

National Compliance Initiative: Reducing Significant Non-Compliance with National Pollutant Discharge Elimination System Permits

EPA Document # 305F20002

April 2021

Clean Water Agencies Increasing Attention to Significant Non-Compliance Dischargers

- To improve surface water quality and reduce potential impacts on drinking water, EPA and states are focusing increased attention on all individually permitted Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit holders in significant non-compliance (SNC)¹.
- EPA and state regulators are undertaking this National Compliance Initiative (NCI) to focus increased compliance and enforcement attention on NPDES-regulated facilities in significant non-compliance, regardless of facility size.
- This advisory is designed to help NPDES permittees achieve or maintain compliance and avoid potential enforcement and penalties.



About the NPDES Permit Program

States, tribes, and the federal government share responsibility for protecting human health and the environment; point sources that discharge pollutants to U.S. waters are one aspect of this responsibility. The NPDES permit program, created in 1972 by the Clean Water Act (CWA), regulates these sources.

If you own or operate a facility with a permit issued under the NPDES program, including a state-issued permit, under the CWA you have an obligation to comply with the effluent limits, reporting requirements, and other requirements in the permit. Non-compliance may subject you to substantial penalties through enforcement actions.

What Is the Purpose of This Initiative?

In FY 2018, over 29 percent of the nation's 46,000 facilities with individually issued NPDES permits were in significant non-compliance with their permits. Violations range from significant exceedances of effluent limits, which can harm human health and the environment, to failure to submit reports, which can mask serious deficiencies.

This NCI is intended to ensure that all NPDES permittees—not just industrial contributors—are complying with their permits. NPDES permittees, regardless of facility size or type, will see an increase by EPA and its state and tribal partners in identifying and addressing SNC violations using enforcement and other compliance tools. **This NCI aims to cut significant non-compliance in half and to ensure that the most serious SNC violations are timely and appropriately addressed.** Increased compliance will improve surface water quality and reduce potential impacts on drinking water.

What Is a National Compliance Initiative?

National Compliance Initiatives (NCIs) focus EPA's enforcement and compliance resources on the most serious environmental violations. The goal of the NCI program is to increase compliance using the full range of compliance assurance tools. Facilities that are regulated in an area addressed by an NCI are subject to increased monitoring, inspections, enforcement actions, and other compliance activities.

¹ Significant non-compliance (SNC) is a designation given by U.S. EPA to NPDES facilities with violations of a more serious nature and cause for concern. These violations will likely warrant an enforcement response by EPA or the authorized state if not promptly resolved by the permittee. For the technical definition of CWA SNC, see <https://echo.epa.gov/help/reports/dfr-data-dictionary#cwasnc>.

How Can I Prepare for the NCI?

NPDES permittees are encouraged to assess their compliance status in one or both of the following ways:

- Review your discharge monitoring reports (DMRs).
- Use EPA's Enforcement & Compliance History Online (ECHO) tool to look up your facility (see "About ECHO" box).

If your facility has NPDES violations, EPA recommends that you take immediate action to correct them. Smaller facilities have not often been compliance and enforcement priorities for EPA or the NPDES authorized states. However, under this NCI, more attention will be given to facilities approaching or already in significant non-compliance—no matter their size.

EPA and its state and tribal partners will respond to SNC violations in a timely and appropriate manner. These violations are typically resolved either by prompt return to compliance or return to compliance following an enforcement action. Remember, violations are subject to enforcement by either the state or EPA, with potential federal penalties of up to \$54,883 per day per violation. A prompt return to compliance is critical to reduce the potential for an enforcement action.

Ensuring Timely and Accurate Compliance Data

Under the CWA, NPDES permittees are required to report their own compliance data. States and EPA rely on timely, accurate, and complete self-reporting by permittees (through DMRs and other reports) to evaluate compliance. Failure to report compliance data in a timely and accurate way is a violation of the permit and the CWA. EPA screens self-reported compliance data for signs of misreporting. It may refer facilities for inspection to verify that the reported information is correct, and for criminal or civil enforcement where fraud or violations are identified.

About ECHO

Enforcement & Compliance History Online (<https://echo.epa.gov/>) allows permittees to check their compliance status. A Detailed Facility Report in ECHO indicates whether a permittee has violations and is in significant non-compliance.

ECHO provides a quarterly breakdown of compliance history that describes instances of significant non-compliance. These can include an enforcement action or permit compliance schedule violation, violations of effluent permit limits, or a failure to submit timely Discharge Monitoring Reports. (Note: In some cases, significant non-compliance may be incorrectly designated due to data entry errors or data transfer problems.)

To view a Detailed Facility Report in ECHO, select the "Facility Name/ID" tab in the "Quick Search" box and search for the facility with facility-specific information. Click the icon "C" under the "Reports" column. Scroll down to the table titled "Compliance Summary Data" and check for a "Yes" or "No" in the "Current SNC/HPV" column. If it is marked "Yes", review the "Three-Year Compliance History by Quarter" table for additional information.

Reducing Penalties Through Voluntary Disclosure

Regulated entities who voluntarily discover, promptly disclose, expeditiously correct, and take steps to prevent recurrence of potential violations may be eligible for a reduction or elimination of any civil penalties that otherwise might apply. Most violations can be disclosed and processed via EPA's automated online "eDisclosure" system (see <https://www.epa.gov/compliance/epas-edisclosure>). To learn more about EPA's violation disclosure policies, including conditions for eligibility, please review EPA's Audit Policy website at <https://www.epa.gov/compliance/epas-audit-policy>. Many states also offer incentives for self-policing; please check with the appropriate state agency for more information.

More Information

The resources below can help you correct violations and achieve compliance.

Be sure to **check your permit or contact your NPDES permitting authority (state or EPA)** for compliance assistance information. For information on your state agency, use: <https://www.epa.gov/npdes/contact-us-general-information-about-npdes>

Overview of This NCI

- <https://www.epa.gov/enforcement/national-compliance-initiative-reducing-significant-non-compliance-national-pollutant>

Technical Resources, Assistance and Training

- EPA's NPDES web page: <https://www.epa.gov/npdes>
- [WaterOperator.org](https://www.wateroperator.org) is a free resource portal for small systems operators
- The Rural Community Assistance Partnership provides training for water operators, utility board members, financial officers, and community members to help prepare communities to manage their own water systems: www.rcap.org
- The Water Environment Federation is a nonprofit association that provides technical education and training for water quality professionals: <https://www.wef.org>
- The National Rural Water Association and their State Associations: Provides training and on-site technical assistance to small and rural water and wastewater systems: <https://www.nrwa.org>

Financial Assistance and Funding Sources

- EPA's Water Infrastructure and Resiliency Finance Center lists technical assistance partners that work with small and rural systems to increase financial capabilities: <https://www.epa.gov/waterfinancecenter/financial-technical-assistance-and-tools-water-infrastructure#partners>
- EPA's Water Finance Clearinghouse is a database of financial assistance sources available to fund water infrastructure needs: <https://www.epa.gov/waterdata/water-finance-clearinghouse>

Electronic Submission of Discharge Monitoring Reports

DMR Support Portal for West Virginia: <https://dep.wv.gov/ess/Pages/default.aspx>

Disclaimer

This Compliance Advisory addresses select provisions of EPA regulatory requirements using plain language. Nothing in this Compliance Advisory is meant to replace or revise any NPDES permit, any EPA regulatory provision, or any other part of the Code of Federal Regulations, the Federal Register, or the Clean Water Act.