



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

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Relaunch of the NPDES Wastewater Expedited Settlement Agreement Pilot Program

FROM: Rosemarie A. Kelley, Director **ROSEMARIE** Digitally signed by
Office of Civil Enforcement **KELLEY** ROSEMARIE KELLEY
Date: 2023.12.08
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TO: Enforcement and Compliance Assurance Division Directors, Regions 1-10
Regional Counsels, Regions 1-10

With this memorandum, we are relaunching the Expedited Settlement Agreement Pilot to address Clean Water Act National Pollutant Discharge Elimination System (NPDES) wastewater violations for an additional 18 months, until **June 11, 2025**. The Office of Civil Enforcement initially approved the [ESA pilot on October 3, 2019](#), and it expired on October 3, 2022. As part of this relaunch of the 2019 ESA, we are increasing the penalty cap from \$54,000 to \$64,000. OCE is making this change based on feedback from the Regions. This is the only change we are making to the 2019 pilot; we are otherwise relaunching the pilot “as is.”

The October 3, 2019 pilot transmittal memorandum noted that an evaluation of the wastewater ESA pilot would occur after the pilot had been in effect for 36 months. Several regions utilized the ESA during its initial pilot phase and support making it permanent. However, the pilot was only available for a few months before COVID-19 impacted EPA’s ability to conduct wastewater inspections and utilize the program. While OCE has reviewed the data from implementation of the pilot from October 2019 to October 2022, we need more information to evaluate its effectiveness and whether to suggest modifications. Relaunching the pilot for 18 months will provide additional experience, as well as time to analyze the new data and obtain more feedback from the regions. This extension will allow for a thorough evaluation, including the development of a regional workgroup to assess and discuss the ESA pilot as it is being implemented. After the ESA pilot period ends, OCE will make a final decision on whether to make the wastewater ESA pilot permanent.

After receiving feedback from the Senior Enforcement Managers on this pilot, WED surveyed regional branch managers on specific recommendations for expanding the pilot’s scope. As part of that survey, WED did not hear support for broadening the wastewater ESA pilot at this time beyond the violations listed in the 2019 pilot memo (majors and traditional non-major sources of discharges as described in the 2014 CWA NPDES Compliance Monitoring Strategy). In the future, WED will explore developing an

ESA pilot to cover vessels¹ and pretreatment.²

Please contact Megan Knight (knight.megan@epa.gov) at (202)-564-8942 with WED if you have any questions about the ESA or this relaunch.

¹ For purposes of CWA enforcement, EPA's Vessel General Permit (VGP) applies to discharges incidental to the normal operation of all non-recreational, non-military vessels of 79 feet or greater in length, which discharge in the waters of the United States. The ballast water provisions in the VGP also apply to non-recreational vessels less than 79 feet in length or commercial fishing vessels of any size. For additional information, see [EPA's vessels page](#).

² EPA's national pretreatment program identifies specific discharge standards and requirements that apply to sources of nondomestic wastewater discharged by a publicly owned treatment works (POTW). For additional information, see [EPA's pretreatment page](#).