TITLE 327 WATER POLLUTION CONTROL DIVISION

Rule Information Sheet

Public Notification for Combined Sewer Overflows to the Great Lakes Basin
LSA Document #18-271

Overview
The public notification requirements of the federal rule at 40 CFR 122.38 apply to National Pollutant Discharge Elimination System (NPDES) permittees authorized to discharge a combined sewer overflow (CSO) to the Great Lakes Basin. The purpose of this rule is to protect public health by ensuring timely notification to the public, public health departments, public drinking water facilities, and other potentially affected public entities. Timely notice of a CSO discharge 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. The federal rule requires states with delegated NPDES programs to include the federal requirements in state rules and to implement the public notification program. The program requires the following:

1. The CSO public notification requirements must be included in NPDES permits after February 7, 2018, as the permits are issued or reissued for the Great Lakes Basin dischargers with authorized CSOs.
2. A Public Notification Plan must be submitted by the permittee to the state by August 7, 2018, and plan updates must be submitted with NPDES permit applications or renewals.
3. The permittees must start providing public notification of CSO discharges as of November 7, 2018.
4. Starting after February 7, 2019, permittees must make available to the public an annual notice by May 1 that describes the CSO discharges that occurred in the prior calendar year.

To fulfill these federal requirements, this rulemaking adds a new rule at 327 IAC 5-2.2 to incorporate 40 CFR 122.38 by reference, amends 327 IAC 5-2-3, 327 IAC 5-2-10, and 327 IAC 5-2.1-2 to include the requirements of the federal rule into state rules, and repeals 327 IAC 5-2.1-1.

Affected Persons
NPDES permittees with authorized CSOs to the Great Lakes Basin that are required to meet the requirements of 40 CFR 122.38 will be affected by this rule.

Reasons for the Rule
The new final rule at 40 CFR 122.38 published in the Federal Register on January 8, 2018, by the United States Environmental Protection Agency (U.S. EPA) implements Section 425 of the Consolidated Appropriations Act of 2016, which requires U.S. EPA to work with the Great
Lakes States to establish public notification requirements for CSO discharges to the Great Lakes Basin (83 FR 712).

**Economic Impact of the Rule**
There is no fiscal impact from the Great Lakes Basin CSO Enhanced Public Notification rule beyond what is federally required. All of the affected NPDES permittees required to meet the CSO public notification requirements of the federal rule were previously required to meet similar CSO public notification requirements of the state’s rule at 327 IAC 5-2.1 that has been in effect since 2003.

**Scheduled Board Action and Hearings**
First Public Hearing: February 13, 2019, at the Indiana Government Center South, 10 North Senate Avenue, Conference Center Room A, Indianapolis, Indiana.
Second Public Hearing: May 8, 2019, at the Indiana Government Center South, 10 North Senate Avenue, Conference Center Room A, Indianapolis, Indiana.

**IDEM Contact**
Additional information regarding this rulemaking action can be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232-8635, (800) 451-6027 (in Indiana), or mstevens@idem.in.gov.