

Georgia Department of Natural Resources

Environmental Protection Division • Watershed Protection Branch
2 Martin Luther King Jr. Drive • Suite 1152 East • Atlanta • Georgia 30334
(404) 463-1511; Fax (404) 656-2453
Judson H. Turner, Director

April 19, 2016

MEMORANDUM

SUBJECT: Opt-Out Notice Designating EPA as the 'Initial Recipient' for One or More NPDES Data Groups

FROM: James A. Capp 
Chief, Watershed Protection Branch
Georgia Environmental Protection Division

TO: John Dombrowski, Director
Enforcement Targeting and Data Division
Office of Compliance
U.S. EPA
dombrowski.john@epa.gov

The U.S. Environmental Protection Agency (EPA) recently promulgated a final rule to modernize Clean Water Act reporting for municipalities, industries, and other facilities by converting to an electronic data reporting system. This final rule will require regulated entities and state and federal regulators to use existing, available information technology to electronically report data required by the National Pollutant Discharge Elimination System (NPDES) permit program instead of filing written paper reports.¹

Under the final rule, NPDES-regulated entities are required to submit NPDES program data to the designated Initial Recipient, as defined in 40 CFR 127.2(b). For this rule, the term "Initial Recipient" means the governmental entity, either the state or EPA, who first receives the NPDES program data listed in Appendix A to 40 CFR Part 127. The Initial Recipient designation is made separately for each state and by each NPDES Data Group, which is defined in 40 CFR 127.2(c). Identification of the Initial Recipient for each NPDES Data Group is included as a new NPDES permit standard condition [see 40 CFR 122.41(l) (9)].

This rule does not change the governing responsibilities of authorized NPDES programs or EPA. In particular, this rule requires each authorized NPDES programs to decide the NPDES Data Groups for which they wish to be the Initial Recipient of electronic NPDES information from NPDES-regulated entities. The final rule uses an 'opt-out' approach such that authorized NPDES programs must provide notice to EPA if they wish for EPA to be the initial recipient for one or more of their NPDES Data Groups.

¹ U.S. EPA, 2015. "National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule," 80 FR 64064 (22 October 2015).

The Georgia Environmental Protection Division (GEPD) supports the goals of the final rule to modernize Clean Water Act reporting for municipalities, industries, and other facilities by converting to an electronic data reporting system. However, we believe that EPA has significantly underestimated the work involved to implement the rule and EPA's outreach and assistance to the states has been woefully inadequate. In Georgia, the final rule requires that over 1,000 NPDES permit holders must register, and be approved, for electronic submittal of the discharge monitoring reports (DMRs). This is a massive amount of work in light of the education, outreach, and training that must occur with the permittees, many of whom are unfamiliar with electronic reporting. This process requires a QA/QC check to ensure that the federal database matches the current permit and this QA/QC check is challenging for certain permittees. The federal database, at this time, does not conform with the final rule and there appears to be no clear timetable for it to be updated. Related to the federal database upgrades that are required, states must also upgrade our databases in order to receive and transmit to EPA the new data elements required by the rule. These upgrades are expensive and it takes time to complete the contracting process to have these upgrades completed. Similarly, federal NPDES permit application forms have not been updated to conform with the final rule and there appears to be no clear timetable for them to be updated. Finally, all of this is occurring in an environment where answers and guidance from EPA have not been sufficient. As such, GEPD has chosen to opt-out of the following data groups below. With respect to the Discharge Monitoring Reports (Group No. 3), we understand that opting out means that EPA will be responsible for registering permit holders into the system and that EPA will be responsible for the QA/QC check to ensure that the federal database matches the current permit. Even though GEPD is opting out at this time, we do support the goals of the final rule and we are interested in being the initial recipient for all our delegated program areas. Therefore, we are interested in working closely with EPA to resolve the concerns described above in order for GEPD to be the initial recipient.

Table 1: Initial Recipient Designations for the Georgia Environmental Protection Division

NPDES Data Group No.	NPDES Data Group	Initial Recipient Designation
1	Core NPDES Permitting, Compliance, and Enforcement Data (40 CFR parts 122, 123, 403,503)	EPA
2	General Permit Reports [Notices of Intent to discharge (NOIs); Notices Georgia Environmental Protection Division, of Termination (NOTs); No Exposure Certifications (NOEs); Low Erosivity Waivers and Other Waivers from Storm water Controls (LEWs)] [40 CFR 122.26(b)(15), 122.28 and 124.5]	EPA
3	Discharge Monitoring Reports [40 CFR 122.41(l)(4)]	EPA
4	Sewage Sludge/Biosolids Annual Program Reports [40 CFR 503]	N/A
5	Concentrated Animal Feeding Operation (CAFO) Annual Program Reports [40 CFR 122.42(e)(4)]	EPA
6	Municipal Separate Storm Sewer System (MS4) Program Reports [40 CFR 122.34(g)(3) and 122.42(c)]	EPA
7	Pretreatment Program Reports [40 CFR 403.12(i)]	EPA
8	Significant Industrial User Compliance Reports in Municipalities Without Approved Pretreatment Programs [40 CFR 403.12(e) and (h)]	EPA
9	Sewer Overflow/Bypass Event Report [40 CFR 122.41(l)(6) and (7)]	EPA
10	CWA Section 316(b) Annual Reports [40 CFR 125 Subpart J]	EPA