~~Proposed~~ *Final* NPDES Electronic Reporting Rule

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ABSTRACT

On September 24, 2015, EPA finalized the Clean Water Act National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule, which requires electronic reporting of NPDES information rather than the currently-required paper-based reports from permitted facilities that discharge to waters of the United States. This rule requires that NPDES regulated entities electronically submit the following permit and compliance monitoring information instead of using paper reports:

- Discharge Monitoring Reports (DMRs);

- Notices of Intent to be covered under a general permit; and

- Program reports.

Authorized NPDES programs will also electronically submit NPDES program data to EPA to ensure that there is consistent and complete reporting nationwide, and to expedite the collection and processing of the data, thereby making it more accurate and timely. Importantly, while the rule changes the method by which information is provided (i.e., electronic rather than paper-based), it does not increase the amount of information required from NPDES regulated entities facilities under existing regulations.
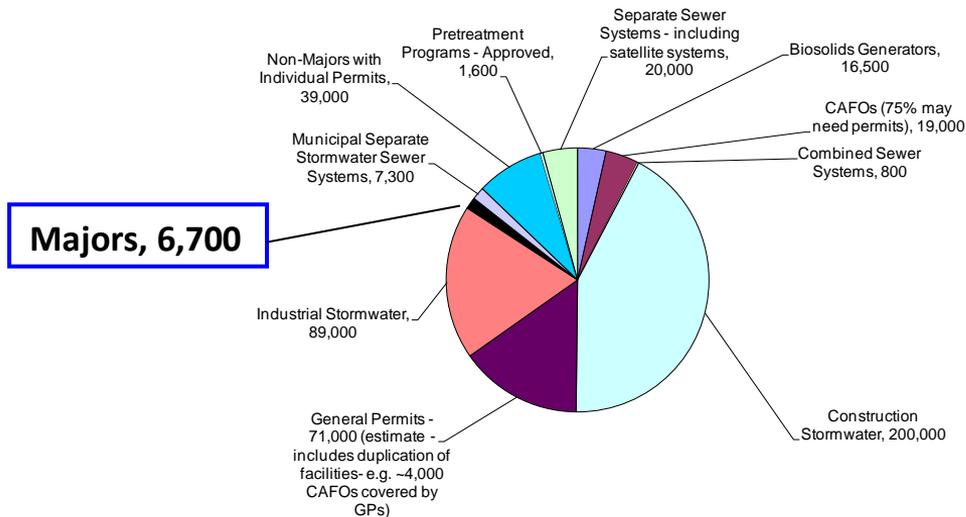
Goals of the Rulemaking

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

- Bringing the NPDES Program into the 21st Century by shifting from paper to electronic reporting. Final rule establishes no new reporting requirements for regulated entities.

- Saving money and time for the regulated community and for states (reduce data entry time, improve accuracy).

- Improving transparency and freeing resources to focus on the most important problems.

- Using technology to obtain more accurate, timely, and complete information about the NPDES program.

NPDES-Regulated Facilities

Non-Majors with Individual Permits, 39,000

Pretreatment Programs - Approved, 1,600

Separate Sewer Systems - including satellite systems, 20,000

Biosolids Generators, 16,500

CAFOs (75% may need permits), 19,000

Combined Sewer Systems, 800

Municipal Separate Stormwater Sewer Systems, 7,300

Majors, 6,700

Industrial Stormwater, 89,000

General Permits - 71,000 (estimate - includes duplication of facilities- e.g. ~4,000 CAFOs covered by GPs)

Construction Stormwater, 200,000

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.

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EPA Region 9 Annual Pretreatment Reports

EPA Region 7 Annual Biosolids Reports

What Does the Rule Do?

- Replaces much of the currently-required paper-based NPDES reporting with electronic reporting, significantly reducing reporting burden.

- Obtains required information directly from the source where data is generated.

- Reduces data entry errors by instead requiring electronic data submissions.

- Provides significant cost savings for states, primarily due to streamlining the processing of DMR data.

- Eliminates several existing state reporting requirements to EPA.

Key Concepts

- NPDES permittees electronically submit most of the required NPDES data (e.g., DMRs, NOIs, program reports) directly to states or EPA.

- State programs electronically submit required data to EPA:
    - Basic facility and permit data; and
    - Data originating from the states (e.g., inspections, violation determinations, enforcement actions).

Important Considerations

- The list of data in Appendix A is not applicable to all facilities (e.g., CAFOs do not need to report POTW data):
  - Some data elements are applicable only to a small portion of the NPDES universe (e.g., there are approximately 774 combined sewer systems).

- The frequency and need to update and report data depends on the data source
  - For example, 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).

<u>Final</u> Rule Implementation Approach

- **Phase 1 Data (one year after the effective date of the final rule):**
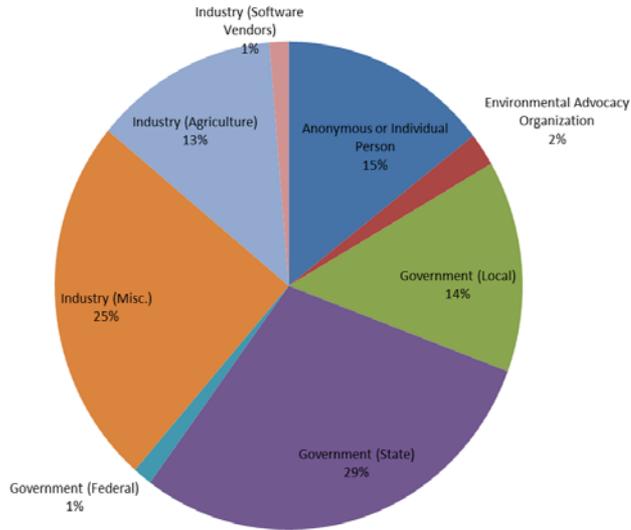 EPA and states would electronically receive:
  - Basic facility and permit information as well as inspections, violation determinations, and enforcement actions data from states;
  - DMR information (if required) from facilities; and
  - Information (NOIs, etc.) from general permit covered facilities for Federally-issued general permits (as a goal).

- **Phase 2 Data (five 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
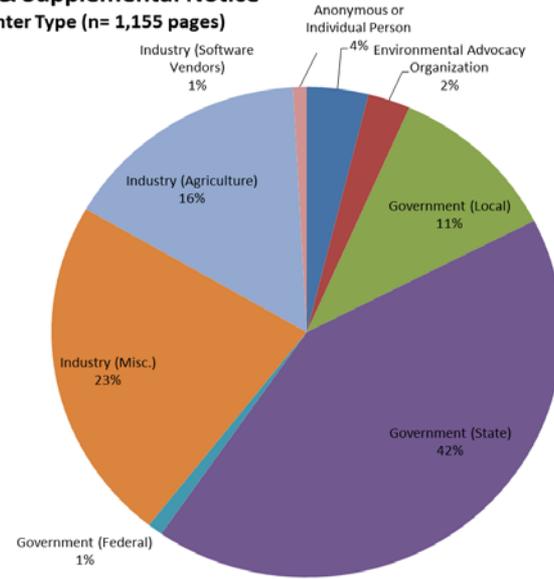 - All identified program reports from facilities.

All Submissions by Commenter Type

Number of Submissions

Number of Pages

10

Most Frequent Comment Topics
for All Commenters

Comment Topic	Number of Comment Excerpts Addressing This Topic
Schedule deadlines and timing of phases	260
Possible concurrent/double reporting by permittees	161
EPA's estimates of rulemaking costs	158
Generally supportive of the concept	120

EPA Listened and Made Key Changes

The final rule provides authorized NPDES programs with more flexibility for implementation by:

- Providing more time for the transition from paper to electronic reporting for general permits and program reports;
- more flexibility in how they can grant electronic reporting waivers to facilities;
- Removing the 90% State Readiness Criteria from the regulation; rather, make it a goal or target in the preamble to the final rule;
- Retaining authority in the final rule as appropriate under CWA to require NPDES-regulated entities to electronically report their NPDES program data (Appendix A to 40 CFR 127) to the permitting authority;
- Providing the option for the permitting authority to use automatic identification and data capture technology for construction stormwater general permit reports (i.e., NOIs, NOTs, NECs, LEWs); and
- Developing Implementation Plans by the permitting authority.

EPA's Electronic Reporting Tools

- EPA has two tools for electronically collecting permit related documents and compliance monitoring information.

- These tools are available for states to use for their implementation of the NPDES Electronic Reporting Rule.

- NetDMR – Used for the collection of Discharge Monitoring Report (DMR) forms.

- NPDES Electronic Reporting Tool (NeT) – Used for the collection of all other NPDES forms and information.

NetDMR

➢ National Installation of NetDMR

  ❑ In Production Since June 2009

  ❑ In production with 15 states, 8 EPA Regions, and approximately 9,000 permittees. (May 2015)

➢ States Hosted Installations of NetDMR

  ❑ Texas Commission on Environmental Quality (TCEQ)

  ❑ Nevada Division of Environmental Protection (NDEP)

NPDES e-Reporting Tool (NeT)

➢ Tool for Supporting OECA's NPDES e-Reporting Rule

➢ Regulated Community Fills Out PDF Forms Online
  - Regulated Community Applies for Coverage Online Using Adobe PDF Smart Forms
  - Certifier or Responsible Official Signs and Submits the Form
  - EPA Region, State, Tribe, Territory Staff Review Forms Online and Approve or Disapprove the Application
  - Forms Can be Automatically Approved After Specified Time
  - Approved Forms Result in General Permit Covered Facility records with limits in ICIS-NPDES
  - CORs Can Be Retrieved

➢ CROMERR Compliant

Partnering with States: Implementation

Phase 1 – DMR Submissions
- EPA will work with states to bring up their adoption rates through:
  - Individualized outreach plans and assistance; and
  - Training and assistance for states to implement EPA's electronic reporting tools.

Phase 2 – General Permit and Program Reports
- Work with states to bring up their adoption rates through:
  - Review and approval of state implementation plans (due one year after final rule)
  - Making new a new electronic reporting tool (NeT) available to states for general permits

Readiness of states and EPA Regions

This past spring and summer EPA initiated a dialog with all states and EPA regions to assess readiness with their electronic reporting EPA learned the following from these calls:

- EPA completed 45 calls to states
- 30 of the states are ready for implementing Phase 1 of the final rule
- 10 of the states will be ready for implementing Phase 1 of the final rule
- Five states need more assistance to be ready
- Two states appeared to be ready for Phase 2 of the final rule
- Several states were already making progress toward implementing Phase 2 of the final rule; however, the majority of states were not that far along in this aspect

Next Steps

- Final rule to be published in the Federal Register in October 2015 with an effective date in December 2015.

- Moving forward:
  - Continue dialog and collaboration with each state partner as we implement the rule;
  - Continue development enhancements of e-reporting tools such that they are available for use by state partners; and
  - Continue outreach to regulated facilities about the new NPDES e-reporting requirements