WHEREAS, the Congress of the United States enacted the Federal Water Pollution Control Act (FWPCA); and

WHEREAS, Section 208 of FWPCA and regulations established by the Administrator of the United States Environmental Protection Agency (EPA), 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, these planning and management functions, implemented in Texas pursuant to Section 208 and regulations of the EPA, should use to the fullest extent the capabilities of existing State agencies, river authorities, and other existing governmental bodies.

NOW, THEREFORE, I, William P. Clements, Jr., Governor of the State of Texas, under the authority vested in me, do hereby establish the following procedures for implementing areawide planning in the State of Texas and do hereby revoke, rescind and repeal Executive Order D.B. 18-A.

I. Purpose:

To establish a process for implementing Section 208, FWPCA, 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 FWPCA.

II. Authority:

Section 208 of FWPCA and the regulations pursuant thereto issued by EPA establish the responsibility of the Governor in implementing the areawide waste management planning provisions of FWPCA.

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) Designated Planning Area - 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.

(2) Designated Planning Agency - a representative organization, which includes elected officials from local governments or their designees, which has been designated by the Governor pursuant to Section 208, to prepare an areawide waste treatment management plan for a designated planning area.

(3) Committees - advisory committees will be established as needed, and pursuant to EPA regulations.

(4) State Planning Area - that portion of the State not falling within any of the designated planning areas.

(5) Management Agency - an agency designated by the Governor pursuant to Section 208 to perform one or more of the waste treatment management functions identified in an areawide waste treatment management plan.

IV. Responsibilities:

(1) State Water Quality Planning Agency - The Texas Department of Water Resources (TDWR) is hereby designated as the State agency for coordinating Section 208 planning for the State; making recommendations to the Governor regarding actions with respect to designations; receiving grants for the preparation of Section 208 plans for the State planning area; conducting Section 208 planning for the State planning area, except for planning control strategies for agricultural and silvicultural nonpoint sources of pollution; and reviewing planning conducted by designated planning agencies in accordance with the procedures set forth in Part V of this Order.

(2) State Planning Agency for Agricultural and Silvicultural Nonpoint Source Controls - The Texas State Soil and Water Conservation Board is hereby designated as the planning agency for identifying management strategies and/or controls for agricultural and silvicultural nonpoint sources of pollution in accordance with the procedures set forth in Part V of this Order.

V. Procedures:

(1) Designation of 208 Planning Areas

A. The TDWR shall present both oral and written recommendations to the Governor, or his designee, regarding actions the State may take with respect to the designation of designated planning areas.
B. The Governor shall then notify EPA, affected local governments, and the affected planning agency of the Governor's decision to consider an action regarding the designation of a planning area.

C. The TDWR shall, at the request of the Governor, assist notifying local governments and conduct, on behalf of the Governor, a public hearing in any area where an action regarding a designation is proposed.

D. Following the hearing, the Governor shall notify EPA and the planning agency of his decision regarding the designation.

(2) Designation of Planning Agencies

A. The TDWR shall provide the Governor, or his designee, recommendations on planning agency designations.

B. The Governor shall then notify EPA, affected local governments, and the affected planning agency of the Governor's decision to consider an action regarding the designation of a planning agency.

C. The TDWR shall, at the request of the Governor, assist in notifying local governments and conduct, on behalf of the Governor, a public hearing in any area where an action regarding designation of an agency is proposed.

D. Following the hearing, the Governor shall notify EPA and the planning agency of his decision regarding the designation.

(3) Application Process

The TDWR shall review each application for funding pursuant to Section 208 by a designated planning agency and grant, or refuse to grant, State certification of approval in accordance with applicable Federal regulations and State requirements and forward the State action on the application to EPA.

(4) Planning Process

A. The TDWR shall monitor on a continuous basis the work of each designated areawide planning agency.

B. TDWR shall coordinate planning and the TDWR and the TSSWCB shall perform planning in the State planning area in accordance with the responsibilities set forth in Part IV of this Order.

(5) Plan Review and Submission

A. The TDWR shall review, in accordance with applicable State and Federal requirements and procedures, each areawide waste treatment management plan upon its completion and submit to the Governor recommendations concerning certification.

B. The Governor shall either certify, certify with conditions, or refuse to certify each plan following appropriate notification as required by Federal regulations. Notification of his action on each plan shall be provided to EPA and the appropriate planning agency.
Designation of Management Agencies

A. The TDWR shall provide the Governor, or his designee, recommendations for the designation of one or more management agencies within each planning area.

B. The Governor, after appropriate notification as required by Federal regulations, shall designate one or more management agencies within each planning area.

This Executive Order is effective on the 9th day of May, 1979, and shall remain in effect until modified or rescinded by me.

Given under my hand this 9th day of May, 1979.

WILLIAM P. CLEMENTS, JR.
GOVERNOR OF TEXAS

Filed in the office of Secretary of State
MAY 10 1979

Director Adm. Div.