

Developing a CSO Public Notification Plan Checklist

Public Notification Requirements for Combined Sewer Overflows to the Great Lakes Basin Effective on February 7, 2018 Permittees Must Submit CSO Great Lakes Basin Public Notification Plan to the NPDES Program Director by August 7, 2018¹

Minimum Requirements for Developing CSO Great Lakes Basin Public Notification Plan

LEGAL DISCLAIMER

Recently, EPA promulgated regulations, codified at 40 C.F.R. § 122.38, that require National Pollutant Discharge Elimination System permittees authorized to discharge combined sewer overflows to the Great Lakes to develop a public notification plan as part of their permit application. 83 Fed. Reg. 712, January 8, 2018. This document summarizes the requirements for the plan. This document does not create any new legal requirements for permittees or establish any defenses to enforcement actions for failure to comply with NPDES Great Lakes Basin Notification Plan regulations at §122.38. While this document summarizes generally NPDES permittee requirements, it may not provide a complete explanation of all requirements. For a more complete explanation, NPDES permittees should refer to the § 122.38 regulations, any interpretive guidance, or direct questions to the State NPDES program Director or to the U.S. Environmental Protection Agency. In the event of any conflict between statements in this document and the regulations, the regulations are legally controlling.



CSO Public Notification Plan Elements

- The Great Lakes Basin CSO permittee must provide notice of the availability of the plan and periodically provide information on how to view the notification plan.
- The plan must identify the location of signs at CSO discharge points and potentially impacted areas required by §122.38 (a)(1) and the location of any CSO discharge point where a sign is not provided. Where a sign has not been provided at a CSO discharge point, the plan shall explain why a sign at that location is not feasible or was otherwise determined to not be necessary
- Describe the message used on signs required by §122.38 (a)(1), including:
 - Name of the Great Lakes Basin CSO permittee;
 - NPDES permit number and CSO discharge point number;
 - Contact information, including telephone number; and
 - Description of the discharge (e.g., untreated human sewage, treated wastewater).
- Describe protocols for maintaining signage (e.g., inspections at set intervals).

¹ unless the Director has extended the date to avoid economic hardship for individual communities

- Identify (with points of contact, where appropriate) which municipalities public drinking water supplies, public parks with water access and describe other sensitive area(s) identified in the permittee’s long-term CSO control plan that may be impacted by the discharge.
- Summarize significant comments and recommendations raised by the local public health department as required by §122.38(d)
 - Develop recommended protocols for providing notification of CSO discharges to the public health department. The protocols will specify which CSO discharges are subject to notification, the means of notification, the timing of notification, and other relevant factors.
 - Develop recommendations for providing notice to the general public of CSO discharges electronically and by other appropriate means.
 - Develop recommendations for areas that would be considered “potentially impacted public access areas” as referenced in §122.38(a)(1), (2), and (3) for signage, notification to local health departments and other potentially affected entities and notifications to the public.
 - Seek input from other potentially affected public entities and Indian Tribes whose waters may be impacted by a CSO discharge.
 - Consider the recommendations of the public health department and other potentially affected entities in developing protocols in its public notification plan for providing notification of CSO discharges to the public health department and potentially affected public entities and Indian Tribes.
- Identify other affected public entities and Indian Tribes (as applicable), whose waters may be impacted by a CSO discharge that were contacted §122.38(d) and provide a summary of their significant comments and recommendations.
- Describe how the initial and supplemental notices will be provided to public health departments and other public entities.
 - This shall include a description of the circumstances under which the initial notification of the public may be delayed beyond four hours of the permittee becoming aware of the discharge.
- Describe, for each CSO discharge point, how the volume and duration of CSO discharges shall be either measured or estimated for the purposes of complying with §122.38(a)(2)(ii)(A), (a)(3)(iii)(A) and (b)(2) and (3).
 - If the Great Lakes Basin CSO permittee intends to use a model to estimate CSO discharge volumes and durations, the plan must summarize the model and describe how the model was or will be calibrated.
- Provide EPA and the State NPDES Program Director with notice of how the annual notice described in §122.38(b) will be made available to the public.
 - Notice to EPA shall be sent in the form of an email to NPDES_CS0@epa.gov and contain a link to the annual notice and the contact information (name, title, phone number, email) of the person responsible for maintaining the website, or alternative information about how the annual notice is available if not on a website.

- If the permittee is emailing the Director with the information, the permittee may copy EPA on the email.
- Seek input on public notification plan. Prior to submitting the public notification plan, or resubmitting under §122.2, the Great Lakes Basin CSO permittee must:
 - Seek input from, and consider the recommendations of, the local public health department (or if there is no local health department, the state health department),
 - Develop recommended protocols for providing notification of CSO discharges to the public health department. The protocols will specify which CSO discharges are subject to notification, the means of notification, the timing of notification and other relevant factors.
 - Develop recommendations for providing notice to the general public of CSO discharges electronically and by other appropriate means.
 - Develop recommendations for areas that would be considered “potentially impacted public access areas” as referenced in §122.38(a).
 - Seek input from other potentially affected public entities and Indian Tribes whose waters may be impacted by a CSO discharge.
 - Consider the recommendations of the public health department and other potentially affected entities in developing protocols in its public notification plan for providing notification of CSO discharges to the public health department and potentially affected public entities and Indian Tribes.
- Future plan submissions following the initial plan submittal, describe in subsequent permit applications any significant modifications to the plan that were made since it was last plan submission.