



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

OFFICE OF ENFORCEMENT

MEMORANDUM

TO: Regional Administrators
Regional Enforcement Division Directors
Approved NPDES State Directors

SUBJECT: Use of the Enforcement Compliance Schedule Letter
Past July 1, 1977

July 1, 1977, will mark the statutory deadline under the Federal Water Pollution Control Act (FWPCA) for municipal and non-municipal (i.e., industrial) dischargers to achieve established technology based effluent limitations and any more stringent requirements necessary to meet water quality standards. Faced with the fact that some municipal and industrial dischargers would be unable to meet their respective treatment deadlines by the prescribed date despite all good faith efforts, the Office of Enforcement, on June 3, 1976, issued the Enforcement Compliance Schedule Letter (ECSL) policy as a means of formalizing enforcement discretion in these limited circumstances. However, in establishing standards and procedures for implementing the ECSL policy, the June 3, 1976 memorandum did not specifically address the use of the ECSL for permits issued July 1, 1977, and thereafter. This memorandum is intended to eliminate any confusion in that regard, a matter of particular importance as the statutory date draws progressively nearer.

In brief, the use of the ECSL as an exercise of enforcement discretion is as proper after July 1, 1977, as it is prior to that time. The passage of the statutory date in no way obviates the need for such an enforcement policy to accommodate those dischargers who proceed in good faith, but who are nevertheless unable to achieve the required treatment at the prescribed time. This need is particularly acute for dischargers who receive their first permit after July 1, 1977, or for whom adjudicatory hearings are resolved after July 1, 1977, and who may not be reasonably able to meet applicable secondary treatment or BPT standards immediately upon permit issuance. For such dischargers, a permit should be issued with an immediately effective compliance date for meeting those standards, but with a companion ECSL establishing the shortest reasonable compliance schedule for their achievement.

It should be noted, however, that all of the standards, procedures, and safeguards contained in the June 3, 1976, ECSL policy are applicable to ECSLs issued with permits after July 1, 1977. In particular, firm and prompt enforcement of prescribed deadlines should be vigorously pursued where ECSLs are inappropriate, so as to avoid unfair economic advantages to recalcitrant dischargers.

Stanley W. Legro