
DIVISION OF WATER RESOURCES MEMORANDUM

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

From: Lawrence Bunting, TN Division of Water Resources

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

Date: 8/31/2016

cc: Tisha Calabrese Benton, Vicky Hutchings, Clancy Roberts, Brian Cox

The U.S. Environmental Protection Agency (EPA) recently promulgated a final rule (40 CFR 127) 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.

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 by 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)].

Tennessee Department of Environment and Conservation (TDEC) will not opt-out of any of the Ereporting data groups for which Tennessee has been delegated the program. Since Tennessee does not have delegation for biosolids, we consider this data group to be not applicable to state Ereporting under the rule. EPA has responsibility for biosolids reporting under 40 CFR 127 within TN. TDEC will use the national NetDMR but will manage users within Tennessee's state instance of that system.

It should be noted that some of the data groups have a limited number of users in TN. In these cases, TDEC will evaluate cost effectiveness and necessity for electronic data transfers relative to manual data entry for a small number of participants. It may be preferable to use manual entry to further electronic data system development. TDEC is making a provisional designation for Group 8, SIUs without an approved pretreatment program, but this dependent on the proposed new dental pretreatment rule and its effects on TN. Group 8 may need to be re-visited in the future if/when this rule becomes effective.

Table 1 provides a listing of the NPDES Data Groups that the Tennessee Department of Environment and Conservation, Division of Water Resources is designating as the Initial Recipient [as defined in 40 CFR 127.2(b)]. TDEC will have a lower priority for data groups with small numbers of affected recipients.

Table 1: Initial Recipient Designations for Tennessee Department of Environment and Conservation		
NPDES Data Group No.	NPDES Data Group	Initial Recipient Designation
2	General Permit Reports [Notices of Intent to discharge (NOIs); Notices of Termination (NOTs); No Exposure Certifications (NOEs); Low Erosivity Waivers and Other Waivers from Stormwater Controls (LEWs)] [40 CFR 122.26(b)(15), 122.28 and 124.5]	Tennessee Department of Environment and Conservation (TDEC) ¹
3	Discharge Monitoring Reports [40 CFR 122.41(l)(4)]	Tennessee Department of Environment and Conservation (TDEC) ²
4	Sewage Sludge/Biosolids Annual Program Reports [40 CFR 503]	N/A for state program, TN does not have authorization for biosolids under NPDES
5	Concentrated Animal Feeding Operation (CAFO) Annual Program Reports [40 CFR 122.42(e)(4)]	Tennessee Department of Environment and Conservation (TDEC) ¹
6	Municipal Separate Storm Sewer System (MS4) Program Reports [40 CFR 122.34(g)(3) and 122.42(c)]	Tennessee Department of Environment and Conservation (TDEC) ¹
7	Pretreatment Program Reports [40 CFR 403.12(i)]	Tennessee Department of Environment and Conservation (TDEC) ¹
8	Significant Industrial User Compliance Reports in Municipalities Without Approved Pretreatment Programs [40 CFR 403.12(e) and (h)]	Tennessee Department of Environment and Conservation (TDEC) ¹ This may be a small number of participants but may be a much larger group with the dental rule promulgation. TDEC will re-evaluate this data group after the dental rule is promulgated.
9	Sewer Overflow/Bypass Event Report [40 CFR 122.41(l)(6) and (7)]	Tennessee Department of Environment and Conservation (TDEC) ¹
10	CWA Section 316(b) Annual Reports [40 CFR 125 Subpart J]	Tennessee Department of Environment and Conservation (TDEC) ¹

¹TDEC intends to be the initial recipient, but it is with the understanding that state efforts may need to piggyback on EPA development efforts with the NET tool (or other tools/approaches). TDEC expects EPA will move forward with development of such tool(s) and this will help the state's effort. TDEC recognizes that the state may need to pay for licensing/software costs to adapt any such EPA tools for use in TN. TDEC does not intend to independently develop its own tools separate from EPA's effort.

²Tennessee will be using an instance set up for TDEC at the national NetDMR for its DMR reporting. This depends on the national NetDMR system being maintained and available. TDEC will manage its users within this NetDMR national system.