



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

7-78-3

APR 19 1978

OFFICE OF ENFORCEMENT

MEMORANDUM

TO : Regional Administrators
NPDES State Directors

FROM : Assistant Administrator for Enforcement

SUBJECT: Municipal Permit Extensions Under Section
301(i)(1) of the Clean Water Act

In a memorandum dated March 13, 1978, I asked you not to accept requests for municipal time extensions until the final policy guidance and the interim final regulations were issued. The regulations are now in the Agency "red border" sign-off stage and should go to the Federal Register within the next few weeks.

I am aware that there are thousands of municipalities that may be eligible for section 301(i)(1) extensions. Many of these municipalities may not know that they must apply for this extension by June 26, 1978. Several Regions have asked me to allow them to notify municipalities of their potential eligibility for time extensions under section 301(i)(1). I agree that municipalities should be notified as soon as possible. Therefore, I am now asking you to begin the notification process. However, I again request that you not make any section 301(i)(1) determinations until the regulations appear in the Federal Register.

Attached are three sample letters you may use to notify municipalities. These sample letters cover the full spectrum of possible requesters: those holding ECSLs, those with outstanding ECSL requests and those not falling into either of these categories.

If you chose to draft your own notification letters you should make the following points:

1. Eligibility

(A) Construction is required to achieve secondary or more stringent treatment limitations and (B) Construction was underway before July 1, 1977 but could not be completed by July 1, 1977 despite all expeditious efforts by the municipality OR Federal financial assistance was not available in time to complete construction by July 1, 1977 and the municipality did not significantly contribute to the delay in funding.

2. Timing

Requests must be filed by June 26, 1978.

3. Effect on ECSLs

An existing ECSL will be terminated upon the determination to grant or deny a section 301(i)(1) request. All outstanding requests for ECSLs are to be denied. An existing ECSL for a source that has not requested a section 301(i)(1) extension is to be honored.

4. Notification to Tie-Ins

All potential tie-ins must be notified as to the date and fact of a section 301(i)(1) request because this date has an effect on the timing of a section 301(i)(2) request. This notification is necessary for a section 301(i)(1) request to be considered.

5. Supporting Documentation and Arguments

The requester may submit any additional information (including proof of notification to tie-ins) supporting the request within thirty days of making the request. This thirty day period is not extendable.


Marvin B. Durning

Attachments

cc: Permit Branch Chiefs
Enforcement Division Directors

SAMPLE LETTER TO
ECSL REQUESTER

IN THE MATTER OF:

Name of Permittee

NPDES Permit Number

According to our files _____ requested an
(Name of Permittee)
ECSL on _____. You were issued an ECSL on _____.
(Date) (Date)

Section 301(i)(1) of the Clean Water Act of 1977 authorizes
_____ to grant extensions
(Name of Permit Issuing Authority)
of the July 1, 1977, treatment deadline through permit issuance or
modification to certain publicly owned treatments works (POTWs). The
ECSL policy has been withdrawn due to this section, therefore your ECSL
request cannot be granted. You may be eligible however for a permit
extension under section 301(i)(1) of the Act. To be eligible for this
extension, a POTW must require construction to achieve secondary or
more stringent treatment limitations AND EITHER (1) Construction was
underway before July 1, 1977, but could not be completed despite all
expeditious efforts or (2) Federal financial assistance was not available
in time to complete construction and the POTW did not significantly
contribute to the delay in Federal funding. If you believe that you are
eligible for this extension, you may request an extension by marking the
box below and returning this letter to _____
(Regional Administrator or State Director)

by June 26, 1978. You may submit additional information supporting your request within thirty days of this request, or you may rely on the information supporting the ECSL request already in our files. The permit issuing authority may also ask for more information at a later date.

Section 301(i)(2) also provides that certain non-municipal dischargers and privately owned treatment works may apply for an extension of the July 1, 1977, treatment deadline provided that one of the following basic requirements is met:

- 1) A permit issued before July 1, 1977, to the facility is based on an eventual tie-in to a POTW.
- 2) An enforceable contract was made prior to July 1, 1977, to tie-in to a POTW.
- 3) The POTW's construction grant application or working plans prepared before July 1, 1977, indicated that tie-in was to occur.

Since these dischargers must file their section 301(i)(2) requests within 180 days of the filing of your section 301(i)(1) request, you must notify them of the fact and date of your request.

Please contact _____ if you have any questions about this letter.

Sincerely yours,

() I hereby request a section 301(i)(1) extension and have notified
or will notify within 30 days of this request, all non-municipal dis-
chargers scheduled to discharge into this POTW of the date of this request by

(letter or newspaper notice) (date) (Name of newspaper)

Signature of Authorized Agent (Date)

Title

SAMPLE LETTER TO

ECSL HOLDER

IN THE MATTER OF:

Name of Permittee

NPDES Permit Number

According to our files _____ requested an
(Name of Permittee)
ECSL on _____. You were issued an ECSL on _____.
(Date) (Date)

Section 301(i)(1) of the Clean Water Act of 1977 authorizes
_____ to grant extensions
(Name of Permit Issuing Authority)
of the July 1, 1977, treatment deadline through permit issuance or
modification to certain publicly owned treatments works (POTWs). To be
eligible for this extension, a POTW must require construction to
achieve secondary or more stringent treatment limitations AND EITHER
(1) Construction was underway before July 1, 1977, but could not be
completed despite all expeditious efforts or (2) Federal financial
assistance was not available in time to complete construction and the
POTW did not significantly contribute to the delay in Federal funding.
If you believe that you are eligible for this extension, you may
request an extension by marking the box below and returning this letter
to _____ by June 26, 1978. You
(Regional Administrator or State Director)
may submit additional information supporting your request within thirty

days of this request, or you may rely on the information already in our files. The permit issuing authority may also ask for more information at a later date.

If you request this extension, upon final determination of your request, your ECSL will be terminated. If your 301(i)(1) request is denied, your ECSL will not be reinstated and your present permit will remain effective. Further, failure to obtain a 301(i)(1) extension may result in change in your position on the State project priority list.

There are two other circumstances under which your ECSL will be terminated. If you do not request a section 301(i)(1) extension by June 26, 1978, and the terms of your ECSL are at any time violated, the ECSL is void and you are subject to enforcement action. Also, your existing ECSL cannot continue after the expiration of your current permit.

Section 301(i)(2) also provides that certain non-municipal dischargers and privately owned treatment works may apply for an extension of the July 1, 1977, treatment deadline provided that one of the following basic requirements is met:

- 1) A permit issued before July 1, 1977, to the facility is based on an eventual tie-in to a POTW.
- 2) An enforceable contract was made prior to July 1, 1977, to tie-in to a POTW.

- 3) The POTW's construction grant application or working plans prepared before July 1, 1977, indicated that tie-in was to occur.

Since these dischargers must file their section 301(i)(2) requests within 180 days of the filing of your section 301(i)(1) request, you must notify them of the fact and date of your request.

Please contact _____ if you have any questions about this letter.

Sincerely yours,

() I hereby request a section 301(i)(1) extension and have notified or will notify within 30 days of this request, all non-municipal dischargers scheduled to discharge into this POTW of the date of this request by

(letter or newspaper notice) (date) (Name of newspaper)

Signature of Authorized Agent

(Date)

Title

GENERAL - SAMPLE LETTER

IN THE MATTER OF:

Name of Permittee

NPDES Permit Number

Section 301(f)(1) of the Clean Water Act of 1977 authorizes
(Name of Permit Issuing Authority) to grant extensions
of the July 1, 1977, treatment deadline through permit issuance or
modification to certain publicly owned treatments works (POTWs). To be
eligible for this extension, a POTW must require construction to achieve
secondary or more stringent treatment limitations AND EITHER (1) Construc-
tion was underway before July 1, 1977, but could not be completed by
July 1, 1977, despite all expeditious efforts or (2) Federal financial
assistance was not available in time to complete construction and the
POTW did not significantly contribute to the delay in Federal funding.
If you believe that you are eligible for this extension, you may request
an extension by marking the box below and returning this letter to
(Regional Administrator or State Director) by June 26, 1978. You may
submit additional information supporting your request within thirty days
of this request, or you may rely on the information already in our files.
The permit issuing authority may also ask for more information at a later
date.

Section 301(i)(2) also provides that certain non-municipal dischargers and privately owned treatment works may apply for an extension of the July 1, 1977, treatment deadline provided that one of the following basic requirements is met:

- 1) A permit issued before July 1, 1977, to the facility is based on an eventual tie-in to a POTW.
- 2) An enforceable contract was made prior to July 1, 1977, to tie-in to a POTW.
- 3) The POTW's construction grant application or working plans prepared before July 1, 1977, indicated that tie-in was to occur.

Since these dischargers must file their section 301(i)(2) requests within 180 days of the filing of your section 301(i)(1) request, you must notify them of the fact and date of your request.

Please contact _____ if you have any questions about this letter.

Sincerely yours,

() I hereby request a section 301(i)(1) extension and have notified
or will notify within 30 days of this request, all non-municipal dis-
chargers scheduled to discharge into this POTW of the date of this request by

(letter or newspaper notice) (date) (Name of newspaper)

Signature of Authorized Agent (Date)

Title