBs and to eliminate the impact of SSOs and WIBs from the Sewer System under the schedule outlined in these Orders;
 - c. Minimize excessive I & I; and
 - d. Provide notification to parties with a reasonable potential for exposure to pollutants associated with any overflow event.
2. **Schedule for Conducting an Sewer System Evaluation Study.** No later than one hundred eighty (180) days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a schedule for conducting a Sewer System Evaluation Study ("SSES") for the entire Sewer System, which will specify major tasks and the estimated time for completion of these tasks. The SSES shall be submitted to Ohio EPA for review and approval no later than three (3) years from the effective date of these Orders.
3. **SSES Contents and Implementation.** The SSES will identify (a) sources and quantities of clear water infiltration and inflow ("I&I") entering Sewer System, and (b) all feasible cost-effective actions needed to eliminate or minimize excessive I&I entering the Sewer System that causes or contributes to SSOs and WIBs ("Remediation") within the Sewer System. The SSES will be performed using sound engineering practices and consistent with procedures outlined in the 1991 US EPA Handbook, "Sewer System Infrastructure Analysis and Rehabilitation" and/or applicable manuals from the National Association of Sewer Service Companies ("NASSCO"). The SSES shall be developed in accordance with but not limited to Appendix 1. Upon Ohio EPA's approval of the SSES, Respondent shall implement projects in accordance with the approved priority scheduled contained in the SSES.
4. **Capacity, Management, Operation, and Maintenance Program.** Within one year of the effective date of these Orders, Respondent shall develop and submit

for Ohio EPA's approval a Capacity, Management, Operation, and Maintenance (CMOM) Program for all parts of the collection system in accordance with Appendix 2. The goals of Respondent's CMOM Program shall be to:

- a. Properly manage, operate and maintain its collection at all times.
- b. Provide adequate capacity to convey base and peak flows as defined by the SSES.
- c. Take all feasible steps to stop, and mitigate the impact of, sanitary sewer overflows as soon as possible; and
- d. Provide notification that will be available to parties with a reasonable potential for exposure to pollutants associated with the overflow event.

5. **Record Keeping, Retention, and Annual Report.**

(a) Respondent shall maintain the following records for at least three years or until an SSO or WIB event has been satisfactorily resolved, whichever is longer.

For each SSO and WIB:

- i. The location of the SSO or WIB and the receiving water, if any;
- ii. The estimated volume of the SSO;
- iii. A description of the sewer component from which the release occurred;
- iv. The estimated date and time the SSO or WIB began and ended;
- v. The cause or suspected cause of the SSO or WIB;
- vi. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow and a schedule of milestones for those steps;
- vii. Work orders that are associated with the investigation of system problems related to SSOs or WIBs;
- viii. A list and description of complaints from customers or others;
- ix. Documentation of performance and implementation measures.

(b) Respondent shall prepare an annual report of all SSOs and WIBs from its Sewer System on a form acceptable to Ohio EPA. For each SSO, the annual report will include the date, the location, any receiving water, and the estimated

volume of the flow. The annual report will additionally include a summary section describing overflow events by severity, frequency, and location. The annual report will summarize the WIBs by setting forth the total number of WIBs and by listing the number of WIBs in each location. The report will also include a narrative analysis of patterns of the WIBs by location, frequency, and cause, as well as any resultant changes in operations and maintenance procedures. The annual report will be submitted to Ohio EPA by February 15 of the following year.

6. **Public Notification Program.** Not later than one hundred eighty (180) days after the effective date of these Orders, Respondent shall identify and implement a Public Notification Program to: inform the public of the locations of any SSOs; to inform the public of SSO occurrences; inform the public of the possible health and environmental impacts associated with SSOs; and advise the public against contact recreation when elevated bacterial levels may endanger public health. At a minimum, the public notification program will include signs at SSO locations, internet postings, and billing inserts, as applicable. Not later than ninety (90) days after the effective date of these Orders, Respondent shall provide a summary of the Public Notification Program to Ohio EPA.

7. **Emergency Response Plan.** Not later than two hundred and seventy (270) days after the effective date of these Orders, Respondent shall prepare, and submit to Ohio EPA for review and approval an SSO Emergency Response Plan ("ERP") that identifies measures to protect public health and the environment in the event of an SSO. If Ohio EPA believes that the proposed SSO ERP is deficient, Ohio EPA will so notify Respondent. The SSO ERP will include, but not be limited to:
 - a. A mechanism to ensure that Respondent is made aware of all SSOs and WIBs from the sewer system;
 - b. Procedures to ensure appropriate responses to SSOs, including ensuring that reports of overflows are promptly dispatched to appropriate personnel for investigation and appropriate response;
 - c. Procedures to ensure that appropriate personnel are aware of and follow the SSO ERP and are appropriately trained;
 - d. Emergency operations; and
 - e. Procedures to ensure prompt appropriate notification of the public, the appropriate board of health, and the Ohio EPA. These procedures should be developed in consultation with potentially affected entities.

8. **Civil Penalty.** Within thirty (30) days of the effective date of these Orders, Respondent shall pay the amount of \$29,936.00 in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111 by an official check made payable to "Treasurer, State of Ohio". The official check shall

be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to the Ohio EPA, Division of Surface Water, Central Office, in accordance with Section X of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring at the Site.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

Unless otherwise specified herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Division of Surface Water
Central Office
P.O. Box 1049
Columbus, OH 43216-1049
(ATTN: Enforcement Manager) and

Ohio Environmental Protection Agency
Northwest District Office
Division of Surface Water
347 N. Dunbridge Road
Bowling Green, OH 43402
(ATTM: Enforcement Supervisor)

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of any allegation of fact, law, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights

Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

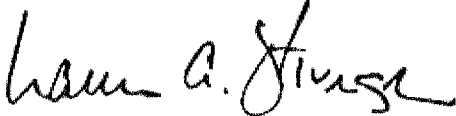
XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency

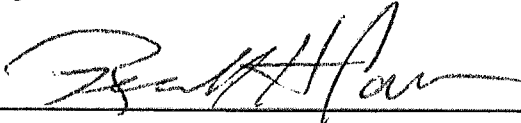


7/21/2021

Laurie A. Stevenson
Director

Date

IT IS SO AGREED:
City of Maumee



7-6-2021

By

Date

Richard H. Carr
Print Name

Mayor
Title

Update signature page as required by City

Appendix 1

Guidelines for Developing a Sewer System Evaluation Study (SSES)

- A. Sewer System Evaluation – Respondent shall develop a sewer system evaluation study to comply with Order 3 in accordance with the following:
- e. An evaluation of the Sewer System, including:
 - i. A physical survey of the Sewer System and confirmation of location, size, and capacity of all sewers, manholes, pump stations, overflow points (if they exist), cross-connections with storm sewers (if they exist), and any other appurtenances specific to the Sewer System;
 - ii. Flow monitoring to adequately characterize the Sewer System during wet and dry weather. Flow monitoring should be considered at all points of connection into downstream sewers owned by a different entity, at all overflow pipes, immediately upstream of all pump stations, and at any other points deemed necessary to complete the rest of the evaluation detailed below. Meters may be rotated to different locations to provide the necessary information.
 - iii. Estimates of peak flows (including flows that escape from the Sewer System) associated with wet weather conditions;
 - iv. Identification of the locations of any hydraulic deficiencies within the Sewer System (including components of the System with limiting capacity) that are causing or contributing to SSOs or WIBs;
 - v. Identification of the locations of I&I entry into the Sewer System; and an estimate of the benefit (in terms of flow removed) of eliminating I&I entry;
 - vi. Flow meters at connection points to the downstream sewers that are owned by a different entity;
 - vii. Identification of the locations of structural deficiencies within the Sewer System that are causing or contributing to SSOs or WIBs.
 - b. The identification of short and long term actions to eliminate each structural and hydraulic deficiency within Satellite Community's Sewer System ("Actions"). For each such deficiency, the SSES will identify alternatives to eliminate the deficiency, the costs for each alternative, and the recommended alternative for eliminating the deficiency. The SSES will

group the alternatives in projects as appropriate, prioritize the projects and provide a schedule for implementation of all recommended projects.

- c. The identification of Remediation to minimize each source of excessive I&I into the Sewer System. The SSES will identify alternatives to minimize each such source, the costs associated therewith, and the recommended alternative for minimizing them. The SSES will group the alternatives in projects as appropriate, prioritize the projects and provide a schedule for implementation of all recommended projects.
- d. The SSES will be reviewed and updated as needed to reflect current information.

Appendix 2

Guidelines for Developing a Capacity, Management, Operation, and Maintenance (CMOM) Program

- A. Management Program - as part of its CMOM Program, Respondent shall develop a management program to implement activities for its CMOM program to comply with paragraph 4.a-d. The management program may incorporate other documents by reference and will include, at a minimum the following:
- i. Organization Description
 - (1) Administrative and maintenance positions responsible for implementing measures in Respondent's CMOM program, including lines of authority by an organization chart or similar document; and
 - (2) The chain of communication for reporting SSOs, from the receipt of a complaint or other information to the person responsible for reporting under these Orders.
 - ii. Legal Authorities - Respondent's CMOM Program shall include the implementation and enforcement of sewer use ordinances, service agreements or other legally binding documents that:
 - (1) Control infiltration and connections from inflow sources;
 - (2) Require that all sewers and connections be properly designed and constructed; and
 - (3) Ensure proper installation, testing, and inspection of new and rehabilitated sewers (such as new or rehabilitated collector sewers and new or rehabilitated service laterals).
 - iii. Implementation Measures and Activities - Respondent shall identify activities and measures to implement its CMOM program for the collection system and treatment facility. Respondent shall address the elements listed in A.iii.(1)-(5), below, and identify the person or position in Respondent's organization responsible for each element. Respondent shall include a description of how Respondent will monitor implementation of each applicable element and, where possible, measure performance.
 - (1) Maintenance Facilities, Equipment, and Replacement Parts:
 - (a) Providing adequate maintenance facilities and equipment;
 - (b) Identification of critical parts needed for system operation and maintenance; and

- (c) Maintaining an adequate inventory of replacement parts.
- (2) Routine Preventive Maintenance
 - (a) Providing adequate preventive and routine maintenance using predictive approach; and
 - (b) Continually reviewing and updating maintenance procedures using information management systems that use predictive processes.
- (3) Information Management
 - (a) Development and maintenance of an accurate and up-to-date map of the collection system;
 - (b) Managing information and using timely, relevant information for establishing and prioritizing appropriate CMOM activities, and identifying and illustrating trends in overflow occurrences;
 - (c) Responding to overflows, providing emergency operations, and preventive operations;
 - (d) Tracking collection system problems, failures and/or violations, including customer complaints; and
 - (e) Maintaining records for work orders associated with investigations, inspections, new installations, preventive and routine maintenance, and corrective actions.
- (4) Operations and Capacity Management
 - (a) Ensuring proper installation, testing and inspection of new sewers and new connections (including new service laterals) to Respondent's collection system;
 - (b) Continually assessing the current structural integrity and capacity of the collection system which Respondent owns or over which Respondent has operational control;
 - (c) Assessing, evaluating, and addressing as appropriate, the impact of industrial discharges to the collection system tributary to the overflow or bypass;
 - (d) Providing ongoing identification and prioritization of structural and hydraulic deficiencies and rehabilitation actions to address each deficiency.
- (5) Training and Review

- (a) Providing appropriate training on a regular basis, including refresher training, on safe procedures for implementation of the provisions of the CMOM program for employees and other appropriate parties; and
 - (b) Providing annual reviews by representatives of all levels of management and staff to assess the overall effectiveness of Respondent's CMOM program and make recommendations for adjustments.
- iv. Design and Performance Provisions - Respondent shall identify:
- (1) Requirements and/or standards that Respondent imposes for the installation of new sewers, pumps and other appurtenances and rehabilitation and repair projects; and
 - (2) Procedures and specifications for inspecting and/or testing the installation of new sewers, pumps and other appurtenances and for rehabilitation and repair projects.
- v. Modifications - The measures and activities taken to implement Respondent's CMOM program should be monitored on an ongoing basis and be updated as appropriate. Respondent shall modify its management programs as appropriate to keep them updated and accurate.
- B. Overflow Response Plans
- i. Respondent shall develop and implement an overflow response plan that identifies measures to protect public health and the environment by ensuring that: every report of an overflow event is immediately dispatched to the appropriate personnel for investigation and appropriate response; response activities are coordinated with the appropriate State and/or local health agencies; and appropriate notification and reporting are made.
 - ii. Respondent's overflow response plan must address the following elements:
 - (1) Overflow response procedure - an overflow response procedure that describes steps to be taken to address any potential system failures. The procedure must address receiving and dispatching information during investigation and response; mobilizing labor and equipment to investigate reported incidents and take appropriate responses; and documenting the findings and response.
 - (2) Public Notification - The overflow response plan must describe actions that will be taken, in cooperation with State and/or local health agencies and clarify the entity responsible for each of the following actions:
 - (a) Limiting public access to areas potentially impacted by an overflow;

- (b) Posting warning signs at emergency overflow outfall locations where affected water bodies are accessible to the public; and
- (c) Provide public notification to radio, television, Internet and newspaper as appropriate.
- (3) Immediate Notification of Health Officials and Ohio EPA - The plan shall incorporate notification procedures developed in accordance with Order 7.
- (4) An annual report of SSOs in accordance with Order 5.
- (5) Distribution and Maintenance - The overflow response plan will describe: how the plan will be made available to personnel responsible for implementing the plan, as well as other interested parties; training procedures for appropriate personnel, including the frequency of the training activities; and the process for reviewing and updating the plan.