

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 9, 122, 123, 127, 403, and 503**

[EPA-HQ-OECA-2019-0408; FRL-10015-08-OECA]

RIN 2020-AA52

**NPDES Electronic Reporting Rule—Phase 2 Extension**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is publishing this final rule to postpone the compliance deadlines for implementation of Phase 2 of the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule (“NPDES eRule”). The NPDES eRule requires EPA and states to modernize Clean Water Act (CWA) reporting. This final rule also provides states with additional flexibility to request additional time as needed. Further, this final rule promulgates clarifying changes to the NPDES eRule and eliminates some duplicative or outdated reporting requirements. Taken together, these changes are 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.

**DATES:** The final rule is effective on January 4, 2021. In accordance with 40 CFR part 23, this regulation shall be considered issued for purposes of judicial review at 1 p.m. Eastern time on November 16, 2020. The start dates for electronic reporting are provided in 40 CFR 127.16.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OECA-2019-0408. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>. The telephone number for the Public Reading Room is (202) 566-1744.

**FOR FURTHER INFORMATION CONTACT:** For additional information, please contact Mr. Carey A. Johnston, Office of Compliance (mail code 2222A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington,

DC 20460; telephone number: 202-566-1014; or email: [johnston.carey@epa.gov](mailto:johnston.carey@epa.gov) (preferred). Also see the following website for additional information regarding the rulemaking: <https://www.epa.gov/compliance/npdes-ereporting>.

**SUPPLEMENTARY INFORMATION:**

**How is this document organized?**

The outline of this document follows the following format:

- I. General Information
- II. Background
- III. Postponement of Phase 2 Compliance Deadlines
- IV. Alternative Phase 2 Compliance Deadlines
- V. Clarifying Edits for More Efficient Implementation and 2019 NPDES Updates Rule Changes
- VI. Assistance To States to Implement Phase 2
- VII. Statutory and Executive Order Reviews

**I. General Information**

*A. Does this action apply to me?*

Entities potentially affected by this action include all NPDES-permitted facilities, whether covered by an individual permit or general permit, industrial users located in cities without approved local pretreatment programs, facilities subject to EPA’s biosolids regulations, and governmental entities that have received NPDES program authorization or are implementing portions of the NPDES program in a cooperative agreement with EPA. These entities include:

Category	Examples of regulated entities
Facilities seeking coverage under an individual NPDES permits, general permit, or subject to a NPDES inspection.	Publicly-owned treatment works (POTW) facilities, treatment works treating domestic sewage (TWTDS), municipalities, counties, stormwater management districts, state-operated facilities, Federally-operated facilities, industrial facilities, construction sites, and concentrated animal feeding operations (CAFOs).
Industrial users located in cities without approved local pretreatment programs.	Industrial facilities discharging to POTWs and for which the designated pretreatment Control Authority is EPA or the authorized state, tribe, or territory rather than an approved local pretreatment program.
POTWs and other facilities subject to EPA’s biosolids regulations.	Class I sludge management facilities (as defined in 40 CFR 503.9(c)), POTWs with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve 10,000 people or more.
State and territorial governments ...	States and territories that have received NPDES program authorization from EPA, that are implementing portions of the NPDES program in a cooperative agreement with EPA, or that operate NPDES-permitted facilities.
Tribal governments .....	Tribes that have received NPDES program authorization from EPA, that are implementing portions of the NPDES program in a cooperative agreement with EPA, or that operate NPDES-permitted facilities.
Federal government .....	Federal facilities with a NPDES permit and EPA Regional Offices acting for those states, tribes, and territories that do not have NPDES program authorization or that do not have program authorization for a particular NPDES subprogram (e.g., biosolids or pretreatment).

This table is not intended to be an exhaustive list, but rather provides some examples of the types of entities potentially regulated by this action. Other types of entities not listed in this table may also be regulated. If you have

questions regarding the applicability of this final action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*B. What action is the agency taking?*

EPA published the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule (“NPDES eRule”) on October 22, 2015. The 2015 rule required EPA and states to

modernize Clean Water Act (CWA) reporting for municipalities, industries and other facilities. The rule divided implementation into two “Phases.” The deadline for Phase 1 implementation passed on December 21, 2016. The deadline for Phase 2 was initially scheduled for December 21, 2020. Some state authorized NPDES programs provided feedback to EPA on how to improve Phase 2 implementation of the NPDES eRule and, in particular, have recommended changes to the schedule for Phase 2 implementation to allow both EPA and states sufficient time to develop and implement the information technology solutions necessary for electronic reporting of the Phase 2 data (see DCN 0001 to 0009). EPA published a proposed rule to solicit comment on postponing the compliance deadlines for Phase 2 implementation as well as other changes to the NPDES eRule to allow for a smoother transition from paper to electronic reporting for the NPDES program (see February 28, 2020; 85 FR 11909). EPA received comments from seven states, one state association, and one anonymous commenter. The final rule addresses these comments and postpones the compliance deadlines for Phase 2 implementation of the NPDES eRule. This final rule also provides states with additional flexibility to request additional time as needed. Further, this final rule promulgates clarifying changes to the NPDES eRule and eliminates some duplicative or outdated reporting requirements.

#### *C. What is the agency’s authority for taking this action?*

Pursuant to the Clean Water Act (CWA), 33 U.S.C. 1251 *et seq.*, EPA promulgated the NPDES eRule, which added a new part to title 40 (40 CFR part 127) and made changes to existing NPDES regulations. The EPA promulgated the NPDES eRule under authority of the CWA sections 101(f), 304(i), 308, 402, and 501. EPA is using the same authority to finalize changes to the NPDES eRule. EPA notes that the Congressional Declaration of Goals and Policy of the CWA specifies in section 101(f) that “It is the national policy that to the maximum extent possible the procedures utilized for implementing this chapter shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.”

Harnessing information technology that is now a common part of daily life is an important step toward reaching the goals of the CWA. EPA is promulgating

this rule under the authority of CWA section 304(i), which authorizes EPA to establish minimum procedural and other elements of state programs under section 402, including reporting requirements and procedures to make information available to the public. In addition, EPA is promulgating this rule under section 308 of the CWA. Section 308 of the CWA authorizes EPA to require access to information necessary to carry out the objectives of the Act, including sections 301, 305, 306, 307, 311, 402, 404, 405, and 504. Section 402 of the CWA establishes the NPDES permit program for the control of the discharge of pollutants into the nation’s waters. Specifically, CWA sections 402(b) and (c) require each authorized state, tribe, or territory to ensure that permits meet certain substantive requirements, and provide EPA information from point sources, industrial users, and authorized programs in order to ensure proper oversight. Finally, EPA is promulgating this rule under the authority of section 501, which authorizes EPA to prescribe such regulations as are necessary to carry out provisions of the Act.

#### *D. What are the incremental costs and benefits of this action?*

EPA identified only minimal incremental costs of this final rule as the overall impact of these changes allow states to more efficiently implement the NPDES eRule. EPA is postponing the compliance deadlines for Phase 2 implementation by five years and providing states with additional flexibility to request an extension if more time is necessary but with no extension allowed beyond December 21, 2028 (see Section IV of this preamble).

This rule also finalizes changes to the NPDES eRule that clarify existing requirements and eliminate some duplicative or outdated reporting requirements. For example, this rule eliminates three data elements from the minimum set of NPDES program data (Appendix A to 40 CFR part 127): Reportable Noncompliance Tracking, Reportable Noncompliance Tracking Start Date, and Applicable Categorical Standards. These changes will reduce the costs to authorized NPDES programs in collecting, managing, and sharing these data. EPA also anticipates that the clarifications contained in this final rule will help states avoid unnecessary implementation costs. For example, the final rule makes clear that the electronic reporting requirement for Notices of Termination (NOTs) applies only to general permit covered facilities (see Table 1 to Appendix A, 40 CFR part

127) and not to individually permitted facilities.

## **II. Background**

EPA published the NPDES eRule on 22 October 2015. The 2015 rule required EPA and states to modernize Clean Water Act (CWA) reporting for municipalities, industries and other facilities. The rule replaced most paper-based NPDES reporting requirements with electronic reporting. The rule converted the following paper reports to electronic: (1) Discharge Monitoring Reports (DMRs); (2) general permit reports (e.g., Notices of Intent to discharge in compliance with a general permit); and (3) other specified program reports. The NPDES eRule included a phased implementation schedule (40 CFR 127.26). Most states and permittees have successfully implemented Phase 1 of the NPDES eRule, which includes electronic submission of DMRs and the Federal Biosolids Annual Report where EPA is the Regulatory Authority.

The NPDES eRule requires EPA to calculate electronic reporting participation rates for each authorized NPDES program six months after the deadline for conversion from paper to electronic submissions and annually thereafter [see 40 CFR 127.26(j)]. The compliance deadlines for Phase 1 of the NPDES eRule were 21 December 2016 and included NPDES Data Groups No. 3 (Discharge Monitoring Reports or “DMRs”) and No. 4 [Sewage Sludge/ Biosolids Annual Program Reports, where EPA implements the biosolids program (40 CFR part 503)]. EPA’s first three assessments have shown considerable progress in Phase 1 implementation (see DCN 0012—0014), although more work needs to be done to achieve the full benefits of Phase 1. Current tracking of Phase 1 implementation is available through the “NPDES eRule Readiness Dashboard.” See: <https://echo.epa.gov/trends/npdes-erule-dashboard-public>. EPA recognizes that there are a number of states who have not fully implemented Phase 1. Given that EPA is today postponing the Phase 2 deadlines, EPA is committed to focusing additional attention to ensure that it is receiving all Phase 1 data. There are a number of mechanisms that EPA can use to ensure it receives all Phase 1 data. EPA has been working with states, providing in-kind technical assistance and Exchange Network grant funding (see <https://www.epa.gov/exchangenetwork/exchange-network-grant-program>). In addition, EPA could use the initial recipient procedure to expedite the conversion to electronic reporting for DMRs (see 40 CFR 127.27). The initial recipient procedure allows

EPA to direct NPDES permittees to use EPA's electronic reporting tools for one or more NPDES data groups if the authorized NPDES program cannot fully meet the requirements to be an initial recipient.

Electronic submission of all other reports and notices covered by the NPDES eRule are part of Phase 2 implementation. See Table 1 to 40 CFR 127.16. The online "NPDES eRule Phase 2 Implementation Dashboard" provides an inventory of all general permits and program reports covered by the NPDES eRule. See: [https://edap.epa.gov/public/extensions/eRule\\_Phase2/eRule\\_Phase2.html](https://edap.epa.gov/public/extensions/eRule_Phase2/eRule_Phase2.html). This dashboard also provides an updated view of EPA's progress in gathering information and deploying NPDES electronic reporting tools for Phase 2 general permits and program reports (see DCN 0015).

EPA and states are now focusing on implementing Phase 2 of the NPDES eRule and continuing their work on implementing Phase 1. EPA and states are now gathering information and deploying NPDES electronic reporting tools for Phase 2 reports. EPA and states are collaborating and sharing information through multiple workgroups. EPA used these workgroups to provide states with more information on Phase 2 implementation. See: <https://www.epa.gov/compliance/data-entry-guidance-and-technical-papers>. The EPA-state General Permit and Program Report Technical Workgroup meets monthly and focuses on the EPA Regional and state general permits and program reports that will use EPA's NPDES Electronic Reporting Tool (NeT) for Phase 2 data. The EPA-state NPDES Noncompliance Report (NNCR) workgroup is discussing how to identify, categorize, sort, and display violations on the NNCR. This workgroup is discussing how best to implement the new NNCR regulations in 40 CFR 123.45.

EPA received letters from authorized NPDES programs on how to improve Phase 2 implementation of the NPDES eRule. The letters recommended changes to the schedule for Phase 2 implementation to allow both EPA and states sufficient time to develop and implement the information technology solutions necessary for electronic reporting of the Phase 2 data (see DCN 0001 to 0009).

In response to the feedback from the states in the letters and oral communications, EPA proposed changes to the NPDES eRule to allow for a smoother transition from paper to electronic reporting for the NPDES program (see February 28, 2020; 85 FR 11909). EPA received comments on the

proposal from seven states, one state association, and one anonymous commenter. The final rule addresses these comments and postpones the compliance deadlines for Phase 2 implementation period of the NPDES eRule. This final rule also provides states with additional flexibility to request additional time as needed. Further, this final rule promulgates clarifying changes to the NPDES eRule and eliminates some duplicative or outdated reporting requirements.

Finally, in a separate rulemaking, EPA has finalized updates to the minimum set of NPDES program data (Appendix A to 40 CFR part 127) for the municipal separate storm sewer systems (MS4s) sector. See April 15, 2020; 85 FR 20873. These changes to the NPDES eRule correct obsolete citations and previous inconsistencies with the newly modified MS4 Phase II regulations. See December 8, 2016; 81 FR 89320. These updates do not change the burden associated with complying with the NPDES eRule but, rather, these changes assist permitting authorities and MS4 permittees in implementing NPDES electronic reporting.

### III. Postponement of Phase 2 Compliance Deadlines

#### A. Phase 2 Implementation Deadline

This final rule postpones the compliance deadlines for Phase 2 implementation of the NPDES eRule from December 21, 2020, to December 21, 2025 (see Table 1 to 40 CFR 127.16). EPA received comments from seven authorized NPDES programs and one state association on how to improve Phase 2 implementation of the NPDES eRule (see Document Nos: EPA-HQ-OECA-2019-0408-0022 through 0029; available at <https://www.regulations.gov>).

The comments were generally supportive of the proposed rule and requested more time for Phase 2 implementation than the three-year extension in the proposed rule. The Association of Clean Water Administrators (ACWA) and other states requested that, "EPA should invest the necessary resources to complete the ICIS-NPDES updates and to meet all NeT/NetDMR commitment obligations to allow states and EPA to meet the new deadlines . . . States are also very interested in engaging with EPA to identify and prioritize important areas for updating/enhancing ICIS-NPDES." ACWA and other states noted their appreciation for EPA's financial support through the Exchange Network Grant Program. They also requested that EPA make additional dedicated grant

funding available to States for NPDES eRule implementation. ACWA also expressed appreciation for the continuing opportunities to participate on workgroups associated with NPDES eRule implementation.

ACWA and state commenters recommended that EPA extend the Phase 2 compliance deadlines for Phase 2 implementation by five years instead of the proposed three years. ACWA noted that it does not believe that three years will be adequate time to complete all the necessary work, especially with the current COVID-19 crisis undermining the efficiency of some of this work over the next six to twelve months. Iowa noted that the postponement of the compliance deadline will allow states and tribes to explore more cost-effective options for electronic reporting. ACWA also suggested an alternative proposal that would set the Phase 2 compliance deadline to be three years after EPA completes the necessary upgrades to its national NPDES data system to enable receipt of Phase 2 data.

The final rule provides EPA and states with five additional years to implement Phase 2. This timeframe responds to state comments for more time and addresses concerns about the potential delays due to the COVID-19 pandemic response. In addition, extending the Phase 2 compliance deadline by two additional years will provide EPA and authorized NPDES programs with additional time to complete the development of electronic tools. Maintaining a fixed date rather than tying the deadline to completion of certain electronic reporting solutions can help prioritize resources and focus attention on the tasks necessary for the conversion to electronic reporting.

In addition to postponing the Phase 2 compliance deadlines to December 21, 2025, EPA is adding a reference to the alternative Phase 2 compliance deadlines provisions at 40 CFR 127.24(e) or (f). This is discussed in more detail below. Other than the changes to the Phase 2 compliance deadlines and the addition of the reference to the alternative Phase 2 compliance deadlines provisions, EPA is not making any other changes to the requirements in these sections.

#### B. Deadline for Public Release of NNCR

EPA proposed to delay the public release date of the NNCR by one year, to December 21, 2022. EPA noted in the preamble to the proposed rule that this date will allow EPA and states to use the new NNCR as EPA is making decisions on its next round of National Compliance Initiatives. See: <https://>

[www.epa.gov/enforcement/national-compliance-initiatives](http://www.epa.gov/enforcement/national-compliance-initiatives). EPA further explained that it would only be able to provide Phase 1 data in the NNCR initially and would need to modify the NNCR as Phase 2 data becomes available.

ACWA on behalf of several states recommended that public release of the NNCR (both Phase 1 and Phase 2) be delayed until known data quality issues are resolved.

In response, EPA has added regulatory language that explicitly creates separate deadlines for the public release of the NNCR using Phase 1 data (December 2022) and Phase 2 data (one year after the draft report is made available to states but no later than December 2026). The NNCR public release dates for Phase 2 data would be phased in over time to give states at least one year to review and provide comments on draft versions of the NNCR that incorporates Phase 2 data before EPA releases a new version to the public. EPA will provide states with an informal notice whenever a new draft version of the NNCR using Phase 2 data is ready for their review and comment. This will help EPA and states identify and fix data quality and data sharing issues. The deadline for issuance of the version of the NNCR that incorporates all Phase 2 data will be December 2026, *i.e.*, one year after revised deadline for implementation of Phase 2 (similar to the approach in the 2015 NPDES eRule).

Phase 1 data are already provided to the public through ECHO, so even if data quality issues exist, the public already has access to Phase 1 data, which includes noncompliance data. EPA does not think it is necessary to delay public release of the NNCR for Phase 1 beyond December 2022. As previously noted, EPA and states have made significant progress in implementing Phase 1 and EPA has held frequent meetings with states on how to develop the NNCR and improve data sharing between EPA and authorized NPDES programs. EPA will continue to help states improve their compliance with the data sharing requirements in the NPDES eRule for Phase 1 data. In particular, EPA has provided technical support to authorized states to resolve data sharing problems and has developed a series of online dashboards to identify missing or inaccurate Phase 1 data and track improvements in Phase 1 data sharing. The benefit of this approach will be to give EPA, states, and the public a complete inventory of facilities with violations based on the most currently available set of NPDES program data. This will help EPA and states identify noncompliance issues

that might impact human health or the environment.

#### IV. Alternative Phase 2 Compliance Deadlines

In addition to postponing the Phase 2 compliance deadlines, EPA is adding two regulatory provisions that create additional flexibility for Phase 2 compliance. These two new provisions respond to the requests from ACWA and from authorized NPDES programs for more time to develop and implement the information technology solutions necessary for electronic reporting of the Phase 2 data.

The first regulatory provision [40 CFR 127.24(e)] allows authorized NPDES programs to request additional time beyond December 21, 2025 to implement Phase 2 of the NPDES eRule. Under this provision, an authorized NPDES program must send a request to EPA for review and approval. This request must identify the facilities, general permits, program reports, or data elements for which the authorized NPDES program needs additional time beyond December 21, 2025. For example, a state may seek approval from EPA to postpone implementation of electronic reporting for a NPDES general permit until an agreed-upon time after December 21, 2025, but no later than December 21, 2028. EPA estimates that no authorized state will need more time than that fixed date, which is thirteen years after the effective date of the 2015 NPDES eRule. This waiver might be helpful if a state has a permit or program report that is a lower priority for electronic reporting (*e.g.*, a general permit that provides coverage for 10 or fewer NPDES-regulated entities) and for which electronic reporting tool development is delayed.

While states may make multiple requests for compliance deadline extensions beyond December 21, 2025, EPA will not grant extensions beyond December 21, 2028. Under today's rule, each alternative Phase 2 compliance deadline request must:

- Be submitted to EPA by the Director, as defined in 40 CFR 122.2;
- Identify each general permit, program report, and related data elements covered by the request and the corresponding alternative compliance deadline(s);
- Identify each facility covered by the request and the corresponding alternative compliance deadline(s) (Note: This only applies if the request covers some but not all facilities covered by the relevant general permit or program report requirement);
- Be submitted at least 120 days prior to the then-applicable compliance

deadline(s) in Table 1 to 40 CFR 127.16 or a previously EPA approved alternative compliance deadline; and

- Provide a rationale for the delay and enough details (*e.g.*, tasks, milestones, roles and responsibilities, necessary resources) to clearly describe how the program will successfully implement electronic reporting for the general permit, program report, and related data elements covered by the request.

EPA will review each alternative Phase 2 compliance deadline request to determine if it provides enough detail to accurately assess if the state has a reasonable plan to deploy electronic reporting by the requested alternative Phase 2 compliance deadline. EPA will return alternative Phase 2 compliance deadline requests with insufficient detail back to the Director within 30 days of receipt and provide recommendations. EPA intends to approve or deny each complete alternative Phase 2 compliance deadline request within 120 days of receipt of a sufficiently detailed request. EPA will provide notice to the authorized NPDES program of EPA's approval or denial. The authorized NPDES program may re-apply if the initial request is denied by EPA.

EPA may elect to deny an alternative Phase 2 compliance deadline request and then continue to follow the procedure in the existing rule for determining the initial recipient of electronic NPDES information (see 40 CFR 127.27). EPA must become the initial recipient of electronic NPDES information from NPDES-regulated facilities if the state, tribe, or territory does not consistently maintain electronic data transfers in compliance with the NPDES eRule [see 40 CFR 127.27(d)(2)]. EPA will update its website with each alternative Phase 2 compliance deadline request and the corresponding Agency approval or denial notice. EPA will provide updated information at: <https://www.epa.gov/compliance/npdes-ereporting>. EPA will also update its website and online "NPDES eRule Phase 2 Implementation Dashboard" to clearly identify the approved alternative Phase 2 compliance deadlines for each facility, general permit report, program report, and related data elements by authorized NPDES program.

The second regulatory provision [40 CFR 127.24(f)] authorizes EPA to, on its own initiative, allow for additional time for one or more authorized NPDES programs (states and EPA Regions) to implement NPDES electronic reporting beyond December 21, 2025. Under this provision, EPA may establish an

alternative Phase 2 compliance deadline for electronic reporting and data sharing for one or more facilities, general permit reports, program reports, and related data elements (see Table 2 to Appendix A to 40 CFR part 127). Use of this provision may be necessary if EPA has not yet deployed the required electronic reporting tool (when EPA is responsible for building the tool) or if EPA has not yet deployed the protocols and systems for authorized NPDES programs to share one or more data elements with EPA (when the state is responsible for building the tool or generating the data). Under the provision, EPA may set an alternative Phase 2 compliance deadline for up to three years but not beyond December 21, 2028. EPA will update its website and online “NPDES eRule Phase 2 Implementation Dashboard” to clearly identify the alternative Phase 2 compliance deadlines for each facility, general permit report, program report, and related data elements by authorized NPDES program.

Separately, EPA will provide notice to the one or more authorized NPDES programs covered by each alternative Phase 2 compliance deadline through an email or letter. This EPA notice will detail how EPA will implement electronic reporting (when EPA is responsible for deploying one or more electronic reporting tools) or how EPA will receive data from authorized NPDES programs (when the state is responsible for deploying one or more electronic reporting tools). This section of the rule does not change the process for designating the initial recipient of electronic NPDES information from NPDES-regulated facilities (see 40 CFR 127.27). This additional flexibility will also allow more time for EPA and authorized NPDES programs to resolve any issues related to the sharing of Phase 2 data.

ACWA and most states requested that EPA remove the prohibition against further extensions beyond the fixed 3-year date. States cited the uncertainties ahead with the COVID-19 pandemic response, as well as concerns that there could be further slippage in EPA’s schedule for updating the ICIS-NPDES data system and developing data collection tools under EPA’s NPDES electronic reporting Tool (“NeT”), whether related to the pandemic or for other reasons.

The final rule retains the proposed option for a fixed date that is three years beyond the revised Phase 2 Compliance Deadlines. This means that EPA can approve extensions up to, but not beyond, December 21, 2028. As previously noted, EPA estimates that no authorized state will need more time

than that fixed date, which is thirteen years after the effective date of the 2015 NPDES eRule. This approach will help focus EPA and state efforts on NPDES electronic reporting and help expedite the benefits of electronic reporting to NPDES-regulated entities.

Finally, the Iowa Department of Natural Resources (Iowa DNR) commented that the language of the proposed 40 CFR 127.24(f) could be read to authorize EPA to delay electronic reporting and establish an implementation schedule for a state without that state’s consent. Iowa recommended in a meeting with EPA that EPA modify the language to make clear that EPA cannot dictate to states how electronic reporting will be implemented if the state is meeting the implementation schedule in the rule (see Table 1, 40 CFR 127.16, and 40 CFR 127.23). See DCN 0027. In response, EPA clarifies that this new provision does not alter the approach taken in the 2015 NPDES eRule that gives states the option to build and deploy one or more electronic reporting tools. EPA does not dictate to states how electronic reporting will be implemented if the state is meeting its obligations under the rule (e.g., implementation schedule, data collection and sharing requirements) and complying with EPA’s Cross-media Electronic Reporting Rule (40 CFR part 3). EPA modified the language in 40 CFR 127.24(f) to make clear that this provision does not make any changes to the initial recipient designation process, which is documented at 40 CFR 127.27.

#### **V. Clarifying Edits for More Efficient Implementation and 2019 NPDES Updates Rule Changes**

EPA solicited comment on several clarifying edits to the 2015 NPDES eRule (see February 28, 2020; 85 FR 11913). These proposed changes are intended to clarify and streamline NPDES eRule implementation. EPA received two comments on these changes.

ACWA noted its support for the “minor refinements to the NPDES eReporting Rule to reflect lessons learned over the last five years, to streamline NPDES eRule implementation, and to clarify several Appendix A data elements/descriptions, which include a number of suggestions provided directly by states.” ACWA also stated that it, “does not currently have any further specific recommendations for these provisions/sections but expects individual states may provide such. Where appropriate, ACWA can help EPA identify whether such recommendations are supported by a

majority of the states.” EPA thanks ACWA for the comment and its offer of help in implementing NPDES electronic reporting.

An anonymous commenter noted that, “The proposed rule asks for both the SIC code and NAICS code to be submitted. Requiring both seems like an undue burden on the regulated community, given the regulatory benefit. Since SIC codes are outdated, only NAICS codes should be required and SIC codes should be optional.” EPA notes that the comment on the collection of SIC code data as an “undue burden on the regulated community” is outside the scope of this rulemaking as the data sharing requirements in this final rule are imposed on the authorized NPDES programs and not on the regulated community. EPA established the data sharing requirements on the regulated community in the 2019 NPDES Applications and Program Updates Final Rule (see 12 February 2019; 84 FR 3324). Authorized NPDES programs must update their NPDES permit applications to collect four-digit Standard Industrial Classification (SIC) codes and the six-digit NAICS codes (see 84 FR 3327).

EPA used the NPDES Electronic Reporting Rule—Phase 2 Extension proposed rule to solicit comment on updates to the minimum set of NPDES data that authorized NPDES program must share with EPA (see 28 February 2020; 85 FR 11923). EPA proposed that states share these data for both individual and general permit covered facilities. This would ensure that there is consistent and complete reporting nationwide of industrial classification data, which are useful for regulatory decisions and program oversight. EPA proposed to require states to share these NAICS code data with EPA when they approve NPDES permit coverage as this will help lower the implementation costs to states. Additionally, EPA does not see the continued sharing of these SIC code data with EPA as undue burden on states. EPA did not receive any negative comments regarding the burden of these revised data sharing requirements on authorized NPDES programs.

Additionally, for reason set forth in the proposed rule and in this preamble to the final rule, EPA is amending the NPDES eRule to incorporate clarifying changes. The changes adopted in the final rule:

- Correct the title for 40 CFR 123.45
- Provide greater clarity and specificity for the NNCR Category I noncompliance definitions
- Correct Appendix A deficiency descriptions

- Correct data element name, description, and reference for Biosolids or Sewage Sludge—Land Application or Surface Disposal Deficiencies
- Correct the title of the “Sewer Overflow/Bypass Event Report”
- Delete the following two data elements: Reportable Noncompliance Tracking and Reportable Noncompliance Tracking Start Date
- Provide greater clarity for the “Facility Concentrated Aquatic Animal Production (CAAP) Status” data element name and description
- Provide greater clarity on the ‘Permit Component’ data element with respect to unpermitted facilities
- Provide greater clarity on the Notice of Termination (NOT) electronic reporting requirements
- Provide greater clarity on the “Applicable Effluent Limitations Guidelines” data element and delete the duplicative data element, “Applicable Categorical Standards”
- Provide greater clarity on the “Receiving Waterbody Name for Permitted Feature” data element name and description
- Require NAICS Code Data to match the 2019 NPDES Applications and Program Updates Final Rule
- Add Variance Data Elements to Appendix A to match the 2019 NPDES Applications and Program Updates Final Rule
- Make two editorial changes to the NNCR language as noted below

Specifically, Arkansas provided suggestions in comments on the proposed rule to clarify the noncompliance reporting language at Appendix A, 40 CFR 123.45 (see EPA–HQ–OECA–2019–0408–0027). These comments noted that the criteria for monthly average permit limit violations for determining Category I noncompliance should be clarified as lower thresholds. These comments suggested the following clarifying changes to Appendix A, 40 CFR 123.45 (underlined text below are the suggested additions).

- Violations of monthly average permit effluent limits which exceed or equal the product of the Technical Review Criteria (TRC) times the permit effluent limit and occur *in any two or more* months in a six-month period.
- Violations of monthly average permit effluent limits which are exceeded in any four *or more* months in a six-month period.

EPA incorporated these changes into Appendix A, 40 CFR 123.45, as they provide greater clarity on how these

criteria currently work as lower thresholds for triggering Category I noncompliance and represent the Agency’s long-standing interpretation and implementation of these criteria (see Enforcement Management System: National Pollutant Discharge Elimination System (Clean Water Act), Chapter VII, DCN 0028).

## VI. Assistance to States To Implement Phase 2

EPA will continue to provide technical assistance and support to authorized NPDES programs during the transition to electronic reporting. This includes building electronic reporting tools for authorized NPDES programs that elect to use these tools and to support the development of new data transfer protocols. EPA will also provide states with the data sharing protocols for Phase 2 data prior to December 21, 2025. EPA will give states enough guidance and training ahead of this deadline so that states have an orderly means to share these data with EPA. Authorized NPDES programs can request EPA’s assistance for electronic reporting by submitting a request to [NPDESreporting@epa.gov](mailto:NPDESreporting@epa.gov).

EPA offers authorized programs financial assistance through the Exchange Network Grant Program. This program provides funding to states, territories, and federally recognized Indian tribes to support the development of the National Environmental Information Exchange Network. The primary outcome expected from Exchange Network assistance agreements is improved access to, and exchange of, high-quality environmental data from public and private sector sources. More information on this program is available at: <https://www.epa.gov/exchangenetwork/exchange-network-grant-program>.

EPA will continue to work with authorized NPDES programs to implement NPDES electronic reporting. This includes the use of workgroups to help authorized NPDES programs share data with EPA and to provide recommendations on how EPA should build the NNCR. Authorized NPDES programs can contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to learn how to join these workgroups.

## VII. Statutory and Executive Order Reviews

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

*B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

*C. Paperwork Reduction Act*

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2617.02. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

EPA has primary responsibility for ensuring the CWA’s NPDES program is effectively and consistently implemented nationwide, thus ensuring that public health and environmental protection goals of the CWA are met. EPA is taking this action pursuant to CWA sections 101(f), 304(i), 308, 402, and 501. The accurate, complete, and timely information collected under this ICR will help EPA and states more efficiently implement the 2015 NPDES eRule. The improved information sharing would increase transparency and accountability and help EPA and authorized NPDES programs collaborate and measure progress in implementing the 2015 NPDES eRule. This information collection would provide EPA with more timely, consistent, and accurate inventory of all general permits and program reports, the number of facilities that must electronically submit reports, and the online location of state electronic reporting tools [see 40 CFR 123.43(d)].

Receiving current high-level data on general permits and program reports is critical to EPA’s ability to oversee and manage authorized NPDES programs. Authorizing the burden under this ICR will allow EPA to provide timely assistance to authorized NPDES programs as they implement the NPDES eRule. The general permits and program reports inventory will help promote

efficiencies in NPDES eRule implementation as states will be able to use this information to identify other states that have already developed electronic reporting tools and may be able to provide helpful information or advice.

*Respondents/affected entities:* This ICR covers the 47 states and one U.S. Territory authorized to implement the NPDES program.

*Respondent's obligation to respond:* Mandatory (40 CFR 123.43(d) and 127.24(e)).

*Estimated number of respondents:* 48.

*Frequency of response:* EPA estimates that twelve authorized NPDES programs will provide updated information on general permits and program reports and the related electronic reporting tools each month. Additionally, all 48 authorized NPDES programs will conduct an annual review and update of EPA's inventory. Finally, EPA estimates that approximately 15 authorized NPDES programs will prepare and submit an alternative Phase 2 compliance deadline request during the three-year period covered by the ICR.

*Total estimated burden:* 416 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* \$25,418 (per year), includes \$0 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. In addition, the EPA is amending the table in 40 CFR part 9 to list the regulatory citations for the information collection activities contained in this final rule.

#### *D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action does not affect small entities as the changes in this action only directly covers states, tribes, and territories that have NPDES program authorization. The RFA defines "small governmental jurisdiction" as the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000 (5 U.S.C. 601(5)). For the purposes of the RFA, States and tribal governments are not considered small governments. The final rule indirectly affects NPDES permittees as it postpones the compliance dates for Phase 2 implementation. Any costs

associated with this postponement are expected to be minimal for each regulatory entity.

#### *E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The changes in this action help streamline the implementation of the NPDES eRule and provide states with more flexibility. EPA estimates that the additional time and flexibility afforded by the changes will help lower the implementation costs.

#### *F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

#### *G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. This action does not affect small entities as the changes in this action only cover states, tribes, and territories that have NPDES program authorization. Currently there are no tribal governments that are authorized for the NPDES program. Thus, Executive Order 13175 does not apply to this action.

#### *H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The changes in this action only cover states, tribes, and territories that have NPDES program authorization.

#### *I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

#### *J. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

#### *K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The changes in this action only cover states, tribes, and territories that have NPDES program authorization.

#### *L. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### **List of Subjects**

##### *40 CFR Part 9*

Environmental protection, Reporting and recordkeeping requirements.

##### *40 CFR Part 122*

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

##### *40 CFR Part 123*

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

##### *40 CFR Part 127*

Environmental protection, Administrative practice and procedure, Automatic data processing, Electronic data processing, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal, Water pollution control.

##### *40 CFR Part 403*

Environmental protection, Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.



40 CFR Part 503

Environmental protection, Reporting and recordkeeping requirements, Sewage disposal.

Andrew Wheeler, Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR parts 9, 122, 123, 127, 403, and 503 as follows:

**PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT**

■ 1. The authority citation for part 9 continues to read as follows:

**Authority:** 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add an entry for “127.24” in numerical order under the undesignated center heading “NPDES Electronic Reporting” to read as follows:

**§ 9.1 OMB approvals under the Paperwork Reduction Act.**

40 CFR citation	OMB control No.
<b>NPDES Electronic Reporting</b>	
127.24	2020–0037

**PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

■ 3. The authority citation for part 122 continues to read as follows:

**Authority:** The Clean Water Act, 33 U.S.C. 1251 *et seq.*

■ 4. In § 122.26, revise paragraphs (b)(15)(i)(C) and (g)(1)(iii) to read as follows:

**§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 123.25).**

(b) \* \* \*  
 (15) \* \* \*  
 (i) \* \* \*  
 (C) As of December 21, 2025 or an EPA-approved alternative date (*see* 40 CFR 127.24(e) or (f)), all certifications submitted in compliance with paragraphs (b)(15)(i)(A) and (B) of this section must be submitted electronically by the owner or operator to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, owners or operators may be required to report electronically if specified by a particular permit or if required to do so by state law.

\* \* \* \* \*  
 (g) \* \* \*  
 (1) \* \* \*  
 (iii) Submit the signed certification to the NPDES permitting authority once every five years. As of December 21, 2025 or an EPA-approved alternative date (*see* 40 CFR 127.24(e) or (f)), all certifications submitted in compliance with this section must be submitted electronically by the owner or operator to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, owners or operators may be required to report electronically if specified by a particular permit or if required to do so by state law.

■ 5. In § 122.28, revise paragraph (b)(2)(i) to read as follows:

**§ 122.28 General permits (applicable to State NPDES programs, see § 123.25).**

\* \* \* \* \*  
 (b) \* \* \*  
 (2) \* \* \*  
 (i) Except as provided in paragraphs (b)(2)(v) and (vi) of this section, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Director a notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge, (or in the case of sludge disposal permit, to engage in a sludge

use or disposal practice), under the terms of the general permit unless the general permit, in accordance with paragraph (b)(2)(v), contains a provision that a notice of intent is not required or the Director notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with paragraph (b)(2)(vi). A complete and timely, notice of intent (NOI), to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes of §§ 122.6, 122.21, and 122.26. As of December 21, 2025 or an EPA-approved alternative date (*see* 40 CFR 127.24(e) or (f)), all notices of intent submitted in compliance with this section must be submitted electronically by the discharger (or treatment works treating domestic sewage) to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, discharger (or treatment works treating domestic sewage) may be required to report electronically if specified by a particular permit or if required to do so by state law.

■ 6. In § 122.34, revise paragraph (d)(3) introductory text to read as follows:

**§ 122.34 Permit requirements for regulated small MS4 permits.**

\* \* \* \* \*  
 (d) \* \* \*  
 (3) *Reporting.* Unless the permittee is relying on another entity to satisfy its NPDES permit obligations under § 122.35(a), the permittee must submit annual reports to the NPDES permitting authority for its first permit term. For subsequent permit terms, the permittee must submit reports in year two and four unless the NPDES permitting authority requires more frequent reports. As of December 21, 2025 or an EPA-approved alternative date (*see* 40 CFR 127.24(e) or (f)), all reports submitted in compliance with this section must be submitted electronically by the owner, operator, or the duly authorized representative of the small MS4 to the NPDES permitting authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40



CFR part 127, the owner, operator, or the duly authorized representative of the small MS4 may be required to report electronically if specified by a particular permit or if required to do so by state law. The report must include:

\* \* \* \* \*

■ 7. In § 122.41, revise paragraphs (l)(6)(i), (l)(7), and (m)(3)(i) and (ii) to read as follows:

**§ 122.41 Conditions applicable to all permits (applicable to State programs, see § 123.25).**

\* \* \* \* \*

(l) \* \* \*

(6) \* \* \*

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A report shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. As of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, permittees may be required to

electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

\* \* \* \* \*

(7) *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under paragraphs (l)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6). For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports shall contain the information described in paragraph (l)(6) and the applicable required data in appendix A to 40 CFR part 127. As of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

\* \* \* \* \*

(m) \* \* \*

(3) \* \* \*

(i) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass. As of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all notices submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3

(including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

(ii) *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice). As of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all notices submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

\* \* \* \* \*

■ 8. In § 122.42, revise paragraphs (c) and (e)(4) introductory text to read as follows:

**§ 122.42 Additional conditions applicable to specified categories of NPDES permits (applicable to State NPDES programs, see § 123.25).**

\* \* \* \* \*

(c) *Municipal separate storm sewer systems.* The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under § 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the permit for such system. As of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all reports submitted in compliance with this section must be submitted electronically by the owner, operator, or the duly authorized representative of the MS4 to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, the owner, operator, or the duly authorized representative of the MS4 may be required to report electronically

if specified by a particular permit or if required to do so by state law. The report shall include:

\* \* \* \* \*

(e) \* \* \*

(4) *Annual reporting requirements for CAFOs.* The permittee must submit an annual report to the Director. As of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all annual reports submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, the permittee may be required to report electronically if specified by a particular permit or if required to do so by state law. The annual report must include:

\* \* \* \* \*

■ 9. In § 122.64, revise paragraph (c) to read as follows:

**§ 122.64 Termination of permits (applicable to State programs, see § 123.25).**

\* \* \* \* \*

(c) Permittees that wish to terminate their permit must submit a Notice of Termination (NOT) to their permitting authority. If requesting expedited permit termination procedures, a permittee must certify in the NOT that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. As of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all NOTs submitted by general permit covered facilities in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D), § 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, the permittee may be required to report electronically if specified by a particular permit or if required to do so by State law.

**PART 123—STATE PROGRAM REQUIREMENTS**

■ 10. The authority citation for part 123 continues to read as follows:

*Authority:* Clean Water Act, 33 U.S.C. 1251 *et seq.*

■ 11. In § 123.45, revise the section heading, the introductory text, paragraphs (a)(2)(i) through (iv), and appendix A to § 123.45 to read as follows:

**§ 123.45 Noncompliance and program reporting.**

As of December 21, 2022, EPA must prepare and publish online public (quarterly and annual) reports using data from Discharge Monitoring Reports [40 CFR 122.41(l)(4)], Biosolids Annual Program Reports [40 CFR part 503] (when the Regional Administrator is the Director), and information that is required to be submitted by the State Director (see Appendix A, 40 CFR part 127). As of December 21, 2026, EPA must prepare and publish online public (quarterly and annual) reports using information that is required to be submitted by NPDES-regulated facilities and the State Director (see Appendix A, 40 CFR part 127). EPA will provide authorized NPDES programs with at least one year to review and provide comments on draft versions of the NNCR prior to their public release.

(a) \* \* \*

(2) \* \* \*

(i) *Enforcement order violations.*

These include violations of any requirement or condition in administrative or judicial enforcement orders, other than compliance construction violations and reporting violations.

(ii) *Compliance construction violations.* These include failure to start construction, complete construction, or achieve final compliance within 90 days after the date established in a permit, administrative or judicial order, or regulation.

(iii) *Permit effluent limit violations.* These include violations of permit effluent limits that exceed the “Criteria for Category I Permit Effluent Limit Violations” in appendix A to § 123.45.

(iv) *Reporting violations.* These include failure to submit a required report within 30 days after the date established in a permit, administrative or judicial order, or regulation. These reports only include final compliance schedule progress reports, Discharge Monitoring Reports (see 40 CFR 122.41(l)(4)(i)), and program reports (see 40 CFR 127.2(f)). In addition, these violations also include any failure to comply with the reporting requirements at 40 CFR 122.41(l)(6).

\* \* \* \* \*

**Appendix A to § 123.45—Criteria for Category I Permit Effluent Limit Violations**

This appendix describes the criteria for reporting Category I violations of NPDES permit effluent limits in the NPDES noncompliance report (NNCR) as specified under paragraph (a)(2)(iii) of this section. Any violation of a NPDES permit is a violation of the Clean Water Act (CWA) for which the permittee is liable. As specified in paragraph (a)(2) of this section, there are two categories of noncompliance, and the table below indicates the thresholds for violations in Category I. An agency’s decision as to what enforcement action, if any, should be taken in such cases, shall be based on an analysis of facts, legal requirements, policy, and guidance.

*Violations of Permit Effluent Limits*

The categorization of permit effluent limit violations depends upon the magnitude and/or frequency of the violation. Effluent violations shall be evaluated on a parameter-by-parameter and outfall-by-outfall basis. The criteria for Category I permit effluent limit violations apply to all Group I and Group II pollutants and are as follows:

a. *Criteria for Category I Violations of Monthly Average Permit Effluent Limits—Magnitude and Frequency*

Violations of monthly average permit effluent limits which exceed or equal the product of the Technical Review Criteria (TRC) times the permit effluent limit and occur in any two or more months in a six-month period. The TRCs for the two groups of pollutants are as follows:

- Group I Pollutants (TRC) = 1.4
- Group II Pollutants (TRC) = 1.2

The following is a listing of the Group I and Group II pollutants.

**Group I Pollutants**

*Oxygen Demand*

- Biochemical Oxygen Demand
- Chemical Oxygen Demand
- Total Oxygen Demands
- Total Organic Carbon
- Other

*Solids*

- Total Suspended Solids (Residues)
- Total Dissolved Solids (Residues)
- Other

*Nutrients*

- Inorganic Phosphorus Compounds
- Inorganic Nitrogen Compounds
- Other

*Detergents and Oils*

- MBAS
- NTA
- Oil and Grease
- Other detergents or alcidides

*Minerals*

- Calcium
- Chloride
- Fluoride
- Magnesium
- Sodium

- Potassium
- Sulfur
- Sulfate
- Total Alkalinity
- Total Hardness
- Other Minerals

*Metals*

- Aluminum
- Cobalt
- Iron
- Vanadium

**Group II Pollutants**

*Metals (all forms)*

- Other metals not specifically listed under Group I

*Inorganic*

- Cyanide
- Total Residual Chlorine

*Organics*

- All organics are Group II except those specifically listed under Group I.

b. Criteria for Category I Violations of Monthly Average Permit Effluent Limits—Chronic

Violations of monthly average permit effluent limits which are exceeded in any four or more months in a six-month period.

**PART 127—NPDES ELECTRONIC REPORTING**

■ 12. The authority citation for part 127 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 13. In § 127.16, revise the table in paragraph (a) to read as follows:

**§ 127.16 Implementation of electronic reporting requirements for NPDES permittees, facilities, and entities subject to this part [see § 127.1(a)].**

(a) \* \* \*

TABLE 1 TO § 127.16(a)—COMPLIANCE DEADLINES FOR ELECTRONIC SUBMISSIONS OF NPDES INFORMATION

NPDES information	Compliance deadlines for electronic submissions <sup>1</sup>
General Permit Reports [Notices of Intent to discharge (NOIs); Notices of Termination (NOTs); No Exposure Certifications (NOEs); Low Erosivity Waivers (LEWs) and other Waivers] [40 CFR 122.26(b)(15), 122.28, and 122.64].	December 21, 2025.
Discharge Monitoring Reports [40 CFR 122.41(l)(4)] .....	December 21, 2016.
Biosolids Annual Program Reports [40 CFR part 503] .....	December 21, 2016 (when the Regional Administrator is the Director). <sup>2</sup>
Concentrated Animal Feeding Operation (CAFO) Annual Program Reports [40 CFR 122.42(e)(4)] .....	December 21, 2025 (when the state, tribe or territory is the authorized NPDES program). <sup>2</sup>
Municipal Separate Storm Sewer System (MS4) Program Reports [40 CFR 122.34(d)(3) and 122.42(c)] .....	December 21, 2025.
POTW Pretreatment Program Annual Reports [40 CFR 403.12(i)] .....	December 21, 2025.
Significant Industrial User Compliance Reports in Municipalities Without Approved Pretreatment Programs [40 CFR 403.12(e) and (h)].	December 21, 2025.
Sewer Overflow/Bypass Event Reports [40 CFR 122.41(l)(4), (6), (7), and 122.41(m)(3)] .....	December 21, 2025.
CWA 316(b) Annual Reports [40 CFR part 125 subparts I, J, and N] .....	December 21, 2025.

<sup>1</sup> EPA may approve an alternative compliance deadline for general permit reports and program reports in accordance with § 127.24(e) and (f).

<sup>2</sup> Note: Director is defined in 40 CFR 122.2.

\* \* \* \* \*

■ 14. In § 127.21, revise paragraph (b) to read as follows:

**§ 127.21 Data to be reported electronically to EPA by states, tribes, and territories.**

\* \* \* \* \*

(b) States, tribes, and territories that have received authorization from EPA to implement the NPDES program must electronically transfer these data, listed in § 127.21(a), to EPA within 40 days of the completed activity or within 40 days of the receipt of a report from a NPDES permittee, facility, or entity subject to this part (see § 127.1(a)). EPA may set an alternative compliance deadline for data sharing for one or more facilities, general permit reports, program reports, and related data elements (see 40 CFR 127.24) provided this alternative compliance date does not extend beyond December 21, 2028.

■ 15. In § 127.24, revise the section heading and add paragraphs (e) and (f) to read as follows:

**§ 127.24 Responsibilities regarding review of waiver requests from NPDES permittees, facilities, and entities subject to this part [see § 127.1(a)] and alternative compliance deadlines.**

\* \* \* \* \*

(e) A state, tribe, or territory that is designated by EPA as the initial recipient (see §§ 127.2(b) and 127.27) for a NPDES data group [as defined in § 127.2(c)] may submit a request to EPA to establish an alternative compliance deadline for electronic reporting of one or more general permit reports, program reports, and related data elements (see Table 2 to appendix A). A State may request to establish an alternative compliance deadline for up to three years beyond the currently applicable date but not beyond December 21, 2028. It is the duty of the authorized NPDES program to apply for a new alternative compliance deadline.

(1) The alternative compliance deadline request shall:

- (i) Be submitted to EPA by the Director, as defined in 40 CFR 122.2;
- (ii) Identify each general permit, program report, and related data

elements covered by the request and the corresponding alternative compliance deadline(s);

(iii) Identify each facility covered by the request and the corresponding alternative compliance deadline(s) (*Note:* This only applies if the request covers some but not all facilities subject to the general permit or program report requirement);

(iv) Be submitted at least 120 days prior to the applicable compliance deadline in Table 1 to 40 CFR 127.16 or an alternative compliance deadline previously approved by EPA; and

(v) Provide a rationale for the delay and enough details (*e.g.*, tasks, milestones, roles and responsibilities, necessary resources) to clearly describe how the program will successfully implement electronic reporting for general permit, program report, and related data elements covered by the request.

(2) EPA will review each alternative compliance deadline request to see if it provides enough detail to accurately assess if the state has a reasonable plan

to deploy electronic reporting by the requested alternative compliance deadline. EPA will return alternative compliance deadline requests with insufficient detail back to the Director within 30 days of receipt and provide recommendations. EPA intends to approve or deny each complete alternative compliance deadline request within 120 days of receipt. EPA will provide notice to the authorized NPDES program of EPA's approval or denial. The authorized NPDES program may re-apply if the initial request is denied by EPA.

(3) EPA will update its website after it approves a request to clearly identify the approved alternative compliance deadlines for each facility, general permit report, program report, and related data elements by authorized NPDES program. EPA will also post each alternative compliance deadline request and the corresponding Agency approval or denial notice after each determination. EPA will provide updated information on its website.

(f) EPA may, as it deems appropriate, establish an alternative compliance deadline for electronic reporting and data sharing for one or more facilities, general permit reports, program reports, and related data elements (see Table 2 to appendix A) in one or more authorized NPDES programs. EPA may establish an alternative compliance deadline up to three years beyond the currently applicable date, but in no event beyond December 21, 2028. Separately, EPA will provide notice to each authorized NPDES program covered by each alternative compliance deadline. This notice will detail how EPA will implement electronic reporting (when EPA is responsible for deploying one or more electronic reporting tools) or how it will receive data from authorized NPDES programs (when the authorized NPDES program is responsible for deploying one or more electronic reporting tools). EPA will update its website to clearly identify the

alternative compliance deadlines for each facility, general permit report, program report, and related data elements by authorized NPDES program. This paragraph does not change the process for designating the initial recipient of electronic NPDES information from NPDES-regulated facilities. See § 127.27.

- 16. In appendix A to part 127:
  - a. In table 1, revise the entry for “9”; and
  - b. In table 2:
    - i. Under the center heading “Basic Permit Information”, revise the entries “Permit Component”, “Applicable Effluent Limitations Guidelines”, “NAICS Code”, and “NAICS Code Primary Indicator”;
    - ii. Under the center heading “Basic Permit Information”, remove the entries for “Reportable Noncompliance Tracking” and “Reportable Noncompliance Tracking Start Date”;
    - iii. Under the center heading “Permitted Feature Information”, remove the entry for “Receiving Waterbody Name for Permitted Feature” and add in its place “Waterbody Name for Permitted Feature”;
    - iv. Remove the center heading “Animal Feeding Operation Information on NPDES Permit Application or Notice of Intent” and add in its place “Animal Feeding Operation Information”;
    - v. Under the newly revised center heading “Animal Feeding Operation Information”, remove the entry for “Facility CAAP Designation” and add in its place “Facility CAAP Status”;
    - vi. Under the center heading “Pretreatment Information on NPDES Permit Application or Notice of Intent (this includes permit application data required for all new and existing POTWs (40 CFR 122.21(j)(6))”, remove the entry for “Applicable Categorical Standards”;
    - vii. Under the center heading “Cooling Water Intake Information on NPDES Permit Application or Notice of Intent”, revise the entry for “Source Water for Cooling Purposes”;

- viii. Remove the center heading “CWA section 316(a) Thermal Variance Information on NPDES Permit Application or Notice of Intent” and add in its place “NPDES Variance Information”;
- ix. Under the newly revised center heading “NPDES Variance Information”, remove the entry “Thermal Variance Request Type” and add in its place “Variance Type” and remove the entry “Thermal Variance Granted Date” and add in its place “Variance Action Date”;
- x. Under the newly revised center heading “NPDES Variance Information”, add entries for “Variance Request Version”, “Variance Status”, and “Variance Submission Date” after the entry for “Variance Type”;
- xi. Under the center heading “Compliance Monitoring Activity Information (Program Data Generated from Authorized NPDES Programs and EPA)”, revise the entries for “Deficiencies Identified Through the Biosolids/Sewage Sludge Compliance Monitoring”, “Deficiencies Identified Through the MS4 Compliance Monitoring”, “Deficiencies Identified Through the Pretreatment Compliance Monitoring”, and “Deficiencies Identified Through the Sewer Overflow/Bypass Compliance Monitoring”; and
- xii. Under the center heading “Compliance Monitoring Activity Information (Data Elements Specific to Sewage Sludge/Biosolids Annual Program Reports)”, remove the entry “Biosolids or Sewage Sludge—Land Application or Surface Disposal Deficiencies” and add in its place “Biosolids or Sewage Sludge-Violations”.

The revisions and additions read as follows:

**Appendix A to Part 127—Minimum Set of NPDES Data**

\* \* \* \* \*

TABLE 1—DATA SOURCES AND REGULATORY CITATIONS <sup>1</sup>

NPDES data group No. <sup>2</sup>	NPDES data group	Program area	Data provider	Minimum frequency <sup>3</sup>
*	*	*	*	*
9 .....	Sewer Overflow/Bypass Event Reports [40 CFR 122.41(l)(4), (6), (7), and 122.41(m)(3)].	Sewer Overflows and Bypass Events.	NPDES Permittee ..	Within 5 days of the time the permittee becomes aware of the sewer overflow event (health or environment endangerment); Monitoring report frequency specific in permit (all other sewer overflow and bypass events); At least 10-days before the date of the anticipated bypass; and Within 5-days of the time the permittee becomes aware of the unanticipated bypass.

TABLE 1—DATA SOURCES AND REGULATORY CITATIONS<sup>1</sup>—Continued

NPDES data group No. <sup>2</sup>	NPDES data group	Program area	Data provider	Minimum frequency <sup>3</sup>
*	*	*	*	*

<sup>1</sup> Entities regulated by a NPDES permit will comply with all reporting requirements in their respective NPDES permit.

<sup>2</sup> Use the “NPDES Data Group Number” in this table and the “NPDES Data Group Number” column in Table 2 of this appendix to identify the source of the required data entry. EPA notes that electronic systems may use additional data to facilitate electronic reporting as well as management and reporting of electronic data. For example, NPDES permittees may be required to enter their NPDES permit number (“NPDES ID”—NPDES Data Group 1 and 2) into the applicable electronic reporting system in order to identify their permit and submit a Discharge Monitoring Report (DMR—NPDES Data Group 3). Additionally, NPDES regulated entities may be required to enter and submit data to update or correct erroneous data. For example, NPDES permittees may be required to enter new data regarding the Facility Individual First Name and Last Name (NPDES Data Group 1 and 2) with their DMR submission when there is a facility personnel change.

<sup>3</sup> The applicable reporting frequency is specified in the NPDES permit or control mechanism, which may be more frequent than the minimum frequency specified in this table.

TABLE 2—REQUIRED NPDES PROGRAM DATA

Data name	Data description	CWA, regulatory (40 CFR), or other citation	NPDES data group No. (see Table 1)
*	*	*	*

**Basic Permit Information**

Permit Component .....	This will identify one or more applicable NPDES subprograms (e.g., pretreatment, CAFO, CSO, POTW, biosolids/sewage sludge, stormwater) for the permit record. This field is only required when the permit includes one or more NPDES subprograms. This data element is also required for unpermitted facilities when the authorized NPDES programs is required to share facility, inspection, violation, or enforcement action data regarding these facilities with EPA's national NPDES data system.	122.2, 122.21, 122.21(j)(6), 122.21(q), 122.28(b)(2)(ii), 123.26, 123.41(a), 123.43(d), 403.10, and 501.19.	1, 2.
Applicable Effluent Limitations Guidelines.	This data element will identify the one or more applicable effluent limitations guidelines and new source performance standards for the facility by the corresponding 40 CFR part number (e.g., part 414—Organic chemicals, plastics, and synthetic fibers point source category, part 433—Metal Finishing point source category). For Categorical Industrial Users (CIUs) this data element will track the one or more applicable categorical standards even when the CIU is subject to one or more local limits that are more stringent than the applicable categorical standards. This data element will also identify if there are no applicable effluent limitations guidelines, new source performance standards, or categorical standards for the facility (including Significant Industrial Users (SIUs)). This data element can be updated by the Control Authority for SIUs and CIUs through submission of the Pretreatment Program Reports [40 CFR 403.12(i)]. Additionally, the authorized NPDES program can automate the creation of these data through submission of the Notices of Intent to discharge (NOI) [40 CFR 122.28(b)(2)(ii)].	122.21, 122.21(j)(6), 122.21(q), 122.44, 122.44(j), 122.28(b)(2)(ii), 403.10(e), 403.10(f), 403.12(i).	1, 2, and 7.
NAICS Code .....	The one or more six-digit North American Industry Classification System (NAICS) codes/descriptions that represents the economic activity of the facility. This field is required to be shared with the U.S. EPA when authorized NPDES programs approve NPDES permit coverage after June 12, 2021 (i.e., two years after the effective date of the 2019 NPDES Applications and Program Updates Rule). See February 12, 2019; 84 FR 3324.	40 CFR 122.21(f)(3), 122.28(b)(2)(ii), EPA SIC/NAICS Data Standard, Standard No. EX000022.2, 6 January 2006, Office of Management and Budget, Executive Office of the President, Final Decision on North American Industry Classification System (62 FR 17288), 403.10(f).	1, 2, and 7.

TABLE 2—REQUIRED NPDES PROGRAM DATA—Continued

Data name	Data description	CWA, regulatory (40 CFR), or other citation	NPDES data group No. (see Table 1)
NAICS Code Primary Indicator.	This data element will identify the primary economic activity, NAICS code, of the facility. This data element is required for electronic data transfer between state and EPA systems. This field is required to be shared with the U.S. EPA when authorized NPDES programs approve NPDES permit coverage after June 12, 2021 (i.e., two years after the effective date of the 2019 NPDES Applications and Program Updates Rule). See February 12, 2019; 84 FR 3324.	40 CFR 122.21(f)(3), 122.28(b)(2)(ii), EPA SIC/NAICS Data Standard, Standard No. EX000022.2, 6 January 2006, Office of Management and Budget, Executive Office of the President, Final Decision on North American Industry Classification System (62 FR 17288), 403.10(f).	1, 2, and 7.
*	*	*	*
<b>Permitted Feature Information</b>			
Waterbody Name for Permitted Feature.	The name of the waterbody that is or will likely receive the discharge from each permitted feature. If the permitted feature is a cooling water intake structure, this data element is the name of the source water. Authorized NPDES programs can also use this data element to identify the name of the source water for other intake structures that are permitted features.	122.21, 122.21(f)(9), 122.28(b)(2)(ii) .....	1,2.
*	*	*	*
<b>Animal Feeding Operation Information</b>			
Facility CAAP Status .....	The unique code/description to indicate whether the facility includes Concentrated Aquatic Animal Production (CAAP) and the CAAP identification method [e.g., "Yes (Based on Facility Production Data)", "Yes (Authorized NPDES Program Designation)"]. This field also applies when an authorized NPDES program has conducted an on-site inspection of an aquatic animal production facility and determined that the facility should not be regulated under the NPDES permit program [e.g., "No (Authorized NPDES Program Determination)"]. This data element only applies to aquatic animal production facilities. This data element can be automatically generated from production data that is provided by aquatic animal production facilities.	122.21(i)(2), 122.24, 122.25, 122.28(b)(2)(ii) .....	1,2.
*	*	*	*
<b>Cooling Water Intake Information on NPDES Permit Application or Notice of Intent</b>			
Source Water for Cooling Purposes.	The unique code/description that describes the one or more source water for cooling purpose for each cooling water intake structure [e.g., 1 = Ocean, 2 = Estuary, 3 = Great Lake, 4 = Fresh River, 5 = Lake/Reservoir, 6 = contract or arrangement with an independent supplier (or multiple suppliers)]. Each cooling water intake structure will have its own "Permitted Feature ID"	122.21(f)(9), 122.21(r), 122.28(b)(2)(ii), 125.86, 125.95, 125.136, 401.14 and CWA section 316(b).	1, 2.
*	*	*	*
<b>NPDES Variance Information</b>			
Variance Type .....	The unique code(s)/description(s) that describes the type for each variance request submitted by the NPDES-regulated entity [e.g., fundamentally different factors (CWA Section 301(n)), non-conventional pollutants (CWA Section 301(c) and (g)), water quality related effluent limitations (CWA Section 302(b)(2)), thermal discharges (CWA Section 316(a)), discharges to marine waters (CWA Section 301(h))]. This field is required to be shared with the U.S. EPA when authorized NPDES programs approve NPDES permit coverage after June 12, 2021 (i.e., two years after the effective date of the 2019 NPDES Applications and Program Updates Rule). See February 12, 2019; 84 FR 3324.	122.21(f)(10), 122.21(j)(1)(ix), 122.28(b)(2)(ii), 123.41, subpart H of 125 and CWA section 316(a).	1.

TABLE 2—REQUIRED NPDES PROGRAM DATA—Continued

Data name	Data description	CWA, regulatory (40 CFR), or other citation	NPDES data group No. (see Table 1)
Variance Request Version ...	The unique code(s)/description(s) that describe whether each variance request from the NPDES-regulated entity is a new request, renewal, or a continuance for variances that do not expire. This field is required to be shared with the U.S. EPA when authorized NPDES programs approve NPDES permit coverage after June 12, 2021 (i.e., two years after the effective date of the 2019 NPDES Applications and Program Updates Rule). See February 12, 2019; 84 FR 3324.	122.21(f)(10), 122.21(j)(1)(ix), 122.28(b)(2)(ii), 123.41, subpart H of 125 and CWA section 316(a).	1.
Variance Status .....	The unique code(s)/description(s) that describes the status for each the variance request submitted by the NPDES-regulated entity (e.g., pending, approved, denied, withdrawn by NPDES-regulated entity, terminated). This field is required to be shared with the U.S. EPA when authorized NPDES programs approve NPDES permit coverage after June 12, 2021 (i.e., two years after the effective date of the 2019 NPDES Applications and Program Updates Rule). See February 12, 2019; 84 FR 3324.	122.21(f)(10), 122.21(j)(1)(ix), 122.28(b)(2)(ii), 123.41, subpart H of 125 and CWA section 316(a).	1.
Variance Submission Date ..	This is the date for each variance request submitted by the NPDES-regulated entity to the NPDES permitting authority. The date must be provided in YYYY-MM-DD format where YYYY is the year, MM is the month, and DD is the day. This field is required to be shared with the U.S. EPA when authorized NPDES programs approve NPDES permit coverage after June 12, 2021 (i.e., two years after the effective date of the 2019 NPDES Applications and Program Updates Rule). See February 12, 2019; 84 FR 3324.	122.21(f)(10), 122.21(j)(1)(ix), 122.28(b)(2)(ii), 123.41, subpart H of 125 and CWA section 316(a).	1.
Variance Action Date .....	This is the date for each variance request when the NPDES permitting authority approves (grants, renews), denies, or terminates a variance request as well as the date when the NPDES-regulated entity withdraws the variance request. For variances that do not expire, this is the original action date. The date must be provided in YYYY-MM-DD format where YYYY is the year, MM is the month, and DD is the day. This field is required to be shared with the U.S. EPA when authorized NPDES programs approve NPDES permit coverage after June 12, 2021 (i.e., two years after the effective date of the 2019 NPDES Applications and Program Updates Rule). See February 12, 2019; 84 FR 3324.	122.21(f)(10), 122.21(j)(1)(ix), 122.28(b)(2)(ii), 123.41, subpart H of 125 and CWA section 316(a).	1.
*	*	*	*
*	*	*	*

**Compliance Monitoring Activity Information (Program Data Generated from Authorized NPDES Programs and EPA)**

Deficiencies Identified Through the Biosolids/ Sewage Sludge Compliance Monitoring.	This is the unique code/description that identifies each deficiency in the facility's biosolids and sewage sludge program (40 CFR part 503) for each compliance monitoring activity (e.g., inspections, audits) by the regulatory authority. This data element includes unique codes to identify when the facility failed to comply with any applicable permit requirements or enforcement actions.	123.26, 123.41(a), and CWA section 308 .....	1.
Deficiencies Identified Through the MS4 Compliance Monitoring.	This is the unique code/description that identifies each deficiency in the MS4's program to control stormwater pollution for each compliance monitoring activity (e.g., inspections, audits) by the regulatory authority. This data element includes unique codes to identify when the MS4 failed to comply with any applicable permit requirements or enforcement actions.	123.26, 123.41(a), and CWA section 308 .....	1.
Deficiencies Identified Through the Pretreatment Compliance Monitoring.	This is the unique code/description that identifies each deficiency in the POTW's authorized pretreatment program for each pretreatment compliance monitoring activity (e.g., inspections, audits) by the regulatory authority. These unique codes include: (1) Failure to enforce against pass through and/or interference; (2) failure to submit required reports within 30 days; (3) failure to meet compliance schedule milestones within 90 days; (4) failure to issue/reissue control mechanisms to 90% of SIUs within 6 months; (5) failure to inspect or sample 80% of SIUs within the past 12 months; and (6) failure to enforce standards and reporting requirements.	123.26, 123.41(a), 403.10, and CWA section 308 .....	1.



TABLE 2—REQUIRED NPDES PROGRAM DATA—Continued

Data name	Data description	CWA, regulatory (40 CFR), or other citation	NPDES data group No. (see Table 1)
Deficiencies Identified Through the Sewer Overflow/Bypass Compliance Monitoring.	This is the unique code/description that that identifies each deficiency in the POTW's control of combined sewer overflows, sanitary sewer overflows, or bypass events for each compliance monitoring activity (e.g., inspections, audits) by the regulatory authority. This data element includes unique codes to identify when a POTW has failed to provide 24-hour notification to the NPDES permitting authority or failed to submit the Sewer Overflow/Bypass Event Report within the required 5-day period. This data element also includes unique codes to identify when the POTW failed to comply with any applicable long-term CSO control plan, permit requirements, or enforcement actions.	122.41(h), 122.41(i)(6) and (7), 122.43, 123.26, 1. 123.41(a), and CWA sections 308 and 402(q)(1).	1.

Compliance Monitoring Activity Information (Data Elements Specific to Sewage Sludge/Biosolids Annual Program Reports)

Biosolids or Sewage Sludge—Violations.	This data element is applicable to facilities that use land application, active surface disposal site (e.g., monofills, surface impoundments, lagoons, waste piles, dedicated disposal sites, and dedicated beneficial use sites), and/or incineration. This data element uses one or more unique codes/descriptions to identify all violations. This includes violations of additional or more stringent requirements (40 CFR 503.5), sampling and analysis requirements (40 CFR 503.8), land application requirements (40 CFR 503, Subpart B), surface disposal requirements (40 CFR 503, Subpart C), pathogen and vector attraction reduction requirements (40 CFR 503, Subpart D), and incineration requirements (40 CFR 503, Subpart E).	503.18, 503.28, 503.48	4.
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Notes:

- (1) The NPDES program authority may pre-populate these data elements and other data elements (e.g., Federal Registry System ID) in the NPDES electronic reporting systems in order to create efficiencies and standardization. For example, the NPDES program authority may configure their electronic reporting system to automatically generate NPDES IDs for control mechanisms for new facilities reported on a Pretreatment Program Report [40 CFR 403.12(i)]. Additionally, the NPDES program authority may decide whether to allow NPDES regulated entities to override these pre-populated data.
- (2) The data elements in this table conform to the EPA's policy regarding the application requirements for renewal or reissuance of NPDES permits for discharges from Phase I municipal separate storm sewer systems (published in the FEDERAL REGISTER on August 6, 1996).
- (3) The data elements in this table are also supported by the Office Management and Budget approved permit applications and forms for the NPDES program.
- (4) These data will allow EPA and the NPDES program authority to link facilities, compliance monitoring activities, compliance determinations, and enforcement actions. For example, these data will provide several ways to make the following linkages: linking violations to enforcement actions and final orders; linking single event violations and compliance monitoring activities; linking program reports to DMRs; linking program reports to compliance monitoring activities; and linking enforcement activities and compliance monitoring activities.

**PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION**

■ 17. The authority citation for part 403 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 18. In § 403.12, revise paragraphs (e)(1), (h), and (i) to read as follows:

**§ 403.12 Reporting requirements for POTW's and industrial users.**

\* \* \* \* \*

(e) \* \* \*

(1) Any Industrial User subject to a categorical Pretreatment Standard (except a Non-Significant Categorical User as defined in § 403.3(v)(2)), after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Control Authority during

the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority or the Approval Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in paragraph (b)(4) of this section except that the Control Authority may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of

the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may modify the months during which the above reports are to be submitted. For Industrial Users for which EPA or the authorized state, tribe, or territory is the Control Authority, as of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all reports submitted in compliance with this section must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, the Industrial Users for which EPA

or the authorized state, tribe, or territory is the Control Authority may be required to report electronically if specified by a particular control mechanism or if required to do so by state law.

\* \* \* \* \*

(h) *Reporting requirements for Industrial Users not subject to categorical Pretreatment Standards.* The Control Authority must require appropriate reporting from those Industrial Users with Discharges that are not subject to categorical Pretreatment Standards. Significant Non-categorical Industrial Users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in 40 CFR part 136 of this chapter and amendments thereto. This sampling and analysis may be performed by the Control Authority in lieu of the significant non-categorical Industrial User. For Industrial Users for which EPA or the authorized state, tribe, or territory is the Control Authority, as of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all reports submitted in compliance with this section must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, the Industrial Users for which EPA or the authorized state, tribe, or territory is the Control Authority may be required to report electronically if specified by a particular control mechanism or if required to do so by state law.

(i) *Annual POTW reports.* POTWs with approved Pretreatment Programs shall provide the Approval Authority with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved

in the local program. The report required by this section shall be submitted no later than one year after approval of the POTW's Pretreatment Program, and at least annually thereafter, and must include, at a minimum, the applicable required data in appendix A to 40 CFR part 127. The report required by this section must also include a summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority and any other relevant information requested by the Approval Authority. As of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all annual reports submitted in compliance with this section must be submitted electronically by the POTW Pretreatment Program to the Approval Authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to 40 CFR part 3), 40 CFR 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR part 127, the Approval Authority may also require POTW Pretreatment Programs to electronically submit annual reports under this section if specified by a particular permit or if required to do so by state law.

\* \* \* \* \*

#### **PART 503—STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE**

■ 19. The authority citation for part 503 continues to read as follows:

**Authority:** Sections 405 (d) and (e) of the Clean Water Act, as amended by Pub. L. 95–217, sec. 54(d), 91 Stat. 1591 (33 U.S.C. 1345 (d) and (e)); and Pub. L. 100–4, title IV, sec. 406 (a), (b), 101 Stat., 71, 72 (33 U.S.C. 1251 *et seq.*).

■ 20. Revise § 503.18 to read as follows:

##### **§ 503.18 Reporting.**

Class I sludge management facilities, POTWs (as defined in § 501.2 of this chapter) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve 10,000 people or more shall submit a report on February 19 of each year. As of December 21, 2016, all reports submitted in compliance with this section must be submitted electronically by the operator to EPA when the Regional Administrator is the Director in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR part 127. Otherwise, as of

December 21, 2025, or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all reports submitted in compliance with this section must be submitted electronically in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to 40 CFR part 3), 40 CFR 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to the compliance deadlines for electronic reporting (see Table 1 in 40 CFR 127.16), the Director may also require operators to electronically submit annual reports under this section if required to do so by State law.

(a) The information in § 503.17(a), except the information in § 503.17(a)(3)(ii), (a)(4)(ii) and in (a)(5)(ii), for the appropriate requirements on February 19 of each year.

(b) The information in § 503.17(a)(5)(ii)(A) through (G) on February 19th of each year when 90 percent or more of any of the cumulative pollutant loading rates in Table 2 of § 503.13 is reached at a land application site.

■ 21. Revise § 503.28 to read as follows:

##### **§ 503.28 Reporting.**

Class I sludge management facilities, POTWs (as defined in 40 CFR 501.2) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve 10,000 people or more shall submit a report on February 19 of each year. As of December 21, 2016, all reports submitted in compliance with this section must be submitted electronically by the operator to EPA when the Regional Administrator is the Director in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to 40 CFR part 3), 40 CFR 122.22, and 40 CFR part 127. Otherwise, as of December 21, 2025, or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all reports submitted in compliance with this section must be submitted electronically in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to 40 CFR part 3), 40 CFR 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to the compliance deadlines for electronic reporting (see Table 1 in 40 CFR 127.16), the Director may also require operators to electronically submit annual reports under this section if required to do so by state law.

■ 22. Revise § 503.48 to read as follows:

**§ 503.48 Reporting.**

Class I sludge management facilities, POTWs (as defined in § 501.2 of this chapter) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve a population of 10,000 people or greater shall submit a report on February 19 of each year. As of December 21, 2016, all reports submitted in compliance with this section must be submitted electronically by the operator to EPA when the Regional Administrator is the Director in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to 40 CFR part 3), 40 CFR 122.22, and 40 CFR part 127. Otherwise, as of December 21, 2025, or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all reports submitted in compliance with this section must be submitted electronically in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR part 127. 40 CFR part 127 is not intended to undo existing requirements for electronic reporting. Prior to the compliance deadlines for electronic reporting (see Table 1 in 40 CFR 127.16), the Director may also require operators to electronically submit annual reports under this section if required to do so by state law.

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**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****43 CFR Part 8340**

[LLWO430000.L1220000.XM0000.20x 24 1A]

RIN 1004–AE72

**Increasing Recreational Opportunities Through the Use of Electric Bikes**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Land Management (BLM) is amending its off-road vehicle (ORV) regulations to add a definition for electric bikes (e-bikes) and, where certain criteria are met and an authorized officer expressly determines through a formal decision that e-bikes should be treated the same as non-motorized bicycles, expressly exempt those e-bikes from the definition of ORV. The regulatory change effectuated by this rule has the potential to facilitate increased recreational opportunities for all Americans,

especially those with physical limitations, and could encourage additional enjoyment of lands and waters managed by the BLM.

**DATES:** This final rule is effective on December 2, 2020.

**FOR FURTHER INFORMATION CONTACT:** Britta Nelson, National Conservation Lands and Community Partnerships, 303–236–0539. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week, to leave a message or question with the previously mentioned point of contact. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Discussion of the Final Rule and Comments on the Proposed Rule
- III. Procedural Matters

**I. Background**

The Federal Land Policy and Management Act (FLPMA) directs the BLM to manage public lands for multiple use and sustained yield (unless otherwise provided by law) and to provide for outdoor recreation (43 U.S.C. 1702). Many visitors ride bicycles on BLM-managed public lands. Improvements in bicycle technology have made bicycling an option for more people and have made public lands more accessible to cyclists. One bicycle design modification growing in popularity is the addition of a small electric motor that provides power assistance to the rider and reduces the physical exertion required. Electric bicycles (also known as e-bikes) are available in an ever-expanding range of design types (urban commuter, full suspension mountain, fat-tire, gear hauler bikes, etc.) and electric assist capabilities (limited by speed, wattage, output algorithms, etc.). E-bikes are commonly used in different capacities, such as transportation and recreation.

By reducing the physical demand associated with bicycling, e-bikes expand recreational opportunities for the public, including for people with limitations stemming from age, illness, disability, or fitness, and in more challenging environments, such as high altitudes or mountainous terrain. The presence of a small electric motor on e-bikes, however, has created uncertainty about whether e-bikes should be treated in the same manner as other types of non-motorized bicycles or as ORVs subject to the BLM's regulations at 43 CFR part 8340.

On August 29, 2019, the Secretary of the Interior issued Secretary's Order

(SO) 3376 to address regulatory uncertainty regarding how agencies within the Department of the Interior (DOI) manage e-bikes. Specifically, SO 3376 sets forth the general policy of the DOI that e-bikes should be allowed where non-motorized types of bicycles are allowed and not allowed where non-motorized types of bicycles are prohibited. SO 3376 directs the BLM to revise its ORV regulations at 43 CFR 8340.0–5 to be consistent with SO 3376. The Bureau of Reclamation, U.S. Fish and Wildlife Service, and National Park Service are also revising their regulations for consistency with SO 3376.

**II. Discussion of the Final Rule and Comments on the Proposed Rule**

The BLM published a proposed rule on April 10, 2020 (85 FR 20229), soliciting public comments for 60 days. During the comment period, the BLM received almost 24,000 submissions from members of the public, including senior citizens, avid cyclists, hikers, equestrians and equestrian associations, and cycling organizations and manufacturers, as well as state and local governments. Each public comment was considered in the development of the final rule. Many comments were supportive of the proposed rule, with some expressing support for increased opportunities for people to ride e-bikes on public lands and for e-bikes to be treated similarly to traditional, non-motorized bikes by land managers. The BLM also received comments that were critical of the proposed rule. Some of these comments expressed concern over potential user conflicts or resource damage that may result from allowing e-bikes on roads and trails that are currently closed to ORVs. Meanwhile, some comments expressed a desire for consistency in the management of e-bikes across different agencies.

In the proposed rule, the BLM requested information from the public on the potential social and physical impacts of e-bike use on public lands. Studies and reports were provided in conjunction with many of the comments and cover a variety of topics, such as safety, hazards, health benefits, user conflict, attitudes and perceptions, elk behavior, soil displacement, speed comparisons, impacts to grizzly bears, snowmobiles, impacts to wildlife, impacts of roads, strategic planning, crash likelihood, and battery flammability. While some studies and reports address e-bikes specifically, others do not. Many studies extrapolate their findings to e-bike use, management, and effects. The BLM