



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

OCT 03 2019

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Approval of NPDES Wastewater Expedited Settlement Agreement Pilot Program

FROM: Rosemarie A. Kelley, Director
Office of Civil Enforcement *Rosemarie Kelley*

TO: Enforcement and Compliance Assurance Division Directors, Regions 1-10
Regional Counsels, Regions 1-10

With this memo, I am approving an Expedited Settlement Agreement Pilot Program to address Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) wastewater violations (Wastewater ESA Pilot or Pilot) pursuant to the November 24, 2014 memorandum titled "Revised Guidance on the Use of Expedited Settlement Agreements" (2014 ESA Guidance). The Pilot was proposed by Region 8, however, I am approving the Pilot nationwide for use by staff in all the regions and at headquarters. The Pilot is approved for a period of 36 months. OECA, in coordination with any region that participates in the Pilot, will evaluate the Pilot and its effectiveness no later than the last six months of the Pilot, and make a recommendation about next steps. Questions about implementation and/or assessment of the Pilot should be directed to Stephanie DeJong in Region 8 and/or Robert Fentress in the Water Enforcement Division.

Overview

Regions may use the Wastewater ESA Pilot to address noncompliance from various traditional dischargers (defined as majors and traditional non-major sources of discharges, as described in the EPA's 2014 "Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy" (CMS)). This includes:

- Publicly owned treatment works (POTWs);
- Privately-owned sewage treatment systems; and
- Process/industrial wastewater facilities, excluding stormwater.

The ESA does not cover other sources of discharges described in the CMS, except that a failure to submit an annual biosolids or pretreatment report may be addressed through the Wastewater ESA Pilot. Prior to enforcing any biosolids violation, Regions should coordinate with the Region 7 Biosolids Center of Excellence. If the Wastewater ESA Pilot is not appropriate to address the level of noncompliance, a region must utilize traditional enforcement mechanisms. Consistent with the 2014 ESA Guidance, if an ESA offer is rejected, traditional enforcement mechanisms must be utilized. The EPA always reserves the right not to extend an ESA offer to any particular party. The penalty amounts are non-negotiable. Case teams should include both technical and legal staff similar to any other enforcement case.

Purpose and Goals of Wastewater ESA

The purpose of the Wastewater ESA Pilot is to provide quick resolution of easily corrected violations at facilities that discharge wastewater and to protect human health and the environment in the most efficient manner. The goals of the Wastewater ESA Pilot are to:

1. Ensure information regarding the quality of effluent is known and available to the regulated entity, the EPA, and public so that: (a) effluent violations are reported and may be addressed in a timely manner to protect water quality, and (b) the integrity of the NPDES program that relies on self-sampling and reporting is maintained;
2. Ensure wastewater treatment facilities are complying with operation and maintenance requirements to safeguard against failed systems that could threaten public health and the environment;
3. Prevent recurrence of violations that could threaten public health and the environment; and
4. Quickly correct noncompliance using minimal EPA resources and with reduced transaction costs to the facility.

Periodic Review and Evaluation of Success

The effectiveness of the Wastewater ESA Pilot will be evaluated after a pilot term of up to three years of implementation, unless evaluation is deemed necessary sooner either by the regions or OECA. Three years should be an appropriate pilot period to ensure that enough ESAs have been offered (and issued) to have meaningful data. The Water Enforcement Division will work with participating regions to determine what information should be submitted during implementation of the pilot to allow an earlier evaluation, if OECA determines an earlier evaluation is necessary.

Types of Violations

Violations must be easily detectible and correctible, as determined by the EPA. The following types of violations may be eligible for the Wastewater ESA Pilot:

1. Failure to meet monitoring and reporting requirements limited to violations occurring within the 24 months immediately prior to the ESA offer (e.g., failure to submit discharge monitoring reports (DMR) or other reports and notifications, failure to conduct sampling);
2. Failure to create or maintain records limited to violations occurring within the 24 months immediately prior to the ESA offer;
3. Failure to conduct/document operations and maintenance requirements limited to violations occurring within the 24 months immediately prior to the ESA offer;
4. Failure to meet effluent limitations limited to violations occurring within the 12 months immediately prior to the ESA offer; and
5. Failure to meet industrial waste obligations for POTWs without approved pretreatment programs limited to violations occurring within the 60 months immediately prior to the ESA offer.

Categories of eligible violations, along with the factors to be used in calculating penalties, are listed in the attached "Expedited Settlement Offer Worksheet - Violations Form for Wastewater" (Violations Form). No other violations are eligible to be resolved under the Wastewater ESA Pilot.¹

Limitations on Use

The Wastewater ESA Pilot may not be used when:

1. There is evidence that an entity deliberately concealed evidence of noncompliance;

¹ If the violation is in Significant Non-compliance Status (SNC), it is not automatically excluded from coverage by an ESA but must fully meet all of the eligibility requirements of this pilot ESA program.

2. An entity failed or refused to provide records or access;
3. The violation(s) caused, or were likely to have caused, significant harm to human health or the environment or present an imminent and substantial endangerment (e.g., discharges of raw sewage, violation resulted in closing a drinking water intake, violation resulted in a fish kill);
4. The total of all ESAs, including the current ESA, and other formal state and federal NPDES enforcement penalties (judicial and administrative) issued within the last five years exceeds \$54,000 for the same owner/operator regardless of whether the violations occurred at the same facility. This limitation is necessary, because frequently owners/operators own or operate more than one facility, and one of the goals of the Wastewater ESA Pilot is to improve a regulated entity's standard of practice as a whole and prevent recurring violations. Therefore, the cumulative penalty maximum is combined for a single owner/operator. An escalation factor of 50% per state or federal formal enforcement action in the last three years is included in the Violations Form for repeat violators and applied to the current ESA;
5. The violator has gained significant economic benefit because of avoided and/or delayed compliance such that the estimated economic benefit exceeds the ESA offer; or
6. The violations at a facility occurred outside the time limitations for each violation category;
7. If other violations are found that are not eligible for the Wastewater ESA Pilot for which a formal enforcement action is appropriate, all violations should be addressed in a single, non-ESA formal enforcement action.

Corrective Actions

Acceptance of the Wastewater ESA offer requires the regulated entity to submit evidence of corrective actions and certify compliance with the violations listed on the Violations Form. For some violations, such as effluent violations that will require long-term treatment upgrades or those that cannot be quickly corrected and reported to the EPA within 60 calendar days of receipt of the ESA, the EPA should not offer an ESA. Examples of effluent violations that can be quickly corrected include *e. coli* violations due to a failure to change UV treatment bulbs or total suspended solids violations due to inadequate sludge wasting rates. If the EPA has already verified that the violations have been corrected and this is stated in the Violations Form, no additional evidence of corrective action is required by the Wastewater ESA Pilot unless additional information is specifically requested in the Violation(s)/Corrective Action(s) column of the Violations Form.

The EPA must receive evidence of corrective actions within 60 calendar days of receipt of the ESA offer. This time frame will provide sufficient time for the regulated entity to demonstrate that it is implementing ongoing corrective actions, such as routine sampling and self-inspections, by submitting documentation of those corrective actions.

The EPA must also receive the signed ESA within 60 calendar days of receipt of the ESA offer by the Respondent. Upon written request, on a case-by-case basis, the EPA may grant an extension in writing of up to 30 calendar days to submit the signed ESA on the condition that the Respondent corrects all violations within 60 calendar days of receipt of the ESA offer and submits an itemized list detailing the action(s) taken in response to each corrective action with any supporting and/or requested documentation.

Penalty

The EPA will calculate the total penalty using the enclosed Violations Form, which assigns a penalty amount for each violation. The amounts were determined based on the gravity and typical economic benefit, if any, of the violation. For example, violations that reflect more significant noncompliance have higher penalty amounts than similar but less significant violations. The maximum penalty amount is

\$54,000 for any single ESA. As noted above, in the Limitations of Use section, there is also a cumulative maximum \$54,000 for the same owner/operator regardless of whether the violations occurred at separate facilities. This amount was selected, because at the time of this memorandum, \$54,833 is the statutory maximum class I civil penalty that can be assessed under the Clean Water Act section 309(g)(2)(A), (33 U.S.C. § 1319(g)(2)(A)), as adjusted for inflation and listed in 40 CFR Part 19 – Adjustment of Civil Monetary Penalties for Inflation.

After the Respondent and the EPA sign the Wastewater ESA, the Wastewater ESA should be filed with the Regional Judicial Officer. Prior to requesting that the Regional Judicial Officer issue the Final Order, the EPA must provide a reasonable opportunity for public notice pursuant to 40 CFR Part 22. The penalty payment is due within 10 calendar days of receiving notice from the EPA that the Regional Judicial Officer has signed and entered the Final Order for the Wastewater ESA, unless the Region has opted to collect the penalty at the time the facility accepts the ESA. The 2014 ESA Guidance allows for either payment option.

Model ESA Documents

Attached to this memorandum is a package of model ESA documents prepared by Region 8 that any region can use, with appropriate regional modifications (e.g., contacts), when implementing the Wastewater ESA Pilot. The package includes an ESA offer cover letter, ESA instructions, a Wastewater ESA and an Excel spreadsheet Violations Form. A region may not modify the Violations Form, or any substantive aspects of the Wastewater ESA (e.g., deadline for responding to ESA offer) when revising these models for the region.

Enclosures:

1. Region 8 Model Wastewater Expedited Settlement Offer Cover Letter
2. Region 8 Model Expedited Settlement Agreement Instructions
3. Region 8 Model Wastewater Expedited Settlement Agreement
4. Expedited Settlement Offer Worksheet Violations Form for Wastewater (Violations Form)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

Ref: 8ENF-W-NW

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NAME, TITLE
ENTITY
ADDRESS
CITY, STATE ZIP

Re: NPDES Permit No. PERMIT NUMBER, Inspection Report and Expedited Settlement Offer
[If no inspection is conducted and the violations were based solely on other sources of information
(e.g., ICIS, information request), the cover letter would be adjusted accordingly.]

Dear [TITLE LAST NAME]:

The U.S. Environmental Protection Agency inspected the [FACILITY NAME] (the facility) located at [FACILITY LOCATION] on [INSPECTION DATE] for compliance with its National Pollutant Discharge Elimination System (NPDES) permit and the Clean Water Act (CWA). The inspection indicated that [PERMITTEE] violated the [PERMIT ISSUANCE DATE, TITLE, NUMBER] (the Permit).

A copy of the EPA's inspection report is enclosed. During the inspection, the inspectors discussed their observations and concerns with [NAME, TITLE] with [ENTITY]. [IF APPLICABLE: Additional violations were identified through the EPA's national database, the Integrated Compliance Information System, which contains information regarding discharge monitoring reports (DMRs) and other reports required to be submitted by the Permit.] [DISCUSS ANY ADDITIONAL CORRESPONDENCE REGARDING FINDINGS OR CORRECTIVE ACTIONS, AND LIST ANY RELEVANT COMPLIANCE ASSISTANCE PROVIDED. INSPECTORS SHALL NOT MAKE VIOLATION DETERMINATIONS IN CORRESPONDENCE.]

Section 309 of the CWA, 33 U.S.C. § 1319, gives the EPA the authority to obtain civil penalties for violations of the Permit and CWA. The EPA is offering to settle its civil penalty claims for the alleged violations through an Expedited Settlement Agreement (ESA). The enclosed "Expedited Settlement Agreement" and "Expedited Settlement Agreement Instructions" explain the process in detail. The "Expedited Settlement Offer Worksheet Violations Form for Wastewater" (Violations Form) contains a list of violations and corrective actions EPA used to calculate the penalty offer. The non-negotiable settlement amount for the violations is [\$X.00].

If [PERMITTEE] wishes to accept the expedited settlement offer, [PERMITTEE] must do the following within 60 calendar days of receipt of this offer:

1. Correct all the violations identified in the enclosed Violations Form;
2. Submit an itemized list detailing the action(s) taken to correct violations, in response to each

corrective action listed in the Violations Form and provide supporting and/or requested documentation; and

3. Sign and submit the ESA, which includes a certification that these corrective actions are complete.

[PERMITTEE] may request an extension of up to 30 days to submit the signed ESA, however, [PERMITTEE] must still provide evidence of corrective actions taken within 60 calendar days of receipt. If [PERMITTEE] does not submit this information within 60 calendar days of receipt (or within any extension granted for the signed ESA), the EPA's expedited settlement offer will be automatically withdrawn, and the EPA may file an enforcement action for the violations cited above and any other violations, which can include penalties of up to [\$54,833] per day per violation. If the offer is accepted, payment is due within 10 calendar days of receiving notice from the EPA that the ESA is final (Final Order), which occurs after a public notice period. **Instructions for all submittals, including payment instructions, are included in the attached "Expedited Settlement Agreement Instructions."**

[FOR NON-POTWS THAT HAVE NOT BEEN PROVIDED SBREFA SHEET: The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to [PERMITTEE]. The EPA Small Business Resources Information Sheet, containing information on compliance assistance resources and tools available to small businesses is enclosed. SBREFA does not eliminate [PERMITTEE'S] responsibility to comply with the CWA.

Please review the enclosed information carefully. If you have any questions regarding this letter, the inspection report, or the ESA, please contact [TECHNICAL CONTACT] at [PHONE NUMBER] or [EMAIL]. Any questions from counsel for [PERMITTEE], should be directed to [EPA LEGAL CONTACT], [Enforcement Attorney], at [PHONE NUMBER] or [EMAIL]. Thank you for your attention to this matter.

Sincerely,

[SUPERVISOR NAME, TITLE]
[NPDES and Wetlands Enforcement Section
Enforcement and Compliance Assurance Division]

Enclosures:

1. Inspection Report
2. Expedited Settlement Agreement Instructions
3. Expedited Settlement Agreement
4. Expedited Settlement Offer Worksheet Violations Form for Wastewater
5. [SBREFA Information Sheet]

cc: [IF IN STATE AUTHORIZED PROGRAM, APPLICABLE STATE CONTACT;
IF IN INDIAN COUNTRY, TRIBAL PRESIDENT/CHAIR AND TRIBAL ENVIRONMENTAL
DIRECTOR; OTHER FACILITY/ENTITY CONTACTS;
ETC. – INCLUDE NAME THEN TITLE AND ORGANIZATION ON NEXT LINE]

EXPEDITED SETTLEMENT AGREEMENT INSTRUCTIONS

The U.S. Environmental Protection Agency has authority under section 309 of the Clean Water Act (CWA) to pursue civil penalties for violations of the CWA, including violations of any National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to the CWA. The EPA encourages the expedited settlement of certain violations, such as the violations cited in the Expedited Settlement Agreement (Agreement) for which these instructions are provided.

You may accept this offer and resolve this matter by:

1. Within 60 calendar days of receipt of this offer, correcting all the violations identified in the enclosed "Expedited Settlement Offer Worksheet Violations Form for Wastewater" (Violations Form);
2. Within 60 calendar days of receipt of this offer, submitting an itemized list detailing the action(s) taken in response to each corrective action with any supporting and/or requested documentation;
3. Within 60 calendar days of receipt of this offer, signing and submitting the original "Expedited Settlement Agreement," which includes a certification that these corrective actions are complete; and
4. Within 10 calendar days of receiving notice from the EPA that the Agreement has been signed and entered by the EPA Regional Judicial Officer (Final Order), submitting your penalty payment by check with case name and docket number noted to the Cincinnati Finance Center with a copy to [EPA Region 8].

Please send items 2 and 3 and a copy of the payment (item 4) to the address below:

U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129
Attn: [TECHNICAL CONTACT] (8ENF-W-NP)

Additional correspondence or questions may be sent by email to [TECHNICAL CONTACT EMAIL] or by calling [TECHNICAL CONTACT PHONE].

Please send the original check, payable to the Treasurer, United States of America, with the case name and docket number noted via certified mail, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 69197-9000

Please retain copies of the signed agreement, the report detailing your corrective actions, and the penalty check for your own records.

You may contact the EPA [Region 8] contact provided above prior to the deadline for signing and submitting the “Expedited Settlement Agreement” to request a 30-day extension to sign and submit the Agreement (item 3, above). No extension applies to items 1, 2, or 4. Extension requests must be in writing (email or hard copy) and provide a justification for the extension. The EPA will consider whether to grant an extension on a case-by-case basis. If you believe that the alleged violations are without merit (and you can provide evidence contesting the allegations) you must provide such information to the EPA as soon as possible but no later than 30 calendar days from your receipt of the offer.

If you choose to sign and return the Agreement, you waive your opportunity for a hearing and/or to appeal the Final Order pursuant to section 309 of the CWA. If you choose not to sign and return the Agreement or contact the EPA within 60 calendar days, the Agreement will be automatically withdrawn, without prejudice to the EPA's ability to pursue an enforcement action for the violations alleged herein or any other violations, which can include penalties of up to [\$54,833] per day per violation. Failure to return the Agreement within the approved time does not relieve you of the requirement to comply fully with all applicable regulations or permits.

If you choose to sign and return the Agreement, the EPA will sign and file the Agreement with the Regional Judicial Officer. The EPA will also provide public notice of the Agreement in accordance with 40 C.F.R. § 22.45(b) and (c)(3). The Final Order, if any, would be entered by the Regional Judicial Officer at least 10 calendar days after the close of the public comment period and at least 40 calendar days after publication or posting of the public notice. As explained above, penalty payment is due within 10 calendar days of receiving notice from the EPA of the Final Order.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8

1595 Wynkoop Street

Denver, Colorado 80202

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-_____ - _____, NPDES Permit No. [PERMIT NUMBER]

The United States Environmental Protection Agency (EPA) and [RESPONDENT], a [TYPE OF "PERSON"] (Respondent), enter into this Expedited Settlement Agreement (Agreement) to resolve Respondent's civil penalty liability for alleged violations of the National Pollutant Discharge Elimination System permit cited above (Permit).

The EPA finds that Respondent failed to comply with the Permit, that the Permit was issued pursuant to section 402 of the Clean Water Act (Act), 33 U.S.C. § 1342, that Respondent is a "person" as defined in section 502(5) of the Act, 33 U.S.C. § 1362(5), and that Respondent is responsible for the violations specified in the attached Expedited Settlement Offer Worksheet Violations Form for Wastewater (Violations Form). The Violations Form is incorporated into this Agreement by reference.

The EPA also finds, and Respondent admits, that the EPA has jurisdiction over this matter pursuant to section 309(g) of the Act, 33 U.S.C. § 1319(g), and 40 C.F.R. part 22. Respondent neither admits nor denies the violations specified in the Violations Form.

Respondent agrees to pay a penalty of [\$X.00]. Respondent waives the rights (1) to contest the statements in the Violations Form and (2) to appeal any final order that an EPA Regional Judicial Officer may issue to ratify this Agreement (Final Order).

Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that any violations identified in the Violations Form have been corrected. No later than the date it signs this Agreement, Respondent shall submit an itemized list to the EPA detailing the specific actions taken to correct the violations cited in the Violations Form. Respondent also certifies that, no later than ten (10) calendar days after it receives notice from the EPA that the Final Order has been issued, Respondent shall submit a check, with the case name and docket number noted, for the amount specified above, payable to the Treasurer, United States of America, to:

U.S. Environmental Protection Agency
Fines and Penalties / Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 69197-9000
In the Matter of: [RESPONDENT]
Docket No. _____

This Agreement, upon incorporation into a Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent's liability for federal civil penalties for the violations and facts alleged in the Violations Form. This Agreement does not affect the right of the EPA or the United States to pursue additional violations not specifically listed in the Violations Form or appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on it. The EPA will address any comments on this Agreement consistent with section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45.

APPROVED BY EPA:

Date: _____

[SIGNATORY, TITLE
NPDES and Wetlands Enforcement Section
Enforcement and Compliance Assurance Division]

Date: _____

[SIGNATORY, TITLE
Regulatory Enforcement Section
Office of Regional Counsel]

APPROVED BY RESPONDENT:

Name (print): _____

Title (print): _____

Signature: _____

Date: _____

Expedited Settlement Offer Worksheet Violations Form For Wastewater

Version 1 (updated April 2019)

Consult instructions regarding eligibility criteria and procedures prior to use.



	LEGAL NAME AND MAILING ADDRESS OF RESPONSIBLE ENTITY	NPDES Permit Number		
1		Permit Effective Date:		
		Permit Expiration Date:		
LOCATION AND ADDRESS OF FACILITY		EPA Contact Name:		
2		EPA Contact Title:		
		EPA Office:		
FACILITY DESCRIPTION / CONTACT NAMES				
		Name of Facility Contact (ESO Worksheet recipient):		
		Name of Authorized Official (40 CFR 122.22):		
		Are any findings a result of an inspection?		
		Inspection Date(s) (if applicable):		
3		Name of Receiving Water Body (Indicate whether 303(d) listed):		
PRIVATE ENTITY ADJUSTMENT FACTOR				
4	Is the entity privately owned?	If yes, adjustment factor of 2.0 is applied.		1.0
FLOW ADJUSTMENT FACTOR				
5	Select the appropriate average volume of flow on a day of discharge in millions of gallons per day (MGD). If a facility discharges only on a periodic basis, do <u>not</u> include days with zero flow when calculating the average flow:			
A	<0.050 mgd (no adjustment is applied)	No adjustment factor is applied.		
B	≥0.050 mgd and <0.250 mgd	Adjustment factor of 1.5 is applied.		

	C	≥0.250 mgd and <1 mgd	Adjustment factor of 3.0 is applied.		
	D	≥1 mgd and <5 mgd	Adjustment factor of 6.0 is applied.		
	E	≥5 mgd and <10 mgd	Adjustment factor of 10.0 is applied.		
	F	≥10 mgd and <50 mgd	Adjustment factor of 15.0 is applied.		
	G	≥50 mgd	Adjustment factor of 20.0 is applied.		
REPEAT VIOLATOR ADJUSTMENT FACTOR					
6	A	How many other state and federal formal enforcement actions has the responsible entity been subject to in the last three years? Include enforcement actions at this facility and any other facilities.	For each enforcement action, adjustment factor is increased 50%.		1.0
				TOTAL ADJUSTMENT FACTOR	1.00

Notes: * RCA = Requires Corrective Action

		Violation(s) / Corrective Action(s)	CWA / Permit Citation	R C A*	No. of Viol- actions	Dollar Amount w/ Adjust. Factor	Total
		MONITORING / REPORTING					
		ESA eligible if violations occurred within the 24 months immediately prior to the ESA offer.					
7	Failure to submit compliance schedule report:						
	A Late but less than 30 days late					\$50 =	
	B Submitted more than 30 days late					\$75 =	
	C Not submitted					\$150 =	
8	Failure to submit timely discharge monitoring report (DMR) and/or DMR submitted with failure to conduct self-monitoring:						
	A DMR late but less than 30 days late					\$50 =	
	B DMR submitted more than 30 days late					\$75 =	
	C DMR not submitted or DMR submitted with a failure to sample pollutants - conventional pollutants (count each conventional pollutant not reported or not sampled as a violation; BOD, TSS, pH, oil and grease, e. coli, fecal coliform)					\$30 =	
	D DMR not submitted or DMR submitted with a failure to sample pollutants - toxic pollutants (count each toxic pollutant not reported or not sampled as a violation)					\$60 =	
9	Failure to conduct self-monitoring in accordance with permit requirements, including but no limited to required sample type, sample location, representative sampling, meeting 40 CFR 136 or other permit requirements (count each pollutant with one or more failures)					\$25 =	
10	Failure to submit any other required report or notice (e.g., biosolids report, pretreatment report, industrial user notification, planned changes, anticipated noncompliance, anticipated bypass, etc.):						
	A Late but less than 30 days late					\$50 =	

	B	Submitted more than 30 days late				\$75	=		
	C	Not submitted				\$150	=		
11		24-Hour Noncompliance Notice							
	A	Failure to provide notice of noncompliance				\$75	=		
	B	Noncompliance notice late				\$50	=		
12		5-Day Written Noncompliance Follow-up Report:							
	A	Failure to provide report				\$75	=		
	B	Report provided late and/or incomplete				\$50	=		
13		Noncompliance Not Required Within 24 Hours:							
	A	Failure to provide report with DMR				\$25	=		
	B	Report provided late and/or incomplete				\$10	=		
Subtotal Monitoring / Reporting Violations									\$0

OPERATIONS AND MAINTENANCE		ESA eligible if violations occurred within the 24 months immediately prior to the ESA offer.				
14	Failure to conduct and document self-inspections of facility (count each month with one or more missed and/or undocumented inspection)					\$40 =
15	Failure to document all required information in self-inspections or conduct a complete inspection (count each month with one or more partially documented/completed inspection unless the month is accounted for in #15)					\$20 =
16	Failure to identify and document corrective actions					\$20 =
17	Failure to meet operation and maintenance requirement of the permit					\$100 =
18	Failure to manage removed substances in accordance with the permit					\$250 =
Subtotal Operations and Maintenance Violations						\$0

EFFLUENT LIMITATIONS		ESA eligible if violations occurred within the 12 months immediately prior to the ESA offer.				
19	Failure to meet effluent limitations:					
A	Months with effluent exceedance less than 40% above the limit - conventional pollutants (count each conventional pollutant separately as a violation; BOD, TSS, pH, oil and grease, e. coli, fecal coliform)					\$50 =
B	Months with effluent exceedance 40% or more above the limit - conventional pollutants (count each conventional pollutant separately as a violation; BOD, TSS, pH, oil and grease, e. coli, fecal coliform)					\$75 =
C	Months with effluent exceedance less than 20% above the limit - toxic pollutants (count each toxic pollutant separately as a violation)					\$100 =

E	Months with effluent exceedance 20% or more above the limit - toxic pollutants (count each toxic pollutant separately as a violation)				\$200 =	
Subtotal Effluent Limitations Violations						\$0
RECORDS ESA eligible if violations occurred within the 24 months immediately prior to the ESA offer.						
20	Failure to create/maintain sampling and/or analysis records (count each month with one or more failure)				\$40 =	
21	Failure to maintain other records required by the permit (count each month with one or more failure excluding records not maintained in #22)				\$25 =	
Subtotal Records Violations						\$0
INDUSTRIAL WASTE ESA eligible if violations occurred within the 60 months immediately prior to the ESA offer.						
22	Failure to meet industrial waste management/pretreatment requirement for POTWs without approved pretreatment programs (excluding failure to provide notice counted in #11)				\$100 =	
ECONOMIC BENEFIT ESTIMATE ESA eligible if estimated economic benefit of noncompliance is less than total ESA offer.						
23	Enter total estimate economic benefit calculated rounded up to the nearest \$50					ESA eligible
Total Expedited Settlement						\$0

More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A).

Having determined that this Agreement is authorized by law, IT IS SO ORDERED:

Date: _____

[NAME OF APPROPRIATE OFFICIAL]

Regional Judicial Officer