



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JAN 10 1973

THE ADMINISTRATOR

Mr. Eugene T. Jensen  
Director, State Water Control  
Board  
4010 West Broad Street  
Richmond, Virginia 23230

Dear Mr. Jensen:

Your request for interim authorization to conduct a State permit program pursuant to the provisions of the National Pollutant Discharge Elimination System under Section 402 of the Federal Water Pollution Control Act Amendments of 1972 is hereby approved subject to the assurances provided in your letters of October 20 and December 20, 1972.

This authority will terminate, by law, on the ninetieth day following the first promulgation of Environmental Protection Agency guidelines issued pursuant to Section 304(h) (2) of the 1972 Amendments, or on the day your program receives final approval pursuant to Section 402(b), whichever occurs first. The Section 304(h) (2) guidelines were first promulgated on December 18, 1972.

Permits issued by you pursuant to this grant of interim authorization will have full legal effect and validity as permits under Section 402. It should be noted that Section 402(a) (5) provides that each permit to be issued by a State pursuant to a grant of interim authorization shall be subject to such conditions as the Administrator of the Environmental Protection Agency determines are necessary to carry out the provisions of the Act, and that no such permit shall issue if the Administrator objects to such issuance. It is EPA's policy that each permit proposed to be issued under this grant of interim authorization in accordance with the provisions of the National Pollutant Discharge Elimination System will be fully reviewed by EPA to determine whether the conditions of the proposed permit carry out the provisions of the Act.

It is quite probable that in the normal operation of your State program during the next few months your Agency would process and issue considerable numbers of permits which, as a practical matter, cannot be reviewed by EPA. In order to avoid disruption of your on-going program, I hereby consent to your issuance of such permits, provided that each permit so issued contain the clear statement that the permit has not been officially reviewed by EPA and is not issued pursuant to Section 402 of the Federal Water Pollution Control Act Amendments of 1972. In

all cases where permits are reviewed by EPA in order to satisfy requirements for issuance under Section 402, written verification of such review and approval will be provided by EPA and such permits should so indicate. If this arrangement is agreeable with you, please sign the enclosed copy of this letter and return it to me.

We are pleased to have your assurance that during the interim period the State will take all necessary measures to move toward the objective of obtaining final approval of your permit program under Section 402(b). Since the interim authority is limited by law to an extremely short duration and since new legislation or other major changes may be needed in your State to comply with the statutory requirements for final approval, it is quite likely that the State's authority to issue permits may lapse upon expiration of the interim period. In this event, formal permit issuance authority will revert to the Environmental Protection Agency by operation of law.

It is our expectation that even in the event of a lapse of the State's authority the State will continue to have a major responsibility in developing permits to be issued by EPA. Procedures and regulations to be implemented during the interim period should take into account the possibility of such a lapse of State authority. The likelihood of a severe disruption in carrying out the national permit program will be reduced if appropriate understandings and firm agreements can be reached between the State and EPA regarding permit processing priorities, specific conditions to be embodied in individual permits, procedures for public notice and public hearing, and other matters to be pursued by the State and EPA jointly.

You should contact the EPA Regional Administrator in Region III at the earliest opportunity to begin arrangements to obtain the appropriate files and records in order to exercise the authority hereby granted, as well as to continue discussions on the matters referred to above.

We look forward to working with you in implementing this new and important program for improving the quality of the Nation's waters.

Sincerely yours,

/s/ Robert W. Fri

William D. Ruckelshaus  
Administrator

Enclosure