



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

September 15, 2020

SUBJECT: Termination of Temporary Advisory for National Pollutant Discharge Elimination System (NPDES) Reporting in Response to COVID-19 Pandemic

FROM: David A. Hindin 
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TO: Authorized NPDES Programs and U.S. EPA Regions

On March 31, 2020, the Office of Compliance issued a memorandum entitled [Temporary Advisory for National Pollutant Discharge Elimination System \(NPDES\) Reporting in Response to COVID-19 Pandemic](#) (Temporary NPDES Advisory) that provided direction to authorized NPDES programs and U.S. EPA Regions on how to implement the memorandum issued by OECA's Assistant Administrator on March 26, 2020, entitled [COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program](#) (Temporary Policy). The Temporary NPDES Advisory announced the availability of a code, No Data Indicator (NODI) Code Z, to be used by permittees to claim that they did not have sampling or monitoring data to report on their discharge monitoring reports as a result of an impact from the COVID-19 pandemic. Use of Code Z indicates the permittee believes the Temporary Policy on enforcement and compliance assurance applies to their noncompliance status.

On June 29, 2020, OECA's Assistant Administrator revised the Temporary Policy [with a Termination Addendum](#) to add a termination date of August 31, 2020. This means that EPA will not base any exercise of enforcement discretion on the Temporary Policy if noncompliance occurs after August 31, 2020. This terminates the need for the Temporary NPDES Advisory and nullifies the basis for using Code Z. Therefore, this Memorandum announces that the Temporary NPDES Advisory is also no longer in effect as of August 31, 2020. Permittees and states should no longer report Code Z for any monitoring or sampling required after August 31, 2020 that they were not able to perform.

NetDMR users will continue to be able to use Code Z to submit missing or corrected reports for earlier monitoring periods. But Code Z can only be used in accordance with the Temporary NPDES Advisory where no data or only partial data are available for the period March 2020 through August 2020 and the permittee believes this was caused by COVID-19 pandemic. In addition, Authorized NPDES Programs and EPA Regions should advise permittees, in cases where the permittees can report, that they are expected to report the data they do have for the monitoring period (even if the monitoring data are incomplete in whole or part).

Other NODI codes are available for use by permittees where no data are available for them to report, and permittees should continue to include a comment on their DMR form if they claim there are ongoing

impacts from the COVID-19 pandemic. If a NODI code is warranted, permittees must use a code that accurately characterizes the actual or potential noncompliance with NPDES monitoring, sampling and reporting requirements that could occur as a result of COVID-19. For example, NODI Code E is used to indicate no analysis could be conducted or sample taken. As was true prior to the issuance of the Temporary NPDES Advisory, authorized NPDES Programs and EPA Regions should generally recommend use of NODI codes that generate noncompliance status due to DMR non-receipt. To determine the appropriate NODI code to use, permittees should consult their permitting or regulatory authority. A list of contacts is available at <https://netdmr.zendesk.com/hc/en-us/articles/209616226-NetDMR-Contacts-Regions-and-States>.

The Temporary NPDES Advisory also addressed the scenario where permittees may not be able to use electronic signature agreements or subscriber agreements and, due to the COVID-19 pandemic, processing of paper agreements with wet-ink signature is delayed. The Temporary NPDES Advisory explained that permittees could submit scanned versions of signed paper agreements and subscriber agreements in order to expedite their processing. Though EPA continues to encourage the use of electronic signatures, we recognize the ongoing disruption associated with the COVID-19 pandemic. In response, we will continue to process scanned paper agreements until further notice. However, the permittee must mail the paper hard copy with wet-ink signature to EPA within two business days of emailing the scanned version of the agreement. At this time, we highly encourage permittees to send those hard copy agreements through the United States Postal Service to ensure receipt by the EPA mail room. If the permittee utilizes a courier service, they should not send the communication with a signature requirement as it may be refused and returned to sender. If EPA does not receive the paper hard copy agreement within three weeks of activation of the signature credentials (i.e., when EPA received and processed the scanned version), the signature credentials may be deactivated. EPA strongly recommends that permittees using this approach keep some evidence of mailing.

Specific questions about this Memorandum should be directed to the ICIS Help Desk using ICIS@epa.gov.