



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

NOV 15 2000

OFFICE OF  
WATER

Mr. Ken Kirk  
Executive Director  
Association of Metropolitan Sewerage Agencies (AMSA)  
1816 Jefferson Place, NW  
Washington, DC 20036-2505

Dear Ken:

Thank you for your letter dated September 22, 2000, in which you expressed several concerns regarding development of guidance on National Pollutant Discharge Elimination System (NPDES) permitting in advance of a total maximum daily load (TMDL). Thank you also for AMSA's support of the U. S. Environmental Protection Agency's (EPA's) TMDL regulations, as referenced in your letter, and of the TMDL process. EPA, like AMSA, recognizes the importance of TMDLs in the Clean Water program and wishes to see TMDLs completed as quickly as possible. Many TMDLs, however, are not scheduled for completion for several years. Consequently, permitting authorities, permit holders, and the public have raised questions regarding implementation of Clean Water Act and NPDES regulatory requirements prior to TMDL development and approval.

As you are aware, EPA formed a workgroup of EPA Headquarters and Regional NPDES management and staff and State representatives to prepare national guidance responding to questions about permitting in advance of a TMDL.

During the early development of the guidance, I and other EPA representatives have taken the opportunity to meet with various stakeholders, including AMSA members and staff, to discuss the important issues and views they bring to the table. EPA will continue to discuss these matters with interested stakeholders and will do our best to understand and address the important issues and concerns they bring to our attention, before we release a formal draft for public comment. I believe the discussions I and my staff have had and expect to have with interested stakeholders will help us to put out a strong and balanced draft guidance for comment.

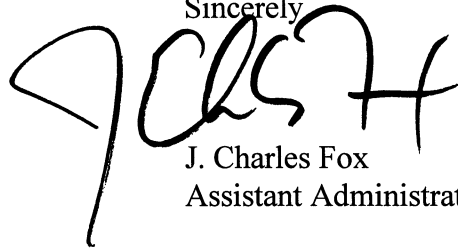
The workgroup is discussing a number of the issues that you raised in your letter and will carefully consider the comments and concerns that you outlined. I particularly understand AMSA's desire to ensure that point sources are not compelled by NPDES permits to expend large sums of money for treatment technologies that yield no water quality benefits. We will

seek to address that issue in the guidance while recommending procedures that yield sound, legally defensible permit requirements in advance of TMDL completion.

I want to assure you that, through this guidance, EPA intends to discuss recommendations on implementing existing Clean Water Act and NPDES regulatory requirements in NPDES permits. EPA has long-standing guidance addressing the process of translating water quality standards into NPDES permit requirements, particularly in the absence of a TMDL (see *Technical Support Document for Water Quality-based Toxics Control*, EPA/505/2-90-001, March 1991). The national guidance currently being developed by the workgroup simply is intended to further clarify recommendations on implementing the standards-to-permits process in advance of a TMDL for all types of pollutants (toxics and other pollutants).

Again, thank you for your letter and for bringing your concerns to my attention. I invite you to provide specific comments and suggestions on the draft national guidance when it is released for public review and comment. In the meantime, if you have any further questions or concerns, please do not hesitate to call me.

Sincerely

A handwritten signature in black ink, appearing to read "J. Charles Fox". The signature is stylized and cursive, with a large initial "J" and "C".

J. Charles Fox  
Assistant Administrator