

MEMORANDUM

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

FROM: Jim Macy, Director NDEQ

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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. These ‘opt-out’ notices should be sent to EPA no later than 19 April 2016.

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

Table 1 provides a listing of the NPDES Data Groups that Nebraska Department of Environmental Quality is designating EPA as the Initial Recipient [as defined in 40 CFR 127.2(b)].

Table 1: Initial Recipient Designations for the NDEQ

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]	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

EPA: EPA will be the initial recipient of the data

N/A: State is not authorized to implement this program