



December 12, 2013

Ms. Cynthia Giles
Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

THE
ENVIRONMENTAL
COUNCIL OF
THE STATES

Regarding Docket ID Number EPA-HQ-OECA-2009-0274

Submitted to www.regulations.gov and via E-mail

Dear Assistant Administrator Giles:

50 F Street, N.W.
Suite 350
Washington, D.C. 20001

We are writing to you today on behalf of the Environmental Council of the States (ECOS) regarding the U.S. Environmental Protection Agency's (EPA) proposed rule, "NPDES Electronic Reporting Rule," (e-reporting rule) Docket ID Number EPA-HQ-OECA-2009-0274. ECOS and the states appreciate the opportunity to comment on EPA's proposed rule related to the National Pollutant Discharge Elimination System (NPDES). ECOS also urges EPA to consider comments submitted from individual states and state associations.

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ECOS is the national nonprofit, nonpartisan association of state and territorial environmental agency leaders. Congress included provisions in many of our nation's major federal environmental statutes that allow the federal government, through EPA, to delegate to the states and tribes meeting qualifications the day-to-day management of environmental programs. The federal statutes were designed to recognize states as partners and co-regulators, allowing the states to issue and enforce permits, carry out inspections and monitoring, collect data, and set standards.

Dick Pedersen
Director, Oregon Department of
Environmental Quality
PRESIDENT

In general, states support electronic reporting and EPA's efforts to improve reporting efficiency, increase transparency and data availability, improve compliance, and support compliance monitoring strategies to target the most serious problems. States do not wish to delay unnecessarily EPA's efforts to move toward greater electronic reporting.

Robert Martineau
Commissioner, Tennessee Department
of Environment and Conservation
VICE PRESIDENT

The proposed rule is a significant document to review and comprehend.¹ The comments here reflect an attempt to provide EPA feedback on those issues that appear to be the most significant with the caveat that this feedback cannot fully encompass all state concerns given the magnitude of EPA's proposed rule and the accompanying documents.

Martha Rudolph
Director of Environmental Programs,
Colorado Department of Public Health
and Environment
SECRETARY-TREASURER

EPA's proposed rule requires that over 465,000 NPDES regulated entities electronically submit:

Teresa Marks
Director, Arkansas Department of
Environmental Quality
PAST PRESIDENT

1. Discharge monitoring reports (DMRs);

¹ EPA's proposed NPDES electronic reporting rule is 110 pages long, defines over 400 data fields, and includes 97 individual supporting documents in the docket (as cited in the user guide). The proposed rule includes a 20 page user guide.

Carolyn Hanson
Acting Executive Director

2. General permit reports [Notices of Intent to discharge (NOIs), notices of terminations (NOTs), no exposure certifications (NECs), and low erosivity waivers (LEWs)]; and
3. Program reports, including pretreatment program annual reports, industrial users in cities without approved pretreatment programs periodic compliance monitoring reports, biosolids program annual reports, concentrated animal feeding operation (CAFO) annual reports, municipal separate storm sewer systems reports (MS4s), combined sewer overflows (CSOs) or bypass event reports, and sanitary sewer overflows (SSOs) bypass event reports.

The proposed rule requires that authorized states submit data on inspections, violation determinations, and enforcement actions. Authorized states must also share basic facility and permit information.

While the states want the rule to be functional and effective and are willing to collaborate with EPA, there are significant implementation issues that need to be addressed. Rollout of this new rule is important, and must be pursued in a practical and thoughtful manner. States and EPA must talk candidly and openly about rollout in a way that will lead to changes in the final rule.

This letter draws upon consensus state positions as captured in the following ECOS resolutions. These resolutions are submitted for your consideration along with this letter.

- Resolution 13-4, Environmental Performance Data and Metrics
- Resolution 11-2, Respectful Use of Data
- Resolution 09-4, State/EPA Commitment to the Full Implementation of the National Environmental Information Exchange Network
- Resolution 07-4, Clean Water Act National Pollutant Discharge Eliminations System (NPDES) Management Framework
- Resolution 00-1, On Environmental Federalism
- Resolution 11-6, Consideration of State Administrative Costs

Some overall general comments follow below, and more specific comments are included in the attachment following this letter.

1. E-Enterprise.

The states and EPA have been working together as co-regulators through ECOS to identify ways to use advanced information and monitoring technologies to electronically conduct business such as reporting and monitoring. The streamlining and integration of business processes and IT systems to improve efficiency, data quality, and environmental protection are core tenets of E-Enterprise. In particular, proactively seeking to streamline, modernize, or develop new approaches while looking to automate existing processes is a key concept.

The E-Enterprise effort continues to evolve through ongoing state and EPA discussions, and the proposed NPDES e-reporting rule complements these collaborative efforts.

2. Implementation Timing and Costs

The states believe the implementation timeline for the proposed e-reporting rule should be extended. States and EPA should work jointly to develop a more reasonable and achievable timeframe for implementation. EPA has included timeframes in the proposed rule of 120 days for a state to seek to become the initial recipient of data, of Phase I data being reported within one year, of Phase II data being reported within 2 years, and other significant benchmarks. Given, for instance, the budget, procurement and development cycles, state readiness criteria and Cross-Media Electronic Reporting Regulation (CROMERR) approval timelines, available staff resources and system reliability issues, the proposed timeframes in the rule are not sufficient to develop a robust and reliable system.

EPA's economic analysis estimates that the total cost for state authorized NPDES programs to implement the electronic reporting rule is \$23.1 million (see Table 4-11 Implementation Costs of the Rule). Furthermore, "the largest annual impact on states is \$12.0 million (occurring within the first year after the effective date)," as noted

in EPA's consultation with states and tribes document. Over half of the costs to implement the rule for a state will occur within the first year after the effective date of the rule.

States recognize the benefits to the regulated community, the public and the environment from sound data and robust metrics will generally outweigh reasonable costs of those systems so long as there is careful state-EPA coordination and a focus on efficient data management. Nevertheless, due to the current limited staffing and resources at the state level, states question their ability within the proposed timeline to sustain the anticipated need for an increase in Information Technology (IT) staff, technical support staff, Quality Assurance/Quality Control verification and system operation, maintenance and testing costs that the proposed e-reporting rule will require.

3. Environmental Performance Data and Metrics

Careful state-EPA coordination and focus on effective and efficient data management is necessary. States urge EPA to work with states through a joint decision-making process such as the E-Enterprise Leadership Council prior to revising the reporting requirements.

The collection of data should be based on a valid need or business case analysis, conducted by relevant program staff. Adequate time for this analysis is needed along with a robust state-EPA dialogue about what data an authorized program needs for effective program management. As this proposed NPDES e-reporting rule is the first major rule from EPA focused on electronic reporting, the data set in Appendix A may be seen as precedent-setting for other e-reporting initiatives from other media offices.

States also request that EPA consider the on-going costs of data collection, evaluation, and management as integral parts of program management and provide states with the flexibility necessary to allow data costs to be covered under both program and environmental information categorical grants.

For collected data, states request that data be put into context (i.e., metadata that explains what the data is and is not). States request that EPA seek state involvement in the development of context descriptions.

States have had difficulty with data quality and verification issues associated with, in particular, EPA's Integrated Compliance Information System (ICIS) federal database. States find that, for instance, the design of the data entry fields in ICIS do not necessarily match the data elements. This, in turn, causes difficulty for the states to conduct their data verification processes. Also, some states find it challenging to attain meaningful and accurate reports out of the federal database and are unable to replicate reports due to the way EPA synthesizes data. With the onset of the proposed e-reporting rule, the states urge EPA to address these types of challenges associated with ICIS.

4. Custodian of Official Administrative Record.

EPA has shared on calls with states that data is the "state's data" where the state has delegated program authority even if initially reported to EPA. The rule should include explicit language reflecting this concept. States wish to maintain the current roles and responsibilities in practice under program delegation.

An authorized state may not qualify to receive electronic reports from regulated entities "initially." In this case, EPA would receive electronic reports directly from regulated entities located in a state with delegated program authority. This scenario raises several points that need clarification. The rule should make clear that the state has primary responsibility to follow up with non-reporting facilities when a state is the delegated program authority and EPA is the recipient of NPDES data. The rule should also make clear that the state has primary authority to issue enforcement action for non-submittals when a state is the delegated program authority and EPA is the recipient of NPDES data. And the rule should address what happens if the delegated state finds problems with data accepted electronically by EPA.

Data, even if received by EPA first, is an integral part of a delegated program managed by an authorized state. As such, states should have timely and complete access to this information. It is critical that states maintain direct

access to federal data systems for states that use these data systems as their official systems of record. Access plans must include allowing for access during upsets such as a federal government shutdown or other disruption.

If a facility must report to both EPA and states, the administrative burden and potential for data discrepancies may be increased for states, EPA, and regulated entities. Burden is increased for states, EPA, and regulated entities if a facility must change who it reports to in the future, or if a state is qualified as the “initial” recipient for some but not all data groups.

5. State Readiness Criteria and Initial Recipient.

The proposed rule requires states to meet three “state readiness criteria” in order for regulated entities to be able to report directly to a state rather than to EPA or in addition to reporting to the state if there are state-specific reporting requirements. The “state readiness criteria” includes a 90% submission/acceptance rate per data group, compliance with CROMERR, and EPA approval/listing. EPA provides states with 120 days to review their system and propose a plan for becoming the initial recipient.

The proposed “state readiness criteria” may prohibit states from qualifying to be the “initial” recipient of electronically reported data from regulated entities. States ask that EPA develop more flexible criteria to allow a greater number of states who desire to be the “initial” recipient of electronically reported data from regulated entities to qualify. The flexibility should take into account time needed for states to put systems and resources in place as well as time for EPA to fully meet its responsibilities for timely review and approval of state CROMERR applications. Time is needed for EPA to share related electronic tools (CROMERR virtual services, identity proofing, NPDES e-reporting tools, etc.) for state review and use.

States also request that the rule include language explicitly recognizing a state's prerogative to design and implement management information systems that best meet the challenges for the prevention, reduction, and elimination of pollution within its jurisdiction while still providing a core set of information for EPA oversight. The new NPDES e-reporting system should be flexible enough to allow states to collect EPA's required data and any additional data a state may want to collect.

There are several items for specific comment.

5.A. 90% Threshold.

EPA is seeking comment on the 90% threshold by data group, and on the appropriate date when EPA should perform the 90% adoption rate calculations prior to the start of Phase I data collection (proposed to occur one year after effective date of final rule).

According to EPA's research, perhaps only one state would currently be able to meet the 90% threshold for any of its NPDES data groups (see page 46064). Collection of data is a core program activity for authorized state programs. States ask that EPA consult closely with states to present a lower threshold by data group for a state to meet the readiness criteria. This threshold number may increase over a limited number of years up to a maximum, reasonable level.

5.B. EPA Review and Approval of State Applications in the Future.

The “State Readiness Criteria” are contained in a section on Phase I Implementation. However, at any time, a state should be able to seek and gain approval to be the “initial” recipient of data.

The rule should clearly stress EPA's willingness and support to approve state applications beyond the initial rule promulgation timeframe so that an authorized state may be the principal recipient of data from regulated entities when it is ready and able to do so.

States also ask that EPA include the process and decision timeframe for EPA's review of a state's application to become the primary recipient of data beyond the initial rule promulgation timeframe discussed in the proposed rule. EPA should recognize that one of the principles of E-Enterprise is the

potential to build data systems that can meet the needs of multiple states as well as EPA. Accordingly, the rules should provide significant flexibility for states to be able to meet the readiness criteria either by using their own, state-specific systems, or through a shared-service approach, system or module that could enable multiple states, simultaneously, to satisfy the criteria for being the “initial” recipient of data.

5.C. CROMERR Compliance.

EPA delays in state CROMERR application review and approval are widely acknowledged, and EPA reported at the 2013 ECOS Annual Meeting on September 17, 2013 about the CROMERR backlog.

EPA projects approval dates for 15 of the 40 “long-term pending [CROMERR] applications” by December 2014. If this target is met, there will still be 25 long term pending applications that have not been addressed. While some of these applications certainly cover NPDES reporting requirements, others may not.

On a recent state-EPA CROMERR call related to this proposed NPDES e-reporting rule, a state asked if it must submit a new application if all data universes covered by this proposed rule were not covered. EPA responded that if a state had applied for individual reporting flows, a new application would need to be submitted. Another state then asked a follow-up question related to resources available to address the existing EPA backlog to review and approve state applications as well as new applications. Timely review and approval of state applications by EPA is essential for a state to meet the State Readiness Criteria and be qualified to be the “initial” recipient of data from regulated entities.

For electronic reporting to work efficiently, accommodation for people making single notification is needed. For example, stormwater NOIs are often received from people who submit one notice in their lifetime. Wet signatures for these NOIs are rarely verified. Meeting CROMERR compliance for these people will be burdensome on the state and on the applicant and potentially creates a disincentive to proper reporting.

States ask EPA to consider seeking a minor change to the CROMERR rule that provides the Administrator with discretion to waive/delay compliance for up to three years for national eReporting requirement initiatives. Alternately, states ask that EPA change the proposed NPDES eReporting rule to provide the Administrator with discretion to allow for a temporary waiver of CROMERR requirements as part of implementation.

5.D. "Initial" Term.

The rule discusses "initial" recipient of data from regulated facilities. Initial could mean "at the beginning" following rule promulgation or could mean "receiving data first" from a regulated entity. The term is confusing. A term such as "principal" recipient of data would be more appropriate.

6. State Appeal Rights.

The proposed rule should include a process for a state to appeal EPA’s determinations that the State Readiness Criteria (e.g., the 90% acceptance rate by data group, or 95% accuracy and completeness criteria - see page 46056) have not been met. Such an appeal should be available regardless of whether EPA issues such a determination following receipt of a state’s application or after a state has been approved to receive electronic data from regulated entities. The rule should also include a process for a state to appeal EPA’s decision related to the timeliness of state data transfers (see page 46051), or a decision on a state’s waiver request. The rule should include specific timelines for EPA review and decision on a state appeal.

7. New Requirements.

States recognize that there may be additional data reporting requirements of authorized programs associated with the proposed rule. For instance, changing from 222 Water Enforcement National Database (WENDB) data

elements to the proposed 438 data elements will result in work to states to reconcile and correct data errors.² As a result, sufficient time to secure resources, transition systems, and provide outreach and support to the broad array of regulated entities to be impacted by this rule is essential. ECOS requests that EPA work with the states to develop a reasonable, achievable timeframe to be included in the rule for this purpose.

8. Waivers.

The proposed rule includes a provision for a temporary one year waiver on electronic reporting. States recommend EPA expand its considerations for more permanent or automatic waivers to include:

1. An automatic waiver if the regulated entity is located in EPA's zip code list of areas with limited broadband access.
2. Consideration of multi-year waivers to cover the NPDES permit cycle if there is a demonstrated delay in achieving high speed broad band access over a period of years.
3. Consideration of a permanent or multi-year waiver on religious grounds. EPA should ensure some provision for people that do not use internet connected computers, for example some Amish communities.
4. Consideration of multi-year waivers for regulated facilities located where the connections are still dial-up lines such as is the case for some remote state parks locations.

9. Targeting Compliance Monitoring Strategies.

States agree with EPA that electronic submission will likely provide significant benefits including enabling states and EPA to better develop compliance monitoring strategies to target the most serious problems (see page 46015).

States have sought to target inspections to sectors thought or shown to have compliance problems. States have sought approval from both EPA region and headquarter offices through EPA's Office of Enforcement and Compliance Assurance's alternative Compliance Monitoring Strategy (ACMS) and risk-based inspection strategies (RBIS). States and EPA are working on ways that this process may be streamlined and perhaps this proposed rule will facilitate future application approvals.

In consideration of ACMS or RBIS approaches, EPA must account for these variances in data reporting elements such as those included in Appendix A of the proposed rule. If required data fields do not readily support alternate approaches, it becomes a barrier to effectively and efficiently allowing states and EPA to focus scarce resources where they are most needed to achieve the greatest environmental protections.

10. Supplemental Notice.

At the beginning of this letter, ECOS urged EPA to review carefully comments submitted from individual states and state associations and expressed significant implementation issues that need to be addressed. In the proposed rule, EPA notes that given the large scope of this proposal, EPA commits to offer an additional opportunity for transparency and engagement by publishing a supplemental notice should EPA receive comments on the proposed rule that require significant changes. EPA further notes it plans to publish the supplemental notice within 180 days after the public comment period for this proposed rule has closed. On one of the state-EPA calls held during the comment period, EPA indicated that the 180 day period to review comments, develop a revised proposal, and publish the supplemental notice includes 90 days for review by the Office of Management and Budget (OMB). If this is the case, EPA has given itself 90 days from December 12 – 3 months – to review and understand public comments, develop a revised proposal as necessary, and publish any supplemental notice. While EPA's commitment to a defined timeframe is laudable, this proposed tight timetable may not allow sufficient time for states and EPA to talk candidly and openly about rollout in a way that will lead to a practical and thoughtful rule implementation.

² Economic Analysis for proposed rule, Appendix A.

11. Preamble language.

To minimize any future misunderstanding or interpretation, key components should be included in the main body of the rule rather than in the preamble or other section that may be considered ancillary. Including key components in the rule, not the preamble, will provide greater certainty that the rule's intent beyond the current administration will be more uniformly executed.

Conclusion

In closing, states affirm their support of EPA's efforts to move towards greater electronic reporting and do not wish to delay unnecessarily our collaborative efforts to achieve these goals. However, states have significant concerns with this proposed rule's implementation, and in particular the precedent this rule may establish for other e-reporting efforts. States are willing to collaborate with EPA to approach implementation of this rule in a practical and thoughtful manner.

Thank you for the opportunity to provide comments.

Sincerely,



Thomas W. Easterly
Chair, ECOS Compliance Committee
Commissioner, Indiana Department
of Environmental Management



Daniel C. Esty
Vice Chair, ECOS Compliance Committee
Commissioner, Connecticut Department of
Energy and Environmental Protection

cc: Dick Pedersen
Robert Martineau
Martha Rudolph
Teresa Marks
Colleen Cripps
David Paylor
Patricia Aho
William Ehm
Thomas Burack
Karen Bassett
Roy Walker
Carolyn Hanson
Nancy Stoner
Renee Wynn
Lisa Lund
Steve Chester
Mark Rupp

Attachment to ECOS comment letter on NPDES electronic reporting rule

1. General comment – EPA must be ready to provide outbound flows for these data elements when the rule becomes effective in order for states to truly have the data they need to manage the program and a meaningful option to not investing in a state reporting system. What are EPA's plans to ensure these flows are available?
2. General comment – How does EPA plan to deal with additional state-required NPDES data elements in a manner that is seamless to the regulated community? Interoperability between state and federal systems must be in place for the roll out of mandatory reporting.
3. Other comments – CROMERR is the issue for those who only report quarterly or annually. The requirement to change passwords every 90 days will be prohibitive. Also, staffing changes will make this an issue as well.
4. Part 127.21 is titled “Types of data to be reported electronically to EPA by states, Tribes and territories.” Please define “reported electronically.” Does “reported electronically” mean data transfer via the Exchange Network? Does “reported electronically” exclude direct data entry into the EPA’s NPDES database (ICIS) by a state?
5. Page 195, 2nd bullet – Section V.E. (Quality Assurance and Quality Control Requirements) states that “For basic permit information, this information would be required from the permitting authority within five working days of the issuance of an individual permit.” Permits may be issued and appealed prior to becoming effective. It would be more realistic to base the timeliness target for basic permit information on the “effective date” of the permit, rather than the “issuance” date. Please consider changing this wording or removing it from the final rule.
6. There are numerous, short timeframes for states to enter data into ICIS after an activity occurs. For instance, Page 195, 3rd bullet – Section V.E. (Quality Assurance and Quality Control Requirements) states that “For enforcement action data, this information would be required from the permitting authority within five working days of the issuance of the enforcement action”. Historically, grants have required that data be submitted/entered into EPA data systems after the end of a quarter. What is the basis for needing this information so much more quickly when the QA/QC requirements? Page 277, 20. Amend 123.45 (d) states that the Director has until 45 days from the end of the calendar quarter to update or correct NPDES data submissions in EPA’s data system for events that occurred within that calendar quarter.
7. Page 284, (b), - PART 127 – NPDES PROGRAM ELECTRONIC REPORTING REQUIREMENTS, Subpart A – General, Section 127.2 Definitions (b) states that EPA shall become the initial recipient of electronic NPDES information from NPDES regulated facilities if the state, tribe, or territory does not collect the data required in Appendix A to this part and does not consistently maintain timely, accurate, complete, and consistent data transfers in compliance with 40 CFR part 3 and 40 CFR part 127. Will EPA assume the responsibility for QA/QC and timeliness, accuracy, completeness and national consistency at that point? At what point will EPA share the data with the states via outbound flows or data publishing activities? What happens if the state finds problems with data accepted electronically by EPA?
8. Page 284, (b) – 127.2 Definitions (b) states that “timely” means that the authorized state, tribe, or territory submits data transfers to EPA within 30 days of when the authorized program completed the activity or received a report submitted by a regulated entity. How will timeliness be tracked? Is timeliness going to be tracked electronically (in ICIS)? If so, when will this information be shared with the states?
9. Temporary waivers Page 289, (1) – Part 127.15 (a) (1) states that to receive a temporary waiver from electronic reporting a facility must be physically located in a geographic area (i.e., zip code or census tract) that is identified as under-served for broadband internet access in the most recent National Broadband Map from the Federal Communications Commission (FCC). Why is the waiver based on the physical geographic location of the facility? Many small facilities are located in remote areas without a formal office area. Wouldn't it be more prudent to base the determination on the physical geographic location of the permittee (office)? Is the National Broadband Map complete or a work in progress? How often is it updated? Some state agencies do not want to supply a hyperlink to the FCC National Broadband Map. Please include a hyperlink for the National Broadband Map in the rule.
10. Page 290, (5) – Part 127.15 (a) (5) states that a temporary waiver may remain in effect until the situation meriting such a temporary waiver is resolved, but for no more than one year. Are states expected to regularly monitor the National Broadband Map and the permittee for resolution? Is there a way to flag these permits in ICIS (status, begin date, end date)?
11. Page 298, (1), “For temporary waivers . . .” – Part 127.24 (a) (1) states that for temporary waivers due to the lack of broadband access in certain remote areas, the regulatory authority shall ensure that the temporary waiver request meets the requirements of § 127.15 and shall notify the requestor and the appropriate EPA

Attachment to ECOS comment letter on NPDES electronic reporting rule (continued)

regional office within 15 business days of the request as to whether the temporary waiver will be granted.

Can the Director use any other reason for granting or extending a temporary waiver?

12. Page 299, (2) (c) - Part 127.24 (c) states that EPA shall have the authority to review and disapprove decisions by the regulatory authority regarding the granting of temporary waivers from electronic reporting and one-time extensions of electronic reporting, ensuring that approvals of these requests are in compliance with §§ 127.15, 127.16, and this section. How will this be noticed and implemented in a way that allows a state its appeal rights and ensures that the regulated community knows to whom they are required to report?
13. Page 303, (2) 4th line – Part 127.27 (d) (2) states EPA shall become the initial recipient of electronic NPDES information from NPDES-regulated facilities if the state, tribe, or territory does not consistently maintain data transfers in compliance with 40 CFR part 3 and 40 CFR part 127. Will EPA assume the responsibility for QA/QC (timeliness, accuracy, completeness and national consistency) when it becomes the initial recipient of electronic NPDES information? At what point will EPA share the data with the states? What happens if the state finds problems with data accepted electronically by EPA? How will this be noticed and implemented in a way that allows a state its appeal rights and ensures that the regulated community knows to whom they are required to report?
14. Page 298, (b) 4th line – Part 127.23 (b) states that if the authorized program does not maintain requirements regarding timeliness, accuracy, completeness, and national consistency, EPA shall become the initial recipient. How will this be noticed and implemented in a way that allows a state its appeal rights and ensures that the regulated community knows to whom they are required to report?
15. In Appendix A, Table 2 under “Compliance Monitoring Activity,” EPA includes a data field named "SNC Published in Newspaper Flag" and the accompanying data description discussion SNCs that "were published in the newspapers." Executive Order 13563 relating to retrospective rule review put a focus on streamlining regulations and reducing reporting burden. EPA included in its EO 13563 plan a process to look at allowing for additional or alternative reporting means other than newspapers for Consumer Confidence Reports (CCR) as specified in primary drinking water regulations. If a rule change is necessary to change any Appendix A data field, will EPA write this data field and possible other data fields to allow flexibility in the future for other reporting means so that a rule change is not necessary (i.e. allowing for other than newspaper notification) to vary the means of sharing information?
16. Need EPA to focus on efficiency for data entry. For example, developing more exchange nodes for states to avoid double data entry and to reduce data discrepancies
17. Time Stamp - One concern is for time-sensitive information and how a state will handle it to prevent problems for permit customers and itself. For instance, an application has to be received 180 days before the permit expires or else the state cannot administratively continue a permit. With electronic submittal that will be date stamped by the computer, it will have to be done on-time. If it is a day late, a state may have to issue the permit on time or a facility will be discharging without a permit. If EPA objects to issuance in this situation, the permit holder may be discharging without a permit even though the state tried to issue one only to have EPA hold up the process. If someone submits on time, but has to re-submit to make corrections or add data, the state would have to be sure the date is not re-set to a later date that triggers administrative continuance being blocked because the submittal date is now less than 180 days, etc. There are a number of time-sensitive actions/deadlines that exist in ICIS-NPDES and the full ramifications of electronic submittal are not yet fully known.
18. Page 95 in Appendix A 40 CFR 127 states that only non compliant CSOs be reported. However, will the rule require the submission of detailed information (e.g. long-term control plan – LTCP - data) or would e-reporting for CSO requirements be sufficient with a simple type of data entry (e.g. LTCP completion data?)
19. In page 67, it appears that existing data (e.g. bypass information) be retroactively provided to EPA electronically. How many years of (e.g. bypass and SSO data) would EPA be seeking to obtain electronically through the rule?