

# Advancing Environmental Protection: NPDES Electronic Reporting Rule



Webinar Presentation:  
WEF, NRWA, NACWA  
15 January 2015

# Webinar Logistics



**NOTE:** The official means for providing public comments to EPA on the proposed rule is through the docket. The specific process for submitting comments are on the last slide. All webinar questions or comments may not be included in the docket.

- Phone: \*6 Mute #6 Unmute
- Questions:



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# Agenda

- Basic Review of Proposed NPDES e-Reporting Rule
- Overview of Comments received
- Overview of Supplemental Notice
- Contact Information
- Additional Information
  - Matters for which Comments are Sought



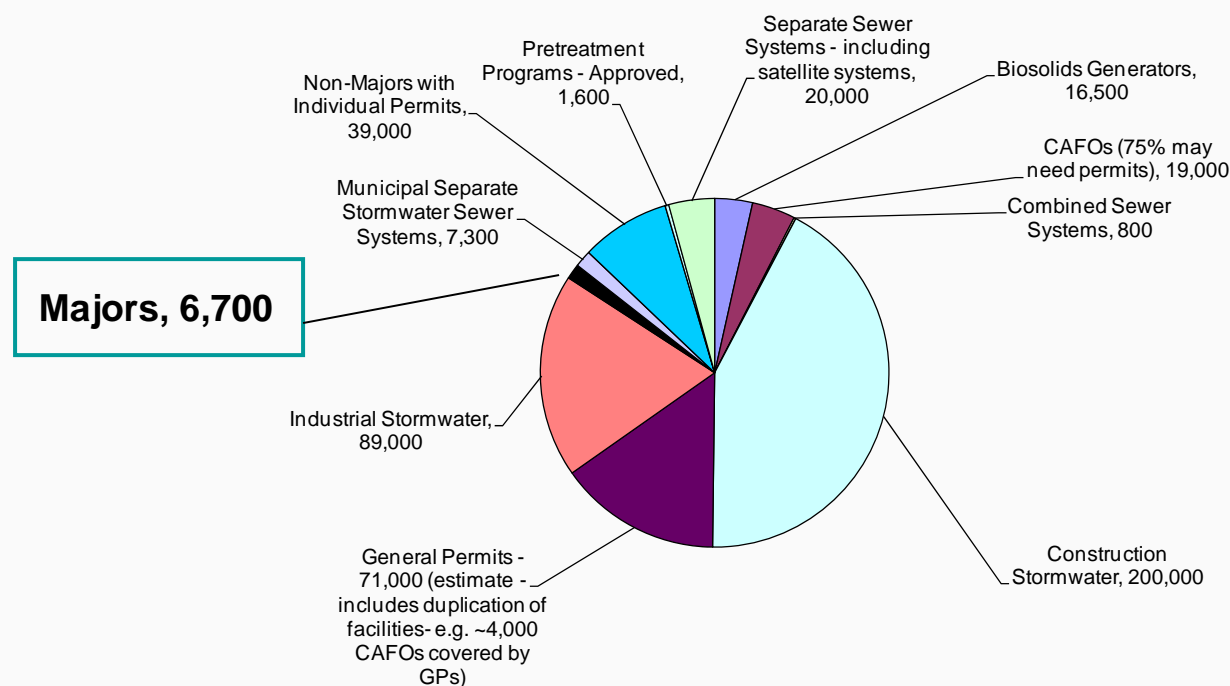
## Goals Of The Proposed Rule

This rule will help EPA and states clean up the nation's waters, by:

- ✓ Bring the NPDES Program into the 21<sup>st</sup> Century by shifting from paper to electronic reporting. Proposed rule establishes no new reporting requirements
- ✓ Save money and time for the regulated community and for states (reduce data entry time, improve accuracy)
- ✓ Improves transparency and frees up resources to focus on the most important problems
- ✓ Uses technology to obtain more accurate, timely, and complete information about the NPDES program



## NPDES-Regulated Facilities



Note: This graph covers all discharge sources except for significant industrial users not under an Approved Pretreatment Program and dischargers operating under general permits for discharges from vessels and discharges from pesticide applicators.

# Basic Review



EPA Region 9 Annual Pretreatment Reports (2009)



EPA Region 7 Annual Biosolids Reports (2014)



## What the Proposed Rule Does and Does Not Do

- DOES NOT: increase the amount of information required from NPDES-regulated entities under existing regulations
- DOES: Changes the method by which NPDES General Permit information is provided
  - ✓ From paper to electronic
- DOES: Require authorized NPDES programs to share their NPDES program implementation information electronically with EPA (Appendix A)
- DOES: Require public access to data already required under current law.





## Proposed Rule Implementation Approach

- **Phase 1 Data (one year after the effective date of the final rule):**  
EPA and states would electronically receive:
  - ✓ Basic facility and permit information as well as inspections, violation determinations, and enforcement actions data from states;
  - ✓ DMR information (if required) from facilities; and
  - ✓ Information (NOIs, etc.) from general permit covered facilities for Federally-issued general permits.
- **Phase 2 Data (two years after the effective date of the final rule):**  
In addition to Phase 1 data, EPA and states would receive:
  - ✓ Information (NOIs, etc.) from general permit covered facilities for other state-issued general permits; and
  - ✓ All identified program reports from facilities.
- **EPA is also proposing the use of targeted letters for facilities that do not meet these deadlines.**



# Basic Review



Existing NPDES Program Reporting		40 CFR
Data from NPDES Permittees	Discharge Monitoring Reports (DMRs) – Phase 1	122.41(l)(4)(i)
	General Permit Reports (NOI, NOT, NECs, LEWs) – Phase 1 (Fed) & Phase 2 (State)	122
	Biosolids Annual Program Reports – Phase 1 (recommended) OR Phase 2 (proposed)	503
	CAFO Annual Program Reports – Phase 2	122.42(e)(4)
	MS4 Program Reports – Phase 2	122.34(g)(3), 122.42(c)
	Pretreatment Program Annual Reports – Phase 2	403.12(i)
	Industrial User Compliance Reports in Municipalities Without Approved Pretreatment Programs – When EPA or State is Control Authority – Phase 2	403.12(e) & (h)
	Sewer Overflow Event Reports (CSOs, SSOs, Bypass events) – Phase 2	122.41(l)(6), (7), (m)
	CWA 316(b) Annual Reports	CWA Section 316(b)
Data from States	Require electronic reporting by NPDES-authorized states, territories, tribes, and Regions of <u>program implementation information</u> (permits, inspections, violations, and enforcement actions)	123.41 & 123.43
	Eliminate requirements for the annual state biosolids annual report, semi-annual statistical summary report, phase out state burden for ANCR and QNCR submissions, and rename and modify terms defining Category I and Category II noncompliance to reflect the new data sources	123.45, 501.21



## Key Concepts

- Proposed regulation will require that NPDES permittees electronically submit most of the required NPDES data (e.g., DMRs, NOIs, program reports) directly to states or EPA.
  - This information will need to be submitted to EPA in a nationally-consistent manner (called “Appendix A”).
  - These data submissions would meet EPA’s current signatory and chain of custody requirements in Parts 3 (CROMERR) and 122 (NPDES Regs)
  - This would include registration, subscriber agreements, electronic signatures, associated training, etc.
- Permittee electronic submissions will be supplemented by authorized state electronic submission:
  - Basic facility and permit data; and
  - Data originating from the states (e.g., inspections, violation determinations, enforcement actions).



## Minimum Set of Federally Reported Data

- The purpose of Appendix A is to ensure that there is consistent and complete reporting nationwide, and to expedite the collection and processing of the data, thereby making it more timely, accurate, complete, useful, and transparent for everyone.
- Appendix A to the proposed rule (40 CFR 127) identifies the specific data (name, description, regulatory/policy citation, data group) that are the minimum set of Federally reported data.
- States can require more data from NPDES regulated entities.
  - If EPA is the initial recipient of these state data, then EPA will automatically transmit these data to the applicable state data system.



## Important Considerations

- Not all data elements in Appendix A data are applicable to all facilities (e.g., POTWs do not need to report CAFO data):
- The frequency and need to update and report data depends on the data source (e.g., data derived from the NPDES permit application or NOI will need to be updated and reported to EPA/states at each permit renewal, usually a 5-year interval).



## **Temporary Waivers from Electronic Reporting**

- EPA recognizes that electronic reporting could be problematic for certain facilities, particularly those located in remote rural areas.
- Taking into account the limitations of broadband availability and technological capabilities, EPA has proposed a process for temporary waivers to the electronic reporting requirements for facilities lacking broadband capability or high-speed Internet access.



## What Does This Implementation Approach Mean for Permittees?

- Permittees would need to seek and obtain an electronic signature for use with an approved electronic reporting tools (developed by EPA, states, or third parties).
- States may seek minor modification to existing permits to require electronic reporting.
- Permittees would need to identify the designated initial recipient (state or EPA) for each NPDES submission.
- The facility's representatives would send the data to the approved electronic reporting tool; the data would then go to the state's data system or EPA's, and then be shared with the other party.

# Overview of Comments Received



## 170 Public Comments

- Generally supportive of electronic reporting as modern and efficient
- Raised issues on aspects of the proposed implementation and operation of the rule
- The Supplemental Notice is not intended to respond to all comments submitted
  - ✓ All comments will be addressed when EPA takes final action on the proposed rule



# Overview of Comments Received



## Submissions by Commenter Type

Commenter Type	Number of Submissions	Number of Comment Pages	Number of Comment Excerpts
Government (State)	39	308	1,012
Industry (Misc.)	39	188	728
Government (Local)	28	114	576
Industry (Agriculture)	25	163	302
Anonymous or Individual Person	35	44	126
Environmental Advocacy Organization	3	22	41
Industry (Software Vendors)	2	6	30
Government (Federal)	2	5	24
<b>Total:</b>	170	850	2,839

# Overview of Comments Received



## Summary of State Comments

### Support

- The majority of state comments supported the concept of electronic reporting rule and efforts to increase efficiencies in and the effectiveness of the NPDES program.

ACWA Comments: "States completely support electronic reporting and the Environmental Protection Agency's (EPA) effort to improve reporting efficiency, reduce administrative burden, increase transparency, support program decisions, and decrease noncompliance rates by leveraging technological innovations to better protect and enhance water quality."

### Concerns

- States indicated strong disapproval of the current implementation plan including schedule, state readiness criteria, likely initial recipient, and use of EPA's CWA 308 authority.
- States commented that EPA underestimated the implementation costs.
- States expressed concerns regarding CROMERR implications.

# Overview of Comments Received



## Summary of POTW and NACWA's Comments

### Support

- The majority of POTW's supported the concept of electronic reporting rule and efforts to increase efficiencies in and the effectiveness of the NPDES program.

NACWA Comments: "NACWA supports the Agency's efforts to improve the efficiency of permit-related reporting, with the ultimate goal of simplifying the reporting process – a goal that would benefit permittees and regulators alike."

### Concerns

- POTWs and NACWA generally favored a longer time for implementing electronic reporting.
- NACWA noted that "electronic reporting in the long-term should help to address concerns with data quality, but default data forms and national-level databases must be properly designed and implemented to provide the proper context and background for many of the required data elements."

# Overview of the Supplemental Notice



- On 1 December 2014 EPA published a supplemental notice to the proposed rule in the Federal Register (79 FR 71066).
- EPA used this notice to:
  - identify many of the issues raised by comments,
  - clarify misunderstandings about the proposed rule, and
  - discuss possibilities for how EPA might modify the rule to address issues raised by stakeholders.
- This notice opens a new public comment period, which closes on January 30<sup>th</sup>.
- This notice is not, however, intended to respond to all comments submitted.
- EPA will respond to all substantive comments when it takes final action on the proposed rule. There is no need to re-submit previous comments sent to EPA on proposed rule.

# Overview of the Supplemental Notice



Soliciting additional comments on key areas identified during the Proposed NPDES Electronic Reporting Rule comment period.

- A. Implementation Plan
- B. Cross-Media Electronic Reporting Regulation (CROMERR)
- C. Concentrated Animal Feeding Operations (CAFO) Sector
- D. Stormwater Sector
- E. Economic Analysis
- F. Miscellaneous Issues

Section IV of the notice lists the specific issues for which EPA is inviting comment. (*These issues are summarized at the end of this presentation.*)

# Additional Resources



- Please contact the following for additional information
  - General information about the rule:  
John Dombrowski, 202-566-0742. e-mail: [dombrowski.john@epa.gov](mailto:dombrowski.john@epa.gov);  
Andy Hudock, 202-564-6032; e-mail: [hudock.andrew@epa.gov](mailto:hudock.andrew@epa.gov);
  - Implementation, and economic analysis  
Andy Hudock, 202-564-6032; e-mail: [hudock.andrew@epa.gov](mailto:hudock.andrew@epa.gov);  
Carey Johnston, 202-566-1014; e-mail: [johnston.carey@epa.gov](mailto:johnston.carey@epa.gov);
  - Tool development, outreach and communication:  
Rochele Kadish, 202-564-3106; e-mail: [kadish.rochele@epa.gov](mailto:kadish.rochele@epa.gov)

# Additional Resources



- Federal Register Link
  - <https://www.federalregister.gov/articles/2013/07/30/2013-17551/npdes-electronic-reporting-rule>
- EPA Website Link
  - <http://www2.epa.gov/compliance/proposed-npdes-electronic-reporting-rule>
- Press Release Link
  - <http://yosemite.epa.gov/opa/admpress.nsf/0/A38B17B5643E001D85257BB9005882DA>
- Email sign up for future outreach activities
  - <https://public.govdelivery.com/accounts/USAEPAOECA/subscriber/new?>





## Providing Comments to the Docket

- Federal Rulemaking Portal: <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- E-mail: [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov), Attention Docket ID No. EPA-HQ-OECA-2009-0274.
- Mail: U.S. EPA, EPA Docket Center, Enforcement and Compliance Docket, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Attention Docket ID No. EPA-HQ-OECA-2009-0274.
- Hand Delivery: Deliver your comments to: EPA Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC, 20004, Attention Docket ID No. EPA-HQ-OECA-2009-0274.



# Appendix

## Matters for which Comments are Sought

# Matters for Which Comments are Sought



## A. Implementation Plan

- ✓ Initial Recipient status process and details
- ✓ Different State Readiness Criteria options
- ✓ Use of EPA's CWA authority through an ICR to
  - require NPDES-regulated entities to electronically submit data to the permit authority
  - Require facilities operating under backlogged permits to electronically report their NPDES data
- ✓ Extending or adding additional phasing to the implementation plan
- ✓ Calculate DMR submission rates separately by program area and Individual permit or General permit
- ✓ Practical ways to streamline CROMERR approvals within the required regulation

# Matters for Which Comments are Sought (continued)



## B. Stormwater Sector

- ✓ Use of a combination of drop-down lists and text fields for electronic reporting
- ✓ Flexible Electronic Signature Credentialing options for Construction Stormwater
- ✓ Different Appendix A, required data elements, for Municipal and Industrial

## C. Concentrated Animal Feeding Operations (CAFO) Sector

- ✓ Removing facility specific information from unpermitted CAFOs and AFOs inspected with the finding of no violations
- ✓ Modifications to CAFO specific Appendix A data elements

# Matters for Which Comments are Sought (continued)



## D. Economic Analysis

- ✓ What technology upgrades might be necessary
- ✓ CROMERR costs for electronic NPDES reporting
- ✓ Training costs
- ✓ Computer and Internet access
- ✓ Current costs associated with NPDES electronic reporting
- ✓ Costs associated with reporting and review for the current Annual Non-Compliance Report (ANCR) and those for the proposed electronic NPDES noncompliance report.

## E. Waiver

- ✓ Automatic for limited broadband availability
- ✓ Effective timeframe for an automatic broadband waiver
- ✓ Timeframe for temporary waivers
- ✓ Temporary waivers for lack of technical expertise
- ✓ Permanent waiver for religious communities

# Matters for Which Comments are Sought (continued)



## F. Miscellaneous Issues

- ✓ Improvements to public accessibility and usability of the data
- ✓ Changes to some of the Appendix A data elements
- ✓ Practicality of using the DMR form for the Biosolids annual Report
- ✓ Move the Biosolids Annual report from Phase II to Phase I of Rule implementation
- ✓ Suggestion on how to reach and inform the broad range of facilities covered under this propose rulemaking