extend it by publishing a final rule in the **Federal Register**, or to discontinue it altogether.

Regulatory Procedures

Justification for Issuing Final Rule Without Notice and Comment

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when developing regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest. We have determined that good cause exists for dispensing with the notice and public comment procedures for this rule. 5 U.S.C. 553(b)(B). Good cause exists because this final rule only extends the expiration date of an existing rule. It makes no substantive changes to the rule. The current regulations expressly provide that we may extend or terminate this rule. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this rule as a final rule.

In addition, because we are not making any substantive changes to the existing rule, we find that there is good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d)(3). To ensure that we have uninterrupted authority to use attorney advisors to address the number of pending cases at the hearing level, we find that it is in the public interest to make this final rule effective on the date of publication.

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and although we do not believe that this will be a significant regulatory action under Executive Order (E.O.) 12866, as supplemented by E.O. 13563, OMB has reviewed this final rule.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

This final rule does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

20 CFR Part 416

Administrative practice and procedure, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: December 28, 2017.

Nancy A. Berryhill,

Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are amending subpart J of part 404 and subpart N of part 416 of Chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J—[Amended]

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. In § 404.942, revise paragraph (g) to read as follows:

§ 404.942 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(g) *Sunset provision.* The provisions of this section will no longer be effective on August 3, 2018, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N—[Amended]

■ 3. The authority citation for subpart N continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 4. In § 416.1442, revise paragraph (g) to read as follows:

§ 416.1442 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(g) *Sunset provision.* The provisions of this section will no longer be effective on August 3, 2018, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

[FR Doc. 2018–00058 Filed 1–5–18; 8:45 am]

BILLING CODE 4191–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 123

[EPA–HQ–OW–2016–0376; FRL–9972–51–OW]

RIN 2040–AF67

Public Notification Requirements for Combined Sewer Overflows to the Great Lakes Basin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a rule to implement section 425 of the Consolidated Appropriations Act of 2016, which requires EPA to work with the Great Lakes States to establish public notification requirements for combined sewer overflow (CSO) discharges to the Great Lakes. The requirements address signage, notification of local public health departments and other potentially affected public entities, notification to the public, and annual notice. The rule includes a two-stage approach with requirements that apply directly to existing National Pollutant Discharge Elimination System (NPDES) permittees authorized to discharge from a CSO to the Great Lakes Basin, beginning on August 7, 2018 and a requirement that the public notification provisions be incorporated into NPDES permits when these permits are issued or reissued after February 7, 2018, unless the permit has been proposed prior to February 7, 2018 in which case the requirements would be incorporated into the next permit renewal. This rule protects public health by ensuring timely notification to the public and to public health departments, public drinking

water facilities and other potentially affected public entities, including Indian tribes. It provides additional specificity beyond existing public notification requirements to ensure timely and consistent communication to the public regarding CSO discharges to the Great Lakes Basin. Timely notice may allow the public and affected public entities to take steps to reduce the public's potential exposure to pathogens associated with human sewage, which can cause a wide variety of health effects, including gastrointestinal, skin, ear, respiratory, eye, neurologic, and wound infections.

DATES: The final rule is effective on February 7, 2018. In accordance with 40 CFR part 23, this regulation shall be considered issued for purposes of judicial review at 1 p.m. Eastern time on January 22, 2018. Under section 509(b) of the Clean Water Act, judicial review of this regulation can only be had by filing a petition for review in the U.S. Court of Appeals within 120 days after the regulation is considered issued for purposes of judicial review.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2016–0376. All documents in the docket are listed on the *Federal eRulemaking Portal: http://www.regulations.gov.* Certain materials, such as copyrighted material, is not placed on the internet and will be publicly available only in Hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jenelle Hill, Office of Wastewater Management, Water Permits Division (MC4203), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566–1893; email address: *hill.jenelle@epa.gov.*

SUPPLEMENTARY INFORMATION: The **Federal Register** published EPA's proposed rule on January 13, 2017 (82 FR 4233).

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I. General Information

A. Does this action apply to me?

Section 425 of the Consolidated Appropriations Act of 2016 (Pub. L. 114–113) (hereafter referred to as ''Section 425'') specifies in Sub-Section (a)(4) that the term ''Great Lakes'' means ''any of the waters as defined in the Section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1292).'' This, therefore, includes Section 118(a)(3)(B), which defines ''Great Lakes'' as ''Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);'' and Section 118(a)(3)(C), which defines ''Great Lakes System'' as ''all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes.'' Collectively, EPA is referring to the Great Lakes and the Great Lakes System as the ''Great Lakes Basin.'' Entities within the Great Lakes Basin potentially regulated by this action are shown in Table 1.

TABLE 1—ENTITIES POTENTIALLY REGULATED BY THIS ACTION

Category	Examples of regulated entities	North American industry classification system (NAICS) code
Federal and State government	EPA or State NPDES permit authorities	924110
Local governments	NPDES permittees with a CSO discharge to the Great Lakes Basin	221320

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated or otherwise affected by this action. Other types of entities not listed in the table could also be regulated. In addition, this rule is not intended to change the conditions under which a NPDES permit is required but, rather, modify a specific requirement applicable to certain permittees. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria described above and found in § 122.32, and the discussion in the preamble. As Section II.B explains, States in the Great Lakes Basin include New York, Pennsylvania, Ohio, Michigan, Illinois, Indiana, Wisconsin, and Minnesota. As of September 2015, all but one of those States (Minnesota) had active NPDES permits for CSO discharges within the Great Lakes Basin subject to the requirements of this rule. EPA has included a list of Great Lakes Basin CSO permittees, which was compiled in concert with state permitting authorities in 2017, in the rulemaking docket (see ''Table of Great Lakes Basin CSO Permittees (as of 2017)''). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the Agency taking?

EPA is issuing a final rule to establish public notification requirements for CSOs to the Great Lakes Basin. The rule implements Section 425, which requires EPA to ''work with the affected States having publicly owned treatment works that discharge to the Great Lakes to create public notice requirements for a combined sewer overflow discharge to the Great Lakes'' and prescribes minimum requirements for such notice. EPA incorporated existing State approaches for public notification in developing these requirements. EPA sought and considered Great Lakes States and public input during the development of the rule.

This rule requires CSO permittees [1] in the Great Lakes Basin, as defined, to provide public notification of CSO discharges and specifies the minimum content of such notification. The rule's requirements include signage at CSO discharge locations and potentially affected public access areas, methods of providing public notice of CSO discharges, initial and supplemental notice to potentially affected public entities and to the public, and an annual notice. The rule requires that the annual notice summarize the permittee's CSO discharges from the previous year and the CSO permittee's plans for CSO controls.

In addition, the rule includes requirements for Great Lakes Basin CSO permittees to develop a public notification plan that reflects community-specific details (*e.g.,* proposed monitoring locations, means for disseminating information to the public) as to how the permittee would implement the public notification requirements. Permittees are required to seek and consider input on these plans from local public health departments and other potentially affected entities whose waters may be impacted by their CSO discharges. The rule requires that Great Lakes Basin CSO permittees submit the public notification plan to the NPDES permitting authority (''Director'') by August 7, 2018. The public notification plan provides a means of public engagement on the details of implementation of the notification requirements.

This rule protects public health by:

- Ensuring *timely notice to the public* of CSO discharges. This notice is intended to alert members of the public to CSO discharges which may allow them to take steps, such as avoiding activities on the water, to reduce their potential exposure to pathogens associated with human sewage, which can cause a wide variety of health effects, including gastrointestinal, skin, ear, respiratory, eye, neurologic, and wound infections.
- Ensuring *timely notice to local public health departments, public drinking water facilities and other potentially affected public entities, including Indian tribes,* of CSO discharges. This notice is intended to alert these entities to specific CSO discharges and support the development of appropriate responses to the discharges, such as ensuring that beach and waterbody closures and advisories reflect the most accurate and up-to-date information or adjusting the intake or treatment regime of drinking water treatment facilities that have intakes from surface waters impacted by CSO discharges.
- Providing the community and interested stakeholders with *effective and meaningful follow-up notification* that summarizes the permittee's CSO discharges from the previous year and provides stakeholders with information on the CSO permittee's plans to control CSO discharges. This information is intended to help the community understand the current performance of their collection system and how the community's ongoing investment to reduce overflows would address the impacts of CSOs.

The public notification requirements, including the requirement to develop a public notification plan, are implemented through two regulatory mechanisms: Requirements that apply directly to existing NPDES permittees and conditions for permits renewed or issued in the future. This two-stage implementation approach ensures that the requirements of Section 425 are implemented promptly as the Appropriations Act directed EPA to do and also ensures that the benefits of the rule can begin to accrue as quickly as possible, rather than delaying these public health benefits until future permit renewals, which for some permittees could be as long as five or more years away.

First, EPA is adding a new section to the NPDES permit regulations, codified at § 122.38, establishing the public notification requirements for Great Lakes Basin CSO permittees. The requirements in § 122.38 apply directly to existing Great Lakes Basin CSO permittees until their NPDES permits are next reissued after February 7, 2018, unless the permit has been proposed prior to February 7, 2018, in which case the requirements would be incorporated into the next permit renewal.

The public notification plan requirements apply directly to CSO permittees discharging to the Great Lakes Basin beginning August 7, 2018 and the notification methods (other than the annual notice) apply directly beginning November 7, 2018. The annual notice requirements apply beginning in February 7, 2019 (or an alternative date specified by the Director), which allows permittees time to collect data for the first year.[2] In keeping with Section 425, the Director may extend the compliance dates for notification and/or submittal of the public notification plan for individual communities if the Director determines the community needs additional time to comply in order to avoid undue economic hardship.

Second, the public notification requirements for CSO discharges to the Great Lakes Basin shall be implemented as a condition in NPDES permits when they are next reissued after February 7,

[1] Throughout this preamble the owner or operator of a combined sewer system (CSS) is referred to as the ''CSO permittee.''

[2] EPA expects the first annual notice will only contain a partial year of data because the reporting period is for a calendar year and the permittee will not have begun implementing the notification requirements on January 1 of the first year.

2018, unless the permit has been proposed prior to February 7, 2018 in which case the requirements would be incorporated into the next permit renewal. When the permittee's CSO NPDES permit is reissued, the permit is required to include a permit condition addressing public notification of CSO discharges to the Great Lakes Basin. The permit condition incorporates the requirements in § 122.38 for signage, methods of notification and annual notice, as well as requirements to provide specific information relevant to the permittee's implementation of the notification requirements.

C. What is the Agency's authority for taking this action?

This rule is authorized by Section 425 of the Consolidated Appropriations Act of 2016 (Pub. L. 114–113) and the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.,* including sections 1314(i), 1318, 1342 and 1361(a). Section 425 requires EPA to ''work with the affected States having publicly owned treatment works that discharge to the Great Lakes to create public notice requirements for a combined sewer overflow discharge to the Great Lakes.'' While this rule is called for by an appropriations bill, EPA has independent authority under the Clean Water Act to require these public notification provisions. Specifically, EPA is promulgating this rule under CWA sections 304(i), 308, 402, and 501. Section 304(i) authorizes EPA to establish minimum procedural and other elements of State programs under section 402, including reporting requirements and procedures to make information available to the public. In addition, EPA is promulgating this rule under section 308, which authorizes EPA to require access to information necessary to carry out the objectives of the CWA. Section 402 establishes the NPDES permit program for the control of the discharge of pollutants into the nation's waters. EPA is promulgating this rule under section 402(a)(2), which authorizes the Administrator to prescribe conditions in permits, including conditions on data and information collection, reporting and other requirements he deems appropriate and 402(b) and (c), which require each authorized State, tribe, or territory to ensure that permits meet certain substantive requirements. Section 402(q) requires NPDES permits for discharges from combined sewers to ''conform'' to the 1994 CSO Control Policy. Finally, EPA is promulgating this rule under the authority of section 501, which authorizes EPA to prescribe such regulations as are necessary to carry out provisions of the CWA.

II. Background

A. Combined Sewer Overflows From Municipal Wastewater Collection Systems

Municipal wastewater collection systems collect domestic sewage and other wastewater from homes and other buildings and convey it to wastewater treatment plants for treatment and disposal. The collection and treatment of municipal sewage and wastewater is vital to the public health in our cities and towns. In the United States, municipalities historically have used two major types of sewer systems—separate sanitary sewer systems and CSSs.

Municipalities with separate sanitary sewer systems use that system solely to collect domestic sewage and convey it to a publicly owned treatment works (POTW) treatment plant for treatment. These municipalities also have separate sewer systems to collect surface drainage and stormwater, known as ''municipal separate storm sewer systems'' (MS4s). Separate sanitary sewer systems are not designed to collect large amounts of runoff from rain or snowmelt or provide widespread surface drainage, although they typically are built with additional allowance for some amount of stormwater or groundwater that enters the system as a result of storm events.

The other type of sewer system, CSSs, is designed to collect both sanitary sewage and stormwater runoff in a single-pipe system. This type of sewer system provides the primary means of surface drainage by carrying rain and snowmelt away from streets, roofs, and other impervious surfaces. CSSs were among the earliest sewer systems constructed in the United States and were built until the first part of the 20th century. While some municipalities have undertaken projects to replace CSSs with separate sanitary sewer systems, such projects can be very expensive so many CSSs still exist in the United States.

Under normal, dry weather conditions, combined sewers transport all of the wastewater collected to a sewage treatment plant for treatment. However, under wet weather conditions, when the volume of wastewater and stormwater exceeds the capacity of the CSS or treatment plant, these systems are designed to divert some of the combined flow prior to reaching the POTW treatment plant and to discharge combined stormwater and sewage directly to nearby streams, rivers and other water bodies. These discharges of sewage from a CSS that occur prior to the POTW treatment plant are referred to as combined sewer overflows or CSOs. Depending on the CSS infrastructure design, CSO discharges may be untreated or may receive some level of treatment, such as solids settling in a retention basin and disinfection, prior to discharge.

CSO discharges contain human and industrial waste, toxic materials, and debris as well as stormwater. CSO discharges can be harmful to human health and the environment because they introduce pathogens (*e.g.,* bacteria, viruses, protozoa) and other pollutants to receiving waters, causing beach closures, impairing water quality, and contaminating drinking water supplies and shellfish beds. CSOs can also cause depleted oxygen levels in receiving waters which can impact fish and other aquatic populations. (See EPA–HQ–OW–2016–0376–0043, –0056, –0057, and –0070.)

CSSs serve a total population of about 40 million people nationwide. Most communities with CSSs are located in the Northeast and Great Lakes regions, particularly in Illinois, Indiana, Maine, Michigan, New York, Ohio, Pennsylvania, and West Virginia. Although large cities like Chicago, Cleveland, and Detroit have CSSs, most communities with CSSs have fewer than 50,000 people. Most CSSs have multiple CSO discharge locations (also referred to as outfalls), with some larger communities with CSSs having hundreds of CSO discharge locations.

B. Combined Sewer Overflows to the Great Lakes Basin

As of September 2015, 859 active NPDES permits for CSO discharges had been issued in 30 States plus the District of Columbia and Puerto Rico. Of these 859 permits, 162 permits [3] are for CSO discharges to waters located in the watershed for the Great Lakes and the Great Lakes System (''Great Lakes Basin,'' as explained in Section I.A). The 162 permits for CSO discharges to

[3] EPA identified 184 CSO permits in the Great Lakes Basin in the 2016 Report to Congress: Combined Sewer Overflows into the Great Lakes Basin (EPA 833R–16–006) (EPA–HQ–OW–2016–0376–0043). EPA has adjusted that estimate to reflect additional information. First, 32 CSO permittees identified in the Report to Congress were subtracted; 31 CSO permittees because their permit coverage had been terminated due to sewer separation or other reasons and one CSO permittee because they do not discharge to the Great Lakes Basin. Second, EPA conducted a GIS analysis and verified with States that 10 permits for CSO discharges to the Great Lakes Basin were not identified in the 2016 Great Lakes CSO Report to Congress. A list of these 42 permits is available in the docket for this rulemaking.

the Great Lakes Basin have been issued to 158 communities [4] or permittees. These permittees are located in the States of New York, Pennsylvania, Ohio, Michigan, Illinois, Indiana, and Wisconsin. See ''Table of Great Lakes Basin CSO Permittees (as of 2017)'' in the rulemaking docket for a list of Great Lakes Basin CSO permittees that was compiled in 2017; this list will serve as a starting point for State permitting authorities as they evaluate the applicability of this rule to their permittees. CSO communities are scattered across the Great Lakes Basin, with the greatest concentration in Ohio, southeastern Michigan and northeastern Indiana discharging to Lake Erie, and in northern Indiana and southwestern Michigan discharging to Lake Michigan (see Figure 1).

The majority of the CSO discharges in the Great Lakes Basin are into waterbodies that are tributary to one of the Great Lakes, while a small number of those discharges are directly into one of the Great Lakes. In compiling the list of permittees subject to the requirements of this rule included in the rulemaking docket (''Table of Great Lakes Basin CSO Permittees (as of 2017)''), EPA consulted with State permitting authorities and drainage basin maps for the Great Lakes to confirm that these discharges have the potential to impact the Great Lakes. Because the water in streams and rivers within the drainage basin for a Great Lake has the potential to reach the Great Lakes, EPA has concluded that this rulemaking should apply to all permittees authorized to discharge CSOs in the Great Lakes Basin, consistent with the goal of providing public notification of CSO discharges affecting the Great Lakes.

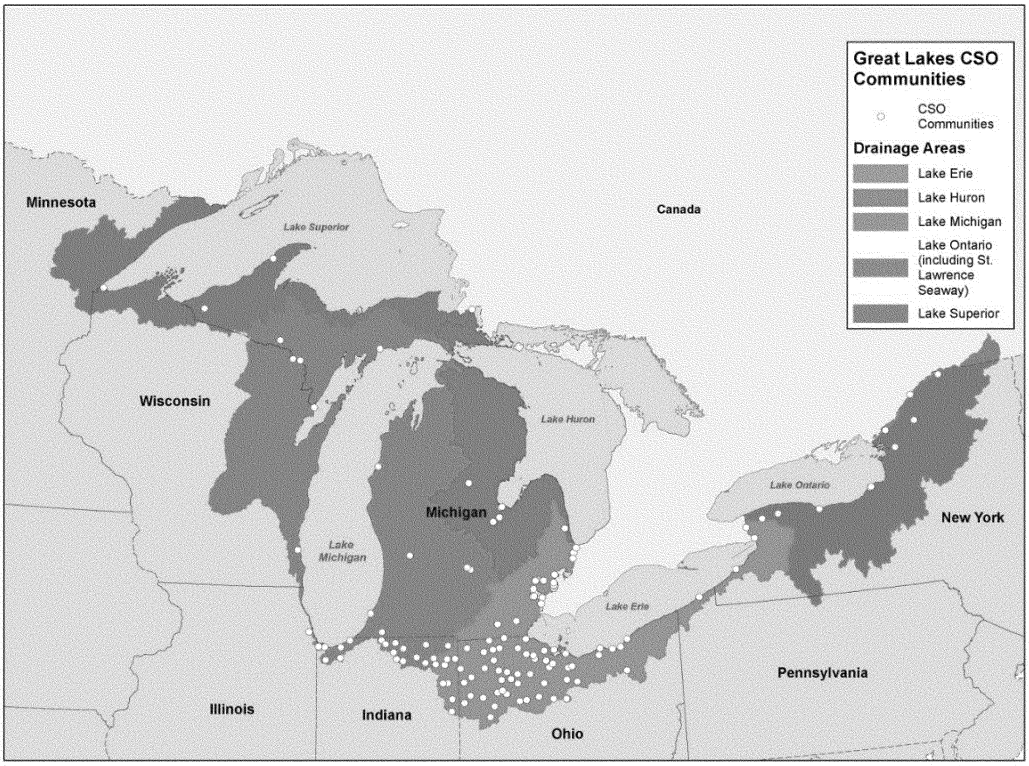

Figure 1. CSO Permittees in the Great Lakes Basin

EPA recently summarized available information on the occurrence and volume of discharges from CSOs to the Great Lakes Basin during 2014 (see EPA–HQ–OW–2016–0376–0043), contained in the public docket for this rulemaking. As summarized in this report, seven States reported 1,482 events where untreated sewage was discharged from CSOs to the Great Lakes Basin in 2014 and an additional 187 CSO events where partially treated sewage was discharged. For the purposes of the Report, partially treated discharges referred to CSO discharges that received a minimum of:

- Primary clarification (removal of floatables and settleable solids may be achieved by any combination of treatment technologies or methods that are shown to be equivalent to primary clarification);
- Solids and floatable disposal; and
- Disinfection of effluent, if necessary to meet water quality standards and protect human health, including removal of harmful disinfection chemical residuals, where necessary.

Additional information regarding CSO discharges to the Great Lakes Basin, including the Report to Congress, is available at *https://www.epa.gov/npdes/combined-sewer-overflows-great-lakes-basin.* Table 2 provides the size distribution of the 158 CSO communities in the Great Lakes Basin.

[4] The number of CSO communities in the Great Lakes Basin is different than the number of CSO permits. Two CSO communities have more than one CSO NPDES permit. These include Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) (4 permits) and the City of Oswego, NY (2 permits). For the purposes of counting communities, communities with multiple CSO permits are counted as one CSO community.

TABLE 2—GREAT LAKES BASIN CSO COMMUNITIES BY COMMUNITY POPULATION

	Community population			Total
	Over 50,000	10,000–49,999	Under 10,000	
Number of CSO Communities	35	69	54	158

Permits issued to Metropolitan Water Reclamation District of Greater Chicago and Wayne County used the population for Chicago and Wayne County, respectively.

As stated above, CSOs can cause human health and environmental impacts (see EPA–HQ–OW–2016–0376–0043, –0056, –0057, and –0070). CSOs often discharge simultaneously with other wet weather sources of water pollution, including stormwater discharges from various sources including municipal separate storm sewers, wet weather sanitary sewer overflows (SSOs) from separate sanitary sewer systems, and nonpoint sources of pollution. The cumulative effects of wet weather pollution from point and nonpoint sources can make it difficult to identify and assign specific cause-and-effect relationships between CSOs and observed water quality problems. The environmental impacts of CSOs are most apparent at the local level (see EPA–HQ–OW–2016–0376–0043, –0056, –0057, and –0070).

C. The CSO Control Policy and Clean Water Act Framework for Reducing and Controlling Combined Sewer Overflows

The CWA establishes national goals and requirements for maintaining and restoring the nation's waters. CSO discharges are point sources subject to the technology-based and water quality-based requirements of the CWA under NPDES permits. Technology-based effluent limitations for CSO discharges are based on the application of best available technology economically achievable (BAT) for toxic and nonconventional pollutants and best conventional pollutant control technology (BCT) for conventional pollutants. BAT and BCT effluent limitations for CSO discharges are determined based on ''best professional judgment.'' CSO discharges are not subject to permit limits based on secondary treatment requirements that are applicable to discharges from POTWs.[5] Permits authorizing discharges from CSO discharge points must include more stringent water quality-based requirements, when necessary, to meet water quality standards (WQS).

EPA issued the CSO Control Policy on April 19, 1994 (59 FR 18688). The CSO Control Policy ''represents a comprehensive national strategy to ensure that municipalities, permitting authorities, water quality standards authorities, and the public engage in a comprehensive and coordinated effort to achieve cost-effective CSO controls that ultimately meet appropriate health and environmental objectives.'' (59 FR 18688). The policy assigns primary responsibility for implementation and enforcement to NPDES permitting authorities (generally referred to as the ''Director'' in the NPDES regulations) and water quality standards authorities.

The policy also established objectives for CSO permittees to: (1) Implement ''nine minimum controls'' and submit documentation on their implementation; and (2) develop and implement a long-term CSO control plan (LTCP) to ultimately result in compliance with the CWA, including water quality-based requirements. In describing NPDES permit requirements for CSO discharges, the CSO Control Policy states that the BAT/BCT technology-based effluent limitations ''at a minimum include the nine minimum controls'' (59 FR 18696). One of the nine minimum controls is ''Public notification to ensure that the public receives adequate notification of CSO occurrences and CSO impacts.''

In December 2000, as part of the Consolidated Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554), Congress amended the CWA by adding Section 402(q). This amendment is commonly referred to as the ''Wet Weather Water Quality Act of 2000.'' It requires that each permit, order, or decree issued pursuant to the CWA after the date of enactment for a discharge from a municipal combined sewer system shall conform to the CSO Control Policy.

D. NPDES Regulations Addressing CSO Reporting

The NPDES regulations require NPDES permits to include requirements for monitoring discharges, including CSO discharges, and reporting the results to the permitting authority with a reporting frequency dependent on the nature and effect of the discharge, but in no case less than once a year. See § 122.44(i)(2). In addition, NPDES permits must require permittees to report noncompliance, including CSO discharges, to their permitting authority. Permit noncompliance that may endanger health or the environment must be reported by the permittee to their permitting authority both orally and through a report submission. See § 122.41(l)(6). All other noncompliance must be reported when other monitoring reports are submitted (*e.g.,* Discharge Monitoring Reports (DMRs)). See § 122.41(l)(7).

E. Section 425 of the Consolidated Appropriations Act of 2016—Requirements for Public Notification of CSO Discharges to the Great Lakes Basin

Section 425 was enacted as part of the 2016 Consolidated Appropriations Act and did not amend the CWA. Section 425(b)(1) requires EPA to work with the Great Lakes States to establish public notice requirements for CSO discharges to the Great Lakes Basin. Section 425(b)(2) provides that the notice requirements are to address the method of the notice, the contents of the notice, and requirements for public availability of the notice. Section 425(b)(3)(A) provides that, at a minimum, the contents of the notice are to include the dates and times of the applicable discharge; the volume of the discharge; and a description of any public access areas impacted by the discharge. Section 425(b)(3)(B) provides that the minimum content requirements are to be consistent for all affected States.

Section 425(b)(4)(A) calls for follow-up notice requirements that provide a description of each applicable discharge; the cause of the discharge; and plans to prevent a reoccurrence of a CSO discharge to the Great Lakes Basin consistent with section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) or an administrative order or consent decree under such Act. Section 425(b)(4)(B) provides for annual publication requirements that list each treatment works from which the Administrator or the affected State receive a follow-up notice.

Section 425(b)(5) requires that the notice and publication requirements described in Section 425 shall be implemented within two years. The

[5] *Montgomery Environmental Coalition et al.* v. *Costle,* 646 F.2d 568, 592 (D.C. Cir. 1980).

Administrator of the EPA, however, may extend the implementation deadline for individual communities if the Administrator determines the community needs additional time to comply in order to avoid undue economic hardship. Finally, Section 425(b)(6) clarifies that ''[n]othing in this subsection prohibits an affected State from establishing a State notice requirement in the event of a discharge that is more stringent than the requirements described in this subsection.''

F. Working With the Great Lakes States and Requesting Public Input

As called for in the legislation, EPA worked with the Great Lakes States in developing the rule to implement section 425 of the 2016 Consolidated Appropriations Act. In discussions with EPA, NPDES program officials in each State with CSO discharges to the Great Lakes Basin described existing State notification requirements, shared insights on implementation issues and provided individual perspectives during the development of the proposed rule.

On August 1, 2016, EPA published a notice in the **Federal Register** requesting stakeholder input on potential approaches for developing public notice requirements for CSO discharges to the Great Lakes Basin under section 425. As part of this effort, EPA held a public ''listening session'' on September 14, 2016, in Chicago, Illinois, which provided stakeholders and other members of the public an opportunity to share their views regarding potential new public notification requirements for CSO discharges to the Great Lakes Basin. A summary of the oral comments made at the public listening session is included in the docket for this rulemaking.[6] In addition, the Agency requested written comments. EPA received a total of 787 written comments, all of which were submitted to the docket (see EPA–HQ–OW–2016–0376–0002 through EPA–HQ–OW–2016–0376–0041). These comments informed the development of the proposed rule and were discussed throughout the preamble to the proposed rule.

On January 13, 2017, EPA published the proposed rule requesting comments on Public Notification Requirements for Combined Sewer Overflows to the Great Lakes Basin (82 FR 4236). The comment period for the proposed rule closed on March 14, 2017. EPA received a total of 1,300 written comments, which were submitted to the docket (see EPA–HQ–OW–2016–0376–0129 through EPA–HQ–OW–2016–0376–0176). EPA briefed NPDES program officials in the Great Lakes States on the comments EPA received, and the officials engaged in discussions with EPA about possible revisions to the proposed rule to address the public comments. Comments received on the proposed rule are discussed further in Section III.

III. Summary of the Proposed Rule and Comments Received

The proposed requirements to implement Section 425 were based on an evaluation of current notification requirements and practices in the Great Lakes Basin and elsewhere, and input from officials in the Great Lakes States and the public, including input received in response to EPA's August 1, 2016 request. The proposal explained EPA's expectations for CSO permittees discharging to the Great Lakes Basin to ensure that the public receives adequate notification of CSO occurrences and CSO impacts. The proposed requirements aligned with the CSO Control Policy, which includes public notification as one of the nine minimum controls for CSO permittees.

A. Overview of Proposed Rule

The **Federal Register** published EPA's proposed rule on January 13, 2017 (82 FR 4233). EPA proposed requirements for public notification of CSO discharges to the Great Lakes Basin to be codified at § 122.38. The proposed requirements addressed signage, initial and supplemental notification of local public health departments and other potentially affected public entities (which may include neighboring municipalities, public drinking water utilities, State and county parks and recreation departments and Indian tribes) whose waters may be potentially impacted, initial and supplemental notification of the public and annual notice to the public and the Director.

EPA further proposed to require NPDES permittees authorized to discharge CSOs to the Great Lakes Basin to develop a public notification plan that would provide community-specific details as to how they would implement the notification requirements. Under the proposal, CSO permittees in the Great Lakes Basin would seek and consider input from local public health departments, any potentially affected public entities and Indian tribes whose waters may be impacted by the permittee's CSO discharges in developing the public notification plan that would be submitted to the Director. Under the proposed rule, the plan would be made available to the public and submitted to the Director within six months of the publication date of the final rule.

Under the proposed rule, the requirement to provide public notice of CSO discharges would initially apply by regulation to all existing CSO permittees. Then, as the NPDES permit for each CSO permittee is reissued, the proposed rule at § 122.42(f) would require that the public notice condition be incorporated into all such permits.

B. Summary of Comments Received

EPA received about 45 unique comments on the proposed rule from States, municipalities, environmental stakeholders, trade associations, and other members of the public. Many commenters expressed support for required public notification of CSO discharges in the Great Lakes Basin, while other commenters suggested that aspects of the proposed rule were too burdensome. Many commenters supported some aspects of the proposed rule while suggesting revisions to other parts. Below is a summary of some of the key topics on which EPA received comments. For a full account of comments received, see the rulemaking docket.

- ''Great Lakes'' versus ''Great Lakes Basin''—Several commenters asserted that Section 425 was only intended to address CSO discharges directly into the Great Lakes, rather than CSO discharges into waters in the Great Lakes Basin as proposed while others supported the scope of the proposed rule. For discussion of EPA's rationale for retaining the scope of the rulemaking to cover the Great Lakes Basin see Section II.B. EPA also received comments which recommended that the rulemaking should be applied nationally and not just limited to the Great Lakes region. Given the short two-year implementation timeframe in Section 425 and the specific statutory intent, EPA chose to limit the scope of this rulemaking to the Great Lakes region.
- Untreated CSOs versus All CSOs (untreated and partially treated)—Some commenters suggested that the requirements of the rule should only apply to untreated CSOs, while several others agreed with the approach in the proposed rule. For discussion of EPA's decision to apply the requirements to all CSO discharges see Sections II.B and V.B.3.
- Initial notice timing—Some commenters suggested that the proposed time window of four hours for the initial notice was too long, while some felt it was an appropriate length, and others suggested longer time windows. For discussion of EPA's decision to retain

[6] See Docket ID No. EPA–HQ–OW–2016–0376 at *http://www.regulations.gov.*

the four-hour time frame see Section V.B.5; also see Section IV.I.

• Supplemental notice timing—Many commenters suggested that the time period in which the supplemental notice must be provided should be longer than the proposed 24 hours. Many commenters suggested timeframes of five or seven days. For discussion of changes EPA has made to the supplemental notice timing see Section IV.C.

• Annual notice requirements—Some commenters supported the annual notice requirements in the proposed rule. Others said the annual notice is duplicative of other requirements (*e.g.,* the proposed supplemental notice requirements, existing permit requirements). Some commenters suggested that instead of permittees, States should be required to compile the annual notice and make it publicly available. For discussion of EPA's rationale for retaining the annual notice requirements, as well as changes that EPA has made in the final rule in response to comments on the annual notice requirements, see Sections IV.E, V.B.2, and VI.A.

• Implementation timeline—Many commenters agreed with the implementation timeline and two-stage approach with the flexibility for the Director to extend the compliance dates on a case-by-case basis. Some commenters preferred that EPA delay implementation of the requirements until the next permit renewal. Other commenters suggested 12 months rather than 6 months be allowed for some or all communities to initially implement the new requirements. For discussion of EPA's rationale for the final rule compliance timeline, two-stage approach, as well as the flexibility in the final rule for the Director to extend that timeline, see Sections II.E, IV.H, V.B.7, and VI.A.

The next section (Summary of Revisions Made in the Final Rule) includes an explanation of all of the revisions EPA has made in the final rule in response to the public comments received on the proposed rule. In addition, EPA has prepared a response to comments document, which can be found in the docket for this rulemaking.

IV. Revisions to the Final Rule

EPA reviewed and considered public comments received on the proposed rule and made several modifications to the regulatory requirements in response to those comments. Below is a summary of those revisions, some of which involve clarifying language to better convey the intent of the requirement, while others address the substance of the requirement. The list of regulatory changes in each sub-section below is organized by references to the proposed rule (see 82 FR 4233) sections and numbering, references within the summary of the change include citations to the final rule. The revisions EPA has made are intended to respond to the comments, increase flexibility for States, and ease implementation.

A. Revisions To Ensure Consistent Terminology

Edits were made to the following proposed regulatory text to improve clarity and consistency of language used:

• § 122.21(j)(8)(iii)—''Each applicant that discharges'' revised to ''Each permittee authorized to discharge.'' Edit made to be consistent with terminology in: § 122.38(a) and (b).

• § 122.38(d)(4)—''that may be affected'' revised to ''that may be impacted.'' Edit made to be consistent with terminology in: § 122.38(a)(1)(i) and (iii), (a)(2)(i)(B), (a)(3)(ii)(B), and (b)(5).

○ Conforming edits were also made at: § 122.38 (a)(2)(i), (c)(6), and (d)(2) (from ''whose waters may be affected'' to ''whose waters may be impacted'').

• § 122.38(b)(6)—''public access areas impacted by each CSO discharge'' revised to ''public access areas potentially impacted by each CSO discharge.'' This ensures consistency with the above mentioned sections where the word ''potentially'' is used with ''impacted'' to make clear that the permittee does not need to verify if the area was impacted, but rather to consider if there is potential for the area to be impacted by the CSO discharge.

• § 122.42(f)—''Any permit issued for combined sewer overflow (CSO) discharges to the Great Lakes Basin'' revised to ''Any permit issued authorizing the discharge of a combined sewer overflow (CSO) to the Great Lakes Basin.'' Edit made to be consistent with terminology in: § 122.38(a) and (b), as well as the revision to § 122.21(j)(8)(iii) above.

• § 122.38(a)(1)(i)(A)—Revisions to replace the word ''outfall'' with ''discharge point,'' to use consistent terminology with the CSO Policy.

○ Conforming edits were also made at §§ 122.38(a)(1)(ii)(C), (a)(1)(iv), (a)(3)(i), (b) introductory text, (b)(1), and (c)(1), (8), and (9) and 122.42(f)(2) and (3).

B. Revisions to Wording To Clarify That Consolidated Reporting Option Applies to Discharges During the Same Precipitation-Related Event

It is EPA's intention that if multiple CSO discharges occur on the same water body from multiple CSO discharge locations during the same precipitation event, that the permittee has the flexibility to provide one public notification to cover the multiple discharges. Some commenters pointed out that the wording EPA used in the proposed rule, ''at the same time,'' was unclear and might imply that the discharges had to occur simultaneously, rather than simply as a result of the same storm event. Because of this potential lack of clarity, some commenters raised questions as to whether multiple CSO discharges that start and stop during the same precipitation event would require multiple, separate public notices. EPA intends that only one notification be required under these circumstances. In addition, EPA has included a provision in the rule that allows permittees to provide one notice when there are discharges from multiple CSO discharge points as a result of the same precipitation event. These notices can describe broader areas likely to be impacted by discharges during the precipitation event, eliminating the need to provide separate initial notifications every time the permittee becomes aware of a new discharge associated with the same event. Some commenters questioned whether these discharges had to have occurred at exactly the same time in order to be grouped together. EPA intends that multiple discharges that result from the same precipitation event, even if they are not occurring at exactly the same time, may be grouped together in one public notification. EPA has revised the wording in the final rule to make this clearer by changing the proposed rule's description of discharges occurring ''at the same time'' to discharges occurring ''during the same precipitation-related event.'' It is EPA's expectation that the initial notification would be made within four hours of the permittee becoming aware of the first CSO discharge in the group of discharges that are being reported together; therefore, grouping multiple discharges into one notification is intended to reduce burden but would not provide a community additional time beyond the four-hour period.

EPA is using the terminology ''precipitation-related'' to include rainfall, snowfall, and snowmelt. This is consistent with the CSO Policy, which states that it applies ''to all CSSs that overflow as a result of storm water flow, including snow melt runoff (40 CFR Section 122.26(b)(13)).''

EPA has made the following revisions to the wording in the final rule to address this:

• § 122.38(a)(2)(i)(B)—revised ''Where CSO discharges from the same system occur at multiple locations at the same time'' to ''Where CSO discharges from the same system occur at multiple locations during the same precipitation-related event.''

○ Conforming edits were also made at: § 122.38(a)(2)(ii)(A), (a)(3)(ii)(B), (a)(3)(iii)(A), and (b)(2).

C. Revisions To Extend the Timeframe for the Supplemental Notice From 24 Hours to Seven Days

The final rule requires supplemental information to be provided to the public, public health department and other affected public entities and Indian Tribes within seven days of the permittee becoming aware that the CSO discharge(s) has ended. The proposed rule would have required this information to be provided within 24 hours. Many commenters indicated that this was too short of a timeframe, and suggested that a longer window of five or seven days would be more appropriate. Some commenters pointed out that running models and validating the estimated discharge volume and duration takes time and resources that are not available on nights, weekends, and holidays. Other commenters also noted that CSO discharges can be discontinuous, so communities need more than 24-hours to determine if the discharge has actually ended. In response to these concerns, EPA contemplated revising the timeframe to either five or seven days. Some of the State permit writers pointed out that five days is consistent with other requirements that CSO communities already have, so aligning the timeframe would reduce confusion and burden that could be caused by multiple reporting requirements.[7] Because of this, EPA anticipates that some States will use five days for the supplemental notice requirements in permits to be consistent with this and other reporting timeframes. EPA has not precluded this; however, to allow for greater flexibility for those circumstances where seven days may make more sense, EPA has revised the requirement to allow a maximum of seven days for the supplemental notice. Accordingly, EPA has made the following revisions in the final rule:

• § 122.38(a)(2)(ii)—revised ''Within twenty-four (24) hours'' to ''Within seven (7) days.''

[7] One example that was raised by a NPDES permitting authority was an existing NPDES permit condition at § 122.41(l)(6)(i), which is a reporting requirement that involves a written report that must ''be provided within 5 days of the time the permittee becomes aware of the circumstances.''

○ Conforming edits were also made at: § 122.38(a)(3)(iii).

D. Revisions To Allow Greater Flexibility Regarding Signage

EPA received several comments regarding the burden of the signage requirement in the proposed rule. Specifically, commenters indicated that the burden estimate did not adequately account for the high replacement rate that would occur if the signs need to be replaced when they were next reset. EPA's intention was that signs would be updated to reflect the required information when they need to be replaced due to normal wear or damage. Based on this reasoning, EPA estimated that signs would need to be replaced once every 10 years. It is now EPA's understanding that in some communities' signs are reset at a much higher rate (for example some signs are located in an area where they fall down regularly and the community frequently stands the sign back up and re-secures it in the ground (*i.e.,* resets the sign)). In order to better represent EPA's intentions for this requirement, EPA has deleted ''or reset'' from the final regulation as follows:

• § 122.38(a)(1)(iii)—deleted ''or reset'' from ''the sign is not required to meet the minimum requirements specified in paragraph (i) until the sign is replaced or reset.''

Some commenters also indicated that there are certain circumstances under which signage at a CSO discharge point is not warranted because there is no means for public access of the receiving water in the vicinity of the discharge point. Because one of the drivers behind this rulemaking is to reduce the public's exposure to CSO discharges, EPA has decided to add some flexibility for those instances where it is not expected that the public will be able to access the area or come into contact with the receiving water and therefore would not benefit from the notification that the signage would have provided. EPA has added language to the final rule to allow the Director to waive the signage requirement if such conditions have been demonstrated by the permittee to the Director's satisfaction. EPA has made the following change to the final rule to reflect this:

• § 122.38(a)(1)(i)—added ''(unless the permittee demonstrates to the Director that no public access of, or public contact with, the receiving water is expected)'' after CSO discharge point. EPA has also made some minor formatting edits to this part of the provision to improve clarity.

E. Revisions To Provide Greater Flexibility in the Annual Notice Requirements

EPA received several comments on the annual notice requirements in the proposed rule. Some commenters suggested that the requirements were redundant of other current reporting requirements in CSO permits. Some commenters asserted that the annual notice requirements were overly burdensome. The annual notice requirements are intended to ensure that the statutory requirements in Section 425 are addressed by the rule, including requirements outlined in Section 425(b)(4) for: Follow-up notice that provides a ''description of each applicable discharge,'' ''the cause of the discharge,'' and ''plans to prevent a reoccurrence of a combined sewer overflow discharge to the Great Lakes''; as well as annual publication ''that list each treatment works from which the Administrator or the affected State receive a follow-up notice.''

The final rule is responsive to these components of Section 425 by requiring:

• A description of each applicable discharge, including: Location, receiving water, any treatment provided (if applicable), date, location, duration, volume, and a description of any public access areas that were potentially impacted by the CSO discharge, and a summary of any monitoring data for CSO discharges (if available).

• Information on the cause of each discharge, and when that cause is precipitation, information on the amount of precipitation that caused the discharge.

• Information on plans to prevent a reoccurrence of CSO discharges in the form of a concise summary of implementation of the nine minimum controls and the status of implementation of the CSO long-term control plan (or a similar plan that explains how the permittee is addressing CSO discharges).

Providing annual notice improves transparency and accountability to the public about the presence and magnitude of CSO discharges in their community. It also highlights progress that is being made by permittees to reduce CSO discharges and highlights the value of investments that are being made in the infrastructure.

The final rule also includes several revisions to the annual notice requirements to improve clarity and allow more flexibility. The added flexibilities are intended to allow Great Lakes Basin CSO permittees that are already subject to existing State or local reporting requirements, which contain

the same information as required in this rule's annual notice requirement, to use these reports to meet this rule's requirements. The flexibilities also allow a permittee, whose State permitting authority publishes an annual CSO report that contains the same information for a Great Lakes Basin CSO permittee as is required in this rule's annual notice requirement, to use the State report to meet the rule's requirements. Revisions to the final rule to add these flexibilities include:

• § 122.38(b)—Revised ''(or an earlier date specified by the Director)'' to ''(or an alternative date specified by the Director)'' to allow the Director the flexibility to specify an alternative due date for the annual notice to be made available to the public. This allows the Director to specify an alternative due date to coincide with an existing reporting requirement, where one exists.

• § 122.38(b)—Added a sentence to the end of the introductory text of § 122.38(b) pertaining to permittees whose State permitting authority has published or will publish an annual report containing all of the required minimum information about the Permittee, that allows the Permittee to make available the State-issued annual report in order to meet this requirement. This addresses scenarios like that in Michigan, described in Section V.B.2 below.

• § 122.38(b)—Added a sentence to the end of the introductory text of § 122.38(b) to allow permittees that have existing report(s) that are written annually that collectively contain all of the required minimum information to make that/those report(s) publicly available in order to meet the requirement. This gives Permittees the flexibility to use existing CSO reports, if they contain all of the minimum information required by the final rule, to meet the annual notice requirement.

• § 122.38(b)(1) and (d)(11)—Deleted the minimum requirement to include ''Information on the availability of the permittee's public notification plan and a summary of significant modifications to the plan that were made in the past year.'' EPA concluded that this proposed requirement was somewhat duplicative of another requirement in the rule, under the public notification plan requirements at final rule § 122.38(c). In addition, to ensure that a summary of significant[8] modifications to the public notification plan is made available, EPA added language to the final rule at § 122.38(c)(11) stating that the public notification plan must include a description of significant modifications to the plan that were made since it was last updated.''

• § 122.38(b)(2)—Revised from ''A description of the location, treatment provided and receiving water for each CSO outfall'' to ''A description of the location and receiving water for each CSO discharge point, and, if applicable, any treatment provided.'' This change is intended to make clear that treatment information does not have to be provided if the CSO discharge does not receive treatment. This revision also includes replacing the word ''outfall'' with ''discharge point,'' which is explained above in Section IV.A.

• § 122.38(b)(3)—Revised ''The date, location, duration, and volume of each wet weather CSO discharge'' to ''The date, location, approximate duration, measured or estimated volume, and cause (*e.g.,* rainfall, snowmelt) of each wet weather CSO discharge.''

○ By adding the words ''approximate'' and ''measured or estimated,'' the rule now clarifies that the same level of accuracy needed for the supplemental notice will suffice for the annual notice. It is EPA's expectation that the permittee will be able to simply summarize the date, location, duration, and volume information from the initial and supplemental notice in the annual notice.

○ This edit also includes the addition of the ''cause'' of the discharge to the information required for the annual notice. EPA intended that the requirement of Section 425(b)(4)(A)(ii) to describe the cause of the discharge would be addressed by the requirement to include rainfall data for each CSO discharge listed in the annual notice. However, commenters pointed out that wet weather CSO discharges may also be caused by snowmelt, and the inclusion of daily precipitation data would not explain the cause of those discharges. EPA has therefore added ''cause (*e.g.,* rainfall, snowmelt)'' to the list of required information.

• § 122.38(b)(4)—Added ''cause'' to the list of required information for each dry weather CSO discharge. Similar to the explanation above, this revision ensures the final rule is consistent with the requirement of Section 425(b)(4)(A)(ii) to describe the cause of the discharge.

• § 122.38(b)(7)—Revised from ''Representative rain gauge data in total inches to the nearest 0.1 inch that resulted in a CSO discharge'' to ''Representative precipitation data in total inches to the nearest 0.1 inch that resulted in a CSO discharge, if precipitation was the cause of the discharge identified in (§ 122.38(b)(2)).''

○ EPA replaced ''rain gauge data'' with ''precipitation data'' because commenters pointed out that rain gauge data may not be available for every CSO discharge, or in every community. By using broader terminology, EPA intends to allow communities the flexibility to use various data sources to meet this requirement. For example, some communities may choose to simply download daily precipitation data for their area from a publicly available source (*e.g.,* National Oceanic and Atmospheric Administration's (NOAA's) National Centers for Environmental Information's Climate Data Online Search (*https://www.ncdc.noaa.gov/cdo-web/search*)).

○ As discussed above, one commenter pointed out that wet weather CSO discharges may be caused by snowmelt, and in those circumstances it would not be appropriate to be required to report on rainfall data since it was not affiliated with the discharge. EPA, therefore, added the qualifier at the end of the sentence ''if precipitation was the cause of the discharge.''

• § 122.38(b)(8)—Revised from ''A point of contact'' to ''Permittee contact information, if not listed elsewhere on the website where this annual notice is provided.'' Some commenters pointed out that the term ''A point of contact'' sounded like an individual person's name and contact information, and that that information changes too frequently to be appropriate. This was reworded to be clear that the contact information requirement is not for an individual person's contact information, but rather the permittee's contact information, so that the public has the information necessary to call the municipality with questions about the annual notice information. EPA added the latter part of the requirement to provide permittees the flexibility to provide this information elsewhere on their website, if it is not already included in an existing annual report that is being used to meet this annual notice requirement.

In addition to the above revisions, EPA made one additional revision to the

[8] EPA has not defined ''significant'' in the final rule in order to give communities discretion to highlight what they consider to be significant in their community-specific context. Some examples of the types of changes that EPA expects will be described in the summary include: Addition or removal of potentially affected public entities and Indian Tribes whose waters may be impacted by a CSO discharge, changes to the list of potentially impacted public access areas, changes to the method of notice to the public, changes to the protocols for notification to the public health department or other potentially affected public entities and Indian Tribes, or changes to the list of CSO discharge points for which notification is provided.

annual notice requirement to ensure the final rule was responsive to the Section 425 requirement to include ''annual publication requirements that list each treatment works from which the Administrator or the affected State receive a follow-up notice'' (425(b)(4)(B)). In the proposal, EPA included a requirement for electronic reporting at § 122.38(c). EPA received several comments that this requirement was inconsistent with the timing of the NPDES Electronic Reporting rule and also would be redundant with reporting requirements of the Electronic Reporting rule. The proposed electronic reporting at § 122.38(c) would have enabled EPA to query the database to generate summary level information about the Great Lakes Basin CSO permittees and publish that information on EPA's website. Rather than using electronic reporting to satisfy this requirement, EPA is requiring that Great Lakes Basin CSO permittees notify EPA annually of the availability of their annual notice. EPA can then use the information from the annual notice to update the list of Great Lakes Basin CSO permittees on its website to satisfy the requirements of Section 425(b)(4)(B). EPA has also required the contact information for the person responsible for maintaining the website (where the annual notice is posted) so that any issues with web links that do not work can be easily resolved. These revisions to the final rule are described in detail below:

- § 122.38(b)—Revised ''and shall provide the Director with notice of how the annual notice is available'' to ''and shall provide the Director and EPA with notice of how the annual notice is available.'' Also added a new sentence to follow that phrase in order to provide an email address by which the permittee may provide the notice to EPA.
- § 122.38(c)—Deleted the proposed rule electronic reporting requirement in full.

F. Revisions To Provide More Flexibility Regarding Model Re-Calibration

The proposed public notification plan requirements required larger communities (permittees with a population of 75,000 or more) that were using a model to estimate discharge volumes and durations to calibrate their models at least once every five years. Some commenters raised concern about the burden of requiring calibration of models at least once every five years. Since models do not necessarily require calibration if nothing changes in the system, the final rule will instead require that permittees with a population of 75,000 or more assess whether recalibration is necessary at least once every 5 years, and to recalibrate if it is determined that it is necessary. It is important for models to be accurately calibrated in order to determine when overflows are happening. However, EPA does not intend to unnecessarily burden municipalities if their models do not need to be calibrated every five years. EPA has therefore made the following revision:

- § 122.38(d)(9)—Revised ''must calibrate their model at least once every 5 years'' to ''must assess whether re-calibration of their model is necessary, and recalibrate if necessary, at least once every 5 years'' in final rule § 122.38(c)(9).

G. Revisions To Ensure Consultation With Public Health Departments Regarding Community-Specific Potentially Impacted Public Access Areas

In the final rule, EPA is requiring permittees to seek input from the public health department on what areas would be considered ''potentially impacted public access areas'' prior to submitting the public notification plan. This requirement addresses comments on the proposal suggesting that EPA define ''potentially affected public access areas.'' This terminology is used in rule sections on signage, notification of local public health department and other potentially affected public entities, notification of the public, and annual notice. Public access area types vary between communities and may depend on factors such as local ordinances, local culture, and geographic features. For instance, in one community, the public access areas may be defined to include swimming beaches and boat launches, while in another community they may include fishing streams, campgrounds, or marinas. Given this potential variability, it is more appropriate for each community to evaluate its own local circumstances and determine how best to define these public access areas for their CSO public notification plan, rather than for EPA to prescribe a general definition in the final rule to apply to all the Great Lakes Basin CSO communities. This is the type of information EPA expected would be discussed with public health departments when consulting with them on the public notification plan development (as would have been required in the proposed rule, and is required in the final rule), and this change explicitly calls this out to ensure it is discussed. The final rule provides:

- § 122.38(e)(1)(iii)—''Develop recommendations for areas that would be considered ''potentially impacted public access areas'' as referenced in 122.38(a)(1), (2), and (3).''

H. Revisions to the Implementation Schedule To Ensure Plans Are Completed Prior to Beginning Implementation of the Public Notification Requirements

In the final rule, EPA is requiring the public notification plan to be completed within six months and that the notification requirements be implemented within nine months. The three-month window between plan completion and implementation of the notification requirements allows communities time to ramp up for implementation of their notification plans after the plans have been fully developed, which includes all the outreach to seek input on the plan from local public health departments and other potentially affected public entities and Indian Tribes. In the proposed rule, plan implementation would have begun immediately at six months, when the plan was completed. Commenters indicated that additional time may be needed to ramp up implementation after plan completion, therefore EPA has made these changes in the final rule. EPA also added clarifying language to the annual notice provision to ensure the compliance date (which is the year following the effective date of the rule) is clear. EPA has therefore made the following revision:

- § 122.38(a)—Changed the implementation language from ''provide public notification of CSO discharges as described in this paragraph after August 7, 2018'' to ''provide public notification of CSO discharges as described in this paragraph after November 7, 2018.''
- § 122.38(b)—Inserted ''Starting in February 7, 2019,'' prior to ''By May 1 of each calendar year''.

I. Revisions To Add Flexibility for Small Permittees Who Manually Operate CSO Discharge Controls

EPA received comments identifying circumstances under which actions in small communities, to limit the impacts of the actual CSO discharge, may consume all available staff resources. Under these circumstances EPA wants to provide clarity that the permittee may take the necessary actions to address the CSO discharge prior to initiating the start of the four-hour notification window. To allow for such circumstances, EPA has revised the requirements as follows:

- § 122.38(a)(3)(i)—At the end of the provision, inserted a sentence that allows a permittee to identify in its public notification plan circumstances and physical action needed to limit the

public health impacts of the CSO discharge by controlling the CSO discharge (including continuing to implement its existing practice of conducting inspections of CSO discharge points during the discharge), and if they identify that all available staff are required to complete this action, the four-hour notification window will commence upon completion of that action.

• § 122.38(c)(8)—Inserted, at the end of the provision, language that the plan shall include a description of circumstances under which the initial notification of the public may be delayed beyond four hours of the permittee becoming aware of the discharge, if the circumstances described above are met.

V. Final Rule Implementation

The public notification provisions are directly required regulatory requirements (independent of being implemented by permit conditions) until these conditions are incorporated into the NPDES permit of the Great Lakes Basin CSO permittee. EPA is using these two regulatory mechanisms to respond to Section 425(b)(5) of the 2016 Consolidated Appropriations Act direction that the notice and publication requirements described in the Act are to be implemented by ''not later than 2 years after the date of enactment'' of the Act.[9] The Agency recognizes that if NPDES permits were the only means of implementing these requirements, permits would have to be reissued with these requirements before they would take effect. Given the current status of CSO permits in the Great Lakes Basin, it would take over five years for the public notification requirements to be incorporated into all permits, far beyond the timeframe specified in Section 425. Making the public notification requirements directly applicable at first, followed by incorporating them into NPDES permits as they are issued, will enable all Great Lakes Basin CSO permittees to establish their public notification system within the same timeframe, and within the timeframe specified by Section 425(b)(5)(A).

The requirements of § 122.38(a) (signage and notification requirements) and § 122.38(b) (annual notice) are enforceable under the CWA prior to incorporation into a permit under CWA section 308 by operation of this rule. The requirement to develop a public notification plan consistent with § 122.38(c) and (d) is enforceable under CWA section 308. Once public notification requirements are incorporated into an NPDES permit, they are enforceable as a permit condition issued under CWA section 402.

The details and content of the public notification plan, however, are not enforceable under § 122.38(c) or as effluent limitations of the permit, unless the document or the specific details of the plan are specifically incorporated into the permit. Under the final rule, the contents of the public notification plan are instead intended to provide a road map for how the permittee would comply with the requirements of the permit (or with the requirements of § 122.38(a) and (b) prior to inclusion in the permit as a permit condition). Once the public notification requirements are incorporated into the permit as a permit condition, the plan may be changed based on adaptions made during the course of the permit term, thereby allowing the permittee to react to new technologies, circumstances and experiences gained during implementation and to make adjustments to its program as necessary to provide better public notification and better comply with the permit. This approach will allow the CSO permittee to modify and continually improve its approach during the course of the permit term without requiring the permitting authority to review each change as a permit modification.

A. Final Rule Requirements

1. Section 122.38 Requirements

As discussed in detail above, § 122.38 sets forth requirements that apply to all permittees with CSO discharges to the Great Lakes Basin. Under this rule, Great Lakes Basin CSO permittees are required to develop a public notification plan, after seeking and considering input from public health departments and other potentially affected public entities. The plan must be submitted to the Director and made available to the public by August 7, 2018. Section 122.38 also requires implementation of the signage requirements and notice to affected public entities and the public by November 7, 2018. The annual notice requirements apply beginning in February 7, 2019 (or an alternative date specified by the Director), which allows permittees time to collect data for the first year. As described in Section V.B.7, the Director may extend the compliance dates for notification and/or submittal of the public notification plan for individual communities if the Director determines the community needs additional time to comply in order to avoid undue economic hardship.

2. Required Permit Condition

EPA's rule will require the incorporation of public notice requirements into NPDES permits for CSO discharges to the Great Lakes Basin over time as they are issued and renewed. To effectuate this requirement, EPA is revising the permit application regulation requirements in § 122.21(j). EPA is adding § 122.21(j)(8)(iii), which requires the CSO permittees in the Great Lakes Basin to submit a public notification plan to the Director with its permit application (and any updates to its plan that may have occurred since the last plan submission). EPA is also adding a new standard condition at § 122.42(f) that applies to CSO permits, ensuring that CSO public notification requirements are incorporated into the NPDES permits for discharges to the Great Lakes Basin and updated over time as appropriate with each permit cycle. Public notification plans, submitted with subsequent permit applications, will reflect changes in collection systems and technology, as well as public notice practices. By requiring the Great Lakes Basin CSO permittee to include its updated public notice plan with its permit application, the Director will have the information he/she needs for including requirements for public notification in the permit when it is reissued.

While the rule requires that permits for CSO discharges to the Great Lakes Basin henceforth include public notification requirements, it also provides flexibility to allow NPDES permit writers to address the particular circumstances of each community (*e.g.,* size of community, differences in public access areas potentially impacted by a CSO discharge) in a manner that addresses local considerations. At the same time, however, this provision preserves the authority of the Great Lakes States to establish more stringent public notification requirements (see Section 425(b)(6) of the 2016 Consolidated Appropriations Act) and section 510 of the Clean Water Act. As outlined in § 122.42(f) of the rule, permits for CSO discharges within the Great Lakes Basin, at a minimum, will:

• Require implementation of the public notification requirements in § 122.38(a);

• Specify the information that must be included on discharge point signage;

• Specify discharge points and public access areas where signs are required;

• Specify the timing and minimum information for providing initial notification to local public health departments and other potentially affected entities, and the public;

[9] The *Consolidated Appropriations Act, 2016* was enacted on December 18, 2015.

• Specify the location of CSO discharges that must be monitored for volume and discharge duration and the location of CSO discharges where CSO volume and duration may be estimated;

• Require submittal of an annual notice in accordance with § 122.38(b); and

• Specify protocols for making the annual notice available to the public.

Section 402(q) of the CWA requires NPDES permits for discharges from combined sewers to ''conform'' to the 1994 CSO Control Policy. One of the ''Nine Minimum Controls'' identified in the Policy is that NPDES permits for CSO discharges require public notification to ensure that the public receives adequate notification of CSO occurrences and CSO impacts. The permit condition required by this rule conforms to the 1994 CSO Control Policy's minimum control to provide the public with ''adequate notification'' and further provides specificity to better implement the public notification provision identified in the Policy. Including this provision in permits gives the Great Lakes States an opportunity to update and fine-tune public notice requirements to reflect continued development of the permittee's public notice approach, ensure consistency with State legislative and regulatory requirements for public notification, consider new technologies and be informed by public input. In addition, when public notification becomes a permit condition, the public will have the opportunity to comment on the public notification requirements during the permit process.

B. Implementation Considerations

1. Public Notification Plan Development

The final rule requires that Great Lakes Basin CSO permittees develop and submit to the Director a public notification plan by August 7, 2018 and again subsequently when the permittee files an application for permit renewal. In addition, prior to submitting the public notification plan, CSO permittees must seek and consider input from the local public health department (or if there is no local health department, the State health department) and potentially affected public entities and Indian tribes whose waters may be impacted by CSO discharges.

The public notification plans are intended to provide system-specific detail (*e.g.,* proposed monitoring locations, means for disseminating information to the public) describing the discharger's public notification efforts. Having a public notification plan in place will enhance communication with public health departments and other potentially affected public entities and Indian tribes whose waters may be impacted by the CSO discharge. The details within the plan will also assist NPDES permit writers in establishing corresponding public notification permit conditions. In addition, the plan will provide the public with a better understanding of the permittee's public notification efforts.

Section 425(b)(3)(A)(iii) of the 2016 Consolidated Appropriations Act provides that public notice for CSO discharges is to include a description of any public access areas impacted by the discharge. This rule requires that public notification plans identify which municipalities and other public entities may be affected by the permittee's CSO discharges. Potentially affected public entities whose waters may be impacted by the CSO discharge could include adjoining municipalities, public drinking water utilities, State and county parks and recreation departments. Such areas may have already been identified in the CSO permittee's LTCP, which should identify CSO discharges to sensitive areas.[10] In deciding which public entities and Indian tribes are ''potentially affected'' and should be contacted for their input, the Great Lakes Basin CSO permittee should evaluate:

• The location of the CSO discharge point and what users of that waterbody may exist in the surrounding region;

• The direction of flow in the receiving water and uses of that waterbody, or connected waterbodies, downstream of the CSO discharge point;

• The presence of public access areas near, or downstream of, the discharge point;

• The presence of drinking water supply systems near, or downstream of, the discharge point; and

• The presence of municipal entities, Indian tribes, and/or parks and recreation department lands near, or downstream of, the discharge point.

Local public health departments, public entities, and Indian tribes whose waters may be impacted by a CSO discharge are in a unique position to provide input on the timing, means and content of the public notification requirements addressed in this rule. Seeking input from these entities allows the permittee to reflect in the public notification plan the needs and preferences of these entities. Also, these groups can help inform decisions regarding the most appropriate means of communicating information to the public, taking into consideration specific populations in the community and their access to various electronic communication methods and social media. For example, if there is a segment of the population without access to cell phones or computers, or that would incur costs by receiving text notifications, the consulted entities may suggest other methods of communication that would be more appropriate to reach these groups (*e.g.,* radio broadcast, postings in public places, announcements through community flyers).

The plan will also describe how the volume and duration of CSO discharges will be either measured or estimated. If the Great Lakes Basin CSO permittee intends to use a model to estimate discharge volumes and durations, the plan is required to summarize the model and describe how the model was or would be calibrated. CSO permittees that are a municipality or sewer district with a population of 75,000 or more are required to assess whether re-calibration of their model is necessary, and recalibrate if necessary, at least once every 5 years.

2. Annual Notice

The final rule includes revisions to improve clarity and allow more flexibility regarding the annual notice requirements. The added flexibilities are intended to allow Great Lakes Basin CSO permittees that are already subject to existing State or local reporting requirements, which contain the same information as required in this rule's annual notice requirement, to use these reports to meet this rule's requirements. For example, New York State requires a Combined Sewer Overflow Annual Report which contains several of the components in the rule's annual notice requirements. Great Lakes Basin CSO permittees in New York may choose to provide a copy of this Annual Report along with a supplemental report or appendix that addresses the remaining components.

The flexibilities also allow a permittee, whose State permitting authority publishes an annual CSO report that contains the same information for a Great Lakes Basin CSO permittee as is required in this rule's annual notice requirement, to use the

[10] The CSO Policy clarifies EPA's expectation that a permittee's LTCP give the highest priority to controlling overflows to sensitive areas. The Policy provides that sensitive areas, as determined by the NPDES authority in coordination with State and Federal agencies, as appropriate, include designated Outstanding National Resource Waters, National Marine Sanctuaries, waters with threatened or endangered species and their habitat, waters with primary contact recreation, public drinking water intakes or their designated protection areas, and shellfish beds. (59 FR 18692).

State report to meet the rule's requirements. For example, in addition to existing annual reports permittees may be preparing, in at least one of the Great Lakes States (Michigan), the State prepares an annual CSO report summarizing information on all the Great Lakes Basin (and other) CSO permittees. Michigan's annual report provides the majority of the information that the final rule requires, and after discussions with the State, EPA anticipates that Michigan will make some minor adjustments to the data presented in its annual report to ensure it addresses all of the requirements for annual notice and thus enable Great Lakes Basin CSO permittees in Michigan to simply provide a link to the State annual report to meet their annual notice requirements.

3. Coverage of Partially Treated CSOs

The rule includes definitions of ''Combined Sewer System'' and ''Combined Sewer Overflows'' at § 122.2. The definition of combined sewer system is based on the description of combined sewer system found in the 1994 CSO Policy. The Policy provides that ''A combined sewer system (CSS) is a wastewater collection system owned by a State or municipality (as defined by § 502(4) of the CWA) which conveys sanitary wastewaters (domestic, commercial and industrial wastewaters) and storm water through a single-pipe system to a Publicly Owned Treatment Works (POTW) Treatment Plant (as defined in § 403.3(p)).'' (59 FR 18689) The definition of combined sewer overflow also conforms to the description of CSO in the CSO Policy, which specifies that a ''CSO is the discharge from a CSS at a point prior to the POTW Treatment Plant.''

In the proposed rule preamble, EPA requested comment on whether it would be appropriate to establish alternative public notice requirements for CSO discharges that are treated to a specified level (*e.g.,* primary treatment plus disinfection). EPA also requested comment on whether the final regulations should provide additional flexibility for Great Lakes Basin CSO permittees to recommend in their public notification plan different public notification procedures for treated CSO discharges as compared to untreated CSO discharges. Some commenters (including the Indiana Department of Environmental Management (IDEM)) recommended that the final rule requirements only apply to untreated CSO discharges. However, many other commenters (including the New York State Department of Environmental Conservation (NYDEC) and Ohio EPA) supported the approach in the proposed rule where the requirements would apply to all CSO discharges. EPA decided to finalize the definition and scope of the rule as proposed, which treats untreated and partially treated CSOs alike for the purpose of public notice. As the preamble to the proposed rule explained (82 FR 4249), CSO discharges that only receive primary treatment prior to disinfection may have levels of viruses and other pathogens that are higher than discharges of wastewater that are treated by secondary treatment processes prior to disinfection, and they may also have higher levels of trihalomethanes and other disinfection byproducts.[11] There is no indication that Section 425 contemplated lesser notification to the public for partially treated discharges, and the CSO Policy treats untreated and partially treated discharges alike.

4. Precipitation-Related Events and Grouping CSO Notifications for Multiple Discharges

EPA intends that multiple discharges that result from the same precipitation-related event, even if they are not occurring at exactly the same time, may be grouped together in one public notification. EPA has revised the wording in the final rule to make this clearer, as is described in Section IV.B. EPA also revised the wording in the final rule to clarify that snowfall and snowmelt may also be the cause of a wet weather CSO discharge by changing ''precipitation event'' to ''precipitation-related event'', as described in Section IV.B.

EPA has not further defined ''event'' in this rule. Because permittees have been tracking and reporting CSO discharge data for many years to meet permit requirements and commitments made in long-term control plan and related documents, EPA expects that the Director and the permittee have already established what constitutes separate CSO events and precipitation events for reporting purposes. It is not EPA's intention to change that approach with this rulemaking; rather, the purpose of this rulemaking is to ensure information about CSO discharges is provided to the public, public health departments, and other affected entities.

5. Initial Notification Timing

The rule requires that an initial notice be provided to the local public health departments and other potentially affected entities as well as the public ''as soon as possible, but no later than four (4) hours after becoming aware by monitoring, modeling or other means that a CSO discharge has occurred.'' EPA selected four hours because it is prompt enough to allow the public to make informed decisions regarding areas where they would visit and recreate before doing so; while it is also a long enough amount of time to allow permittees to initiate notification processes.

By using language that combines a definitive deadline (*i.e.,* no later than four (4) hours after becoming aware) with language that requires notification ''as soon as possible,'' EPA provides flexibility to minimize the increased burden of the requirement as much as possible. One important consideration was the existing staffing hours at some POTWs. From speaking to State Directors and hearing from permittees in comment letters and the public listening session, EPA is aware that not all permittees have staff monitoring for combined sewer overflows at all hours. While EPA is accounting for some additional burden on permittees because of this rule (including in the form of staff resources), it is not EPA's intention for permittees to significantly change staff hours, or hire new staff, in order to increase monitoring for CSO discharge. Rather, EPA expects that the initial notification would begin at the time that the permittee *becomes aware* of the CSO discharge. EPA therefore used the wording ''after becoming aware'' to trigger the beginning of the four-hour timeframe. For example, if a CSO discharge occurred on a Sunday evening at 8:00 p.m. but the permittee did not become aware of the discharge until staff reported to work at 7:00 a.m. on Monday morning, the four-hour timeframe would begin at 7:00 a.m. on Monday and the permittee would need to provide the initial notice as soon as possible but no later than 11 a.m. on Monday.

In consideration of circumstances in which a small community has limited staff (*e.g.,* one person is required to

[11] As EPA noted in the preamble to the proposed rule, traditional bacteria indicators that are used in State water quality standards may not be the best indicators of viral and other pathogens associated with fecal contamination. CSO discharges that only receive primary treatment prior to disinfection and that meet water quality standards based on indicator bacteria may have levels of viruses and other pathogens that are higher than discharges of wastewater that are treated by secondary treatment processes prior to disinfection. This is because bacteria respond to water treatment processes and environmental degradation processes differently than viruses. In addition, particles in wastewater may shield pathogens from disinfection. CSO discharges that only receive primary treatment prior to disinfection may also have higher levels of trihalomethanes and other disinfection byproducts due to the higher concentration of chlorine needed to disinfect and potential interactions with particles in the wastewater.

handle all response activities), and that staff member must take a physical action to limit the public health impacts of a CSO discharge (including continuing to implement its existing practice of conducting inspections of CSO discharge points during the discharge), EPA has added a flexibility to the final rule to ensure that the permittee is able to complete that physical action before focusing on sending out the public notification. This change is described in Section IV.I.

6. CSO Discharge Modeling/Monitoring

EPA expects that most permittees already have a system in place by which they monitor, model, or otherwise estimate when CSO discharges have occurred. This approach is often established in the LTCP or other planning or operational document. EPA expects that most communities would use that same approach and/or data to inform the notification provided in response to this rule. The rule does not specifically require additional monitoring beyond what the CSO permittee already has in place for compliance with the current CSO Policy and other existing regulations; therefore, permittees would not need to purchase additional monitoring equipment or establish an expensive model.

As noted in the preamble to the proposed rule (82 FR 4233), EPA anticipates that some communities may choose to estimate when CSO discharges may occur based on weather forecasts and provide notification in advance of a precipitation-related event. From a review of State-issued permits and additional State requirements pertaining to CSOs, EPA found that all seven States within the Great Lakes Basin require permittees to report the occurrence of a CSO discharge. Some States also require permittees to report CSO discharge duration, CSO discharge start and end times, and precipitation data associated with each CSO discharge. By using historic CSO discharge and precipitation data, along with certain system and service area characteristics that are already known and readily available, a predictive approach provides a simplified method to estimate a precipitation threshold that can be expected to cause a CSO discharge on a per discharge point basis. This method can be used to provide timely notification to the public, local public health departments, and other potentially affected public entities. EPA considered that there may be smaller communities that would like to provide public notification using a predictive approach, but they may not know the precipitation threshold at which they should trigger the advanced notice. For these communities, EPA has included a memo to the record describing how one might establish a precipitation threshold that can be used to meet the initial public notification requirements of the rule (see the ''Predictive Approach Memo for the Great Lakes Basin'' in the rulemaking docket). EPA's memo suggests correlating historic CSO occurrence data with precipitation data obtained from rain gauges near CSO discharge points, if available, or readily available data from the National Oceanic and Atmospheric Administration's National Centers for Environmental Information Climate Data Online Search (*https://www.ncdc.noaa.gov/cdo-web/search*) to determine a reasonable precipitation threshold that would be expected to cause a CSO discharge.

7. Extending Compliance To Avoid Economic Hardship

Section 425(b)(5)(A) of the 2016 Appropriations Act provides that the notice and publication requirements of the provision must be implemented within two years, unless the EPA Administrator determines the community needs additional time to comply in order to avoid undue economic hardship. All of the Great Lakes States are authorized to administer the NPDES program. Because EPA is implementing Section 425 as part of the NPDES permit program, this determination may be made by the Director or by the Administrator. In EPA's view, the State as the NPDES authority is in a better position to evaluate the economic conditions and financial capability of the permittee as they have worked with individual communities to ensure implementation of their LTCPs.

The rule requires that the Great Lakes Basin CSO permittee must submit a public notification plan to the Director of the NPDES program by August 7, 2018. The Great Lakes Basin CSO permittee is required to comply with the public notice requirements of § 122.38 within nine months, and in the next calendar year in the case of annual notification, unless the Director specifies a later date to avoid economic hardship. Under § 122.38(e), the Director may extend the compliance dates for public notification under § 122.38(a), annual notice under § 122.38(b), and/or public notification plan submittal under § 122.38(c) for individual communities if the Director determines the community needs additional time to comply in order to avoid undue economic hardship. The rule requires the Director to notify the Regional Administrator of the extension and the reason for the extension. In addition, the Director is required to post on its website a notice that includes the name of the community and the new compliance date(s).

The requirement to post this information on the Director's website provides the public with information on any exceptions that have been made to the compliance date. Because financial resources will vary among communities due to community size, annual revenue, staffing and consultant resources, other program expenses (*e.g.,* existing long-term control plan commitments) and other factors, EPA is not establishing specific criteria to define economic hardship in the final rule. Instead, EPA is providing the Director with the flexibility to evaluate each community's specific circumstances to decide if an extension to the compliance date is needed.

VI. Incremental Benefits and Costs of the Rule

EPA anticipates there will likely be public health benefits from decreased bodily exposure to sewer overflows but did not quantify these benefits. EPA views these new notification requirements as a minimal increase in existing costs that permittees are already incurring due to existing permit requirements that conform to the CSO Control Policy codified in CWA 402(q).

A. Benefits of the Rule

This rule is expected to protect public health by ensuring timely notification to the public and to public health departments, public drinking water facilities and other potentially affected public entities, including Indian tribes. It provides additional specificity beyond existing public notification requirements to ensure timely and consistent communication to the public regarding combined sewer overflows in the Great Lakes Basin. It also acknowledges the significant technology changes that have occurred since the original requirements were developed in 1994 which allow direct public access to real-time information. Timely notice may allow the public and affected public entities to take steps to reduce the public's potential exposure to pathogens associated with human sewage, which can cause a wide variety of health effects, including gastrointestinal, skin, ear, respiratory, eye, neurologic, and wound infections. Although EPA has not quantified these benefits, the expected reduction in human exposure to pathogens may provide a net public health benefit from this rule. See ''Benefits of Abating

Sanitary Sewer Overflows (SSOs)'' in the rulemaking docket for a discussion of some of the many potential benefits that can be expected from reducing exposure to raw sewage discharges.

Because of these expected public health benefits, EPA has chosen to implement the requirements with a two-stage approach which ensures that the benefits of the rule can begin to accrue as quickly as possible, rather than delaying these public health benefits until future permit renewals which for some permittees could be as long as five years away (or even more if a permit is administratively continued by the permitting authority).

The rule also improves transparency and accountability to the public about the presence and magnitude of CSO discharges in their community. Many permittees already report to their Director on the occurrence, duration, volume, and cause of CSO discharges; however, that information is often difficult for communities to find and interpret. Through a complete, consistent, and easily accessible annual notice that is shared with the public, community members can gain perspective on this important water pollution issue and they are able to see progress that is being made to reduce discharges.

B. Costs of the Rule

The ''Analysis of Costs and Executive Orders'' (available in the rulemaking docket) estimates the incremental costs of requiring CSO permittees that discharge to the Great Lakes Basin to provide public notification of CSO discharges. Table 3 summarizes the estimated incremental costs for the rule.

TABLE 3—ANNUAL INCREMENTAL COSTS

[Average of first three years]

Category	Number of entities per category	Labor costs	Capital/start-up/O&M costs	Total
CSO permittees with a population of less than 10,000	54	$110,000	$30,600	$140,000
CSO permittees with a population of between 10,000 and 50,000	69	140,000	26,600	167,000
CSO permittees with a population of more than 50,000	35	130,000	13,300	143,000
States	7	7,000	0	7,000
Totals	165	387,000	70,500	457,000

Note: Cost values in table are rounded to three significant figures.

The average incremental cost per CSO permittee is about $2,850 per year and the total annual incremental cost on all CSO permittees is about $450,000.

The cost analysis assumes that costs will be borne by Great Lakes Basin CSO permittees in the form of one-time implementation activities that would occur within one to two years, once-per-year activities including an annual notice, and ongoing activities that would occur during and after CSO discharges. The cost analysis also accounts for costs to State agencies, mainly in the review of CSO permittee plans and reports.

VII. Statutory and Executive Orders Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any revisions made in response to interagency review have been documented in the docket for this action. In addition, EPA prepared an analysis of the potential costs associated with this action. This analysis, ''Analysis of Costs and Executive Orders,'' is summarized in Section VI and is available in the docket.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 regulatory action. Details on the estimated costs of this final rule can be found in EPA's ''Analysis of Costs and Executive Orders,'' which is available in the docket. Also see Section VI.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2562.01. The ICR is summarized here; a complete copy can be found in the docket. The information collection requirements are not enforceable until OMB approves them.

As discussed in section V.A of this document, NPDES permits for CSO discharges to the Great Lakes Basin will require permittees to provide public notification to ensure that the public receives adequate notice of CSO occurrences and CSO impacts. The information burden associated with this provision is approved in ''Information Collection Request for NPDES Program (Renewal),'' OMB Control No. 2040–0004, EPA ICR No. 0229.21. EPA has developed an additional analysis to provide a better, updated estimate of the public notification requirements. The analysis used to develop these estimates is described in ''ICR Supporting Statement, Information Collection Request: Public Notification Requirements for CSOs in the Great Lakes Basin,'' EPA ICR number 2562.01. Key estimates and assumptions in the analysis include:

- 69% percent of existing discharge points (outfalls) for all CSO permittees have already installed signs and they are being maintained;
- Over 60% of the CSO permittees already have a system for developing estimates of the occurrence and volume of discharges from CSO discharge points;
- Each Great Lakes Basin CSO permittee already operates a website that can be modified to provide the public with notification of a CSO event;
- Larger CSO communities may have access to listserv technology;
- Electronic technology significantly reduces the burden of providing initial and supplemental notification to the public and to local public health departments and other affected public entities;
- Much of the effort in developing public notification plans is included in burden estimates for the individual public notification components in the proposal. The activities attributed to the

burden for the public notification plan include preparation of the document describing the public notification activities.

• The burdens on the NPDES authority for permit renewals are applied to one-fifth of all Great Lakes Basin CSO permits within each State beginning in year 2 of the ICR to account for the five year permit term.

The public notification requirements in this rule are designed to alert the public and public health departments, and other potentially affected entities of CSO discharges in a more wide-spread and timely manner than is currently practiced. The notification requirements which involve distribution of CSO discharge related information (*e.g.,* CSO discharge location, receiving waterbody, time started, time ended, volume) to the public and affected local governmental agencies would enable potentially affected parties to take action that may help prevent serious health effects that may otherwise occur if they were to remain unaware of the occurrence of CSO discharges.

Respondents/affected entities: The ICR covers information that must be provided by operators of combined sewer systems (Great Lakes Basin CSO permittees) that discharge within the watershed of the Great Lakes Basin. In addition, the ICR covers information burdens of the seven NPDES authorized States that are implementing the program and the estimated 158 public health departments that are consulting on the public notification plan.

Respondent's obligation to respond: Compliance with the notification requirements would be mandatory. Requirements for public notification of CSO discharge are part of the ''nine minimum controls'' established as part of EPA's CSO Control Policy. Section 425 of the Consolidated Appropriations Act of 2016 (Pub. L. 114–113) requires EPA to work with the Great Lakes States to establish these public notice requirements.

Estimated number of respondents: EPA has identified 158 CSO communities that discharge to the Great Lakes Basin, seven State NPDES permitting authorities, and 158 public health departments.

Frequency of response: Responses include one-time implementation activities, such as signage, activities that occur once per year, such as providing annual notice, and ongoing activities that would occur during and after CSO discharge events.

Total estimated burden: EPA estimates that the burden of implementing the rule would be 10,301 hours per year. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: EPA estimates that the rule would cost $457,000 per year during the three year ICR period. This is the total annual incremental cost for all 158 Great Lakes Basin CSO permittees and seven State NPDES authorities. The average incremental cost per CSO permittee is about $2,850 per year and the average incremental cost per State NPDES authority is about $1,000.

EPA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small governmental jurisdictions. The Agency has determined that 123 (78%) of the 158 communities discharging CSOs to the Great Lakes Basin are governmental jurisdictions with a population of less than 50,000 and thus can be classified as small entities. EPA evaluated the potential impact on annual revenue that these small entities may experience. Nearly all of the small communities (121 of 123 communities) are expected to experience an impact of less than 1% of annual revenue. Two communities may experience an impact of greater than 1% of annual revenue (one potentially experiencing an impact slightly over 1% and the other approximately 2%). Details of this analysis are presented in the Analysis of Costs and Executive Orders which is available in the docket.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538. EPA has conducted a cost analysis examining the potential burden to State, tribal and local governments. Details of this analysis are presented in the Analysis of Costs and Executive Orders which is available in the docket. EPA estimates that the costs of the rule to States, tribes and local governments will be well below $100 million per year. In addition, EPA compared the estimated annualized cost of the rule and revenue estimates for small local governments using four estimates of revenue data. The annualized compliance cost as a percentage of annual government revenues is below 1%. EPA concludes that the impact of the rule is very unlikely to reach or exceed 1% of small local government revenue.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

The rule includes a requirement for CSO permittees to notify the public of CSO discharges. This requirement includes the development of a public notification plan and the release of an annual notice that includes monitoring data. The incremental impact to State permitting authorities is estimated to be approximately $1,000 annually per State. The incremental impact to local permittees may range from a total of $1,000 to $4,000 annually per CSO permittee, depending on the number of CSO events and preparation time for the annual notice. Details of this analysis are presented in ''Analysis of Costs and Executive Orders,'' which is available in the docket (Docket ID No. EPA–HQ–OW–2016–0376 *http://www.regulations.gov*).

Keeping with the spirit of E.O. 13132 and consistent with EPA's policy to promote communications between EPA and State and local governments, and Section 425's direction to work with the States, EPA met with State and local officials throughout the process of developing the proposed rule and received feedback on how potential new regulatory requirements would affect them. EPA engaged in extensive outreach via conference calls to affected States to enable officials of affected States to have meaningful and timely input into the development of the proposed and final rule. EPA also held a public listening session and solicited written comments from the public and impacted stakeholder groups, including affected municipalities, to inform the development of the public notice proposed requirements. See Docket ID No. EPA–HQ–OW–2016–0376 to the *Federal eRulemaking Portal: http://www.regulations.gov.*

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 since it does not have a direct substantial impact on one or more federally recognized tribes. No tribal governments are authorized NPDES permitting authorities and none of the combined sewer systems subject to this rule are located on Indian nation lands.

The rule would address the way in which municipalities share information with the public, public health departments, and potentially impacted communities (including Indian tribes) about CSOs in the Great Lakes Basin. EPA therefore evaluated the proximity of CSSs that would be subject to the rule in relation to Indian lands. EPA identified six CSO permittees with the potential to affect waters near four Indian nations in New York State:

- Seneca Nation of Indians (SNI): The Dunkirk WWTP is located south of the Cattaraugus Reservation. The Buffalo Sewer Authority and Niagara Falls WWTP are located close to SNI lands within the city of Niagara Falls, NY and Buffalo, NY (where the Seneca casinos are located).
- Tuscarora Nation (TN): The Tuscarora Nation lands are located directly between the Niagara Falls WWTP and Lockport WWTP but not on the Niagara River or Eighteen Mile Creek.
- Tonawanda Seneca Nation (TSN): The Medina WWTP is located 10 miles north of the Tonawanda Seneca Nation lands.
- St. Regis Mohawk Tribe (SRMT): Any of the three WWTP plants along the St. Lawrence River would be of concern to the Mohawks at Akwesasne. SRMT is directly impacted by the Massena WWTP as the St. Lawrence River goes directly thru the heart of Akwesasne, the St. Regis Mohawk Tribe's reservation lands.

Consistent with the EPA Policy on *Consultation and Coordination with Indian Tribes,*[12] EPA conducted outreach to tribal officials during the development of this action. EPA contacted the above mentioned tribes through outreach conducted by EPA's Office of Environmental Justice to ensure they were aware of the opportunity to provide public comments on the proposed rule. In addition, when EPA held the public listening session while the proposed rule was under development, EPA conducted outreach to tribes to ensure awareness of the public listening session, and the associated opportunity to provide written comments to the Agency. In addition, the rule requires Great Lakes Basin CSO permittees to consult with potentially affected Indian Tribes whose waters may be impacted by a CSO discharge prior to submitting the public notification plan. This requirement ensures that needs of tribes using potentially impacted waters are considered in terms of timing of notification, the type of information that is provided, and the means by which public notification is communicated.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The rule would, in some cases, increase public awareness of CSO discharges to the Great Lakes Basin, including information about public use areas such as beaches that may be impacted by contaminated CSO discharges, and by doing so could decrease health risks for children, infants, and adults.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The rule requires CSO permittees to notify the public of CSO discharges.

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA determined that the human health or environmental risk addressed by this action would not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action affects the way in which Great Lakes Basin CSO permittees communicate information regarding CSO discharges to the public. It does not change any current human health or environmental risk standards.

However, because the rule would address the way in which information about CSO discharges is communicated to the public, EPA did reach out to environmental justice organizations to specifically solicit input on what may be the best approaches to reaching environmental justice communities with this information. Prior to the public listening session on September 14, 2016, EPA contacted over 800 environmental justice stakeholders through the Office of Environmental Justice Listserv, to ensure they were aware of the listening session and the opportunity to provide written input to the Agency through the public docket. EPA again reached out via this Listserv to ensure environmental justice stakeholders were aware of the public comment period for the proposed rule.

In addition, the rule requires the Great Lakes Basin CSO permittee to consult with local public health departments and potentially affected public entities when developing the public notification plan. These consultations may alert the Great Lakes Basin CSO permittee to specific environmental justice community considerations regarding the best ways to effectively communicate this information.

L. Congressional Review Act

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 122

Environmental protection, Combined sewer overflow, Public notification, Reporting, Water pollution.

40 CFR Part 123

Environmental protection, Combined sewer overflow, Public notification, Reporting, Water pollution.

Dated: December 18, 2017.

E. Scott Pruitt,

Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR parts 122 and 123 as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

■ 1. The authority citation for part 122 continues to read as follows:

[12] *https://www.epa.gov/sites/production/files/2013–08/documents/cons-and-coord-with-indian-tribes-policy.pdf.*

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

■ 2. In § 122.2, add the definitions ''Combined sewer overflow (CSO)'', ''Combined sewer system (CSS)'', and ''Great Lakes Basin'' in alphabetical order to read as follows:

§ 122.2 Definitions.

* * * * *

Combined sewer overflow (CSO) means a discharge from a combined sewer system (CSS) at a point prior to the Publicly Owned Treatment Works (POTW) Treatment Plant (defined at § 403.3(r) of this chapter).

Combined sewer system (CSS) means a wastewater collection system owned by a State or municipality (as defined by section 502(4) of the CWA) which conveys sanitary wastewaters (domestic, commercial and industrial wastewaters) and storm water through a single-pipe system to a Publicly Owned Treatment Works (POTW) Treatment Plant (as defined at § 403.3(r) of this chapter).

* * * * *

Great Lakes Basin means the waters defined as ''Great Lakes'' and ''Great Lakes System'' as those terms are defined in § 132.2 of this chapter.

* * * * *

■ 3. In § 122.21, add paragraph (j)(8)(iii) to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see § 123.25).

* * * * *

(j) * * *

(8) * * *

(iii) *Public notification plan for CSO discharges to the Great Lakes Basin.* Each permittee authorized to discharge a combined sewer overflow to the Great Lakes Basin as defined in § 122.2 must submit a public notification plan developed in accordance with § 122.38 as part of its permit application. The public notification plan shall describe any significant updates to the plan that may have occurred since the last plan submission.

* * * * *

■ 4. Add § 122.38 to read as follows:

§ 122.38 Public notification requirements for CSO discharges to the Great Lakes Basin.

(a) All permittees authorized to discharge a combined sewer overflow (CSO) to the Great Lakes Basin (''Great Lakes Basin CSO permittee'') must provide public notification of CSO discharges as described in this paragraph (a) after November 7, 2018. Public notification shall consist of:

(1) *Signage.* (i) The Great Lakes Basin CSO permittee shall ensure that there is adequate signage where signage is feasible at:

(A) CSO discharge points (unless the permittee demonstrates to the Director that no public access of, or public contact with, the receiving water is expected); and

(B) Potentially impacted public access areas.

(ii) At a minimum, signs shall include:

(A) The name of the Great Lakes Basin CSO permittee;

(B) A description of the discharge (*e.g.,* untreated human sewage, treated wastewater) and notice that sewage may be present in the water; and

(C) The Great Lakes Basin CSO permittee contact information, including a telephone number, NPDES permit number and CSO discharge point number as identified in the NPDES permit.

(iii) The Great Lakes Basin CSO permittee shall perform periodic maintenance of signs to ensure that they are legible, visible and factually correct.

(iv) Where a permittee has before August 7, 2018 installed a sign at a CSO discharge point or potentially impacted public access area that is consistent with State requirements, the sign is not required to meet the minimum requirements specified in paragraph (a)(1)(ii) of this section until the sign is replaced.

(2) *Notification of local public health department and other potentially affected public entities.* (i) As soon as possible, but no later than four (4) hours after becoming aware by monitoring, modeling or other means that a CSO discharge has occurred, the Great Lakes Basin CSO permittee shall provide initial notice of the CSO discharge to the local public health department (or if there is no local health department, to the State health department), any potentially affected public entities (such as municipalities, public drinking water utilities, State and county parks and recreation departments), and Indian Tribes whose waters may be impacted. Such initial notice shall, at a minimum, include the following information:

(A) The water body that received the discharge(s);

(B) The location of the discharge(s) and identification of the public access areas potentially impacted by the discharge. Where CSO discharges from the same system occur at multiple locations during the same precipitation-related event, the Great Lakes Basin CSO permittee may provide a description of the area in the waterbody where discharges are occurring and identification of the public access areas potentially impacted by the discharge, and the permittee is not required to identify the specific location of each discharge;

(C) The date(s) and time(s) that the discharge(s) commenced or the time the permittee became aware of the discharge(s) or when discharges are expected to occur;

(D) Whether, at the time of the notification, the discharge(s) is continuing or has ended. If the discharge(s) has ended, the approximate time that the discharge ended; and

(E) A point of contact for the CSO permittee.

(ii) Within seven (7) days after becoming aware by monitoring, modeling or other means that the CSO discharge(s) has ended, the Great Lakes Basin CSO permittee shall provide the following supplemental information to the public health department and affected public entities and Indian Tribes receiving the initial notice under paragraph (a)(2)(i) of this section unless the information had been provided in an earlier notice:

(A) The measured or estimated volume of the discharge(s). Where CSO discharges from the same system occur at multiple locations during the same precipitation-related event, the Great Lakes Basin CSO permittee may provide an estimate of the cumulative volume discharged to a given waterbody; and

(B) The approximate time that the discharge(s) ended.

(3) *Notification of the public.* (i) As soon as possible, but no later than four (4) hours after becoming aware by monitoring, modeling or other means that a CSO discharge has occurred, the Great Lakes Basin CSO permittee shall provide public notification of CSO discharges. The Great Lakes Basin CSO permittee shall provide public notification of CSO discharges electronically, such as by text, email, social media alerts to subscribers or by posting a notice on its public access website, and, if appropriate, by other means (*e.g.,* newspaper, radio, television). If a permittee's public notification plan identifies circumstances and physical action needed to limit the public health impacts of the CSO discharge by controlling the CSO discharge (including continuing to implement its existing practice of conducting inspections of CSO discharge points during the discharge), and all available staff are required to complete this action, the four-hour notification window will commence upon completion of that action.

(ii) At a minimum, the notice shall include:

(A) The water body that received the discharge(s);

(B) The location of the discharge(s) and identification of the public access areas potentially impacted by the discharge. Where CSO discharges from the same system occur at multiple locations during the same precipitation-related event, the Great Lakes Basin CSO permittee may provide a description of the area in the waterbody where discharges are occurring and identification of the public access areas potentially impacted by the discharge, and the permittee is not required to identify the specific location of each discharge;

(C) The date(s) and time(s) that the discharge(s) commenced or the time the permittee became aware of the discharge(s); and

(D) Whether, at the time of the notification, the discharge(s) is continuing or has ended. If the discharge(s) has ended, the approximate time that the discharge(s) ended.

(iii) Within seven (7) days after becoming aware by monitoring, modeling or other means that the CSO discharge(s) has ended, the Great Lakes Basin CSO permittee shall update the electronic notice with the following information unless the information had been provided in an earlier notice:

(A) The measured or estimated volume of the discharge(s). Where CSO discharges from the same system occur at multiple locations during the same precipitation-related event, the Great Lakes Basin CSO permittee may provide an estimate of the cumulative volume discharged to a given waterbody; and

(B) The approximate time that the discharge(s) ended, unless this information was provided in an earlier notice.

(b) *Annual notice.* Starting in February 7, 2019, by May 1 of each calendar year (or an alternative date specified by the Director), any permittees authorized to discharge a CSO to the Great Lakes Basin shall make available to the public an annual notice describing the CSO discharges from its discharge point(s) that occurred in the previous calendar year and shall provide the Director and EPA with notice of how the annual notice is available. Notice to EPA shall be in the form of an email to *NPDES_CSO@epa.gov* containing 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 it is not on a website; if the permittee is emailing the Director with this information, the permittee may copy EPA on that email to meet this requirement. Permittees that are owners or operators of a satellite collection system with one or more CSO discharge points shall provide the annual notice to the public and a copy of the annual notice to the operator of the POTW treatment plant providing treatment for its wastewater. For permittees whose State permitting authority has published or will publish an annual report containing all of the below minimum information (listed at paragraphs (b)(1) through (8) of this section) about the Permittee, the Permittee may choose to make available the State-issued annual report in order to meet this requirement. If permittees have existing report(s) that are written annually that collectively contain all of the below minimum information (listed at paragraphs (b)(1) through (8) of this section), then the Permittee may choose to make that/those report(s) publicly available in order to meet this requirement. At a minimum, the annual notice shall include:

(1) A description of the location and receiving water for each CSO discharge point, and, if applicable, any treatment provided;

(2) The date, location, approximate duration, measured or estimated volume, and cause (*e.g.,* rainfall, snowmelt) of each wet weather CSO discharge that occurred during the past calendar year. Where CSO discharges from the same system occur at multiple locations during the same precipitation-related event, the Great Lakes Basin CSO permittee may provide an estimate of the cumulative volume discharged to a given waterbody;

(3) The date, location, duration, volume, and cause of each dry weather CSO discharge that occurred during the past calendar year;

(4) A summary of available monitoring data for CSO discharges from the past calendar year;

(5) A description of any public access areas potentially impacted by each CSO discharge;

(6) Representative precipitation data in total inches to the nearest 0.1 inch that resulted in a CSO discharge, if precipitation was the cause of the discharge identified in (§ 122.38(b)(2));

(7) Permittee contact information, if not listed elsewhere on the website where this annual notice is provided; and

(8) A concise summary of implementation of the nine minimum controls and the status of implementation of the long-term CSO control plan (or other plans to reduce or prevent CSO discharges), including:

(i) A description of key milestones remaining to complete implementation of the plan; and

(ii) A description of the average annual number of CSO discharges anticipated after implementation of the long-term control plan (or other plan relevant to reduction of CSO overflows) is completed.

(c) *Public notification plan.* The Great Lakes Basin CSO permittee shall develop a public notification plan that describes how the Great Lakes Basin CSO permittee will ensure that the public receives adequate notification of CSO occurrences and CSO impacts. The Great Lakes Basin CSO permittee must provide notice of the availability of the plan, for instance on the permittee's website (if it has a website), and periodically provide information on how to view the notification plan, such as in bill mailings and by other appropriate means. The Great Lakes Basin CSO permittee must submit its public notification plan to the Director by August 7, 2018 and as part of a permit application under § 122.21(j)(8)(iii). The plan must:

(1) Identify the location of signs required under paragraph (a)(1) of this section 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.

(2) Describe the message used on signs required under paragraph (a)(1) of this section;

(3) Describe protocols for maintaining signage (*e.g.,* inspections at set intervals);

(4) Identify (with points of contact) the municipalities, public drinking water supplies, public parks with water access, Indian Tribe(s), and describe other sensitive area(s) identified in the permittee's long-term CSO control plan, that may be impacted by the permittee's CSO discharges;

(5) Summarize significant comments and recommendations raised by the local public health department under paragraph (d) of this section;

(6) Identify other affected public entities and Indian Tribes whose waters may be impacted by a CSO discharge that were contacted under paragraph (d) of this section and provide a summary of their significant comments and recommendations;

(7) Describe protocols for the initial and supplemental notice to public health departments and other public entities;

(8) Describe protocols for the initial and supplemental notice to the public;

this shall include a description of circumstances under which the initial notification of the public may be delayed beyond four hours of the permittee becoming aware of the discharge, which shall only include circumstances where a physical action is needed to limit the public health impacts of a CSO discharge by controlling the CSO discharge (including continuing to implement its existing practice of conducting inspections of CSO discharge points during the discharge), and all available staff are required to complete this action, and, therefore, are not available to initiate the initial notification until this action is complete;

(9) 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 paragraphs (a)(2)(ii)(A), (a)(3)(iii)(A) and (b)(2) and (3) of this section. If the Great Lakes Basin CSO permittee intends to use a model to estimate discharge volumes and durations, the plan must summarize the model and describe how the model was or will be calibrated. CSO permittees that are a municipality or sewer district with a population of 75,000 or more must assess whether re-calibration of their model is necessary, and recalibrate if necessary, at least once every 5 years;

(10) Describe protocols for making the annual notice described in paragraph (b) of this section available to the public and to the Director; and

(11) Describe significant modifications to the plan that were made since it was last updated.

(d) *Seek input on public notification plan.* Prior to submitting the public notification plan, or resubmitting under § 122.21(j)(8)(iii), the Great Lakes Basin CSO permittee must:

(1) Seek input from the local public health department (or if there is no local health department, the State health department), to:

(i) 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, timing of notification and other relevant factors.

(ii) Develop recommendations for providing notice to the general public of CSO discharges electronically and by other appropriate means.

(iii) Develop recommendations for areas that would be considered ''potentially impacted public access areas'' as referenced in § 122.38(a)(1), (2), and (3).

(2) Seek input from other potentially affected public entities and Indian Tribes whose waters may be impacted by a CSO discharge.

(3) 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.

(e) *Extending compliance to avoid undue economic hardship.* The Director may extend the compliance dates in paragraphs (a), (b), and (c) of this section for individual communities if the Director determines the community needs additional time to comply in order to avoid undue economic hardship. Where the Director extends the compliance date of any of these requirements for a community, the Director shall notify the Regional Administrator of the extension and the reason for the extension. The Director shall post on its website a notice that includes the name of the community and the new compliance date(s). The notice shall remain on the Director's website until the new compliance date.

■ 5. In § 122.42, add paragraph (f) to read as follows:

§ 122.42 Additional conditions applicable to specified categories of NPDES permits (applicable to State NPDES programs, see § 123.25).

* * * * *

(f) *Public notification requirements for CSO discharges to the Great Lakes Basin.* Any permit issued authorizing the discharge of a combined sewer overflow (CSO) to the Great Lakes Basin must:

(1) Require implementation of the public notification requirements in § 122.38(a);

(2) Specify the information that must be included on discharge point signage, which, at a minimum, must include those elements in § 122.38(a)(1)(ii);

(3) Specify discharge points and public access areas where signs are required pursuant to § 122.38(a)(1)(i);

(4) Specify the timing and minimum information required for providing initial and supplemental notification to:

(i) Local public health department and other potentially affected entities under § 122.38(a)(2); and

(ii) The public under § 122.38(a)(3).

(5) Specify the location of CSO discharges that must be monitored for volume and discharge duration and the location of CSO discharges where CSO volume and duration may be estimated; and

(6) Require submittal of an annual notice in accordance with § 122.38(b);

(7) Specify protocols for making the annual notice under § 122.38(b) available to the public.

PART 123—STATE PROGRAM REQUIREMENTS

■ 6. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

■ 7. In § 123.25, add paragraph (a)(47) to read as follows:

§ 123.25 Requirements for permitting.

(a) * * *

(47) For a Great Lakes State, § 122.38.

* * * * *

[FR Doc. 2017–27948 Filed 1–5–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 17–172]

Expansion of Intergovernmental Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts revisions to its rules governing the Intergovernmental Advisory Committee (Committee or IAC), which advises the Commission on a range of telecommunications issues affecting local, county, state, and Tribal interests, to expand it from 15 members to 30 members. The IAC has been an important source of information and guidance to the Commission over the past 20 years. The rule change will enhance the IAC's role by allowing for a greater diversity of viewpoints representing our municipal, county, state, and Tribal partners throughout the country.

DATES: Effective January 8, 2018.

FOR FURTHER INFORMATION CONTACT: Carmen Scanlon, Consumer and Governmental Affairs Bureau, at: (202) 418–0544; email: *Carmen.Scanlon@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 17–172, adopted December 13, 2017, released December 20, 2017. The full text of this document will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference