

EXECUTIVE ORDER

WHEREAS, the Congress of the United States enacted the Federal Water Pollution Control Act of 1972 on October 18, 1972; and,

WHEREAS, Section 208 of this Federal enactment directs that the Administrator of the Federal Environmental Protection Agency establish guidelines for identifying areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems; and,

WHEREAS, Section 208, and regulations established by the Administrator pursuant thereto, impose directly upon the Governors of the States responsibility for making decisions required to implement the areawide planning and management functions set forth in Section 208; and,

WHEREAS, I am determined that these planning and management functions, implemented in Texas pursuant to Section 208 and regulations of the Environmental Protection Agency, use to the fullest extent the capabilities of existing state agencies, river authorities, and local units of government; and,

WHEREAS, at my request the Texas Water Quality Board, Texas Advisory Commission on Intergovernmental Affairs, other state and local organizations, and individuals have made an extensive analysis of the effects of implementing Section 208 on the water quality control problems existing in Texas, and of the courses of action the State and the Governor should most appropriately take acting in response to these Federal mandates; now,

THEREFORE, I am by this Order establishing the following procedures for implementing areawide planning in the State of Texas in compliance with the provisions of Section 208 of the Federal Water Pollution Control Act of 1972:

I. Purpose:

To establish a process for implementing Section 208, P.L. 92-500, in the State of Texas that will enable the State to:

- (1) carry out areawide waste treatment management planning
- (2) use to the fullest extent consistent with their legal authorities the planning capabilities of state agencies, river authorities and other existing governmental bodies; and,
- (3) minimize any possible duplication of effort or jurisdictional conflict that might arise in meeting the water quality objectives set forth in the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500).

II. Authority:

Section 208 of P.L. 92-500, and the regulations pursuant thereto issued by the Federal Environmental Protection Agency (EPA) establish the responsibility of the Governor in implementing the areawide waste management planning provisions of P.L. 92-500.

Further, under laws of the State of Texas, the Governor is the chief planning officer of the State with general and specific responsibility for providing coordination among planning activities conducted at all levels of State and local government.

III. Definitions:

The following definitions will apply in carrying out the procedures contained herein:

- (1) Division of Planning Coordination (DPC) - a Division within the Office of the Governor that was created by the Legislature in 1967.
- (2) State Reviewing Agency - the Texas Water Quality Board (TWQB) shall be, and is herewith designated as the State Reviewing Agency for Section 208 planning.
- (3) Designated planning area - those areas within the State where substantial water quality control problems resulting from urban-industrial concentrations or other factors have been identified, and which have been or shall be designated by the Governor pursuant to Section 208.
- (4) Areawide Planning Advisory Committee - a committee named by the Director of the Division of Planning Coordination, with representatives of the Texas Water Quality Board, Division of Planning Coordination, appropriate local and regional entities, and of the public.
- (5) Representative organization - an organization with planning capability to develop effective areawide waste treatment management plans. Organizations so defined will include local elected officials or their designees as required by Section 208 and shall also include representation from river authorities or other entity with water planning and/or management responsibility in the designated area.

IV. Procedure:

- (1) Determination of Eligible Areas
 - A. The TWQB, with the advice and concurrence of DPC, shall develop criteria for determining eligible 208 planning areas.
 - B. Based on the above criteria the TWQB shall present both oral and written recommendations to the Governor, through DPC, naming potentially eligible areas.
 - C. The DPC shall then notify EPA and affected local governments of the Governor's decision to consider designation in potentially eligible areas.
 - D. The TWQB shall then notify affected local and regional governmental bodies of public hearings to be held in each area. The TWQB and DPC shall co-sponsor at least one (1) public hearing in each potentially eligible 208 area.
- (2) State 208 Planning Conference
 - A. If the DPC and TWQB agree that a State 208 Planning conference is warranted they shall jointly sponsor such a conference.

(3) Designation of Planning Area (s)

- A. The TWQB, with the advice and concurrence of DPC, shall develop criteria and procedures for determining designation of planning areas.
- B. Based upon the above criteria and information obtained during public hearings, the TWQB shall provide the Governor, through DPC, formal recommendations on area designations.
- C. The Governor shall then notify EPA and local officials of his designation decision (s).

(4) Designation of Planning Agency (ies)

- A. The TWQB, with the advice and concurrence of DPC, shall develop criteria for evaluating the eligibility of areawide planning agencies.
- B. Based upon the above criteria and information obtained during public hearings, the TWQB shall provide the Governor, through DPC, recommendations on areawide planning agency designations.
- C. The Governor shall then notify EPA and local officials of his designation decisions.

(5) Application Process

- A. The TWQB, with the advice and concurrence of DPC, shall develop guidelines for the preparation of grant applications.
- B. The TWQB shall review each application; grant, or refuse to grant, state certification of approval in accordance with applicable Federal regulations and State requirements; and forward the application through DPC to EPA.
- C. The DPC shall coordinate A-95 review of the application prior to the TWQB's certification decision.

(6) Planning Process

- A. The TWQB shall monitor on a continuous basis the work of each designated areawide planning organization. The procedures to be followed to provide for this coordination will be contained in the Guidelines prepared by TWQB and DPC as set forth in 5.A. above.
- B. The DPC and TWQB shall serve as members of each areawide planning advisory committee.

(7) Plan Review and Submission

- A. The TWQB shall review each areawide waste treatment management plan upon its completion, and submit to the Governor through DPC its recommendations concerning certification.

- B. The Governor shall either certify or refuse to certify each plan. Notification of this action shall be forwarded to EPA and the designated areawide planning organization.
- (8) Waste Treatment Management Agency Designation
- A. The TWQB with the advice and concurrence of DPC, shall provide the Governor its recommendations for designation of waste treatment management agency(ies) within each planning area.
- B. The Governor, after consultation with appropriate areawide planning organizations, local officials, and TWQB, shall designate a waste treatment management agency(ies) within each designated area.
- (9) State Guidelines
- A. The TWQB shall develop criteria and procedures, in the form of state guidelines, which shall include but not be limited to the following program areas.
- (1) Determination of potentially eligible area
 - (2) Designation of planning areas
 - (3) Designation of areawide planning organizations
 - (4) Grant application procedures and criteria
 - (5) Grant reporting procedures
 - (6) Plan approval and submission
 - (7) Designation of waste treatment management agencies
 - (8) Annual update of plan
- B. State guidelines will be written so as to be consistent with the intent of Public Law No. 92-500, and published Federal Regulations and Guidelines established pursuant to Section 208.
- C. The DPC shall review the guidelines prior to their adoption by the TWQB.
- D. State Guidelines shall be binding on designated areawide planning organizations. The TWQB shall be responsible for monitoring planning organization compliance, and for reporting any lack of compliance through DPC to the Governor.

