

President
Kumar Kishinchand
Water Commissioner
Philadelphia Water Department
Philadelphia, PA

Vice President
William L. Pugh
Public Works Director
City of Tacoma
Public Works Department
Tacoma, WA

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

Secretary
Paul Pinault
Executive Director
Narragansett Bay Water
Quality Management
District Commission
Providence, RI

Executive Director
Ken Kirk

November 19, 1999

J. Charles Fox
Assistant Administrator for Water
U.S. Environmental Protection Agency
401 M Street, SW (4101)
Washington, DC 20460

Dear Chuck:

In June 1998, EPA released its National Strategy for the Development of Regional Nutrient Criteria. The strategy called for EPA to develop nutrient guidance documents for various types of waterbodies (e.g. rivers, lakes, coastal waters and wetlands). States would then use these documents to assist in the development of numeric criteria for nutrients as part of the state water quality standards.

EPA recently published draft versions of the nutrient guidance documents for rivers/streams and lakes and intends to finalize these documents within the next few months. EPA has not provided the opportunity for formal public comment. Given the critical importance of these documents, we believe that it is essential that a formal public comment period be provided. AMSA's Nutrient Workgroup has conducted a preliminary review of the draft documents and will be completing a more detailed review during the next three (3) months. AMSA has contracted with HydroQual, Inc. to assist us in this effort. Detailed comments and recommendations will be submitted under separate cover.

Based on our preliminary review, we have significant concerns regarding both the general approaches identified in the documents and the potential impacts of criteria that are developed based on these approaches. For example, we believe that many rivers or river segments in the nation will needlessly be identified as "impaired" based simply on nutrient concentration or chlorophyll levels. While nutrient concentrations, chlorophyll, and other water quality measurements could be used as a screening tool to identify river stream segments that may require a more detailed evaluation, we believe that regulatory

November 19, 1999

Page 2

approaches must be flexible so that response actions are limited to those cases where technical demonstrations show that the resident living resources or other defined beneficial uses have been adversely impacted by nutrients.

The present framework of the guidance will produce nutrient criteria which are not adequately linked to aquatic life or other beneficial uses. As such, they are unacceptable for the regulatory application for which they are intended. The proposed framework does not provide the necessary flexibility to limit response actions to only those sites where the resident living resources or other beneficial uses have been adversely impacted. This will result in unnecessary regulatory actions, including the potential imposition of stringent effluent limitations on POTWs. The bottom line is that AMSA members could spend billions of dollars meeting effluent limitations that are driven by non-existent environmental problems.

Nutrient/living resource/aesthetic condition linkages are very complex and site specific. These linkages cannot be simply ascertained on wide scales by evaluating reference conditions with respect to water quality statistical distributions and published literature conditions with respect to water quality statistical distributions and published literature values. These approaches will produce only artificial demarcations that may have nothing to do with the region's biological health or beneficial uses. These will only reflect the statistical distribution of the data set for which it was evaluated. Rather, the criteria needs to be established at relatively small spatial scales through additional primary research and extensive modeling work. Much more thought needs to be placed into the development of living resource based criteria, not statistical or literature based short cuts.

We also have concerns relative to the implications that numeric water quality criteria for nutrients may have relative to TMDLs. We believe that if numeric water quality standards for nutrients are developed, they will become a major "driver" for 303(d) lists. Proposed revisions to the TMDL regulations will significantly increase the burden on agencies charged with TMDL development, which as discussed earlier, could represent unnecessary burdens. In addition, point dischargers will undoubtedly be impacted as additional sites are placed on the 303(d) list. It is essential that the limited resources devoted to nutrient management to be directed towards solving demonstrable problems. The present guidance does not provide this structure.

We believe that it is essential to have a formal and "open" public comment period prior to finalizing the guidance documents. This will help ensure that the approaches outlined in the documents are both technically current and provide a reasonable degree of flexibility. The current process has not incorporated a formal public comment period. The schedule of finalizing the guidance documents must reflect the public comment period. As indicated earlier, AMSA is preparing comments on the guidance documents. Given the potential significant impacts that the approaches outlined in the guidance documents may have on AMSA members, we request that the schedule for finalizing the documents be

November 19, 1999

Page 3

delayed until our comments are received and EPA staff have had an opportunity to fully consider these comments. In addition, we would like to arrange a meeting with you or your staff to discuss some of our preliminary concerns in more detail. We will be contacting you within the next week to set up a meeting. If you have any questions, please contact me at 202/833-4653 or Mark Hoeke at 202/833-9106.

Sincerely,

Handwritten signature of Ken Kirk in black ink.

Ken Kirk
Executive Director

cc: Geoff Grubbs, U.S. EPA
Dave Taylor, Madison Metropolitan Sewer District
Will Hunley, Hampton Roads Sanitation District
Dom DiToro, HydroQual, Inc.