



OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

WASHINGTON, D.C. 20460

February 25, 2025

MEMORANDUM

SUBJECT: Pennsylvania Department of Environmental Protection's NPDES Electronic Reporting Phase 2 Extension Request for the General NPDES Permit for Stormwater Discharges Associated with Mining Activities (BMP GP-104)

FROM: Jacqueline Robles Werner, Director
Office of Compliance

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Date: 2025.02.25
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TO: Nathan A. Houtz, Acting Deputy Secretary
Office of Active and Abandoned Mine Operations
Pennsylvania Department of Environmental Protection

This memorandum notifies you of approval of your request to extend the regulatory deadline for sharing National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Phase 2 data with U.S. EPA ("EPA") for the General NPDES Permit for Stormwater Discharges Associated with Mining Activities (BMP GP-104). Your new deadline for sharing data associated with this NPDES general permit is **August 6, 2026**. EPA will post this notice and your new regulatory deadline on its website, www.epa.gov/compliance/approved-alternate-phase-2-compliance-deadlines, in accordance with the NPDES Electronic Reporting rule [see 40 CFR § 127.24(e)(3)].

BACKGROUND

The U.S. EPA published the NPDES Electronic Reporting Rule ("NPDES eRule") on October 22, 2015. This rule requires EPA and states to modernize Clean Water Act (CWA) reporting. Implementation of this rule is designed to save the NPDES authorized programs considerable resources, make reporting easier for NPDES-regulated entities, streamline permit renewals, ensure full exchange of NPDES program data between states and EPA, enhance public transparency, improve environmental decision-making, and protect human health and the environment.

EPA requires each authorized NPDES program to decide whether they would like to use EPA's electronic reporting tools or to build their own electronic reporting tools. Authorized states can make this decision or defer this decision to EPA. Pennsylvania Department of Environmental Protection has elected to build its own electronic reporting tool for the General NPDES Permit for Stormwater Discharges Associated with Mining Activities ("mining stormwater general permit") and then share the

minimum set of NPDES data with EPA.¹ The NPDES eRule data sharing requirements are provided in 40 CFR § 127.23. The minimum set of NPDES data that states must share is listed in Appendix A, 40 CFR part 127. These electronic data transfers to EPA must be timely, accurate, complete, and consistent with EPA's data sharing protocols, which are provided on the Environmental Information Exchange Network.² The NPDES eRule includes two default data sharing deadlines. For authorized states, the Phase 1 compliance deadline (December 21, 2016) covers Discharge Monitoring Report (DMR) data. All other NPDES data (a.k.a. "Phase 2 data") are covered by the Phase 2 compliance deadline (December 21, 2025). See 40 CFR § 127.16.

The NPDES eRule allows an authorized NPDES program to submit a request to EPA to establish an alternative compliance Phase 2 deadline for electronic reporting of one or more general permits, program reports, and related data elements (see 40 CFR § 127.24). A state may request to establish an alternative compliance deadline of up to three years beyond the currently applicable date but not beyond December 21, 2028 (see 40 CFR § 127.24(e)). It is the duty of the authorized NPDES program to apply for a new alternative compliance deadline, which Pennsylvania Department of Environmental Protection, Office of Active and Abandoned Mine Operations ("PA DEP Mining") did on October 22, 2024, for their mining stormwater general permit. PA DEP Mining requested a new date of June 27, 2026, to complete the data sharing associated with the mining stormwater general permit.

My staff reviewed this request and noted the following:

- The current mining stormwater general permit expires on March 27, 2026, which is approximately three months after the NPDES eRule Phase 2 compliance deadline (December 21, 2025).
- PA DEP Mining plans to submit the draft general permit to EPA Region 3 for their review in February 2025. PA DEP Mining plans to issue the final general permit in December 2025.
- PA DEP Mining has an electronic reporting system for the mining stormwater general permit (a.k.a. "PA DEP Greenport-WMS system"); however, not all operators are currently registered with this system.
- PA DEP Mining would like to complete the registration of all operators after they reissue this general permit by March 27, 2026. PA DEP Mining asserts that scheduling the registration process to immediately follow the general permit renewal is the most efficient method of ensuring all operators have permit coverage. For example, this allows PA DEP Mining to use one mass mailing to over 600 operators with registration instructions on how to obtain or continue their coverage under this general permit.
- PA DEP Mining plans to issue notices of violations to unregistered operators that have not completed the reporting requirements listed in the general permit within 90 days of the current general permit expiration date of March 27, 2026.

We are providing PA DEP Mining with additional time to share data with EPA for their mining stormwater general permit. This new alternative compliance deadline is August 6, 2026, which is the due date for operators to complete their submissions to PA DEP Mining (June 27, 2026) plus 40

¹ See: Pennsylvania's "NPDES Electronic Reporting Rule Phase 2 Implementation Plan," December 19, 2016. Available at: <https://www.epa.gov/compliance/npdes-ereporting-phase-2-implementation-plan>

² See: <https://exchangegenetwork.net/data-exchange/icis-data-submission/>

calendar days.³ This alternative compliance deadline balances PA DEP Mining's need for an efficient registration process against the goals of the NPDES eRule (see 40 CFR § 127.1). We recommend that PA DEP Mining start taking measures to ensure that they can share these general permit data with EPA by the deadline granted. My staff are available to help PA DEP Mining with using our data sharing protocols.

Finally, I want to thank your staff for being leaders with NPDES electronic reporting. This complex project involves almost all of the NPDES program and approximately 420,000 permittees across the Nation. EPA could not implement this rulemaking without the dedication and professionalism of states like Pennsylvania.

Thank you for your help in implementing NPDES electronic reporting. If you have questions with this memorandum or with NPDES eRule implementation, please contact the NPDES eRule Team Lead, Carey Johnston, johnston.carey@epa.gov.

³ EPA provides authorized NPDES programs 40 days to share the minimum set of NPDES program data, including general permit data, with EPA. See 40 CFR § 127.23(c)(1).