



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

n-77-11

JUN 22 1977

OFFICE OF ENFORCEMENT

MEMORANDUM

TO: Regional Administrators  
Regional Enforcement Division Directors  
NPDES State Directors

SUBJECT: Enforcement Policy and the Use of Enforcement  
Compliance Schedule Letters (ECSLs) for Publicly  
Owned Treatment Works (POTWs)

The ECSL policy announced by the Environmental Protection Agency (EPA) on June 3, 1976, is applicable only to those municipal dischargers: 1) that despite all reasonable good faith efforts do not presently have finally effective permits (or have expiring permits); 2) that cannot achieve secondary treatment by July 1, 1977; and 3) that are currently funded for a Step 1, 2, and/or 3 construction grant directed toward achieving secondary treatment or occupy a position on a priority list such that it can reasonably be expected to be so funded prior to July 1, 1977, from section 207 funds. Under the terms of the policy, these POTWs should be issued permits requiring secondary or more stringent treatment by July 1, 1977, but may be issued a companion ECSL containing the shortest reasonable schedule of actions to attain these requirements by a date certain.

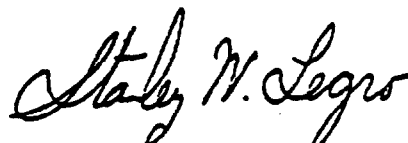
However, the current ECSL policy does not address the problems of those POTWs that are unfunded by Federal grants, or while partially funded have no certainty of receiving sufficient funding to set a date certain for completion. This memorandum is intended to provide enforcement guidance for those POTWs in order to ensure that enforcement activities continue to reflect treatment and funding realities consistent with the Administrator's recent policy on Municipal Enforcement. Thus the issuance of an ECSL is authorized where sufficient federal funds are not available within the State after funding other projects with a higher environmental priority.

In issuing ECSLs to this class of POTWs, all of the procedures and standards established by the June 3, 1976, policy are applicable, except that after July 1, 1977, the permit will require final effluent limits to be immediately effective upon issuance. In particular, I would like to

stress the importance of requiring interim effluent limitations in the ECSL based upon the pollution control that can be obtained through good operation and maintenance (O&M). Such new effluent limitations should be calculated on the basis of existing knowledge of municipal operating procedures and the history of the particular facility. In addition to good O&M practices, the interim limits may also reflect the use of other methods that are not capital intensive (e.g., chemical addition) where the Regional Administrator or the NPDES State Director determines that it would be appropriate and cost-effective.

The primary distinction between those POTWs originally covered by the June 3, 1976, policy and POTWs uncertain of funding will be in the compliance schedule format. While the former were best addressed by a compliance schedule containing dates certain (a "fixed date" schedule), a compliance schedule utilizing or partially utilizing contingent dates (a "ratchet" or "trigger-date/elapsed time" schedule) may be more appropriate for the latter class of POTWs. More specifically, the compliance schedule containing contingent dates is one which contains an initial action date or series of dates insofar as they are known at the time the schedule is developed. Other dates are contingent. Instead, the balance of the schedule contains specified periods of time for the permittee to complete certain actions which are started or triggered by a specified event or change in the permittee's circumstances. Thus, while the permit may require that statutory effluent limitations be effective immediately, there may be no date certain in the ECSL for construction to be completed and operation capability to be attained. No ECSL, of course, should be issued with a term extending beyond the life of the underlying permit.

The use of ECSLs under these circumstances should provide an effective mechanism for ensuring that permits can be issued and reissued embodying effluent limitations which require O&M and other non-capital intensive treatment requirements in order to achieve maximum water quality improvement in those instances where federal construction funding is not available.



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