

Frequently Asked Questions on 314 CMR 16.00: Notification Requirements to Promote Public Awareness of Sewage Pollution

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Events Requiring a Notification

- Discharge "through a wastewater outfall," 314 CMR 16.03(1)(c), could mean an SSO discharge that enters a drain which discharges downstream of a regulator. Is that correct?
 - Yes, that is correct.
- If one's WWTF discharges to groundwater and not surface water, is one still required to complete this notification plan submission?
 - Yes, because although the normal discharge is to groundwater, the system could still have SSOs that reach surface water and require notification under 314 CMR 16.00.
- Can you clarify for this audience of many non CSO communities, the notification requirements for, and definition of, blending at WWTFs that are not connected to combined systems?
 - The definition for blended wastewater in 314 CMR 16.02 only applies to treatment plants that are connected to combined sewer systems. Any practice of blending at

treatment plants that are not connected to combined sewer systems is considered partially treated. Per 314 CMR 16.02, blended wastewater is a type of partially treated wastewater, so the notification requirements are the same regardless of whether it meets the definition of blended wastewater in 314 CMR 16.02. Discharges of partially treated wastewater are subject to issuance of a public advisory notification per 314 CMR 16.03(1)(b).

- If we are a collection system only and not a permittee, does this new reg still pertain to me?
 - Yes, for any events listed in 314 CMR 16.03.
- What if a Town is a co-NPDES permittee to a CSO community but not a CSO community itself. Which notification is required?
 - Only the CSO permittee itself is required to issue public advisory notifications for CSO discharges. If the co-permittee does not have any CSO outfalls or a treatment plant, they are only subject to the notification requirements for SSOs.
- Can you comment on the responsibility a public entity may or may not have under this regulation for private sewer systems that have a SSO to a surface water?
- Who is responsible for the notifications on a SSO that occurs on private sewer on private property (e.g., within a condominium property)? They connect to our municipally owned sewer.
 - Entities are only responsible for notifications for SSOs in collection systems that they own or operate. If there is a SSO in the collection system owned by a private entity, the private entity is responsible for notification. However, MassDEP believes it would be very rare that a private entity would have one of the SSO events defined in 16.03(1)(c) through (e).
- Can you verify (when you provide written responses) that these regulations are not in conflict with the requirements of NPDES MS4 requirements?
 - The regulations are not in conflict with NPDES MS4 requirements. 314 CMR 16.03(1)(c) does not require public notification for a SSO that reaches a waterbody through a MS4 outfall; however, this does not have any impact on municipalities' obligations under other regulations and permits. This type of SSO would still be an illicit discharge under the MS4 permit and would still be subject to SSO-related requirements under 314 CMR 12.00.
- If we were to have a blockage in our sanitary sewer collection system and upstream from the blockage, a manhole overflowed onto the street then into a drain catch basin... would that fall into these new requirements or only if it goes into a body of water or both cases would fall under the new requirements?
- Does a SSO inside a home due to their own blocked sewer service need notification? What if the blockage is on the sewer main (street)?
 - Only SSOs that reach surface waterbodies require notification under 314 CMR 16.03(1). Of those that reach surface waterbodies, they must be one of the three types of events described in 314 CMR 16.03(1)(c) through (e):
 - any SSO that discharges through a wastewater outfall, either directly or indirectly, to 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.

- The regulations have been finalized with the definition of blended wastewater included at 314 CMR 16.02, so there is no way to change the definition without an amendment to the regulations. However, discharges of blended wastewater have the same requirements for notification as other forms of partially treated wastewater, so MassDEP is not aware of how it would be helpful to permittees to redefine blended wastewater.
- What is the exact definition of "partially treated" wastewater at the WWTP? How is it partially treated if it meets and or exceeds all our NPDES permit effluent characteristics?
 - Definition from Regulations, 314 CMR 16.02:
Partially Treated - a discharge through an outfall from a treatment works where all or a portion of the flow is not conveyed through all treatment units, or 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.
 - “Partial” treatment is not governed by effluent compliance with numerical limits, but by the treatment provided for the full influent flows. MassDEP clarifies that the following events are not deemed to be “partially treated”:
 - Bypassing of any treatment units specifically operated to meet a seasonal limit, under conditions when such seasonal limits are not in place;
 - Bypasses of individual treatment units, which are designed diversions to preclude a backup or address a maintenance issue, and which provide a flow path with an equivalent level of treatment through one or more operational treatment units, prior to discharge.
- Do you have to let the public also know when you are doing general maintenance due to low seasonal flow to the plant or pump station?
 - If the maintenance activity will result in a partial treatment event, the required public notifications under 314 CMR 16.00 must be provided.
- If the design of the treatment plant calls for bringing a second aeration tank or clarifier on-line for high flows, why would you need to notify anyone?
 - Intermittent use of off-line clarifiers or aeration tanks will not be a reportable event unless some portion of the treatment bypasses treatment units.
- I would propose that if the WWTF O&M plan covers re-routing flow past a process for maintenance with no adverse effects on treatment, then it is not "partially-treated."
 - If the flow path will provide equivalent treatment, through one or more operational treatment units, then the event will not be considered a partial treatment event.
- How am I supposed to do regular maintenance on tanks if I cannot change my flow pattern?
 - Changing the flow path, without loss or bypass of a treatment process, will not be a reportable event.

Metering

- Can you clarify what DEP considers as a meter? Does it include sensors, such as level sensors or inclinometers?
 - Any device or equipment installed in outfalls, CSO regulator structures, tide gates, or the sewer system intended to detect, quantify, or communicate a discharge of wastewater to the environment, including but not limited to depth monitoring equipment, flow monitoring equipment, or inclinometers.

Notification Timeline

- If an overflow happens at 2 am would we need to get the notification out at 4 am?
 - The discovery period is dependent on each event type and the permittee's staffing levels. Once an event is discovered per 314 CMR 16.04(5)(a), (b), or (c), the permittee has two hours to issue a public notification to the required recipients per 314 CMR 16.04(4)(a) and (b).
- Can the Cessation Notification update be issued less than 8 hours after the initial notification if the event stopped earlier?
 - No, the regulations at 314 CMR 16.04(7) obligate the permittee to issue an update 8 hours after the initial public advisory notification, unless the initial public advisory notification indicated that the discharge has ceased.
- What does MassDEP consider as cessation of an event? Is there a time period when a CSO ceases and reactivates that it is still considered the same event?
 - If a CSO ceases and reactivates within 8 hours it is considered the same event. If the permittee's initial public advisory notification indicated that the discharge had ceased, any discharge after that notification would be considered a new discharge and require public advisory notification.
- What if communities do not have IT staff working 24/7 to post the notifications on the website? Also, translators do not work 24/7.
 - Any situation where the permittee would be unable to meet the notification requirements should be addressed by request of a timeline extension per 314 CMR 16.04(2).
 - If the proposed method or the current discharge detection capabilities of the permittee's outfall will not provide timely or reliable information, the Commissioner may extend the time for a permittee to issue a public advisory notification, provided that such 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, if any, in the timeframe specified in the Commissioner's approval, to detect or discover an outfall discharge within the timeframes established in 314 CMR 16.04.
- If we can get these DEP, DPH, and other required contacts to sign up on the "subscriber based system" will that satisfy this requirement?
 - Per 314 CMR 16.04(4)(a), the recipients must receive the public notification electronically. As long as the contacts are receiving the notification electronically, it doesn't matter whether they subscribe, or the permittee manually adds them. However, if the contacts are asked to subscribe by the permittee and fail to do so, the permittee would need to manually add them to the notification list.
- We don't have any treatment plants. We get email notifications when there is an alarm that indicates a possible discharge. Would we need to send out notifications in 2 hours or 4 hours?

- Once an event is discovered per 314 CMR 16.04(5)(a), (b), or (c), a public advisory notification needs to be issued within 2 hours.
- If a SSO is confirmed at 12 am, are we expected to do public notification at 2 am?
- Guys are out on the middle of the night on a sewer blockage. Are you expecting the superintendent to start the notification process while still taking care of the problem? Seems unreasonable.
- Same goes for a problem at the WWTP. Regulations expect superintendent to notify people through a web page instead of figuring out the problem and stopping the SSO.
- Is notification timeline extended for SSOs that are discovered overnight?
 - 314 CMR 16.04(4) requires permittees to issue public advisory notifications as soon as possible, but no later than two hours after discovery. 314 CMR 16.04(5)(b) states that in no event shall a permittee take longer than four hours to confirm a potential SSO discharge or overflow.
- When do permittees need to enter data into the MassDEP data system? Is it at the same time the public advisory notifications are issued?
 - The entering of data into MassDEP's data system allows information about discharges and overflows to be posted on MassDEP's website, which is a requirement of the Act. G.L. c. 21, § 43A(i) requires that MassDEP's website display information about current discharges within 24 hours of receiving information from permittees. 314 CMR 16.07(1) states that "In addition to the requirement to issue public advisory notifications to the Department under 314 CMR 16.04(a), (7) and (8), a permittee shall report discharges and overflows to the Department within the required time frames in a format specified by the Department using the Departments' specified electronic reporting system." MassDEP would consider permittees compliant with this requirement if discharges and overflows are reported into the MassDEP data system within 18 hours of the permittee issuing the public advisory notification for that discharge or overflow.

Format/Method of Public Advisory Notification

- Does the public advisory notice have to be provided in both text and email format or can the permittee use just email? The language in the regulations is ambiguous.
 - The permittee can choose whether they will issue the public advisory notification by text or email, per 314 CMR 16.04(3). Participants in the training session indicated that issuance by email may be preferable due to the number of characters necessary to fulfill the requirements for the public advisory notifications.
- If required language is very long, text may not be able to accommodate. But many prefer to receive texts. We currently provide summary in text with link to get the longer more detailed information.
 - The permittee can choose to issue the notification by either text or email (or both). Permittees may choose to use a link in either the text or email to provide some of the information required by 314 CMR 16.04(10), but the website that the link points to must be updated with current information about discharges at the time the text or email is sent.
- For public notifications, would social media qualify?

- Public advisory notifications must be issued by either text or email, per 314 CMR 16.04(3). Permittees may choose to use social media in addition to these formats, but it could not take the place of text or email.
- Would reverse 911 or 311 qualify as a notification system? It is active in the city for many different emergencies.
 - Permittees can choose to use reverse 911 or 311 for issuing notifications, but it would have to be in addition to issuing notifications through text or email, per 314 CMR 16.04(3). It could not fulfill the requirement to issue by text or email. It should be noted that boards of health are required to use reverse 911 (if available to them) for issuing public health warnings, but this is different from the requirement for permittees.
- Will DEP be providing a notification template for systems?
 - No, MassDEP does not intend to develop a template for public advisory notifications.
- My town has a list of people that signed up and want to be informed of anything that comes up. Can that be my subscriber list or does it need to be specifically for SSOs?
 - The statute requires the permittee to provide notice to individuals subscribed to receive notifications about a discharge from the permittee's outfall. G.L. c. 21, § 43A(e). People who have not subscribed to be informed of all town matters must have the option to be made aware of SSO events.
- Am I understanding the requirement correctly? A list of all the names that have subscribed to our emergency text notification system? That is thousands of names.
 - The permittee need only contact individuals who subscribe to receive notifications about the permittee's discharges and overflows. It is not necessary to include all names on the town-wide emergency text notification system.
- How does the public know how to sign up for notifications?
 - Notice can be placed on the municipal website. Sewer authorities may also send direct notice, for example by including information in the sewer bill. Local watershed organizations may also be effective in spreading the word about signing up to receive notifications.
- Would a notification be considered compliant if the email directs readers to a linked file/folder of notifications?
 - Yes, this would be considered compliant if the linked file/folder includes all of the information required by 314 CMR 16.04(10) and the linked file/folder is up to date with current information about discharges at the time the notification is issued.
- This is a question that I have gotten from a few facilities. Please take a look at the CSO website link below to the Manchester, NH website. Haverhill, MA has a very similar website. When you click on the CSO a pop up window will appear. If you have all of the information in that pop up window that satisfies the information of a public advisory notice in 16.04(10), can that pop up window be considered your public advisory notification? Emails sent to subscribers would also contain a public advisory notification that has the same information as the pop up window.

<https://gissserver.flowassessment.com/portal/home/webmap/viewer.html?webmap=5f0722e5971f429d883de498155dd805&extent=-71.5938,42.9365,-71.3402,43.0434>

 - The public advisory notification sent by text or email must either contain all of the information contained in 314 CMR 16.04(10) or a link to a site that contains all of the information in 314 CMR 16.04(10). Using the pop up window on the website would be

an acceptable way of displaying the public advisory notification on the website, but the permittee would still need to issue a public advisory notification by text or email that meets all the requirements of 314 CMR 16.04(10) in order to comply with the regulations.

- Is it permissible to have a special note in the required notifications that explains discharges still meet permit limits, for instances where treatment is bypassed but permit limits are still being met, or historically have still been met?
 - Yes, that would be allowable. 314 CMR 16.04(10) dictates the information that must be included in public advisory notifications, but permittees can add additional information if they choose. This could be in their notifications, on their website, or both.

Notification Recipients

- Is there an email address for the Mass Department of Public Health that I should be sending the notifications required by 314 CMR 16.04(4)(a) to? I've tried dph@mass.gov and it gets bounced back.
 - MassDEP is compiling a list of state and federal agency contacts and will provide the list to permittees once it is complete.
- Contacts for boards of health in each municipality can be found at <https://mhoa.com/municipal-links>.
- Does MassDEP have a list where I can find out where communities get their drinking water from, in order to comply with the requirement at 314 CMR 16.04(4)(a)?
 - The locations of water supply resources can be viewed through MassMapper by clicking here: [MassGIS Data: Public Water Supplies | Mass.gov](#). If you use your browser to navigate to MassMapper, click Infrastructure, Physical Resources, and then Public Water Supplies to view the appropriate data layers.
- On the downstream water supplier impact, per 314 CMR 16.04(4)(a), is it only for direct intake from the water receiving the discharge or do you consider a zone 1 or zone 2 of a well that encompasses the impacted water to be a downstream water supplier?
 - Groundwater supply wells that have a Zone I which intersects a receiving water should be assumed to induce infiltration from the water body into the well. Permittees should identify potential downstream water supply impacts by including surface water intake structures and groundwater wells which have a Zone I that intersects the receiving water.

News Organizations

- What qualifies as a news organization under 314 CMR 16.04(4)(b)?
 - Permittees should use best professional judgment in determining what is a news organization and local knowledge of what are the two largest news organizations in their area. It would be appropriate to consider local and regional newspapers, radio stations, and tv stations, among other options. The news organizations should be listed in the permittee's Public Notification Plan.
- I have talked to a few newspaper outlets and there is confusion as to where the notifications required by 314 CMR 16.04(4)(b) should go. There have been a few that said just send it to the

news department. Does MassDEP have any recommendation to what portion/department of the newspaper the notifications should be sent to?

- I have sent emails to 3 local newspapers. The only one that got back to me wants to charge a fee for a legal ad.
 - MassDEP does not expect permittees to pay for placement of a legal ad to meet the regulatory requirement. The permittee only needs to send the notification to the news organization and does not have any further obligations once that is complete. If the news organization does not respond or does not publish any information, the permittee has still met its obligation under the regulations.
- So serving EJ communities, as required by 314 CMR 16.04(4)(b),...how far away can the news organization be? With only two news outlets, would, say North Adams report on Greenfields news organizations which are more robust? Or use Albany, NY outlets since that's where we get our news?
- So since the Berkshires only have 2 news outlets- how far can we go in pursuing a third for EJ communities. Greenfield? Albany?
 - If there are only two news outlets that serve the area, the permittee does not need to look outside their area to find additional news outlets, as those would likely not serve the purpose of reaching the local community. MassDEP recommends that the permittee contact any local community or environmental justice groups to see if there are additional news outlets they are not aware of that may serve environmental justice populations.

“Impacted/Affected Areas”

- How do you identify "impacted municipalities" and who is responsible to post signage in the impacted communities? How do you establish the extent of downstream impacts? This could depend on flow in the river at time of discharge, volume of discharge, and degree of attenuation. Will DEP provide guidance on length of reach downstream from discharge point affected as a function of discharge volume?
- Guidance states EJ populations affected by the discharge. What does affected by mean? Is it the EJ census tract where the outfall is located or those adjacent to the receiving water or the entire city that has a CSO?
 - The Act directs the permittee to provide public advisory notification to “...any municipality directly impacted by the discharge...” G.L. c. 21, § 43A(c). Since a discharge or overflow as defined in the regulations, may occur to any surface water of the Commonwealth, defining the area of “impact” could be a very complicated matter, made more complicated by the fact that the majority of reported discharges will likely occur during significant wet weather events, when there will be substantial pollutant loads, including pathogens, contributed by other sources such as stormwater. MassDEP acknowledges the challenges to defining the impact area of the discharge.
 - MassDEP’s expectation is that permittees will use best professional judgment in defining the impact area when making such public advisory notifications.
 - For CSO discharges, the approach for defining the impact area should be included in the permittee’s CSO Public Notification Plan. In nearly all cases, in support of the required Long-Term CSO Control Plan (LTCP), CSO permittees have assessed the receiving water impacts of CSO discharges, in some cases using receiving water models. The information

in the LTCP, as well as any water quality assessments or studies, should prove useful in understanding the areas affected by CSO discharges. LTCPs are also required to identify any sensitive use resource areas which could be impacted, such as drinking water intakes, shellfish harvesting areas, swimming resources, and endangered species habitats. These areas should also be targeted for the public advisory notifications and signage in the permittee's CSO Public Notification Plan.

- For the SSO discharges requiring public advisory notifications pursuant to 314 CMR 16.03, these sites may be at known locations where downstream communities and resources can be identified for affected surface waters.
- In reviewing CSO and SSO Notification Plans, if MassDEP determines that a potential area of impact is not encompassed in the notification program, MassDEP will require that the CSO or SSO Notification Plan is modified before it is approved by MassDEP.
- To determine if EJ populations are affected, once the permittee determines the municipalities that are affected by its discharges, the permittee should determine if there are any neighborhoods in that municipality that are identified as environmental justice populations. If yes, the EJ-related requirements should be addressed by the permittee.
- Potentially affected bathing beaches: Can DEP or Mass. Dept Public Health provide a list?
 - MassDEP is working with its sister agencies, including the Department of Fish and Game's Office of Fishing and Boating Access (OFBA), and the Division of Marine Fisheries (DMF), the Department of Public Health (DPH), and the Department of Conservation and Recreation (DCR) to identify state owned/state managed facilities that may be affected by CSO discharges. MassDEP will post a map of these resources to the MassDEP website for use by permittees and boards of health as soon as it is complete.
- Does a wetland meet the definition of "waters of the commonwealth"?
 - Yes. Although the regulations at 314 CMR 16.00 do not include a definition for "waters of the Commonwealth," MassDEP has always interpreted the definition of "waters of the Commonwealth" in the state Clean Waters Act, G.L. c. 21, § 26A, to include wetlands. See e.g., 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*.

Defining 24/7/365 Staffing

- Plants and Collection Systems are staffed with different personnel. How does this affect the requirements for discovery under 314 CMR 16.04(5)?
 - MassDEP is aware that POTWs in some cases have separately assigned treatment plant and collection system staff, or may engage in contract operations for one or both of these required operations. For the purposes of 314 CMR 16.04(5), a POTW/permittee shall be considered to have 24/7 staffing if either the treatment plant or collection system is under active (not on call) operations, either by permittee staff or contract operators, pursuant to any approved staffing plans.
- For CSO facilities that are staffed 24/7 during events significant enough to generate CSO discharges it is typically a heavy rain event and the facility staff is already occupied in implementing high flow management plan activities. The thought that just because a facility is 24/7, the operators have time to divert and complete the new discovery requirements within 2 hours is not realistic. Facilities should have 4 hours.

- Any situation in which the permittee anticipates being unable to meet the notification requirements should be addressed by request of a timeline extension per 314 CMR 16.04(2).
- If the proposed method or the current discharge detection capabilities of the permittee's outfall will not provide timely or reliable information, the Commissioner may extend the time for a permittee to issue a public advisory notification, provided that such 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, if any, in the timeframe specified in the Commissioner's approval, to detect or discover an outfall discharge within the timeframes established in 314 CMR 16.04.

Estimating Volume

- If an overflow ceased by the time of the initial notification, can a permittee include the estimated volume from the actual discharge instead of the estimated volume using the last 3 years of discharge data, per 314 CMR 16.04(10)(c)?
 - Permittees should use the most accurate volume data available to them at the time they issue the notification.

Websites

- Could you clarify the website requirements for non-CSO systems? Is it only to post the public advisory notification, instructions to subscribe to notifications, level of treatment info on the discharge, and links to closure/status of shellfish growing areas, bathing beaches and potentially impacted water resources? Essentially, is it everything that is NOT mentioned in the CSO website section?
 - Yes, that is correct. Non-CSO systems must establish and maintain a website for posting advisory notifications, instructions for subscribing to receive notifications, information about any treatment applied to discharges or overflows, and links to closure status information for shellfish growing areas, bathing beaches, and any other potentially impacted water resources, in accordance with 314 CMR 16.04(3). The website requirements for CSO permittees under 314 CMR 16.05(1) do not apply to non-CSO permittees.
- Does the statute require the MassDEP website be updated in the same time frame?
 - The statute requires MassDEP to update its website within 24 hours of receiving data from permittees. G.L. c. 21, § 43A(i).
- Regarding "A compilation of discharge data for each public advisory notification event,..." due by the 15th of the next month, at 314 CMR 16.05(1)(e).
 - What does "if applicable" mean?
 - Permittees are required to include data for at least the preceding three calendar years, if applicable. If the permittee does not have three years of data (e.g., because their permit hasn't required them to report on a monthly basis for at least three years), then this would not be applicable, and they would only include as much data as they have.
 - What does "frequency" refer to?

- Frequency could be determined by a website user viewing the data and seeing how many events there were in a month. The permittee does not need to separately identify a frequency.
 - Does “compilation” mean a monthly summary? (in which case “frequency” would be the total for the month).
 - Yes, a compilation would be a summary of the required data for each outfall (where applicable) for each month.
 - Does it have to be broken up by month or can we just have a running spreadsheet?
 - A running spreadsheet would be acceptable as long as it is updated by the 15th of the month to include data from the previous month.
 - Question on "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," at 314 CMR 16.04(3). What are “other resource areas”? Whose website has information about their status?
 - Other water resource areas would be any other public access points (e.g., boat launches) identified by the permittee and the local board of health. If there is a website that provides information about their closure status, the permittee would include a link to such a site. If there is no such website, then the permittee does not need to provide a link.
- Is MassDEP paying for the setup, maintenance, and operation of the website and subscriber-based system required by 314 CMR 16.04(3)?
 - No, however, MassDEP continues to seek funding to support activities required by the statute and regulations.
- We have no access to the town website or social media, so that will be unattainable for my department.
- Did anyone take into consideration that more rural communities do not have access to some of the mandates required? Media, Website, etc... appears that this just puts more pressure on already stressed budgetary and staffed facilities.
 - The statute requires that “A permittee of an outfall shall establish a public website to post advisories when issued and to receive requests from the public to subscribe to permittee’s discharge notifications.” G.L. c. 21, § 43A(e). MassDEP continues to seek funding to support activities required by the statute and regulations.
- Can multiple co-permittees use the permittee’s website?
 - Yes, as long as the permittee agrees to this and the website can provide all required information for each permittee and co-permittee.
- When you mention website are you referring to a town-specific website?
 - No, the website does not have to be town specific. It is acceptable for towns to collaborate to establish a single public website to serve multiple municipalities.
- Following up on the website posting. I am sure that most of us present here DO NOT have privileges to modify the town’s website or MassDEP’s website. Are you suggesting that we need to contact the website manager in the middle of the night so they can update the website?
- Please reconsider website update requirements/guidance. Overnight field staff may not have access to or skill set required to update the website during off business hours.
- As long as the media outlets are notified. Can the website wait until the morning?

- The statute requires that permittees establish public websites to post advisories “when issued” and to receive requests from the public to subscribe to receive notifications. G.L. c. 21, § 43A(e). The regulations at 314 CMR 16.04(3) require that the permittees update their website to post public advisory notifications “when issued.” In the case where a discharge occurs overnight or on weekends or holidays, MassDEP would consider permittees to be compliant if the website is updated no later than the next business day.

Signage

- Can the signs already installed at some public access points along the Alewife/Mystic (as required by the CSO variance for Somerville, Cambridge, MWRA) be used to meet the 314 CMR 16.05(3) requirement?
 - Existing signage at public access points can be used to meet the requirements of 314 CMR 16.05(3) if the signage currently meets all of the requirements outlined in 16.05(3) or if the signage is updated to include the information required by 16.05(3). If existing signage does include all information required by 16.05(3), permittees should still consult with local boards of health in affected municipalities to determine if new signage should also be placed in additional locations.
- Are pictograms adequate for signage or does the sign need to be translated to the specified languages defined in the neighborhood?
 - Per 314 CMR 16.05(3), signage shall provide access to translations in the language(s) most appropriate for those neighborhoods and shall utilize universal symbols.
- Can you confirm if January 12, 2023 (Final CSO Public Notification Plan deadline) is also the deadline to have all the signs installed? Do permittees have to have signs in place by July 2022 before a plan is even submitted and approved?
 - As part of the permittee CSO Preliminary Public Notification Plan (submitted by May 1, 2022 per 314 CMR 16.06(1)) the locations of the signs at public access points must be determined in consultation with the local boards of health. The regulations at 314 CMR 16.05(3) state that the signs shall be installed by the date established in the permittee’s approved CSO Public Notification Plan. Permittees should propose dates for installation of signage in their preliminary plans. There is no established date by which signs must be installed.
- Is the Permittee responsible for signage outside of their service area? (e.g., is Lowell responsible for signage in Tewksbury, Dracut, etc.)
 - Yes. In accordance with 314 CMR 16.05(3), permittees are responsible for installing and maintaining signage at public access points to waters affected by a potential discharge from their outfall. The regulations do not make a distinction between locations within or outside the permittee’s municipality.
- If our downstream impact includes the state of CT, which it likely does, do I need to place signage there?
 - No.
- Would a permanent sign with a moveable panel that local board of health personnel can flip as needed be acceptable? Something along the lines of what trucks use to show classification of hazardous materials being hauled.
 - This would be acceptable as long as it can convey the information required by 314 CMR 16.05(3) and 16.09(5).

- Do signs need to be on a post or can they be on a building, embedded into the ground, on something moveable like a trash receptacle?
 - There is no specific requirement for how or on what surface signs must be installed; however, it may not be practical to install a sign on something moveable, because this could be moved by another person outside of the area where it is supposed to be placed.

Public Access Points

- Can you define "public access points"? (314 CMR 16.05(3))
 - Public access points should be determined by the permittee and local boards of health or health departments. In making determinations on public access locations, the permittee and boards of health should be focused on any publicly accessible locations in the impact area of the discharge that provide access to the public for swimming, boating, shellfish harvesting, or shorefishing. The locations for the signage shall be included in the permittee's preliminary and final CSO Public Notification Plans, based on consultation with boards of health or health departments in the municipalities directly impacted by the discharge.
 - In making determinations on which locations provide public access, the permittee and local boards of health can and should consider public access facilities as identified by the DPH Bureau of Environmental Health for Bathing Beaches and the Office of Fishing and Boating Access listing of [public locations for fishing and boating access](#).
- If a CSO discharges under a sea wall where there is a harbor walk that runs parallel and above the sea wall and someone can fish or jump into the water anywhere along the length, what is the extent of the public access?
 - The locations for the public access signage shall be determined based on consultation with boards of health or health departments in the municipalities directly impacted by the discharge, per 314 CMR 16.05(3). While signs are required at the discharge location, the requirements for signage at public access points should focus on any impact-areas, where there will be designated access locations for swimming, shorefishing, shellfish harvesting, or boating.
- DCR owns the land where some of the public access signage needs to be installed. Are the communities responsible for getting approval from DCR or is this something already agreed upon between MassDEP and DCR?
 - MassDEP has reached out to DCR for an agency contact to use for notifications, as well as the Department of Fish and Game. We expect to also discuss with both agencies the issue of sign posting on state property.
- Although Chelsea doesn't have many swimmers there is a large boating community. Would signs need to be placed at all boating docks?
 - Public boat ramps and public fishing piers would require signs because they provide the opportunity for secondary contact recreation.
- Would we need to post notifications at private access points as well?
 - Notifications are NOT required to be posted at private access points.
- There are places where people can "access" the water but it is not a designated swimming area; there are locations where swimming is prohibited. Would these locations require signage?
 - While the location may not be a designated swimming area it may be used for fishing and/or boating. Historical and present public access and uses should be the main factors in making determinations for signage. If the location is determined by the permittee and

boards of health or health department to require a public access sign, then a sign would be required at that site.

- At public access points, do signs have to face both landward and seaward?
 - No, the regulations at 314 CMR 16.05(3) do not specify that signs face both landward and seaward.
- If an access point is impacted by CSOs from several permittees, who is responsible for signage? Is a single sign acceptable versus each permittee having their own sign? Also, how are the public health warnings issued if one community's board of health deems an event requiring a health warning and the other doesn't?
 - If an access point is impacted by CSOs from multiple permittees, the permittees and boards of health for that municipality will need to consult to determine who will be responsible for signage. Permittees could share the cost for each sign or if there are multiple signs, the permittees could divide up the locations to each be responsible for certain locations. A single sign at each access point is acceptable (and preferred) instead of each permittee having their own sign. Details on how permittees will share cost/responsibility should be provided in CSO Public Notification Plans. The most practical approach in these situations is for CSO permittees whose discharges impact the same receiving water to collectively meet with the local boards of health. Use of a common sign will provide the most sound approach and be most informative.
 - Regarding public health warnings, the board of health is responsible for issuing a public health warning if they receive a notification from a discharger and the discharge or overflow meets the thresholds in 314 CMR 16.09(1) (any SSO; any CSO, partially treated, or blended wastewater discharge that exceeds two hours in duration). The public health warnings only go to the residents of the municipality where the board of health is located. The board of health does not have discretion to determine if events meeting the thresholds above require public health warnings. Boards of health do have the ability to issue public health warnings for CSO, partially treated, or blended wastewater if they are less than two hours in duration if they feel the warning is necessary to protect public health, so there could be some instances where a board of health in one municipality decides to issue a public health warning for one of those discharges, and a board of health in a neighboring municipality does not. In this case, neither board of health, nor any permittee would be out of compliance for this practice.
- Swimming is not allowed on the Charles River; so does that mean signage would not be required? If signage is required, is the entire coast of the Charles River considered accessible and subject to signage?
 - Swimming is not the only factor in determining public access points. MassDEP recommends that proposals for signage address *designated* public access locations for swimming, shorefishing, or boating. Public access sign location shall be determined in coordination with the permittee and local boards of health or health departments.

Public Notification Plans

- CSO Notification Plans are subject to public comment, per 314 CMR 16.06(2). Is that the preliminary plan too or just the final plan? While you are telling us today about being reasonable in plan approval will that be the case once you get public comments from those who demand more?
 - Preliminary CSO Notification Plans will not require posting to the Environmental Monitor for public comments. Final CSO Notification Plan requirements are covered in

314 CMR 16.06(2) and do require a public comment period. MassDEP will consider public comments received when reviewing final CSO Public Notification Plans for approval.

- Once a final Notification plan is submitted is there a resubmittal requirement for any changed conditions, e.g., better metering installed OR a CSO discharge is permanently closed?
 - 314 CMR 16.06(2) states “The Department may require modifications to a permittee’s final CSO Notification Plan when deemed appropriate in view of relevant facts and circumstances. The Department may also approve a plan modification requested by a permittee, based on a showing that the requested modification is appropriate in view of relevant facts and circumstances.” If a permittee is unsure if a modification to the Plan is needed, they should consult with their MassDEP regional contact.
 - Also, as described in 314 CMR 16.08, a permittee can apply for a waiver of any of the requirements of 314 CMR 16.00 if an outfall is decommissioned or there has not been significant discharge from the outfall during the preceding five years.
- When do you expect the Preliminary CSO Plan template to be finalized? I would like to start filling it in as soon as possible to meet the May 1 deadline.
 - MassDEP intends to finalize the template by March 1 and will notify permittees once it is available.
- Must the templates be used? Or can a version be created by each utility? Would the attestation be required in those?
 - To ensure all required information is included in the Public Notification Plans, the DEP templates for CSO Preliminary Notification Plans and SSO Notification Plans, which includes attestation, should be used.
- When do we need to begin implementing the CSO Plan? DEP gets our Preliminary CSO Plan by May 1, 2022 and then has to review and approve. Is July 6, 2022 the start date to implement per the Law (540 days after passage)?
 - Yes, permittees need to begin implementing the CSO Public Notification Plan on July 6, 2022, per 314 CMR 16.01. MassDEP recognizes that signs at public access points will not be installed by this date and the dates for sign installation are to be specified in the preliminary CSO Public Notification Plans.
- Then what happens when the final plan is submitted in January 2023 and, after public comment, DEP requires it be modified? The community may have already spent significant money on consultants, signage, website development, SCADA, etc., and now has to spend even more to change what has been in place 7 months.
 - MassDEP understands that some aspects of the permittee’s system for notification may not be able to be changed in a short time frame. If MassDEP’s review of the final notification plan results in significant required changes, MassDEP anticipates allowing the permittee a reasonable amount of time to make those changes.
- What of the SSO Plan, due July 6, 2022, which could take 180 days to be approved by default? When is that to be implemented?
 - Permittees need to begin implementing SSO Plans on July 6, 2022, i.e., as soon as they are submitted, per 314 CMR 16.01. It is possible MassDEP may ask for changes to the plans, but if those changes are significant, MassDEP anticipates allowing time for changes to be implemented.

- If a permittee operates both a combined system and a (totally geographically separate) separate system, can the SSO notifications for the separate system be incorporated into the Public Notification Plan prepared for the larger combined system? (e.g., SSO from MWRA's interceptor in Clinton reported under the same plan as an SSO from MWRA's system in metro Boston.)
 - This should be an acceptable approach, but if the two systems are in two different MassDEP regions (as would be the case for MWRA Clinton and MWRA Boston), the permittee should ensure the plan goes to both regional offices for review.
- Is July 6th a firm date or will time extensions be allowed?
 - All SSO Public Notification Plans are due on July 6, per 314 CMR 16.06(3), and all permittees are required to meet the requirements of the regulations, including issuance of public advisory notifications, starting July 6, 2022, in accordance with 314 CMR 16.01.

Requirements for Boards of Health/Health Departments

- Is the permittee responsible if the independent board of health fails any notification responsibilities required of them?
 - No.
- Is the board of health in a permittee's community responsible to update public health notices outside of their community?
 - No. Each board of health will be responsible for their own jurisdiction.
- Are the board of health signs different than the permittee signs?
 - This depends on consultation between the permittee and board of health and whether the board of health prefers to use a permanent sign or temporary sign. Per 314 CMR 16.05(3), each CSO permittee has to install and maintain signage at public access points to waters affected by their discharges and the signs have to be able to provide timely information about ongoing discharges to allow municipal boards of health and health departments to meet the requirements of 314 CMR 16.09(5) (i.e., signage associated with public health warnings). If the board of health wants to use a temporary sign, then this would be a different sign than the permittee's sign. If the board of health wants to use the permanent sign installed by the permittee for this purpose, then they would be the same sign.
- Are the public health warnings in addition to the emails we send out to the list of people who asked to be notified?
 - Public health warnings are issued by municipal boards of health/health departments and go to residents of their municipality, in accordance with 314 CMR 16.09. These are separate from the public advisory notifications that are sent out by permittees to the required state, federal, and local agencies, as well as individuals that subscribe to receive such notifications, in accordance with 314 CMR 16.04.
- Do the boards of health need to post a sign within 2 hours?
 - The regulations at 314 CMR 16.09 do not specify a timeframe by when the boards of health must post signs.
- For the CSO communities there are signage requirements and notification of the board of health requirements. Do these requirements apply to the non-CSO communities?
 - Non-CSO permittees do not have any requirements related to signage. Non-CSO permittees do need to notify boards of health in affected municipalities when they have discharges or overflows that require notification, per 314 CMR 16.03. Boards of health

in municipalities affected by an SSO are required to issue public health warnings for SSOs and post temporary signs at public access points affected by the SSO, in accordance with 314 CMR 16.09.

- Have the local boards of health been notified of these additional posting requirements they will be asked to do?
 - MassDEP has conducted outreach to municipal boards of health through the Massachusetts Department of Public Health. Additionally, MassDEP will give a presentation at the Massachusetts Health Officers' Association Conference in March and intends to provide additional trainings or presentations to boards of health.

Environmental Justice/Translations

- How does a permittee determine whether a news organization specifically serves an environmental justice population, per 314 CMR 16.04(4)(b)?
 - MassDEP and EEA are currently working on developing a list of alternative media outlets that serve EJ populations. The list is not yet complete, but we can share the current version with permittees. Please note some of the news outlets are published in alternative languages and others are local community newspapers. Local officials and community groups can be a good resource for determining additional media outlets in their communities.
- Would you say that the Boston Globe or the Boston Herald serve environmental justice populations? They serve the metro Boston area.
 - MassDEP considers the Boston Globe and the Boston Herald to serve the metro Boston area, which includes some EJ populations, but we would not consider them to be “go to” news sources for EJ populations. 314 CMR 16.04(4)(b) states that it should be a news organization that “primarily serves the environmental justice population(s)...” MassDEP does not consider these publications to primarily serve EJ populations.
- Chicopee's new NPDES [permit] requires CSO signage "in English, and in Spanish or include a universal wet weather sewage discharge symbol."--- If I include the symbol, am I relieved from having to place signage in more than English?
 - For the sign at the outfall, use of just the universal symbol is allowable. For signage at public access points, signage shall provide access to translations in the language(s) most appropriate for those neighborhoods **and** shall utilize universal symbols, in accordance with 314 CMR 16.05(3).
- Section 2 of the template on EJ communities focuses just on English proficiency EJ. The law and regulations seem to include all EJ communities (English proficiency, minority, income). Are we only concerned with the English proficiency EJ communities relative to signage, website content, and public notification?
 - Components requiring translation (signage, website content, and public notifications) should use the “25% or more of households lack English language proficiency” to determine if translation is required, and then determine the languages based on at least 5% of the population has speakers who self-identify as “do not speak English very well” and the languages spoken by those populations.
- It would be much easier if you provided a list of communities and languages. The map is very hard to use.
 - It is the permittee's responsibility to determine the appropriate languages for each municipality affected by its discharges.

314 CMR 12.00

- Will the SSO form that we are used to working with on the DEP's website be updated and changed for consistency?
 - This question refers to the form that permittees currently use to report SSOs under the requirements of 314 CMR 12.00. MassDEP will review the form and determine if any updates are needed to ensure consistency with 314 CMR 16.00.
- Will these requirements be required to be included in wastewater collection O&M plans. Is there template language to be incorporated to update O&M?
 - When MassDEP updates the 314 CMR 12.00 regulations, we expect to include a requirement related to public notification of SSOs and CSOs in the O&M plan requirements.
- When is 314 CMR 12 being revised?
 - No specific timeline has been determined.