



Association of
Metropolitan
Sewerage Agencies

President
Gurnie C. Gunter
Director
Kansas City Water
Services Department
Kansas City, MO

April 30, 2002

Vice President
Paul Pinault
Executive Director
Narragansett Bay Commission
Providence, RI

The Honorable Christine Todd Whitman
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building (1101A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Treasurer
Thomas R. "Buddy" Morgan
General Manager
Water Works & Sanitary
Sewer Board
Montgomery, AL

RE: Issuance of Proposals for Public Comment: Water Quality Trading Policy / Sanitary Sewer Overflow (SSO) Rule

Secretary
William B. Schatz
General Counsel
Northeast Ohio Regional
Sewer District
Cleveland, OH

Dear Governor Whitman:

Executive Director
Ken Kirk

The Association of Metropolitan Sewerage Agencies (AMSA) supports the U.S. Environmental Protection Agency's (EPA) issuance of the draft *Water Quality Trading Policy Statement* (the "draft policy") for public comment. AMSA also supports the Agency moving forward with the issuance of a proposed sanitary sewer overflow (SSO) rule in accordance with the plan announced by Assistant Administrator for Water Tracy Mehan on November 7, 2001. Both the draft policy and SSO rule address significant environmental issues and merit public review and comment at the earliest possible time.

Draft Water Quality Trading Policy

After reviewing the February 25, 2002 draft policy and discussing our preliminary feedback on the document with AMSA members and Office of Water staff, we believe the draft policy represents a positive step towards encouraging greater use of voluntary, market-based approaches to achieve water quality objectives. AMSA believes that water quality trading offers a potential option for achieving cost-effective water quality gains.

As the Agency moves forward with the issuance of a proposed trading policy, we encourage staff to look for ways to clarify the appropriate relationship between trading and total maximum daily loads (TMDLs). We believe it important to add that trading should not be used as a replacement for a fair and equitable allocation of pollutant reduction responsibilities among watershed sources. Especially for trades between permitted point sources and unpermitted nonpoint sources in impaired waters, a TMDL provides the necessary vehicle for allocating removal obligations. Trading can be used to help establish cost-effective control strategies after the TMDL allocation has been made.

April 30, 2002

Page 2

However, post-TMDL trading should only be used as a supplemental means for implementing the required pollutant reductions, and should not replace the need to fairly and equitably allocate such reductions among sources of impairment. We believe the draft policy can be strengthened in this regard.

Proposed SSO Rule

On November 7, 2001, Assistant Administrator for Water Tracy Mehan announced a plan for moving forward with a proposed SSO rule. The plan called for proposing the regulatory text from the January 2001 draft, and revising the preamble discussion to invite comment on potential alternative regulatory options. AMSA supports this plan as a reasonable way to move forward with the development of an SSO rule. We urge you to renew efforts to propose an SSO rule based on the Assistant Administrator's plan.

Although AMSA has continuing concerns with several of the key provisions in the draft regulation, we also have a genuine interest in developing a workable rule with consistent, national standards for controlling overflows. We must emphasize, however, that our support for continuing the rulemaking process is based on and tied to EPA successfully following through with the Assistant Administrator's plan. Thus, AMSA opposes any attempt to break up the different parts of the SSO rule and propose them in a piecemeal fashion. Such an approach would be fatal to the rulemaking process.

AMSA looks forward to providing the Agency with meaningful comments once the draft policy and SSO rule are proposed. Please feel free to contact me directly at 202/833-4653 if you should have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk". The signature is stylized and cursive.

Ken Kirk
Executive Director

cc: Linda Fisher, Deputy Administrator
Benjamin Grumbles, Deputy Assistant Administrator for Water
Diane C. Regas, Acting Assistant Administrator for Water
Marcus Peacock, Associate Director, Office of Management & Budget (OMB)
Paul Noe, Counselor to the Director, Office of Information & Regulatory Affairs, OMB