



Department of Environmental Protection
Massdep.npdes@mass.gov

November 8, 2021

Re: 314 CMR 1600 Sewage Notification Law, Draft Regulations

Dear MassDEP:

Thank you for allowing us to comment on the draft regulations to the public notification law on sewer releases.

The Wastewater Advisory Committee supported passage of this law, as a public health and awareness measure.

We have two concerns with the proposed regulations:

1. That the notifications are clear, useful and only occur when public health is endangered, and
 2. That the regulations MassDEP promulgate are unambiguous and easy to implement.
1. The intent of this law was to notify the public, including environmental justice and non-English-speaking communities, of real health threats from sewer releases. Keeping this goal in mind:
 - **Distinguish between high and low risk discharges:** Most Combined Sewage Overflows (CSOs) and Sanitary Sewer Overflows (SSOs) are not health emergencies; When real risks are present, Boards of Health need to get the public's attention. Too many notifications for less-harmful overflows can confuse and cause people to turn off notifications. Therefore, local Boards of Health should be allowed to use discretion in deploying reverse 911 calls, temporary signage and other measures.
 - **Blending:** To the extent allowed by the law, please use discretion in requirements for notification of blended sewage. Blending poses little risk to public health, and notification levels should be minimal—a post to a website should suffice.
 - **Frequency:** Updates every eight hours – when the public has been advised to avoid contact with the water for **48** hours – don't seem to serve any purpose and may be confusing. Similarly confusing would be a notification of the cessation of a discharge that needs to be rescinded and re-noticed. Therefore, please allow permittees flexibility on these notification times and frequencies—this will also ease implementation.

WAC is a citizens' advisory committee to the MWRA on wastewater issues. We provide an independent forum for discussion of these matters. Environmental improvement, safety, cost and technical issues are all considered when formulating our recommendations. 1 | Page

- **Multiplicity of notifications:** To the extent allowed, please also centralize reporting of municipal data to avoid duplication of effort, messaging “noise” and to add consistency. A central clearing house for this information will be far more useful than a dozen notices within a district.

2. We are also cognizant of the difficulties smaller municipalities will face in implementing these regulations, and ask that DEP help ensure compliance by allowing flexibility and using its discretion for these often under-resourced utilities to be compliant:

- Please clarify the definition of an affected area for notifications, and the definition linguistically isolated communities requiring translation of notifications.
- Please ensure that all municipalities are informed of their obligation to prepare a plan to send SSO notifications for both the above areas and languages
- Please reorganize the draft regulation to separate the differing requirements and deadlines for:
 - Untreated CSOs
 - Treated or partially treated discharges
 - SSOs, and
 - Blending events
- The time available to develop the Public Notification Plan is much, much too short. Permittees have only two or three weeks after final regulations are published to develop detailed notification plans, have them translated into various languages, and put out for public comment. NPDES permits give a minimum of six months for permittees to develop notification plans. In addition, some communities will need to procure meters at a time when supply may be delayed.

Commented [LW1]: Grammar suggestion – I found this a little unclear so I changed it to what I thought you intended, but I may have guessed wrong

Thank you for taking the time to consider these remarks,

Sincerely,

Wayne Chouinard, PE
Chair