



## Supplemental Notice to the Proposed NPDES Electronic Reporting Rule

On 1 December 2014 EPA published a Supplemental Notice to the 2013 proposed NPDES Electronic Reporting Rule. The proposed NPDES Electronic Reporting Rule requires electronic reporting instead of current paper-based NPDES reports. This notice is an opportunity for EPA to identify many of the issues raised by commenters during the public comment period for the proposed rule, clarify any misunderstandings about the proposal, and discuss possibilities for how EPA might modify the rule to address issues raised by stakeholders. This notice opens a new public comment period. 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 comments already submitted to EPA’s docket for this rulemaking. The comment period for the supplemental notice will be 60 days.

### Purpose of the Supplemental Notice to the Proposed NPDES Electronic Reporting Rule

EPA received 170 public comments from a variety of stakeholder groups. The comments were generally supportive of electronic reporting as modern and efficient, but raised issues regarding aspects of the proposed implementation and operation of the rule. The table below provides an overview on the public comments on the proposed rule. EPA has reviewed all of these comments and identified the key areas raised by commenters. EPA will consider further comments on these topic areas as well as others outlined in the proposed rule.

Commenter Type	Number of Submissions	Number of Comment Pages	Number of Comment Excerpts
Anonymous or Individual Person	32	44	126
Environmental Advocacy Organization	3	22	41
Government (Local)	28	114	576
Government (State)	39	308	1,012
Government (Federal)	2	5	24
Industry (Misc.)	39	188	728
Industry (Agriculture)	25	163	302
Industry (Software Vendors)	2	6	30
<b>Total:</b>	170	850	2,839

## Summary of key areas for comment and clarification

### 1. Implementation Plan

- Most of these comments expressed concern with the proposed implementation plan and focused on the following issues: (1) initial recipient status; (2) the use of the State Readiness Criteria and the option of EPA requiring the electronic submission of NPDES program data to EPA when authorized states, tribes, and territories have not successfully implemented electronic reporting; (3) implementation plan schedule; (4) copy of record; and (5) modifications of state NPDES regulations and statutes. Complete details on the implementation plan are in the proposed rule (30 July 2013; 78 FR 46047).

### 2. Cross-Media Electronic Reporting Regulation (CROMERR)

- EPA received a number of comments on various aspects of applying for, receiving approval and authorization, and implementing an electronic reporting system that complies with CROMERR. The comments can be divided into two key categories: (1) the process for CROMERR application approvals; and (2) the technical requirements for signature authorization. There are also two additional comment areas that require clarification: (1) whether a NPDES-regulated entity must submit a CROMERR application; and (2) EPA's requirement to change passwords at least once every 90 days.

### 3. Combined Animal Feeding Operations (CAFO) Sector

- EPA is clarifying the effects of this proposed rule on CAFOs in response to comments received that reflect potential misunderstanding of the proposed rule. The proposed rule would only require CAFOs to submit information to permitting authorities that current regulations already require them to provide, and to make available to the public information that is generally already publicly accessible. EPA is also soliciting comment on redacting some facility and facility contact information for unpermitted CAFOs from EPA's ECHO website (<http://echo.epa.gov>) without an NPDES violation.

### 4. Stormwater Sector

- EPA received a number of comments on how electronic reporting will be implemented for NPDES-regulated entities that manage stormwater, specifically, the Municipal Separate Storm Sewer System (MS4), Industrial, and Construction sectors.
  - MS4: Many of these commenters expressed concern on how EPA would implement electronic reporting for MS4 regulated entities. In particular, they noted that MS4 program reports are generally not uniform as each MS4 program implements its program differently. These commenters asked EPA to clarify its plans to standardize and electronically collect these data.
  - Industrial and Construction: Commenters indicated that the universe of NPDES-regulated construction sites was large and changing often as sites were completed. These commenters had concerns whether electronic reporting would work well with the construction site NPDES-regulated universe.

### 5. Economic Analysis

- The majority of the comments focused on rule implementation costs, data entry burden, dual reporting requirements, benefits of the rule, and impacts on small entities. Commenters

noted that the economic analysis (EA) does not accurately reflect the financial impact on states.

#### 6. Waivers

- Comments supported the overall concept of temporary waivers from NPDES electronic reporting; three commenters disagreed. Commenters suggested a number of variations such as: longer duration than the one-year renewable timeframe identified in the proposed rule, permanent waivers for religious communities (e.g., Amish, Mennonite, and Hutterite), and automatic in certain locations (e.g., areas where less than 10% of the population has sufficient broadband availability).

The supplemental notice outlines specific questions on the above topic areas for which EPA invites comment.

#### **Further Information**

For additional information, please contact Messrs. Andrew J. Hudock (202-564-6032) or Carey A. Johnston (202-566-1014), Office of Compliance (mail code 2222A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC, 20460; e-mail addresses: [hudock.andrew@epa.gov](mailto:hudock.andrew@epa.gov) or [johnston.carey@epa.gov](mailto:johnston.carey@epa.gov).

#### **Useful Proposed Rule Links:**

Federal Register Link

<https://www.federalregister.gov/articles/2014/12/01/2014-27918/npdes-electronic-reporting-rule>

EPA Website Link

<http://www2.epa.gov/compliance/proposed-mpdes-electronic-reporting-rule>

Email sign up for outreach events

<https://public.govdelivery.com/accounts/USAEPAOECA/subscriber/new?>