

208 MANAGEMENT SYSTEM
FUNCTIONS AND EVALUATIVE CRITERIA

Prepared For

LARIMER-WELD REGIONAL
COUNCIL OF GOVERNMENTS

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TO PERFORM I.F. FUNCTIONS IN 208 PROGRAM

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1.0 EXECUTIVE SUMMARY

This report for the 208 continuous management system is a condensed version of (1) the institutional tasks required under the 208 program for various functional activities, (2) the substantive organizational elements that law, regulations or simply good business and good government practices dictate, and (3) the matching of institutional characteristics with the various functional requirements of the 208 program.

This document is to be used primarily for screening existing institutional agencies for future roles in the 208 program. However, it should not be assumed that any existing institutional candidates will meet all of the criteria. It is to be used as a guide in matching 208 required management system tasks with candidate agencies and with their potential for expanding their capabilities or adjusting to fulfill desired characteristics.

A secondary purpose for the information will be its use in assessing the possibility for new institutional forms to carry out the management system tasks required by the 208 program. It may be determined (although it is not expected) that one or more of the tasks required as a result of the 208 program requirements cannot be effectively handled by any existing institutional agency. If that should be the case, the information would guide in the structuring of a possible new institutional form.

It should be understood that some institutional characteristics are more important than others. For example, institutional forms which have little or no independent financial generating capacity would be significantly out of place in a management task that required significant local funding. So, while an institution will not be required to meet all of the desired criteria for a management system task, there will be some criteria that as a practical manner will be virtually mandatory for given tasks.

2.0 FUNCTIONAL REQUIREMENTS OF THE 208 MANAGEMENT SYSTEM

The functional requirements of the 208 management system are established in part by the law itself and, in part by local decisions that determine what form "good government" takes in each instance. The driving force in determining management systems and institutional forms will be (1) the content of the 208 plan itself, (2) the manner in which the program is to be kept alive and moving towards the clean water goal, and (3) the consequences of failure.

To understand the management system tasks that must be handled, it is necessary to understand the program requirements as they apply to the area. Until the 208 plan takes shape, specifics of the Act (PL 92-500) have to be the guide. As the planning program matures, a clearer picture will emerge of what additional tasks the management system must carry out.

The law is clear about the minimum content of a 208 plan. A management system is to be developed to carry out the plan. The minimum 208 plan must contain the following elements:

"(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 plan 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.

The management system necessary to carry out the 208 plan can take many forms. A great deal of local latitude is permitted in creating a system custom designed for the study area. Whatever form that system may take, it should have certain functional elements to deal with specific tasks required in the plan. The functional elements of a management system with a brief discussion of each will follow. The primary functional elements of the management system to carry out the 208 plan are as follows:

- . Continuous Planning Function
- . Management Function
- . Operations Function
- . Regulatory Function

2.1 CONTINUOUS PLANNING FUNCTION

Once the initial 208 plan is complete and the adoption process by (1) Larimer-Weld C.O.G., (2) State of Colorado, (3) Federal E.P.A., is complete, the agency designated in the plan as the continuing planning agency will have the following responsibilities and powers:

- . The approved areawide plan must be annually reviewed, evaluated, updated and recertified to the Governor.
- . Any proposed changes by the management agencies that could have effect upon water quality and the 208 plan (e.g., expansion or contraction of service area boundaries, addition or deletion of treatment facilities or changes in management areas) must be approved by the Planning Agency before they can be integrated as part of the 208 plan.
- . A continuous water pollution control planning process will be essential to the implementation of the plan including the annual update. This process will necessitate a variety of tasks. These include:
 - (1) Providing assistance to management agencies in carrying out their activities.
 - (2) Monitoring, evaluating and suggesting corrective actions, if necessary, to assure that the implementation aspects of the 208 plan are being carried out.
 - (3) As specified by the 208 plan, carrying out water pollution abatement activities in non-designated management areas of the county.
 - (4) Assuring that the 208 pollution abatement activities of the plan are integrated in a meaningful way with the other urban and rural activities of the County, e.g., land use, land use development controls, solid waste management, water resources and air quality.
 - (5) Integrating the areawide 208 plan activities with neighboring 208 planning agencies.
 - (6) Providing a liaison for information on 208-related activities and regulations between the E.P.A., state management agencies and the public.
- . The real power and responsibility that is vested in the planning agency occurs because of the following conditions:

- (1) Changes to the original 208 plan may occur only when recommended by the areawide Planning Agency to the Governor and ultimately approved by him and the E.P.A. as a plan revision.
- (2) Liquid waste generators may not discharge wastes without a NPDES permit.
- (3) No NPDES discharge permit may be issued to any point source discharger that is not in conformance with the 208 plan.
- (4) Only designated management agencies and only treatment works developed as a part of the 208 plan are eligible for federal construction grant assistance.

2.2 THE MANAGEMENT FUNCTION

The law is clear on the minimum requirements for the management agency. It does not make a distinction between the management function and the operations function as is done in this report. However, the distinction is a simple one. Management agencies are responsible to carry out the areawide plan for pollutant categories as designated (municipal, industrial, urban runoff, agriculture, etc.). Operating agencies are the "hands on" people who actually operate the facilities and programs. The management agency and the operational agency may be one and the same, but it is not required. The functional distinction should be clear.

The law specifies management agencies must be capable of at least the following:

"(A) to carry out appropriate portions of an area-wide 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 wastes 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.

2.3 THE OPERATIONS FUNCTION

The operations function, if it develops institutionally separate from the management function will basically be the operating division of the management agency. They could have a great deal of autonomy in terms of plant operations, program implementation, B.M.P. activities, etc. But, they will be subject to the regulation, coordination, fiscal guidance, and management control of the management agency.

As a practical matter, in terms of municipal designation, there may be a few cases where cities with treatment facilities are not assigned both management and operational functions. The separation of the two functions is much more likely in the areas of agriculture or special districts.

2.4 THE REGULATORY FUNCTION

The regulatory function falls into two major subcategories, the first being the administration of the 402 permit program for all point discharges. This responsibility is now assigned by law to the state water quality control agency. As a practical matter, this means the state, in conjunction with its operating partner and subordinate, the county health departments will be the responsible regulatory agency (system).

The second category of regulatory activities deals with various forms of land use and land management control. While these activities may not be directly controlled by the 208 program, they will have significant impact on an area's ability to achieve movement toward the clean water goal. This category of regulatory activities reinforces the concept that water quality activities are deeply tied to most of the other activities of local government. And they can not be effectively dealt with in a vacuum. Regulatory activities in this category are as follows:

- . Zoning
- . Flood plain zoning and regulations
- . Environmental performance zoning
- . Subdivision Regulations
- . P.U.D.'s

- . Housing codes
- . Building codes
- . Construction permits
- . Hillside development requirements
- . Drainage regulations
- . Grading regulations
- . Soil erosion and sediment control ordinances
- . Solid waste control ordinances
- . Septic tank ordinances
- . Taxation policies
- . Public investment policies

It is expected that in time, various forces such as costs of facilities, advancement of technology and the reduction of streams' abilities to absorb expanding amounts of pollutants, will place greater and greater emphasis on utilization of land use and land management techniques such as those listed to reduce pollution quantities and characteristics.

3.0 DESIRABLE CHARACTERISTICS OF INSTITUTIONAL AGENCIES

The various agencies that will be assigned the ongoing implementation functions described herein, will have to have varying capabilities and capacities, based upon the task they are assigned. The evaluative criteria to be used in screening candidate agencies or in considering the formation of new agencies, are based upon a combination of requirements in the federal law (92 500) and fundamental requirements for good government.

The characteristics that are desirable for the various roles or agencies are contained in the following table. It should be used primarily in matching agencies with management system tasks.

TABLE 3.0-A

EVALUATIVE CRITERIA FOR AGENCY ASSESSMENT
TO PERFORM I.F. FUNCTIONS IN 208 PROGRAM

FUNCTIONAL
ACTIVITIES

CRITERIA LISTING

PLANNING	MANAGEMENT	OPERATIONAL	REGULATORY	
X	X	X	X	1. Political accountability
X	X	X	X	2. Political acceptability to citizens
X	X	X		3. Locally elected responsible officials
X	X	X		4. High visibility at local level
X	X	X		5. Close to constituents (sensitive to day-to-day issues)
X	X	X	X	6. Central responsibility assignment
X	X	X	X	7. Adequate, self controlled, financial capacity
X	X	X	X	8. Administrative accountability and efficiency
X	X	X	X	9. Adequate staff or ability to obtain
X	X	X	X	10. Economic efficiency
	X	X		11. Authority to charge fees, tax and raise revenues
	X	X		12. Authority to incur debt
X	X	X		13. Authority to accept and utilize grants
	X	X		14. Capacity to assure proportional cost sharing
	X	X	X	15. Police power
	X	X		16. Power to accept and/or reject wastes
X	X	X		17. Ability to assure design, construction and operation of treatment works

FUNCTIONAL
ACTIVITIES

CRITERIA LISTING

PLANNING	MANAGEMENT	OPERATIONAL	REGULATORY	
X	X	X		18. Ability to make enforceable decisions about treatment works technical matters
X	X	X	X	19. Perpetual (continuous) in nature
X	X	X	X	20. Ability to function across political boundaries
	X	X		21. Capacity to do facility planning
	X			22. Capacity to do sub-area (sub-basin) planning
X				23. Capacity to do areawide planning
X	X			24. Ability to function in a broad range of public works and citizen service activities
X	X			25. Ability to function in a broad range of land use related activities
X	X			26. Authority to require coordination if necessary
X	X			27. Ability to insure integration of waste water concerns into comprehensive service needs of area
X	X	X	X	28. Possess effective coordinative capabilities with other agencies
X				29. Ability to continually monitor and update areawide plans
X	X	X		30. Ability to assure conformance with 208 plan
			X	31. Facility monitoring, regulation and permit enforcement
	X	X	X	32. Testing, sampling, and laboratory capabilities