



CSO Preliminary Notification Plan Discussion for CSO Permittees

Note: This session is being recorded

1/14/2022
& 1/20/2022



Goals of Meeting

- Answer clarifying questions about regulations
- Present and receive feedback on *Draft Preliminary Notification Plan Template*
- Determine next steps for session scheduled for 1/20/22
- Establish a path forward for permittees to meet regulatory requirements



Goals for Preliminary Plan

Meet all reporting and notification requirements due on July 6, 2022

- Be able to report regulated discharges/overflows to MassDEP
- Be able to issue Public Advisory Notifications
- Be able to notify all required entities, i.e state and federal agencies, Boards of Health, etc.
- Be able to identify EJ Populations
- Be able to identify EJ Populations lacking English language proficiency
- Be able to post translated documents



CSO Preliminary and Final Notification Plans

- Preliminary Plans due May 1, 2022
 - Requirements (will be covered in today's presentation)
 - Ability to meet requirements of the regulations
- Final Plans due January 12, 2023
 - Requirements (covered at a future date)
 - Guidance will follow in the next few months
 - Posted to Environmental Monitor
 - Detailed explanation and description



Preliminary Notification Plan Requirements

- Permittee Contact Info
- Identify Environmental Justice Communities (and language translations)
- Events requiring a notification
- Notification components
- Discovery of events
- Issuance of notification timeline
- Website (and subscriber-based system)
- Signage
- Notification recipients



Environmental Justice (EJ) Community Requirements



Environmental Justice Population Definition

A neighborhood that meets 1 or more of the following criteria:

- Annual median household income is not more than 65 percent of the statewide annual median household income;
- Minorities comprise 40 percent or more of the population;
- **25 percent or more of households lack English language proficiency;**
 - **Determine where at least 5% of the population has speakers who self-identify as “do not speak English very well”, and identify these languages that notifications must be translated into.**
- Minorities comprise 25 percent or more of the population and the annual median household income of the municipality in which the neighborhood is located does not exceed 150 percent of the statewide annual median household income.



Language Translation Links

- <https://www.mass.gov/doc/massachusetts-cities-towns-with-environmental-justice-populations/download>
- <https://mass-eoea.maps.arcgis.com/apps/webappviewer/index.html?id=dffdbf9c109647fc9601f7524c1fd9f4>



EJ Translations

- *Public Advisory Notification*
 - Public advisory notifications shall be translated into, or provide access to translations in, other languages, as appropriate, in municipalities that are directly impacted by the discharge or overflow, and that have neighborhoods identified as environmental justice populations due to lacking English language proficiency.
 - Access to translations can be provided by posting translations on the permittee's website and indicating in advisories that translations are available on that website.
- *Public Access Signage*
 - For discharges directly affecting neighborhoods identified as environmental justice populations due to lacking English language proficiency, signage shall provide access to translations in the language(s) most appropriate for those neighborhoods and shall utilize universal symbols.
 - Access to translations can be provided by posting the translations on the permittee's website and providing a link to the website on the sign. Permittees may also choose to use a QR code in addition to the website link.



EJ News Organization

- *News organization that primarily serves the environmental justice population*
 - In municipalities with environmental justice populations, if neither of the two largest news organizations specifically serves the environmental justice populations at least one of the news organizations must serve the environmental justice population(s) within the community.



Events and Public Notification Requirements



Events Requiring Notification

- Any Combined Sewer Overflow;
- Any discharge of partially treated wastewater, including blended wastewater;
- Any Sanitary Sewer Overflow (SSO) that discharges through a wastewater outfall, either directly or indirectly, into a surface water of the Commonwealth;
- Any SSO that flows into a surface water of the Commonwealth and is the result of the sanitary sewer system surcharging under high flow conditions when peak flows cannot be conveyed to a POTW due to capacity constraints; and
- Any SSO that flows into a surface water of the Commonwealth and is the result of a failure of a wastewater pump station or associated force main designed to convey peak flows of 1 million gallons per day or greater.



Partially Treated Definition

- A discharge through an outfall from a treatment works where all or a portion of the flow is not conveyed through all treatment units.
- Where treatment units are bypassed due to a treatment unit failure.
- Discharges by permittees that utilize seasonal treatment, such as seasonal disinfection, are not considered partially treated provided the permittee is operating its treatment in compliance with its NPDES and surface water discharge permits.
- Where a treatment works is designed, constructed, and operated only to treat flows from a combined sewer system prior to discharge through a permitted combined sewer overflow, such discharges shall in all cases be deemed as partially treated.
- For the purposes of 314 CMR 16.00, blended wastewater is considered to be a type of partially treated wastewater.



Information in the Public Advisory Notification

- A permittee shall include the following information in the public advisory notification:
 - Description of discharge or overflow location(s), and outfall number, if applicable;
 - Approximate date and time the discharge or overflow began, and its duration;
 - Estimated volume of the discharge or overflow based on the average discharge or overflow from data reported to the Department and/or EPA for the prior 3 calendar years, taking into consideration historical information for the projected rainfall event, if possible, as set forth in the permittee's CSO Public Notification Plan;
 - Identity of the permittee;
 - Whether, at the time of notification, the discharge or overflow has ceased, and if so, the approximate time and date that the discharge or overflow ended;
 - Waters and land areas, including names of water bodies and municipalities, affected or potentially affected by the discharge or overflow;
 - Precautionary measures to be taken by the public, including the following language: "Avoid contact with these water bodies for 48 hours after the discharge or overflow ceases due to increased health risks from bacteria and other pollutants. See website for more information on whether specific resource areas, such as bathing beaches, are affected.";
 - Link to the permittee's website for additional information on discharges and overflows, and its CSO and/or SSO abatement program(s); and
 - A statement that the discharge or overflow consists, or likely consists, of untreated or partially treated sewage and waste.



What to include in the plan

- The preliminary CSO Public Notification Plan must include:
 - A description of how the permittee will calculate the estimated volume of discharges or overflows using average data from the prior 3 calendar years.
 - A list of the waters and land areas, including names of waterbodies and municipalities, affected by the permittee's discharges or overflows, and a description of how these affected areas were determined.



Discovery



Discovery Definition

Discovery – the time when a permittee obtains actual knowledge, or when a person acting in a reasonably prudent manner would have obtained such knowledge, based on the facts and circumstances surrounding a particular event. In determining whether a person has acted in a reasonably prudent manner, any specialized knowledge or training possessed by that person and the circumstances surrounding the fact or facts in question shall be taken into account.



Discovery

- Describe the steps the permittee will take to determine or discover that a discharge or overflow from its outfall or sewer system is occurring each time the permittee receives information from a flow meter, model run, or other Commissioner-approved method for monitoring, detecting, or simulating a discharge or overflow from its outfall or sewer system.
- The permittee may provide written documents in support of the description such as Standard Operating Procedures, or detailed assignment of responsibilities of sewer authority staff.
- The permittee is responsible for demonstrating that the method of detection is reliable and detecting activation and measuring volume.



Discovery - Metered

- Each time a permittee receives communication of a potential discharge from the meter deployment, the permittee shall take all actions set forth to confirm the occurrence of a discharge.
 - By meter data, site inspection, or other approved methods.
- In no event shall a permittee spend longer than 2 hours to confirm a discharge (24/7 facilities).
- In no event shall a permittee spend longer than 4 hours to confirm a discharge (non-24/7 facilities).
- If a permittee is unable to confirm that a discharge occurred within the timeframes established herein, it shall presume that a discharge has been discovered.



Discovery – Modeled (CSO)

- For a CSO outfall where modeling is used to predict the occurrence of a discharge, a permittee shall be deemed to have discovered a discharge when results of model simulations indicate the occurrence of a discharge or when model-developed thresholds have been triggered for rainfall data, sewer system flow data, or other information that predicts a potential CSO discharge will occur or is occurring.
- Provide modeling description in plan.



Non-Metered Approval

- For methods of detection other than metering, the permittee must request authorization to continue to use other methods, and demonstrate that the detection of activation and measurement of flow is accurate.
- Provide historic information correlating predicted activations with actual activations and additional information verifying modeling approach.
- Requires Commissioner review and approval.



Discovery - SSO

- A permittee shall determine or discover the occurrence of an actual or potential SSO discharge or overflow based on information reasonably available to the permittee, such as a report of a discharge or an overflow made by any person, site inspection, pump station or level alarms, or other relevant information.
- A permittee shall take *no longer than 4 hours* from receiving relevant information to confirm a potential SSO discharge or overflow.
- If a permittee is unable to confirm that a potential discharge or overflow actually occurred within the timeframe established herein, it shall presume that a discharge or overflow has been discovered.



Discovery – Partially Treated

- For any discharge of partially treated wastewater from a wastewater treatment facility:
 - Permittee shall issue the required public advisory notification within 2 hours of the time when the permittee begins diverting a portion of the flow around a treatment process.
 - Within 2 hours of the permittee becoming aware of a failure within the treatment process that is resulting in discharge of partially treated wastewater.



Notification Timelines



Timeline

Issuance of Public Notification: Permittee is required to issue a public notification as soon as possible, but no later than 2 hours after discovery of a discharge or overflow.

Cessation Public Notification: Permittee shall issue a public advisory notification update 8 hours after the initial public advisory notification is issued.

This update:

- (a) shall clearly indicate that a discharge or overflow is ongoing or has ceased;
- (b) if it has ceased, shall indicate the approximate time of cessation;
- (c) shall update any information that has changed since the initial public advisory notification;
- (d) shall be issued to all parties required to receive notifications under 314 CMR 16.04(4).

If the permittee has reported that the discharge or overflow has ceased at the time of the initial public advisory notification, then an update is not required 8 hours later.



Continuation of a Notification

- For any event for which public advisory notification is required and is still ongoing 8 hours after the initial public advisory notification is issued, a permittee shall continue to issue public advisory notification updates every 8 hours if the discharge is still ongoing, and
- Shall issue a public advisory notification within 2 hours after the discharge or overflow ceases or is projected to cease.



Retraction of a Notification

- Within 48 hours of issuing a public advisory notification, if the permittee becomes aware that no discharge or overflow actually occurred, the permittee shall issue a retraction of the public advisory notification to all parties required to receive notifications under 314 CMR 16.04(4).



Request for Timeline Extension

- If the proposed method or the current discharge detection capabilities cannot meet requirements the Commissioner may extend the time for a permittee to issue a public advisory notification.
- Time shall be extended only as necessary and not more than 24 hours after discovery of the discharge.
- A permittee that has been granted an extension shall make necessary improvements to its outfall, system, or methodology to detect or discover an outfall discharge.
- Describe measures that permittee proposes to make necessary improvements and a proposed schedule.



Website & Signage



Website

- A map showing the locations of the permittee's outfalls including the corresponding outfall numbers;
- A summary of the permittee's Long-Term CSO Control Plan, and status of its implementation;
- Instructions on how an interested person can subscribe to receive public advisory notifications, including a link to subscribe;
- Links to any CSO Reports required to be developed in a NPDES or surface water discharge permit, or as part of any enforcement order, for at least the preceding three calendar years.
- A compilation of discharge data for each public advisory notification event, updated so that data for each month is posted within 15 days of the last day of the month.



Website (cont.)

- Data posted shall include updated information on the estimated duration, frequency and volume of the discharge, rainfall data, and treatment provided for any CSO discharges.
- The website shall include data for at least the preceding three calendar years.
- Permittee shall include information on its website (for each issued notification) about any treatment to disinfect pathogens and remove solids and other pollutants from the discharge or overflow.
- Links to websites providing information on the closure or advisory status of shellfish growing areas, bathing beaches, or other water resource areas potentially affected by the discharge or overflow.



CSO Outfall Signage

- Each permittee shall install and maintain a warning sign at each of its CSO outfalls in accordance with its NPDES and surface water discharge permits.
- Permittees that are in compliance with their NPDES/surface water discharge permit signage requirement have satisfied this obligation.
- Provide photographs of CSO outfall warning signs.



Public Access Signage

- Permittee shall install and maintain signage at public access points to waters affected by a potential discharge from a permittee's outfall.
 - Locations for the signage must be based on consultation with boards of health or health departments in the municipalities directly impacted by the discharge.
- **Signage shall be developed using a template provided by the Department** and be able to provide timely information about ongoing discharges to allow municipal boards of health and health departments to provide information about risks associated with ongoing discharges.
- For discharges directly affecting neighborhoods identified as environmental justice populations due to lacking English language proficiency, signage shall provide access to translations in the language(s) most appropriate for those neighborhoods and shall utilize universal symbols.
 - Access to translations can be provided by posting the translations on the permittee's website and providing a link to the website on the sign. Permittees may also choose to use a QR code in addition to the website link.



Public Access Signage

Each sign at a public access point shall identify:

- the existence of the outfall;
- the permittee;
- information about weather events that may cause a discharge;
- a warning of the potential threat to public health by recreating in, or using waters and shores affected by a discharge; and
- information for the public to subscribe to notifications about discharges in local area waters.



What to include in the plan

- The permittee's preliminary CSO Notification Plan should:
 - Document that the permittee has consulted with the Board of Health/Health Departments in municipalities affected by their discharges;
 - Include a list of locations where signs will be installed;
 - Propose dates when signs will be installed;
 - Update the final plan with photographs of the installed signs.



Subscriber-based Program to Receive Public Advisory Notifications

- Permittee is required to have a subscriber-based program to allow for any interested party to subscribe and receive public advisory notifications by email or text message.
 - Permittee must include overview details on subscriber-based program.
- Website:
 - Instructions and link to subscribe.
- Public Access Signage:
 - Information on how to subscribe.



List of Contacts (DEP Provided)

DEP will provide contact and contact information for below contacts:

- the Department;
- the U.S. Environmental Protection Agency;
- the Massachusetts Department of Public Health;
- the Massachusetts Division of Marine Fisheries where shellfish growing areas may be affected;
- the Massachusetts Department of Conservation and Recreation when its water recreation properties may be affected;
- the Massachusetts Division of Fisheries and Wildlife when its boat ramps and fishing piers may be affected;



List of Contacts (Permittee Provided)

Permittee must include contact and contact information for below contacts:

- the municipal board of health or the health department where the outfall or overflow is located;
- the board of health or the health department and shellfish constables (if applicable) for any municipality directly impacted by the discharge or overflow;
- any person who subscribed to receive such public advisory notifications by email or text messaging;
- the public water supplier(s) where drinking water supplies may be affected;
- Operators of any potentially affected bathing beaches, as defined in 105 CMR 445.00: *Minimum Standards for Bathing Beaches (State Sanitary Code: Chapter VII)*.



News Organizations

- List the two media outlets serving the area near the discharge or outfall that the permittee will contact to provide a public notification. (Include name of organization, name of contact, and contact's email address)
- Do either of the above media outlets serve the EJ population? If neither does, then provide at least one additional news organization that primarily serves the EJ population(s) within the impacted municipalities.
- Permittees are required to send public advisory notifications to the identified news organizations, but they are not required to place paid ads, nor are they responsible for the news organization publishing any information related to the notifications. The permittee has no further obligation under the regulations after they have submitted the notification to the news organizations.



QUESTIONS?

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