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

May 1, 1979

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

TO : David Sabock, Acting Chief
Criteria Branch (WH-551)

FROM : Richard G. Stoll, Jr.
Deputy Associate General Counsel
Water and Solid Waste Division (A-131)

SUBJECT: "Mixing Zones" For Water Quality Standards

In our phone conversation of this morning, you asked me to state in writing whether "mixing zones" for water quality standards (WQS) are legal. We believe that the use of mixing zones in WQS is authorized by the Clean Water Act (CWA).

First, EPA's longstanding interpretation of the CWA is that mixing zones are authorized. This is reflected in (i) EPA's numerous state WQS approvals over the last several years where the WQS contained mixing zones, and (ii) EPA's explicit recognition of mixing zones in §5.5 of the November, 1976 WQS Guidelines (Chapter 5). Nothing in the 1977 CWA amendments purports to nullify this longstanding interpretation.

Second, the requirements in the CWA for total daily maximum load (TMDL) calculations and guidelines (§303(d), §304(a)(2)(D)) would appear to be superfluous if mixing zones were not permitted. Nothing in the 1977 CWA amendments called these sections into question. In fact, we issued a final TMDL notice on December 28, 1978 (43 Fed. Reg. 60662).
