



OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

WASHINGTON, D.C. 20460

MEMORANDUM

SUBJECT: West Virginia Department of Environmental Protection NPDES Electronic Reporting Phase 2 Alternative Compliance Deadline Request

FROM: Jacqueline Robles Werner, Director
Office of Compliance

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Date: 2025.11.06 14:53:51 -05'00'

TO: Jeremy W. Bandy, Director
West Virginia Department of Environmental Protection

ISSUE

This memorandum notifies you of our approval of your request to extend the regulatory deadline for Phase 2 implementation of the National Pollutant Discharge Elimination System Electronic Reporting Rule ("NPDES eRule"). Your NPDES eRule Phase 2 alternative compliance deadline for implementing electronic reporting and data sharing with U.S. EPA ("EPA") is **December 21, 2028**. 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 state 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 state NPDES program to decide whether they will use EPA's electronic reporting tools or build their own electronic reporting tools. Authorized states can make this decision or defer this decision to EPA. West Virginia Department of Environmental Protection has elected to build its own electronic reporting tool for NPDES general permits and program reports and then share the minimum set of NPDES data with EPA.¹ The NPDES eRule data sharing requirements are provided

¹ See "NPDES eReporting Phase 2 Implementation Plans," which are available at: <https://www.epa.gov/compliance/npdes-e-reporting-phase-2-implementation-plan>

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 compliance deadlines. The Phase 1 compliance deadline (December 21, 2016) requires EPA Regions and authorized states to electronically collect Discharge Monitoring Reports (DMRs) from NPDES permittees and to share these DMR data as well as other permit, inspection, and enforcement data with EPA. All other NPDES data (a.k.a. "Phase 2 data") are covered by the Phase 2 compliance deadline (December 21, 2025).³

The NPDES eRule allows an authorized state NPDES program to submit a request to EPA to establish an alternative compliance 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 state NPDES program to apply for a new alternative compliance deadline, which West Virginia Department of Environmental Protection did on August 22, 2025.

We are providing West Virginia Department of Environmental Protection with additional time to implement electronic reporting and data sharing with EPA. This additional time allows you to allocate your resources in a manner that will help ease your implementation. This alternative compliance deadline balances your need for more time to implement Phase 2 against the goals of the NPDES eRule (see 40 CFR § 127.1). We recommend that you start taking measures now to ensure that you can meet this new deadline. My staff are available to help you update your 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 West Virginia.

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.

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

³ See "Overview of the Minimum Set of NPDES Program Data" and "NPDES eRule State Data Sharing Prioritization" to identify the compliance deadline for each data element. Available at: <https://www.epa.gov/compliance/npdes-ereporting-information-and-resources-authorized-programs>.