

United States Code Annotated

Title 33. Navigation and Navigable Waters (Refs & Annos)

Chapter 26. Water Pollution Prevention and Control (Refs & Annos)

Subchapter II. Grants for Construction of Treatment Works (Refs & Annos)

33 U.S.C.A. § 1288

§ 1288. Areawide waste treatment management

Currentness

**(b) Planning process**

**(1)(A)** 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 1281](#) of this title. 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.

**(B)** For any agency designated after 1975 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6), the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award authorized under subsection (f) of this section.

**(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, and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation;

**(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 1281\(c\)](#) of this title,

**(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 return flows from irrigated agriculture, and their cumulative effects, 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)(A) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under [section 1313](#) of this title 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 approval for application to a class or category of activity throughout such State.

**(B)** Any program submitted under subparagraph (A) of this paragraph which, in whole or in part, is to control the discharge or other placement of dredged or fill material into the navigable waters shall include the following:

**(i)** A consultation process which includes the State agency with primary jurisdiction over fish and wildlife resources.

**(ii)** A process to identify and manage the discharge or other placement of dredged or fill material which adversely affects navigable waters, which shall complement and be coordinated with a State program under [section 1344](#) of this title conducted pursuant to this chapter.

**(iii)** A process to assure that any activity conducted pursuant to a best management practice will comply with the guidelines established under [section 1344\(b\)\(1\)](#) of this title, and [sections 1317](#) and [1343](#) of this title.

**(iv)** A process to assure that any activity conducted pursuant to a best management practice can be terminated or modified for cause including, but not limited to, the following:

**(I)** violation of any condition of the best management practice;

**(II)** change in any activity that requires either a temporary or permanent reduction or elimination of the discharge pursuant to the best management practice.

**(v)** A process to assure continued coordination with Federal and Federal-State water-related planning and reviewing processes, including the National Wetlands Inventory.

**(C)** If the Governor of a State obtains approval from the Administrator of a statewide regulatory program which meets the requirements of subparagraph (B) of this paragraph and if such State is administering a permit program under [section 1344](#) of this title, no person shall be required to obtain an individual permit pursuant to such section, or to comply with a general permit issued pursuant to such section, with respect to any appropriate activity within such State for which a best management practice has been approved by the Administrator under the program approved by the Administrator pursuant to this paragraph.

**(D)(i)** Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with the requirements of this section, the Administrator shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

**(ii)** In the case of a State with a program submitted and approved under this paragraph, the Administrator shall withdraw approval of such program under this subparagraph only for a substantial failure of the State to administer its program in accordance with the requirements of this paragraph.

**CREDIT(S)**

(June 30, 1948, c. 758, Title II, § 208, as added [Pub.L. 92-500](#), § 2, Oct. 18, 1972, 86 Stat. 839; amended [Pub.L. 95-217](#), §§ 4(e), 31, 32, 33(a), 34, 35, Dec. 27, 1977, 91 Stat. 1566, 1576-1579; [Pub.L. 96-483](#), § 1(d), (e), Oct. 21, 1980, 94 Stat. 2360; [Pub.L. 100-4](#), Title I, § 101(d), (e), Feb. 4, 1987, 101 Stat. 9.)

**Footnotes**

<sup>1</sup> So in original. Probably should be “designated”.  
33 U.S.C.A. § 1288, 33 USCA § 1288  
Current through PL 117-51.