

AREA AND AGENCY DESIGNATION HANDBOOK  
FOR  
SECTION 208 AREAWIDE WASTE TREATMENT MANAGEMENT PLANNING

ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D. C. 20460  
DECEMBER 1974

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## PREFACE

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Section 208 of the Federal Water Pollution Control Act Amendments (P.L. 92-500) provides financial support for areawide waste treatment management planning (Appendix A). In carrying out the provisions of this section, EPA has published 40 CFR Part 126 regulations for the designation of areas and the responsible planning agencies (Appendix B).

The purpose of this handbook is to provide additional details on the criteria for designating both the 208 planning areas and the agencies responsible for planning. Examples are provided as further assistance to Governors of States and the chief elected officials of general purpose local governments in preparing information for submission to EPA.

This handbook was prepared by Michael L. Frankel of Centaur Management Consultants, Inc. with the support of the 208 planning staff.

Washington, D.C.

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APPENDIX B	40 CFR Part 126, Areawide Waste Treatment Management Planning Areas and Responsible Planning Agencies

## INTRODUCTION

Through Section 208 of the Federal Water Pollution Control Act Amendments of 1972, local areas are provided a unique opportunity to plan and manage a comprehensive pollution control program for municipal and industrial wastewater, storm and combined sewer runoff, nonpoint source pollutants, and land use as it relates to water quality. Through a locally controlled planning agency, an area can select a cost-effective and institutionally feasible plan directed to meet the 1983 goals of the Act. The plans should focus on an integrated approach for identifying and controlling the most serious water pollution problems initially and over time, resolving the remaining problems, where feasible. Particular emphasis should be placed upon non-structural approaches to pollution control (e.g., land management) rather than traditional structural measures normally requiring large investments.

The intent of this Section of the Act is to designate areas for local planning and management of substantial water quality problems due to urban-industrial concentrations or other factors such as the preservation of high water quality areas or the problems encountered in extensive energy development areas. The regulations set forth specific criteria for area and agency designation including:

- preference for areas with urban-industrial concentrations
- areas with substantial water quality problems
- agencies with coordinated waste treatment management systems or local government intent to plan and implement areawide waste treatment management

This handbook supplements the regulations and provides guidance in determining the qualifications of areas and agencies and in presenting that information to EPA to support the designation of an area and agency for conducting areawide waste treatment management planning. Through its examples, this handbook encourages brief and succinct inputs for the designation process. For example, a major SMSA with substantial water quality limited segments due to complex urban and industrial water pollution problems could satisfy the information requirements for area designation with a nine page discussion similar to pages 2, 4, 6, 10, 14, 16, 20, 22 and 24. Additional pages would be required to substantiate the agency designation. Similarly, non-urban areas seeking designation on the basis of preservation and protection of high quality waters or rural areas expecting intensive energy developments should submit equally brief information pertinent to their situation.

In carrying out this Section of the Act, EPA is concentrating on providing Section 208 assistance to urban-industrial areas, particularly the SMSAs with complex water quality problems. The format of

this handbook follows this intent by presenting information on (1) urban-industrial developments and trends, (2) substantial water quality factors, (3) local government intent, (4) public participation, and (5) factors in agency designation. This format can also be applied to non-urban intensive problem areas that warrant areawide planning and management including areas that have high quality waters that are threatened by growth and development. In addition to providing a format for the necessary designation information, this handbook also emphasizes the technical and institutional commitments that are being made by the area and agency designation request. This information is important but it is only the beginning of the entire 208 planning and management process.

In each section of the handbook, a portion of the outline is repeated and set off by shading. This is followed by additional explanations of the criteria as defined in the regulations and an example of the area or agency designation information pertaining to that portion of the outline. Tables and Attachments referred to in the examples are not included in the Handbook.



## I BOUNDARY OF AREA

- A. Relationship to SMSA(s)
- B. Assurance of No Excluded Areas
- C. Allowance for Growth of Area
- D. Assurance of No Unnecessary Geographic Extent
- E. Relationship to Other Types of Areawide Planning and Data

The area to be designated must be identified on a map. The map must show boundaries of the area and of SMSA(s) either included, partially included, or contiguous to the proposed 208 area. If no SMSA is involved in the area designation, then the map or accompanying text should indicate the area's relationship to any nearby SMSA(s). The designation of an area should take into consideration the growth pattern of nearby SMSA(s) where applicable.

The map of the area must clearly show that no portion within the area to be designated has been excluded from the geographic scope of the areawide plan or the jurisdiction of the planning agency.

The text accompanying the map should indicate that the selected boundaries account for reasonable urban-industrial growth and/or other factors that may effect waste treatment management. The text should also indicate that the extent of the area is not (a) too small to encompass the problems and the control that will be necessary to accomplish the integrated waste treatment or (b) not too large to cause unnecessary difficulty and cost in planning and implementation.

Where possible, the text and/or the map should refer to other planning boundaries such as in Air Quality Maintenance Areas (AQMA), existing and on-going facilities plans, Corps of Engineers Urban Studies, solid waste planning boundaries, transportation plans or HUD 701 plans and their relationships to the proposed 208 area designation.

## EXAMPLE

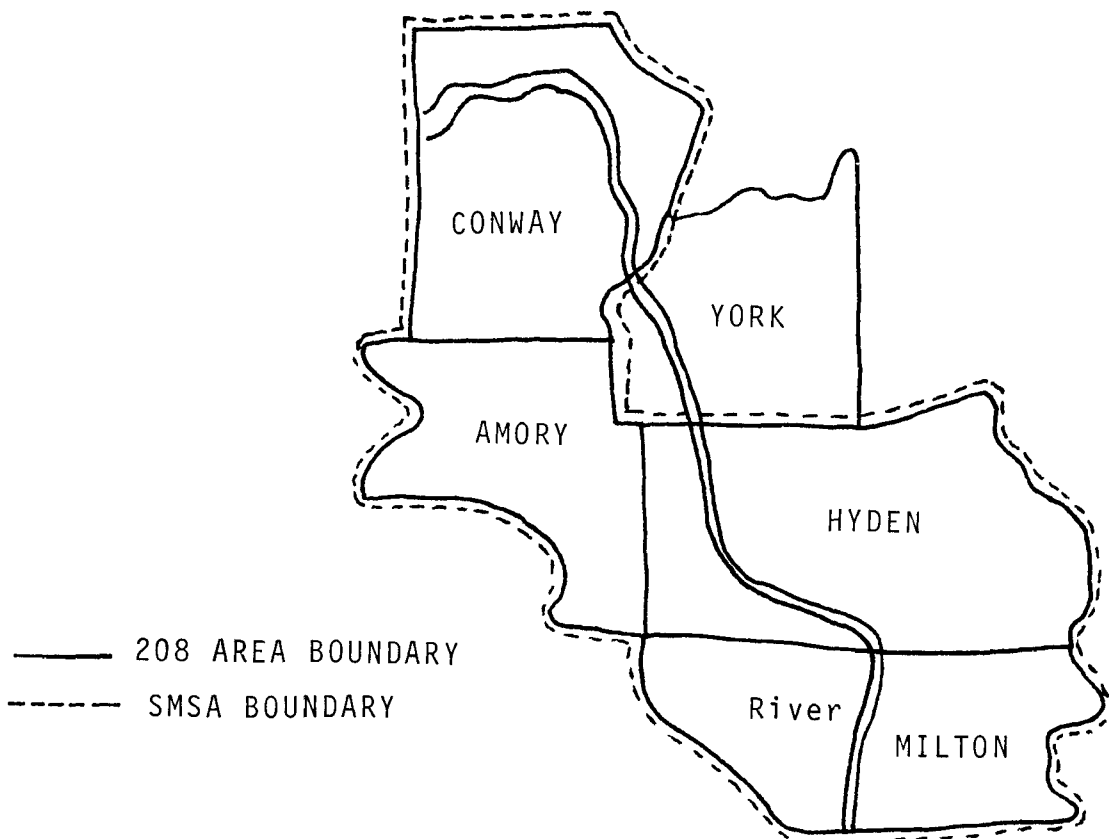
### BOUNDARY OF THE AREA

The map shows the area for which designation is requested. The proposed area is the County planning area (as created by the 1973 State Legislature). It contains 2,115 square miles and the entire present urban area as well as the anticipated urban area by the year 2000.

The map shows the relationship to the 208 area to the SMSA. The SMSA contains Conway, Amory, Hyden, and Milton Counties. Because the river's importance in the integration of waste treatment management systems, York County is included in the designation area.

No portion of the designation area has been excluded from the waste treatment management planning consideration covered in the following sections.

The area encompasses the boundary of the AQMA (Amory, Hyden and Milton Counties) as well as the HUD 701 comprehensive planning area of the SMSA.



## II. POPULATION OF AREA

- A. Urban Concentration
- B. Urban Growth

Preference will be given by EPA in approving area designations of urban-industrial concentrations. The population characteristics of an area, along with the industrial activity in Section III, should serve as the basis for establishing the area's urban-industrial concentration.

Area designations should also be claimed on grounds of water quality factors in conjunction with urban-industrial concentration. Population characteristics should then be used to support the factors in Section IV such as above national average growth trends and/or the size of the population dependent on groundwater.

Population growth projections for SMSA(s) and water resource areas can be obtained from the 1972 OBERS "Series E" Projections available at all EPA Regional Offices. These projections should be used in lieu of locally developed growth projections. For non-SMSA(s), the OBERS projections should be used as approximations for the area.

The population figures in this section and the industrial activity in Section III are merely to characterize the area. The impact on water quality resulting from population or industrial concentrations are discussed in Section IV.

## POPULATION

The Study Area includes the entire SMSA with a population of 600,588.

The study area comprises approximately 1400 square miles and has a density of 384 people per square mile. In the study area, 453,488 people lived in urban areas in 1970. Since 1970, as noted above, several cities have annexed (i.e. Andows) or incorporated (Mt. Palmer) which has increased the proportion of residents in urban places. High density urban development, five or more structures per acre, occupies 152 square miles or 10.9 percent of the total 208 planning area. Low density urban development, two to five structures per acre, occupies 50 square miles or 3.6% of the total planning area.

The planning area is expected to urbanize at a rate of 2635 acres per year over the next forty years.

The study area has shown a 1.75% annual growth rate, and is expected to continue at this rate over the next five years.

### Population Projections: (1970-1990) by County

County	1970	1980	1990	1970 Popu- lation Per Square Mile	1970 Popu- lation % Urban
Cruger	447,877	501,300	601,700	881.6	97.4
Morehead	59,428	70,500	92,100	97.1	58.7
Glennville	56,284	72,500	90,000	105.4	50.3
Avalon	36,999	47,600	60,300	65.3	33.8
State	3,924,164	4,456,200	5,196,000	94.9	58.7
United States	203,235,298	232,966,000	268,883,000	57.5	73.5
208 Area Counties	600,588	691,000	844,100	384	75.5

Source: 1972 "Series E" OBERS Population Projections

### III. INDUSTRIAL ACTIVITY IN AREA

- A. Diversity of Installations
- B. Concentration of Installations
- C. Amenability to Municipal Waste Treatment
- D. Trends in Industrial/Economic Growth

Preference will be given by EPA in approving area designations of urban-industrial concentrations. The characteristics of industrial activity, along with the population characteristics in Section II, should serve as the basis for establishing the area's urban-industrial concentration. The present and anticipated industrial activity in the area as well as its relationship to municipal waste treatment should be shown.

If industrial wastes account for water quality problems in Section IV, then the industrial activity characteristics should be in agreement with the information provided in that section.

If the area designated is claimed on the basis of preservation of high quality waters and industrial pollution is no foreseeable threat, then the material in this section can be omitted.

INDUSTRIAL ACTIVITY

Primary metal and transportation remained the most important manufacturing industries. However, substantial expansion began in certain durable goods industries in the middle and late 1950's. Particularly the manufacture of glass, rubber, electrical machinery, fabricated metals and chemicals increased and is now a significant factor in the local economy.

It is anticipated that the Metropolitan Region will continue to experience a healthy rate of economic expansion through the mid-1980's. Most of the area's future growth will probably be concentrated in services, trade, government, and manufacturing. The expected employment increases in these first three industries are in line with projections for the national economy. The manufacturing sector is projected to continue expanding rapidly in the area because of its present productivity advantage, a strong locational position due to the increased use of motor transportation, and the presence of a solid trade and service base.

It is expected that the future economic growth in the four outlying counties will exceed that of the urban center. In 1960, Aynor County employment accounted for over 76 percent of the regional total. It is projected that by 1985 this share will have fallen to about 71.5 percent. In short, although Aynor County will continue to function as the nucleus of the regional economy, some decentralization of economic activity is foreseen in the years ahead.

## 1970 DISTRIBUTION OF INDUSTRIAL ACTIVITY AND VALUE ADDED FOR SMSA

<u>SIC CODE</u>	<u>MANUFACTURING ACTIVITY</u>	<u>TOTAL EMPLOYEES</u>	<u>% BY SIC CLASSIFICATION</u>	<u>TOTAL NUMBER OF ESTABLISHMENTS</u>	<u>VALUE ADDED BY MANUFACTURERS (IN MILLIONS)</u>
20	Food & Kindred	2,224	2.73	33	\$ 23.3
25	Furniture & Fixtures	2,437	2.99	17	NA
26	Paper & Allied	481	.59	4	5.3
27	Printing & Publishing	1,065	1.30	61	15.9
30	Rubber & Plastic	2,095	2.57	26	22.1
32	Stone, Clay & Glass	2,855	3.51	46	24.9
33	Primary Metals	29,234	35.94	50	499.1
34	Fabricated Metals	8,265	10.16	127	107.6
35	Machinery (except electrical)	6,758	8.30	81	86.9
36	Electrical Equipment	12,875	15.83	21	70.8
37	Transportation Equip.	11,362	13.97	18	347.6
39	Misc. Manufacturing	1,583	1.84	73	NA
TOTALS		81,325	99.91	576	1260.5

SOURCE: State Directory of Manufacturers, U.S. Census of Manufactureres.

#### IV. WATER QUALITY FACTORS IN THE AREA

The criteria for what constitutes a complex water quality problem are, themselves, complicated. Therefore, the accompanying chart illustrates the water quality factors in the outline by grouping the criteria into a logical screening test for water quality problems.

In order to qualify as a designated area on the basis of water quality factors, the "complex problem" as defined in the regulations must be one of impairment of desired uses AND a complex control problem. Within each of these categories are several additional factors that should be used as a guide in determining the complexity of the area.

Impairment or preclusion of desired uses is defined by EPA as either (i) water courses with substantial water quality limited segments (or substantial groundwater pollution) or (ii) an area with a stated objective for preservation and protection of existing water quality. The latter definition has several other factors which are shown in the accompanying chart and discussed under Section IV B.

The complexity of the water quality control program is defined by EPA as any three (or more) of the conditions cited on the chart. One of those conditions might be the existence of a groundwater pollution problem which is defined by additional conditions.

The accompanying chart illustrates all of the potential water quality factors and the groupings to be used in support of area designations. Each of the factors is discussed with examples in the following subsections of Section IV. In each of these subsections, that portion of the outline pertaining to the discussion is repeated as a continuation of Section IV.

WATER QUALITY FACTORS

IMPAIRMENT OR PRECLUSION OF DESIRED USES

	SUBSTANTIAL WATER QUALITY LIMITED SEGMENTS (OR SUBSTANTIAL GROUNDWATER POLLUTION)																		
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AND COMPLEXITY OF WATER QUALITY CONTROL PROGRAM

3 or more	MUNICIPAL WASTE MANAGEMENT BY TWO OR MORE GOVERNMENTS																					
	SUBSTANTIAL INDUSTRIAL POLLUTION PROBLEM																					
	POPULATION GROWTH ABOVE NATIONAL AVERAGE—OR LARGE SEASONAL VARIATION																					
	SUBSTANTIAL URBAN STORM DRAINAGE																					
	SUBSTANTIAL NON-POINT SOURCE POLLUTION																					
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#### IV. WATER QUALITY FACTORS IN THE AREA

##### A. Water Quality Limited Segments (or substantial groundwater pollution)

Stream segments which are in violation of water quality standards, and which would not meet water quality standards with the application of the best practical treatment to point sources, are classified as water quality limited. To qualify for area designation on the basis of water quality limited segments, an analysis should be provided that a substantial portion of the receiving waters are classified as water quality limited. This information should be based on the river basis plans prepared by the states in accordance with Section 303(e).

If water quality limited segments are used as a water quality factor, then it must also be shown that the water quality limited segments exist as a result of a complex problem (e.g., a single large discharge on a small stream might qualify the receiving waters as a water quality segment, yet the solution is relatively simple and does not need sophisticated planning).

In the special case where substantial water quality degradation occurs in the area's groundwaters rather than surface waters, the claim for impairment of desired uses should be based on the extent of groundwater pollution. This claim should substantiate the severity of the pollution problem and the current or projected uses of the groundwater.

WATER QUALITY LIMITED SEGMENTS

The state has analyzed water quality in major streams throughout the area proposed for 208 designation in preparation of their (preliminary) 303(E) River Basin Plan for the Wilson River. In addition, a Water Quality Report containing a more detailed examination of the existing water quality throughout Pane County was published by the Council of Governments in January 1974. Based upon these analyses, the status of water quality for the important streams in the area proposed for 208 designation is summarized in Table A and a stream classification and priority ranking is contained.

TABLE A -- STREAM CLASSIFICATIONS

Priority Ranking	Stream Segment	Stream Classification	Classification Basis
1	George River RM 0 to 20.7	Water Quality Limited, Coliform, Temperature	Specific water quality problem. Meet standards for coliform and temperature.
2	Mainstream Wilson RM 167.5 to 187	Water Quality Limited, Coliform, Temperature.	Specific water quality problem. Meet standards for coliform and temperature.
3	Coast Fork Wilson RM 0 to 29.7	Water Quality Limited Temperature.	Specific water quality problem. Meet standard for temperature.
4	Middle Fork Wilson All	Water Quality Limited, Non-degradation.	Maintain nondegradation of coliform, temperature and dissolved oxygen at present levels.

All streams are classified as Water Quality Limiting because of specific water quality problems. Where serious water quality problems are known to exist as a result of point source discharges, biochemical oxygen demand (BOD) and suspended solids load allocations have been imposed to improve water quality through point source control. Where the existing water quality is good, waste load allocations are based upon preventing degradation. In these cases the actual in-stream quality is used as the basis for nondegradation. In addition, stringent effluent limits have been established for all municipal discharges.

#### IV. WATER QUALITY FACTORS (continued)

##### B. Preservation and Protection of Water Quality

1. Unique Resource Impaired By Growth
2. Amount of Resource Impaired By Growth
3. Complex Institutional Setting
4. Complex Sources of Pollution
5. State Preservation and Protection Statement
6. State Water Quality Preservation Parameters

To qualify for area designation based on preservation and protection of high quality waters, three groups of conditions should be met:

- The water resources which would be impaired are so unique that it would be in the national interest to preserve them; or the amount of water resources which would be impaired are so great that it is in the national interest to prevent impairment or degradation.
- The institutional setting of the area is so complex that an areawide approach is needed to coordinate the efforts in the area; or the sources of pollution are so complex that only an areawide approach can effectively consider the demands of water quality.
- The State has made an explicit statement adopting preservation and protection of water quality as a policy for the area; or the State has implicitly adopted preservation and protection as a policy for the area by establishing water quality parameters which are at the preservation level.

PRESERVATION AND PROTECTION OF WATER QUALITY

The area's tidewaters present a unique natural resource for the benefit of the nation. The tidewaters are the habitat and spawning grounds for many species. A discussion of the tide-water wildlife as well as the commercial implications of the shellfish industry are presented in a recent State Tidewater Management Plan. Continued urban-industrial growth in the area presents a real threat to this resource. The Tidewater Management Plan indicated the complexity of the area's problems, including regional location amidst megalopolis, one of the highest growth rates in the nation, primarily non-point source pollution problems. The 208 process clearly offers the potential of a unified effort to preserve the area's waters from any further degradation, plus initiate the process of correcting the problems within the water quality segment of the Monroe River.

The 208 process allows for an effective area-wide effort to preserve the area's waters from further degradation in accordance with Section 62.1-44.4 Control by State as to Water Quality of the State Water Control Law which states:

- (1) No right to continue existing quality degradation in any State water shall exist nor shall such right be or be deemed to have been acquired by virtue of past or future discharge of sewage, industrial waste or other wastes or other action by any owner. The right and control of the State in and over all State waters is hereby expressly reserved and reaffirmed.
- (2) Waters whose existing quality is better than the established standards as of the date on which such standards become effective will be maintained at high quality; provided that the Board has the power to authorize any project or development, which would constitute a new or increased discharge or effluent to high quality water, when it has been affirmatively demonstrated that a change is justifiable to provide necessary economic or social development; and provided, further, that the necessary degree of waste treatment to maintain high water quality will be required where physically and economically feasible. Present and anticipated use of such waters will be preserved and protected.

#### IV. WATER QUALITY FACTORS IN THE AREA (continued)

- C. Municipal Waste Management by Two or More Local Governments
- D. Substantial Industrial Pollution Problems
- E. Population Growth Above National Average
- F. Substantial Urban Storm Drainage
- G. Substantial Non-Point Source Pollution
- H. Groundwater Pollution (covered in a separate section)

To qualify for area designation, the water quality problems must be of a complex nature. Any three or more of the following six conditions will attest to the complexity of the problem:

- For municipalities that discharge their waste within the area's waters, there are two or more general or special purpose governments whose wastes combine to influence the receiving waters.
- Current and projected growth for industries that discharge their waste into the area's waters present a substantial pollution problem even after the application of effluent limitations.
- The growth rate for the entire area is above that of the national average and results in a high population density throughout the area. Preservation areas shall be required only to have a high growth rate or seasonal population influx and probable population density which would create major environmental problems within the next five years.
- The urban runoff problem severely impacts water quality. Such runoff would have to be substantially controlled, or in the absence of such control, municipal and industrial waste water would have to be treated to extremely high levels.
- Non-point sources of pollution contribute a substantial part of the area's water quality problem.

## EXAMPLE

### MUNICIPAL WASTE

Several municipal treatment facilities are located in the County, and most of the effluent from these facilities is discharged to a large body of water--the Ashford River. The Humboldt Municipal Treatment Plant which services 95% of the population of the County is currently upgrading and expanding its facilities. Only one-fifth of existing flow receives secondary treatment. Providing treatment during high intensity storms is difficult because of Humboldt's combined sewer system. The Louisa City Treatment Plant is presently inadequate in degree of treatment and capacity. The Jackson Treatment facility with inadequate phosphate removal is probably causing a nutrient problem in Spruce Lake.

A severe waste water problem facing the municipal systems is excessive infiltration of storm water. In certain areas of the County manholes overflow sanitary sewage during moderate and intense storms. Large sources of extraneous water centers around the manhole frame and cover and inflow into defective joints in the system.

Degradation of stream quality also occurs due to the failure of small "package" plant operators to achieve and maintain required effluent chlorine residual. Several of these privately owned facilities, generally operated by a school system, country club or mobile home park, are located throughout the County.

### INDUSTRIAL WASTE

The current industrial waste load allocation total for the area proposed for 208 designation is about 16,112 pounds of BOD and 15,112 pounds of suspended solids per day. By 1983, the recommended waste load allocation is reduced to about 7,767 pounds of BOD and 7,767 pounds of suspended solids per day for a decrease of approximately 52% in BOD approximately 51% in suspended solids discharged. To meet this requirement, advanced waste treatment will be necessary for all point source discharges. The 303(E) River Basin Plan projects that the raw waste load from point sources within the area proposed for 208 designation will increase approximately 50% by 1990.

Since the load allocation and treatment requirements are established at finite levels, while the projected raw BOD and suspended solids loads will increase with population and economic growth, the stipulated load allocations will almost certainly be exceeded unless the growth is regulated in a more systematic fashion in the future. A significant portion of a 208 areawide study would be devoted to devising alternative strategies for meeting the point source load allocations. Factors to be studied would include the required configuration of waste treatment facilities, land disposal and other alternatives to surface discharge for both domestic and industrial wastes, and land use controls related to protection or improvement of water quality.

continued...

## EXAMPLE

### POPULATION GROWTH

As indicated in Sections II and III the rate of economic and population growth within the area proposed for 208 designation is expected to be rapid over the next 25 years. The population within the proposed designation area is projected to increase from 205,422 in 1970 to 349,600 by 2000; this is equivalent to a 70% increase over the 30 year period, or a 2.1% increase per year. Economic growth is expected to be similarly rapid with employment totals increasing from approximately 80,325 in 1970 to 155,406 by the year 2000. This represents an increase of 93.5% in total employment, or 31.2% by decade. These rates of growth represent a continuation of historic trends, a substantial in-migration of population, and continued development of the area's economic base. These rates are well above the national average.

The implication of this growth to water quality is profound, and necessitates a more sophisticated approach to sewerage planning than is possible by facilities plans according to Section 201. Even with the use of advanced waste treatment technologies, it is likely that the projected growth may force water quality violations if it is not controlled in a more appropriate manner in the future than it has been in the past.

The magnitude of both point and diffuse pollution sources is expected to increase proportionately with increases in population, economic activity, and agricultural activity in the future. Specifically, the total raw waste load production is expected to increase significantly due primarily to increases in domestic wastes, food processing wastes, pulp and paper wastes, urban storm runoff, and agricultural land runoff.

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URBAN STORM DRAINAGE

The State 303(E) River Basin Plan also projects the waste loads due to urban storm runoff, and they are summarized in Table I. The figures are based upon a 39-minute rainfall with an intensity of 0.8 inches per hour since this is most likely to occur during low stream flows, thus putting an instantaneous, heavy waste load on the receiving streams. During a low flow design storm, the BOD waste load attributed to urban storm runoff within the area proposed for 208 designation is equivalent to 398.5% of the total daily waste load allocation for municipal and industrial point sources in 1972. In 1990, the BOD waste load projected for urban storm runoff will be 1140.7% of the rural daily waste load allocation for municipal and industrial point sources. It is apparent that urban storm runoff can contribute a substantial load of pollutants to area streams, and a portion of the 208 areawide study would be devoted to study of this problem and development of strategies to control it.

NON POINT SOURCES

Although the State 303(E) River Basin Plan provides waste load allocations and municipal waste discharge limits to control only point source discharges, it also stipulates that "the waste load from dispersed sources is considerable, and it is evident that only through a prudent water management program of action to control both point and dispersed sources, can the damaging effect of water pollution be avoided. The 303(E) River Basin Plan includes estimates of waste loads for such dispersed sources of pollution as agricultural land runoff, forest land wastes, and stream bank erosion, and Tables F, G, and H respectively summarize the waste loads attributed to these sources. In addition, the 303(E) River Basin Plan indicates that agricultural land runoff contains a raw waste load of 120,000 pounds of BOD per day in 1972, which is fully 72.8% of the total point source raw waste load. In 1990, the Plan projects that agricultural land runoff will account for a raw waste load of 200,000 pounds of BOD per day, which is 80.7% of the total point source raw waste load. The implication of the increase in agricultural land runoff waste load from 120,000 of BOD per day in 1972 to 200,000 pounds of BOD per day in 1990 on the State water quality program is great. If it is assumed that non-point source waste production will remain untreated and will not be controlled in the future, then nondegradation or improvement of area streams cannot be achieved. A portion of the 208 areawide study would be devoted to developing effective land use and other controls to ensure that diffuse sources of pollution are controlled and the waste loads from these sources are decreased.



#### IV. WATER QUALITY FACTORS IN THE AREA (continued)

##### H. Ground Water Pollution

1. Impaired Groundwater is Major Source of Water
2. Groundwater Pollution Contributes to Surface Water Problem
3. Complex Groundwater Problem
4. Remedial Groundwater Action is Possible Within Area
5. State and Area Have Groundwater Goal

To qualify for area designation based on groundwater pollution, four conditions should be met:

- Either the quality of the major source\* of water supply for the area is degraded to the extent that its use has been impaired or precluded; or the groundwater pollution can be shown to contribute substantially to a surface water quality problem.
- The nature of the problem is complex due to a multiplicity of type, number, size, and extent of sources or unique physiography of the area. Such a problem would preclude conventional solutions and would not be amenable through normal regulatory control.
- Effective remedial action for the groundwater problem can be taken within the limits of the designated area.
- The area, with State concurrence, has defined groundwater quality objectives.

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Should the major source be a deeper aquifer sealed by an impervious layer from groundwater percolation within the area, pollution of the surface exposed aquifer would not constitute a substantial groundwater problem.

## GROUNDWATER POLLUTION

Shallow groundwater aquifers have been used for years as a significant water source for area residents. However, withdrawals in recent years have exceeded recharge, and water tables have been lowered. Urban growth and development has created groundwater contamination resulting from inadequately treated and untreated sewage discharges, and from landfill operations in flood plains. A substantial number of wells are too polluted for continued use.

The deep Clifton Forge aquifer underlies the area adjacent to the Union Range at a depth of approximately 2000 feet below ground surface, and has been a source for water for many years. The State Engineer's office was recently given the authority to regulate withdrawals from deep aquifers and studies are necessary to analyze this resource in terms of depletion rates and pollution potential.

Groundwater is a large part of the area's potable water supply. It is known that some wells in different parts of the region are no longer in use because of pollution from some source. Sewage treatment plant discharges, trash dumps, and industrial discharges are accused, but not well documented as causes.

In view of its present role in the area's water supply, groundwater sources--alluvial and deep aquifer--should be adequately protected because the Region is in a semi-arid area with an average annual rainfall of only 14 inches. Thus, any local source of water is a valuable one, as diversions from the Sumter River Basin are increasingly controversial and expensive.

A U.S. Geological Survey analysis showed that 126,980 acre feet of groundwater was used annually by area water agencies in the 1959-1964 period. This amounted to approximately 25% to 32% of the total requirement. The same study projected that approximately 362,000 acre feet would top out the annual usage about 1990. If the use of groundwater is to triple by 1990, its quality must be protected.

In the area, ground and surface waters are closely interrelated hydrologically. Pumping of shallow alluvial wells could seriously diminish stream flows, which are naturally low at all times. Many small streams and gulches have flows only in snow or rain runoff situations.

The RCOG, in conjunction with the State Water Resources Board, has determined that areawide control of point and non-point sources of groundwater pollution will contribute substantially to meeting the groundwater quality objectives of the area. (Editor's Note: Where possible the groundwater objectives should be stated such as the protection of existing groundwater uses.)

## **V. LOCAL GOVERNMENT INTENT**

### **A. Resolutions for Areawide Planning and Implementation**

Eventual implementation of the plan depends upon the consent of the governmental units that are required to act in carrying out the plan. It is necessary that these governments consent to the planning and implementation at the outset. Information submitted for agency designation must include all governmental agreements to the designation. If an omission(s) of a unit of government exists, then it must be shown that this omission(s) would not effect the plan or its implementation.

Resolutions should be obtained from appropriate units of local government. It is sufficient to submit a list of such resolutions if they comply substantially with the following example. If there are substantial changes in the resolutions, then those changes must be submitted. The actual resolutions must be available to the Administrator, EPA, upon request.

Resolutions need not be required from all local government units, but should be obtained from those major units that are critical to the eventual implementation of an areawide plan. If the attempt to obtain a resolution is not successful, the Governor could choose to designate the area without the expression of local intent provided that a documented attempt at securing resolutions is submitted with the designation materials.

# EXAMPLE

RESOLUTION INDICATING INTENT TO JOIN WITH OTHER GENERAL PURPOSE UNITS OF LOCAL GOVERNMENT IN THE \_\_\_\_\_ AREA TO DEVELOP AND IMPLEMENT A PLAN RESULTING IN A COORDINATED WASTE TREATMENT MANAGEMENT SYSTEM FOR THE AREA

WHEREAS, pursuant to Section 208 of the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500 (hereinafter called "the Act"), the Administrator of the United States Environmental Protection Agency has by regulation published guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems (40 CFR Part 126); and

WHEREAS, the \_\_\_\_\_ area (hereinafter called "the Area") satisfies the criteria contained in the Act and guidelines and designation of the area pursuant to section 208 and those guidelines is desirable; and

WHEREAS, Section 126.10 of the guidelines requires, among other things, that the affected general purpose units of local government within the problem area must show their intent, through formally adopted resolutions, to join together in the planning process to develop and implement a plan which will result in a coordinated waste treatment management system for the area; and

WHEREAS, such planning process and waste treatment management system is a necessary and significant measure to control present point and non-point sources of water pollution and to guide and regulate future development and growth in the area which may affect water quality, in order to prevent, abate and solve existing and potential substantial water quality control problems;

NOW, THEREFORE, IT IS RESOLVED THAT the Township of \_\_\_\_\_, recognizing that the \_\_\_\_\_ area has substantial water quality control problems, supports designation of the Area pursuant to Section 208 and the EPA guidelines.

IT IS FURTHER RESOLVED THAT THE \_\_\_\_\_ (city, county, township, etc.) intends to join with other affected general purpose units of local government within the boundaries of the area to develop and implement a plan which will result in a coordinated waste treatment management system for the area.

IT IS FURTHER RESOLVED THAT, inasmuch as the \_\_\_\_\_ (council of governments, special district, etc.) is a single representative organization with elected officials or their designees from local governments and is capable of developing effective areawide waste treatment management plans for the Area, the \_\_\_\_\_ (city, county, township, etc.) supports the designation of said organization as the planning agency for the Area.

IT IS FURTHER RESOLVED THAT all proposals for grants for construction of publicly owned treatment works within the boundaries of the designated area will be consistent with the approved plan and will be made only by the designated management agency or agencies.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

**V. LOCAL GOVERNMENT INTENT (continued)**

**B. Charter of Existing Agency**

If an agency is designated, such as a council of governments or regional planning agency, then its charter should be submitted. This charter must include the operation of a coordinated waste treatment management system (i.e., powers to implement the plan). If the charter does not include such a system, then resolutions must be sought from local government units to show their intent to join together to develop and implement a plan which will result in a coordinated waste treatment management system for the area.

**CHARTER AND AGREEMENT  
MID WILLAMETTE VALLEY COUNCIL  
OF GOVERNMENTS**

This Charter and agreement is made and entered into this 10th day of August 1971, by and between the undersigned governmental bodies.

**I CITATION**

The Mid Willamette Valley of Oregon is faced with numerous problems resulting from rapid urbanization, problems of health, education, safety, economics, transportation, recreation, culture, multiplicity of governments, coordination of people services, environmental quality, community appearance and well being which will increase in complexity and intensity as the population increases. In order that the solution of these problems may be prepared or planned through a rational democratic process, it is fitting that the affected governmental units join together in voluntary cooperation, and for this purpose they do make this Charter and Agreement.

**II AUTHORITY**

This Charter and Agreement is established under the authority of the following Oregon Statutes:

ORS 190.010 which authorizes local governments to make agreements for the performance of functions jointly or for one another.

ORS 190.030 which provides that any agency established under the authority of ORS 190.010 is vested with all powers, rights, duties, and functions therefore existing by law in separate agencies, pertaining to functions and activities.

ORS 190.110 which authorizes public corporations, political subdivisions, and state agencies to cooperate.

ORS 190.210 and ORS 190.220 which assigns to the executive department of the State of Oregon the responsibility and authority for maintaining liaison with local governmental agencies which provide services to state agencies and for participation in the development and coordination of plans for activities and services which are supported or utilized by state agencies and which are formulated by tax supported governmental agencies.

**III DEFINITIONS**

1. "Charter and Agreement" shall mean the Charter and Agreement of the Mid Willamette Valley Council of Governments by which this document is titled.

2. "Council or "Council of Governments" shall mean the Mid Willamette Valley Council of Governments established by this Charter and Agreement.

## VII. PUBLIC PARTICIPATION

- A. Meeting Notices
- B. Summary of Comments

Information must be submitted to EPA in sufficient detail to show that the Governor(s) or the chief elected officials of general purpose local government(s) have sought public advice on the designation of the planning area and planning agency. The information submitted to EPA should include a record of public meeting notices and a summary of comments at these meetings. Actual notices and meeting records must be kept and made available to the Administrator upon request.

## VI. DESIGNATED PLANNING AGENCY

- A. Name
- B. Address
- C. Official Contact

MONROE REGIONAL COUNCIL OF GOVERNMENTS

1701 CLINTON AVE., SUITE 522

MONROE, ALABAMA

80210

JOHN DOE, EXECUTIVE DIRECTOR

(208) 552-3708

**EXAMPLE**

## PUBLIC PARTICIPATION

On behalf of the Governor, and in coordination with the State Planning Office and the State Water Quality Control Division, the meeting was held to provide all units of local government and the general public an opportunity to comment on the area and agency designations described above.

At the regular meeting on May 15, 1974, the Council of Governments authorized a Public Meeting for the above purpose. The meeting was scheduled, with a thirty-day notice, on June 17, 1974, and a legal notice was published in the Daily Post on May 17, 1974. A press release about the meeting was sent to the media throughout the area on May 30, 1974.

In addition to publication of the legal notice in the newspaper and the press release, copies of the public meeting notice were sent on about June 5, 1974, to the following:

Members, Council of Governments (Elected Officials)	Public Works Directors
Chief Administrative Officers (Municipalities and Counties)	Special Sanitation Districts
Citizens Advisory Committee	Environmental Organizations
Regional Planning Advisory Committee	State and Federal Agencies
Water Resources Advisory Committee	Chambers of Commerce
	League of Women Voters

Mr. John Brown, of the COG staff, presented a brief description of the Federal Water Pollution Control Act Amendments of 1972 (PL 92-500), the factors responsible for proposed designation, and how planning under Section 208 would improve ability to control water quality problems. Mr. Brown then asked for comments or statements. Representatives of two organizations spoke, summarized as follows:

### 1. South Aime County Water and Sanitation District

The District is opposed to designation of COG unless they can show how the District interest would be served.

- (a) Sanitation district representation on COG.
- (b) Qualifications of COG to be the 208 program Agency.

Note: The Council and staff will work with the District to satisfy their concerns.

### 2. Metro League of Women Voters

The League believes that COG is the only agency with an overall point of view, and supports its designation under Section 208. Though realizing the difficulty, perhaps Manor County, or a part of it, should be included in the study (latter comment in addition to printed statement).



## VIII. FACTORS FOR AGENCY DESIGNATION

- A. Legal Authority for Planning
- B. Specific Authority for Water Quality Planning

The information submitted to justify the designation of a planning agency must certify that the agency has all the legal authority required for planning. It must also certify that the designated agency has specific authority with regard to water quality management planning. The authority to conduct water quality management planning must also include coordination with any other applicable planning agencies conducting comprehensive planning, land use planning, water and sewer planning, coastal zone planning, and other planning activities in the area.

AGENCY AUTHORITY

The Regional Council of Governments has all legal authority required for planning in Howell, Brandon, Selmer, Mason, and Stanton counties.

In addition to the aforementioned legal authority, the Governor designated the RCOG as the agency to prepare a water quality plan under Section 3(c) FWPCA (1965) in a letter dated August 11, 1969.

Organized as a regional planning commission under the laws of the State, the Regional Council of Governments derives specific legal authority to engage in water quality management planning from Chapter 106, Article 2, State Revised Statutes, 1963. Section 5(3) of this Article describes the universe of activities which may be engaged in and included in a regional master plan. Planning for sewage treatment, sewers, and other related facilities required to maintain and improve water quality in the Region is clearly authorized by these statutes. Other planning authority under Chapter 106, Article 2, encompasses land use, air, water, sanitation, drainage, solid waste, open space, parks and recreation, highways, mass transportation, and airports, and comprehensive planning covering these functions.

The Regional Council of Governments is the responsible planning agency for State Planning Region No. 3. In addition, the Council is certified as the comprehensive planning agency for the Standard Metropolitan Statistical Area. This certification is granted by the U.S. Department of Housing and Urban Development for comprehensive planning, sewer, water and open space planning.

Consistent with its enabling legislation, plans of the Regional Council of Governments are advisory to the municipalities and counties within its planning area. These plans, however, may become binding on the affected cities and counties by action of the governing bodies of these units of general purpose government. If the governing bodies specifically adopt a plan prepared by the Regional Council of Governments, this plan becomes binding within the jurisdiction of the adopting community. This legal authority is found in Chapter 106, Article 2, Section 5(2)(a) and (b), State Revised Statutes, 1963.

Plan implementation is also achieved in other ways. Affected units of local government operating within the Standard Metropolitan Statistical Area have legal authority to enter into agreements for activities such as planning and implementation of facilities for coordinated wastewater management. This authority is derived from Chapter 88, Article 2, Section 3, State Revised Statutes, 1963.

### VIII. FACTORS FOR AGENCY DESIGNATION (continued)

- D. Membership of Elected Officials
- E. Geographical Jurisdiction Over Area
- F. Functional Jurisdiction Over Other Types of Areawide Planning
- G. Relationship with Other Planning Agencies
- H. Relationship with Regulatory Agencies
- I. Relationship with Management Agencies
- J. Existing Agency Planning History, Expertise, and Resources

Supporting information for the designation of the planning agency must include:

- The membership of the agency's governing board, identifying local elected officials or designees.
- The geographical jurisdiction of the agency which must include all of the designated areas.
- The functional jurisdictions other than waste water management planning (e.g., Transportation, land planning, AQMA).
- Other projects of similar magnitude completed and the status of implementation of such projects.
- The relationship (both formal and informal) with other planning agencies at various levels of government and whose activities would affect or be affected by the required planning work.
- The relationship (both formal and informal) with management and regulatory agencies which would be affected by various facets of such a plan including zoning and facilities construction and operation.

If an existing agency is being designated, such as a council of governments or regional planning agency, then the following information should be included:

- The agency's past record in water quality management planning with special regard to plan quality, technical, fiscal, political, and economic feasibility and environmental soundness, citing examples as appropriate.
- The agency's expertise, whether in-house or readily available, with particular regard to water quality and comprehensive planning, citing any appropriate specific qualifications.
- The agency's fiscal, manpower, data, and other resources available for the required planning in light of existing and proposed commitments in other areas or activities.
- The agency's capability for having the plan implemented, citing specific examples upon which such conclusions are based including minimum personnel requirements.

Designated Agency Description1. Membership of Governing Board

The Regional Council of Governments is an organization whose membership is limited to local general purpose governments within State Planning Region 3. Membership on the Council is limited to the mayor, city councilman, or a county commissioner representing the member units of government. A list of the Council of Governments' membership and their representatives are contained in Attachment.

2. Geographical Jurisdiction

RCOG has regional planning jurisdiction over the entire area of Hinton, Easley, Canton, and Princeton Counties proposed for designation. In addition, it is the recognized regional planning agency for the State Planning and Management District No. 3, which encompasses these five counties.

3. Functional Jurisdiction

Article III in the Articles of Association identify the functions to be performed by RCOG, including plans for land use, transportation, public works such as utilities flood control works, water reservoirs, and pollution control facilities and recommendations for regulatory measures.

4. Other Projects

In 1972 the \$300,000 two year Project REUSE was completed, with plans for urban drainage and flood control and solid waste. The Urban Drainage and Flood Control District, which was a cooperating agency, is now implementing its program based on Project REUSE recommendations. A private firm is conducting a pilot program to convert municipal and commercial solid waste to energy, accompanied by separation and recycling of valuable materials. If successful, the firm would take all such waste from the area, effectively carrying out the major elements of Project REUSE.

5. Relationship With Other Planning Agencies

In its role as the areawide planning agency for the Metropolitan Area, the Council maintains effective working relationships with the planning agencies of its member jurisdictions and with the planning activities of various state, federal and regional agencies. Specifically, within the area of waste treatment management planning, the Council of Governments regularly receives advice and recommendations on the subject from its Water Resources Advisory Committee. This committee is composed of individuals involved in wastewater, runoff, water supply and other waste resource

## EXAMPLE

management activities in each of the Council's member jurisdictions. Similarly, through its Regional Planning Advisory Committee, advice and recommendations are received from the planning agencies of local government on wastewater and the entire range of planning activities of the Council.

### 6. Relationship with Management and Regulatory Agencies

The Council of Governments also maintains working relationships with the various management and regulatory agencies that possess zoning and subdivision controls, as well as those which construct and operate wastewater facilities. Zoning and subdivision controls are exercised primarily by the cities and counties which constitute the membership of the Regional Council of Governments.

### 7. History of Water Quality Management Planning

With specific reference to wastewater management planning, the Regional Council of Governments has a long history of accomplishment in this area, as shown in Table 9. As far back as 1956, the Council, then known as the Inter-County Regional Planning Commission, undertook studies designed to solve then existing metropolitan sewage disposal problem. These early efforts were studies conducted by the Commission and, later, cooperatively with the Joint Sanitation Commission, which provided a basis for the state legislation in 1960 enabling creation of the Metropolitan Sewage Disposal District No. 1.

### 8. Agency Capability

COG has a professional staff of 37 persons, and 38 non-professionals. With regard to water quality planning three professionals have responsibilities in this area, principally to direct the activities of consultants. One of these staff members has an M.S. degree in Water Resources, and did a major part of the recent Wasteload Allocation Study, assisted by a consultant. The other staff members have education and experience in economics, urban planning and public administration. This staff would be increased to add water resources personnel needed to carry out the planning effort Under Section 208.

COG staff relies upon members of the Water Resources Advisory Committee for professional advice in wastewater and other water related matters, particularly in A-95 reviews and wastewater Site Location Reviews for the State.

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9. Agency Commitments

The agency has a long history of comprehensive planning, including a wide range of functional elements. RCOG is financially supported by annual dues from its participating members, based upon an established formula. This revenue is used for the agency's sustaining activities and as matching funds for State and Federal grants. No other activities or programs would preclude an active water quality management planning program under Section 208. Instead, land use, storm runoff, open space, transportation and water quality activities can complement one another.

## IX. ESTIMATING GUIDE FOR PLANNING COSTS

The costs below are furnished as a guide to estimate the per capita cost of the waste treatment management plans. These figures should be applied with discretion. They may be raised or lowered depending upon the severity of the waste treatment management problems, and on the amount of planning already completed or funded by other sources. For example, if the area has already received or is to receive a Step 1 201 grant, the amount to be granted under Section 208 should be reduced accordingly. Similarly, if the area has recently received or is to receive HUD 701 monies for land planning, the 208 grant should be reduced by the total amount (i.e., HUD 701 plus local matching funds), to be expended for land planning. Any upward change must be fully and specifically justified.

	POPULATION SIZE OF DESIGNATED AREA			
	100,000 - 250,000	250,000 - 500,000	500,000 - 750,000	750,000 +
201 Planning	1.50	1.15	0.70	0.40
Land Planning	0.80	0.65	0.40	0.25
Storm Drainage	0.55	0.40	0.25	0.15
Non-Point Source	0.30	0.25	0.15	0.10
Industrial Source	0.10	0.10	0.10	0.10
Management	0.20	0.20	0.20	0.20
Total Cost Per Capita	3.45	2.75	1.80	1.20

## APPENDIX A

1972 Federal Water Pollution Control Act Amendments (P.L. 92-500)

### AREAWIDE WASTE TREATMENT MANAGEMENT

#### Section 208

- a) For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—
  - (1) The Administrator, within ninety days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations of other factors, have substantial water quality control problems.
  - (2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to paragraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after consultation with appropriate elected and other officials of local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization, including elected officials from local governments or their designees, capable of developing effective areawide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.
  - (3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designating, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization capable of developing effective areawide waste treatment management plans for such area.
  - (4) If a Governor does not act, either by designating or determining not to make a designation under paragraph (2) of this subsection, within the time required by such paragraph, or if, in the case of an interstate area, the Governors of the States involved do not designate a planning organization within the time required by paragraph (3) of this subsection, the chief elected officials of



local governments within an area may by agreement designate (A) the boundaries for such an area, and (B) a single representative organization including elected officials from such local governments, or their designees, capable of developing an areawide waste treatment management plan for such area.

- (5) Existing regional agencies may be designated under paragraphs (2), (3), and (4) of this subsection.
  - (6) The State shall act as a planning agency for all portions of such State which are not designated under paragraphs (2), (3), or (4) of this subsection.
  - (7) Designations under this subsection shall be subject to the approval of the Administrator.
- b) (1) Not later than one year after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 201 of this Act. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved. The initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than two years after the planning process is in operation.
- (2) Any plan prepared under such process shall include, but not be limited to-
- (A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works;
  - (B) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;
  - (C) the establishment of a regulatory program to-
    - (i) implement the waste treatment management requirements of section 201(c),
    - (ii) regulate the location, modification, and construction of any facilities within such area which may result in any discharge in such area, and

- (iii) assure that any industrial or commercial wastes discharged into any treatment works in such area meet applicable pretreatment requirements;
  - (D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;
  - (E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the within such time, and the economic, social, and environmental impact of carrying out the plan within such time;
  - (F) a process to (i) identify, if appropriate, agriculturally and silviculturally related nonpoint sources of pollution, including runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;
  - (G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;
  - (H) a process to (i) identify construction activity related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;
  - (I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan;
  - (J) a process to control the disposition of all residual waste generated in such area which could affect water quality; and
  - (K) a process to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality.
- (3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

- (4) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 303 so requires, the requirements of clauses (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for application to all regions within such State.
- c) (1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, shall designate one or more waste treatment management agencies (which may be an existing or newly created local, regional, or State agency or political subdivision) for each area designated under subsection (a) of this section and submit such designations to the Administrator.
- (2) The Administrator shall accept any such designation, unless, within 120 days of such designation, he finds that the designated management agency (or agencies) does not have adequate authority-
  - (A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;
  - (B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;
  - (C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;
  - (D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;
  - (E) to raise revenues, including the assessment of waste treatment charges;
  - (F) to incur short-and long-term indebtedness;
  - (G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;
  - (H) to refuse to receive any waste from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and
  - (I) to accept for treatment industrial wastes.
- d) After a waste treatment management agency having the authority required by subsection (c) has been designated under such subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under

section 201(g)(1) within such area except to such designated agency and for works in conformity with such plan.

- e) No permit under section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.
- f) (1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.
  - (2) The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year.
  - (3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal. There is authorized to be appropriated to carry out this subsection not to exceed \$50,000,000 for the fiscal year ending June 30, 1973, not to exceed \$100,000,000 for the fiscal year ending June 30, 1974, and not to exceed \$150,000,000 for the fiscal year ending June 30, 1975.
  - (g) The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.
- h) (1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor of the designated planning organization, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.
  - (2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed \$50,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.

APPENDIX B

that the Environmental Protection Agency was proposing policies and procedures for the designation of areawide waste treatment management pursuant to section 208(a) of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816 (33 U.S.C. 1251, 1288 (a)(1))).

The regulations are designed to serve as guides for the Governors of the States and chief elected officials of general purpose local government in identifying areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems which require an areawide approach in planning for and implementing corrective action, and in designating agencies capable of developing waste treatment management plans for such areas.

In view of the intent of the legislation, the Environmental Protection Agency believes that an areawide water quality management program should be carried out to gain the following objectives:

Provide cost effective, point source treatment and control for areas of urban-industrial concentrations having substantial water quality control problems.

Provide for control of nonpoint sources in urban-industrial and other areas where such controls are required including prevention of water quality problems in the future.

Provide for coordinated waste treatment management in such areas.

Written comments on the proposed rulemaking were invited and received from interested parties. A number of verbal comments also were received. The Environmental Protection Agency has carefully considered all submitted comments. All written comments are on file with the Agency. Certain of these comments have been adopted or substantially satisfied by editorial change, deletions from, or additions to the regulations. These changes are discussed below.

(a) A substantial water quality control problem was further defined to indicate that the problem exists where water quality has been degraded to the extent that desired uses are impaired or precluded. The identification of water quality segments under 40 CFR Part 130 or groundwater pollution problems are measures of the extent of the problem.

(b) The definition of local units of government that may respond to indicate intent to join together in the planning process now includes both general purpose and other appropriate units of local government. (See § 126.10(c).)

(c) The criteria for designation of a planning agency now includes the consideration of an existing agency's capability for implementing the plan or having the plan implemented. (See § 126.11(b).)

(d) The requirements for the submission of information on 208 planning areas and agencies have been revised to require a statement relating the boundaries of the area to the SMSA but not to require conformance to SMSA boundaries. (See § 126.15.)

(e) The Governor's right to nondesignate in intrastate areas only is clarified. (See § 126.16.)

(f) Where 208 planning area and agency designations are made by local public officials, the Governor's views on these designations may be made to the Administrator.

(g) The Administrator's approval or disapproval actions of areas and agencies will be published in the *FEDERAL REGISTER*. (See § 126.17.)

(h) The requirements for public participation as set forth in 40 CFR, Part 105 shall be followed.

*Effective date.*—September 14, 1973.

Because of the importance of promptly making known to States, local units of government and other interests the contents of these regulations in order that area and agency designations may be made under section 208(a) of the Act, the Administrator finds good cause to declare the regulations effective on September 14, 1973.

Dated September 4, 1973.

JOHN QUARLES,  
Acting Administrator.

**Subpart A—Scope and Purpose; Definitions**

**Sec.**

126.1 Scope and Purpose.

126.2 Definitions.

**Subpart B—Procedures for Designation of 208 Planning Areas and Agencies Responsible for Planning**

126.10 Criteria for determination of 208 planning areas.

126.11 Criteria for designation of agencies responsible for planning.

126.12 Procedure for designation of intrastate 208 planning areas and agencies responsible for planning.

126.13 Procedure for designation of interstate 208 planning areas and agencies responsible for planning.

126.14 Nondesignation of 208 planning areas and/or agencies by Governor(s).

126.15 Submissions of 208 planning areas and agencies responsible for planning.

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**Subpart C—State Planning in Nondesignated Areas**

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**Subpart D—Public Participation**

126.30 Public participation requirements in designation of 208 planning areas and designation of agencies responsible for planning.

**Subpart E—Assistance to Designated Agencies**

126.40 Determination of eligibility.

*AUTHORITY.*—Sec. 208 and 501, 86 Stat., 816, (33 U.S.C. 1251, 1288(a)(1)).

**Subpart A—Scope and Purpose; Definitions**

**§ 126.1 Scope and purpose.**

This part establishes regulations specifying procedural and other elements and criteria for the use of State Governors and chief elected officials of general purpose local government in the designation of the areas, including their

**PART 126—AREAWIDE WASTE TREATMENT MANAGEMENT PLANNING AREAS AND RESPONSIBLE PLANNING AGENCIES**

On May 30, 1973, notice was published in the *FEDERAL REGISTER*, 38 FR 14230,

boundaries, requiring areawide planning for waste treatment management pursuant to section 208 of the Act and designation of agencies responsible for such planning. This part provides that each State should comply with the requirements of this Part not later than 180 days after the date of publication of this part.

#### § 126.2 Definitions.

As used in this part, the following terms shall have the meanings set forth below:

(a) The term "Act" means the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816 (33 U.S.C. 1251, 1288(a)(1))).

(b) The term "EPA" means the U.S. Environmental Protection Agency.

(c) The term "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

(d) The term "208 planning areas" means the area designated under section 208(a) (2), (3), or (4) of the Act.

#### Subpart B—Procedures for Designation of 208 Planning Areas and Agencies Responsible for Planning

##### § 126.10 Criteria for determination of 208 planning areas.

The following criteria will be utilized in designation of 208 planning areas.

(a) A Preference will be given by the Administrator, in approving designation, to areas of urban-industrial concentrations, because of the Act's legislative history and in view of the institutional nature of urban-industrial concentrations. For this purpose an urban-industrial concentration is that portion of a standard metropolitan statistical area (SMSA—as defined by the Office of Management and Budget), or those portions of SMSA's, having substantial concentrations of population and manufacturing production or other factors which result in substantial water quality control problems. The entire SMSA(s) may be designated as the planning area. Such areas may be increased to include areas outside the SMSA(s) which have substantial water quality control problems resulting from concentrations of population and manufacturing activity or other factors and which are contiguous to the SMSA(s);

(b) The area must have a substantial water quality control problem. A substantial water quality control problem shall be considered to exist only where the complexity and nature of the water quality control problem requires an areawide waste treatment management plan, and where water quality has been degraded to the extent that desired uses are impaired or precluded. A measure of the extent of the problem includes those areas where:

(1) A substantial portion of the major receiving waters available for waste discharge from the area has been classified by the State as a water quality segment, after adequate analysis demonstrating this classification, under the requirements of Part 130 of this chapter, or;

(2) A substantial and extensive groundwater pollution problem exists; or where the dependence of an area on groundwater makes it essential that its ground water resource be given the necessary protection from pollution it requires.

(c) The affected general purpose or other appropriate units of local government within the boundaries of the 208 planning area must:

(1) Have in operation a coordinated waste treatment management system, or

(2) Show their intent, through formally adopted resolutions, to join together to develop and implement a plan which will result in a coordinated waste treatment management system for the area.

(d) Affected units of local government must have legal authority to enter into agreements for coordinated wastewater management in compliance with section 208 of the Act.

##### § 126.11 Criteria for designation of agencies responsible for planning.

(a) The agency shall be a representative organization whose membership shall include but need not be limited to elected officials of local governments, or their designees, having jurisdiction in the designated planning area. The agency shall establish procedures for plan adoption and resolution of major issues. The agency shall have waste treatment planning jurisdiction in the entire designated area. Existing, capable regional agencies may be designated consistent with the policies in Title IV of the Intergovernmental Cooperation Act of 1968, as implemented by Part IV of OMB Circular A-95. A single qualified agency may be designated as being responsible for planning in more than one planning area.

(b) In the selection of the areawide planning agency, the Governor(s) must consider that such agency, pursuant to section 208(b) (1) of the Act, shall have the water quality management planning process fully underway no later than 1 year after its designation. Further, the agency must have the capability to complete, and shall complete, the initial water quality management plan no later than 2 years after the planning process is in operation or such earlier date as the State may require for incorporation into State plans required under section 303 (e) of the Act. The Governor or, in interstate cases, the Governors, shall in the designation process, consider:

(1) The general and specific legal authorities and prohibitions applicable to the agency with regard to water quality management planning, including but not limited to coordination with or participation in comprehensive planning, land use planning, water sewer planning, coastal zone planning, and other related planning and development activities and controls.

(2) The relationship of the agency (both formal and informal) with planning agencies of different levels of government including but not limited to Federal, State, interstate and Federal-

State agencies as well as local government agencies.

(3) The relationship of the agency (both formal and informal) with management and regulatory agencies such as those that possess zoning and subdivision controls, and those that construct and operate wastewater facilities.

(4) Where an existing agency is designated:

(i) The agency's past record in water quality management planning with special regard to plan quality, technical fiscal, political, and economic feasibility, and environmental soundness.

(ii) The agency's expertise, either in-house or readily available, with particular regard to water quality and comprehensive planning.

(iii) The agency's fiscal, manpower, data, and other resources in light of existing and proposed commitments in other areas.

(iv) The agency's capability for having the plan implemented, or of implementing all or portions of the plan itself.

##### § 126.12 Procedure for designation of intrastate 208 planning areas and agencies responsible for planning.

The Governor of the State shall, after proper consultation with appropriate elected and other officials of local governments having jurisdiction in such area, and such State agencies as he may desire, and having complied with the requirements for public participation as set forth in § 126.30 of this regulation, designate the 208 planning area, including its boundaries, and a single representative agency to be responsible for the planning. In designating such planning areas and agencies, the Governor shall consider the criteria set forth in §§ 126.10 and 126.11.

##### § 126.13 Procedure for designation of interstate 208 planning areas and agencies responsible for planning.

The Governors of the States shall, in interstate areas, after consultation with appropriate elected and other officials of all local governments having jurisdiction and with such State and interstate agencies as they may desire, or may be required by State legislation, and having complied with the requirements for public participation as set forth in § 126.30, mutually designate each 208 planning area including its boundaries, and for each area a single representative agency to be responsible for the planning. In designating such planning areas and agencies, the Governors shall consider the criteria set forth in §§ 126.10 and 126.11.

##### § 126.14 Nondesignation of 208 planning areas and/or agencies by Governor(s).

In certain intrastate areas the Governor may determine not to designate a 208 planning area even though the criteria set forth in §§ 126.10 and 126.11 may be met. Specific nondesignation of a 208 planning area does not preclude later designation by the Governor

NOTE.—Attention is called to the fact that the Governor has three specific choices of action. He may designate, remain silent, or may nondesignate specific areas. If the Governor remains silent, the chief elected officials of general purpose local government in the area may make such designations if they so choose. Upon approval by the Administrator, designation by local elected officials is binding upon the Governor.

**§ 126.15 Submissions of 208 planning areas and agencies responsible for planning.**

Within 180 days after issuance of this Part the Governor shall notify the Administrator of his actions regarding designation of 208 planning areas and agencies responsible for the planning. This notification shall be in writing and shall include:

(a) Identification of each area within the State determined to be eligible by the Governor under § 126.10.

(b) A list of all areas among those eligible which the Governor wishes to nondesignate at this time.

(c) A list of all areas among those eligible which the Governor wishes to designate at this time. For each area designated the following information shall be provided:

(1) An exact description of the boundaries of each area including a statement relating to boundaries of any area to the boundaries of the SMSA(s) contained within or contiguous to the area, or in those areas not within a SMSA a statement relating the boundaries of the area to the nearest SMSA, and a statement indicating:

- (i) Population of the area,
- (ii) Nature of the concentration and distribution of industrial activity in the area,
- (iii) Degree to which it is anticipated that the area could improve its ability to control water quality problems were it designated as a planning 208 area, and
- (iv) Factors responsible for designation.

(2) Identification and supporting analysis of each water quality segment included in each area, as developed in accordance with Part 130 of this chapter.

(3) For each area a copy of the charter of existing regional waste treatment management agencies or formally adopted resolutions which demonstrate that the general purpose units of local government involved will join together in the planning process to develop and implement a plan which will result in a coordinated waste treatment management system for the area. The resolutions shall also state that all proposals for grants for construction of a publicly owned treatment works will be consistent with the approved plan and will be made only by the designated management agency.

(4) For each area the name, address, and official contact for the agency designated to carry out the planning.

(5) A statement on the factors considered in agency designation as described in § 126.11.

(6) A summary of public participation in accordance with the requirements set forth in § 126.30.

**§ 126.16 Procedure for designation of 208 planning areas and agencies responsible for planning by the chief elected officials of general purpose local government.**

(a) In the case of any intrastate area, if the Governor of an affected area does not act to designate or nondesignate it as a 208 planning area, or in an interstate area if the Governors of an affected area do not act to designate it as a 208 planning area, the chief elected officials of general purpose local governments having jurisdiction in the area, after meeting the requirements for public participation as set forth in § 126.30, may designate such planning area, and a single representative agency responsible for the planning, which shall be based upon the criteria set forth in §§ 126.10 and 126.11.

(b) After making such designation, the chief local officials shall: (1) Notify the Governor(s) of the State(s) affected by their action, and (2) submit their designation to the Administrator in accordance with the requirements set forth in § 126.15. When the Governor receives notification he may submit his views regarding the designation to the Administrator.

**§ 126.17 Review of submissions.**

(a) The Administrator shall review each submission of designated 208 planning areas and agencies to determine compliance with the criteria set forth in this Part.

(b) Upon completion of his review, the Administrator shall publish notice in the FEDERAL REGISTER and shall notify in writing the appropriate Governor(s) or local officials making such designations of his approval or disapproval of each designation. In the event that the Administrator disapproves any of the designations, he shall specify his reasons with his notice of disapproval.

**§ 126.18 Revisions.**

(a) The appropriate Governor(s) or local officials (where the original designation was not made by the Governor(s)) may from time to time propose in writing a revision of the boundaries of any 208 planning area previously approved. The Administrator shall approve or disapprove such proposed revision pursuant to § 126.17. The effective date of designation is the date of the Administrator's approval.

(b) The Governor(s) may also designate from time to time previously non-designated planning areas and agencies. In such cases the designation, submission, and approval shall follow the requirements set forth in this Part.

**Subpart C—State Planning in Nondesignated Areas**

**§ 126.20 Determination of planning agencies in nondesignated areas.**

(a) The State shall act as the planning agency for all areas not designated under

§§ 126.12, 126.13, or 126.16. Where the Governor determines, pursuant to section 208(b)(4) of the Act, that the requirements of section 208(b)(2) (F through K) should be applied on a statewide basis, the State may apply the planning process established pursuant to section 303 of the Act as the process for carrying out the requirements of the sections. Funds which may be available under section 106 of the Act may be utilized to conduct planning pursuant to this section.

(b) Assumption by the State of the planning responsibilities in these areas does not foreclose the establishment of other planning processes at the substate level.

**Subpart D—Public Participation**

**§ 126.30 Public participation requirements in designation of 208 planning areas and designation of agencies responsible for planning.**

(a) The guidelines for public participation as set forth in Part 105 of this chapter implementing section 101(e) of the Act shall be followed.

(b) The Governor(s) shall consult with appropriate elected and other local officials prior to designating planning areas and agencies. The Governor(s), or in the case of designation by chief elected officials of general purpose local government, those officials shall, after adequate public notice, hold one or more public hearings or meetings within the proposed 208 planning area for the purpose of gaining public advice on the designation of the planning area and agency. All units of local government wishing to be heard and the general public shall be included.

(c) Record of such public meetings or hearings including notice of same shall be kept and made available to the Administrator upon request. A summary of comments and meeting notes shall be submitted to the Administrator with each designation.

**Subpart E—Assistance to Designated Agencies**

**§ 126.40 Determination of eligibility.**

Assistance under section 208 (f)(1), (g), and (h) of the Act shall be provided only to those agencies designated under § 126.12, 126.13, or 126.16.

[FR Doc 73-19294 Filed 9-13-74; 8 45 am]