BEFORE THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING AND)	ORDINANCE NO. 80-102
IMPLEMENTING THE REGIONAL WASTE TREATMENT MANAGEMENT PLAN; AND AMENDING CHAPTER 3.04 OF THE)	Introduced by the Regional Planning Committee
METRO CODE.)	

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Section 3.04.01 of the Metro Code is hereby amended to read as follows:

"SECTION 1. 3.04.01 AUTHORITY AND PURPOSE

- "(A) These rules are This chapter is adopted pursuant to ORS 197.735(4) 268.390(1)(b) and 197.755(2) 268.390(2) for the purpose of adopting and implementing the Regional Waste Treatment Management Component of the Public Facilities and Services Element of the CRAG Regional Plan, hereinafter referred to as the "Waste Treatment Component Regional Plan." The Waste Treatment Component Regional Plan shall include the Regional Waste Treatment Management Component Plan Text, Treatment System Service Area Map and Collection System Service Area Map.
- "(B) These rules shall become effective forty-five (45) days after the date of adoption. As a result of Metro's continuing "208" Water Quality Program, the Council hereby designates water quality and waste treatment management as an activity having significant impact upon the orderly and responsible development of the region."

Section 2. <u>Section 3.04.02</u> of the Metro Code is hereby amended to read as follows:

"SECTION 2. 3.04.02. ADOPTION

"That-document entitled the Public Facilities and ServicesElement, Part 1, The Regional Waste Treatment Management
Component Plan, of the CRAG Regional Plan, dated July October,
1978 80, a copy copies of which is are on file at CRAG Metro
offices, is adopted and shall be implemented as required in
these rules this chapter and the Rules for Implementation of
the CRAG Regional Plan."

Section 3. Section 3.04.03 of the Metro Code is hereby amended to read as follows:

"SECTION 3 3.04.03 CONFORMITY TO THE PUBLIC FACILITIES ELEMENT.

- "(A) -Members Management agencies shall not take any land use related action or any action related to development or -providing provision of public facilities or services which are not in conformance with the -Waste Treatment Component or these-Rules Regional Plan.
- "(B) For purposes of this chapter 'management agencies' shall mean all cities, counties and special districts involved with the treatment of liquid wastes within the Metro jurisdiction."
- Section 4. <u>Section 3.04.04</u> of the Metro Code is hereby amended to read as follows:
 - "SECTION 4. 3.04.04 REVIEW OF VIOLATIONS OF THE WASTE TREATMENT MANAGEMENT COMPONENT REGIONAL PLAN
 - "(A) Any member management agency, interested person or group may petition the Board of Directors Council for review of any action, referred to in Section 3 3.04.03 of these Rules, this chapter, by any member management agency within sixty thirty (60 30) days after the date of such action.
 - "(B) Petitions filed pursuant to this section must allege and show that the subject action is of substantial regional significance and that the action violates the Waste-Treatment-Component Regional Plan.
 - "(C) Upon receipt of a petition for review, the Board of Directors Council shall decide, without hearing, whether the petition alleges a violation of the Waste Treatment Component Regional Plan and whether such violation is of substantial regional significance and, if so, shall accept the petition for review. The Board Council shall reach a decision about whether to accept the petition within sixty thirty (60 30) days of the filing of such petition. If the Board Council decides not to accept the petition, it shall notify the petitioner in writing of the reasons for rejecting said petition. If the Council decides to accept the petition, it shall schedule a hearing to be held within thirty (30) days of its decision. A hearing on the petition shall be conducted in accordance with applicable procedural rules.
 - "(D) The decision on whether to accept a petition filedunder this section may be by vote or by poll-of the Board of-Directors. Acceptance shall require either a simple majority.

of the Board with each Director having one vote or a majority of the weighted votes of the Board.

- "(E) Upon receipt by CRAC of any petition filed pursuant to this section, each member shall be notified of the petition and of the essential elements of the petition. Such notice will be sent within ten (10) days of filing."
- Section 5. <u>Section 3.04.05</u> of the Metro Code is amended to read as follows:

"SECTION 5. 3.04.05 CHANGE OF WASTE TREATMENT MANAGEMENT COMPONENT REGIONAL PLAN AMENDMENTS

- "(A) Revisions in the Waste Treatment Component Regional Plan shall be in accordance with procedural rules adopted by the General Assembly Council pertaining to review and amendment of the Regional Plan functional plans.
- "(B) Mistakes discovered in the Waste-Treatment Component-Text or Maps: Regional Plan may be corrected administratively without petition, notice or hearing. Such corrections may be made by order of the Board Council upon determination of the existence of a mistake and of the nature of the correction to be made."
- Section 6. <u>Section 3.04.06</u> of the Metro Code is hereby amended to read as follows:

"SECTION-6: 3.04.06 STUDY AREAS

- "(A) Treatment System Study Areas.
- "(1) Certain areas are designated on the Treatment System Service Area Map as "Treatment System Study Areas." Such designations are temporary and indicate areas requiring designation of that land to which each member and special district management agency intends to provide wastewater treatment services, as identified in an acceptable Facilities Plan.
- "(2) Wastewater treatment facilities within Treatment System Study Areas shall be allowed only if:
 - "(a) Required to alleviate a public health hazard or water pollution problem in an area officially designated by the appropriate state agency;

- "(b) Needed for parks or recreation lands which are consistent with the protection of natural resources or for housing necessary for the conduct of resource-related activities; or
- "(c) Facilities have received state approval of a Step 1 Facilities Plan, as defined by the U. S. Environmental Protection Agency regulations (Section 201, PL 92-500), prior to the effective date of these Rules this chapter.
- "(3) Facilities planning for a designated Treatment System Study Area shall include investigation of the regional alternative recommended in the support documents accepted by the Waste-Treatment Management-Component-Regional Plan. Such investigations shall be conducted in accordance with Article V, Section 1, (A) (2) (a) (iv) of the Waste-Treatment-Component-Text-Regional Plan Text.
- "(4) No federal or state grants or loans for design or construction of any major expansion or modification of treatment facilities shall be made available to or used by agencies serving designated Treatment System Study Areas until such time as a state approved Facilities Plan has been completed.
- "(5) Upon completion of a Facilities Plan and acknowledgment by CRAG Metro of compliance with the Regional Comprehensive Plan, a Treatment System Study Area shall become a designated Treatment System Service Area and shall be eligible to apply for Step 2 and Step 3 construction grants. The Treatment System Service Area shall be incorporated by amendment to into the Waste Treatment Management Component Regional Plan and all appropriate support documents pursuant to Section 9 3.04.09 of these Rules this chapter.
 - "(B) Collection System Study Areas.
- "(1) Certain areas are designated on the Collection System Service Area Map as 'Collection System Study Areas.' Such designations are temporary and exist only until such time as each member and special district designates that land to which it intends to provide sewage collection services pursuant to Section 8 (d) of the Rules for Adoption of the Land Use Framework Element. At the time of designation, Collection System Study Areas shall become designated Collection System Service Areas. The Waste Treatment Management Component Regional Plan and the appropriate support documents shall be amended to incorporate the Collection System Service Area pursuant to Section 3.04.09 of these Rules this chapter.
- "(2) Designation as a Collection System Study Area shall not be construed to interfere with any grants or loans for facility planning, design or construction."

Section 7. <u>Section 3.04.07</u> of the Metro Code is hereby amended to read as follows:

"SECTION 7: 3.04.07 CAPITAL IMPROVEMENT PROGRAMS AND NEEDS LIST

- "(A) For the purpose of implementing Article I, Section 3(A) of Part 1 of the Public Facilities and Services Element-Regional Plan, all designated management agencies shall submit to CRAC Metro no later than March 30 annually a five-year Capital Improvement Program and a 20-year needs list by five-year increments.
- "(B) Projects to be included on the five-year Capital Improvement Program and the 20-year needs list shall meet one or more of the following criteria:
- "(1) Projects which are grant eligible under EPA "201" facilities planning guidelines pursuant to federal regulations 40 CFT 35.900-35.960;
- "(2) Projects for which a management agency intends to apply for state or federal funds; or
- "(3) Projects submitted for information purposes by the management agency.
- "(C) Projects submitted in either the five-year Capital Improvement Program or the 20-year needs list shall be accompanied by the following information:
 - (1) Project description;
 - (2) Estimated completion date;
 - (3) Project cost and proposed funding source;
 - (4) Population serviced by project; and
 - (5) Waste flows projected for the project.
- "(D) Amendments and/or additions to the Capital Improvement Program and related 20-year needs list may be requested by the designated management agency from CRAG-Metro. Such requests must be submitted in writing and include information as noted in Section 7(C). Amendments or additions may be summarily approved if in compliance with Section 7(B)-3.04.07(B) of these Rules this chapter."
- Section 8. <u>Section 3.04.08</u> of the Metro Code is hereby amended to read as follows:

"SECTION-8. 3.04.08 PROJECT PRIORITIZATION

"CRAG Metro shall review each publication of the DEQ grant priorities list and shall comment thereon."

Section 9. <u>Section 3.04.09</u> of the Metro Code is hereby amended to read as follows:

"SECTION 9. 3.04.09 CONTINUING PLANNING PROCESS

- "(A) For the purpose of implementing Article V, Section 1 (A) (2) (b) (i) of the Waste Treatment Management Component Regional Plan, the continuing planning process shall follow, but not be limited to, the procedure shown below.
- "(1) Evaluation of new information with respect to its impact on the Waste Treatment Management Component Regional Plan. Component Regional Plan changes shall be based upon:
 - "(a) Changes in custody, maintenance and/or distribution of any portion of the Waste Treatment Component;
 - "(b) Changes in population forecasts and/or wasteload projections;
 - "(c) Changes in state goals or regional goals or objectives;
 - "(d) Changes in existing treatment requirements;
 - "(e) Implementation of new technology or completion of additional study efforts; development of more energy-efficient wastewater treatment facilities; or
 - "(f) Other circumstances which because of the impact on water quality are deemed to effect the Waste Treatment Component.
- "(2) *CRAG Board of Directors Metro Council review and release of *Component* Regional Plan* changes for public comment.
- "(3) Adequate public review and comment on the Component change.
- "(4) Adoption of Component Regional Plan change by CRAG Board of Directors Metro Council.
- "(5) Submittal of change to DEQ for approval and state certification.
 - "(6) EPA approval of change.
- "(B) For the purpose of amending support documents referenced in Article I, Section 3(F) of the Waste Treatment-Management Component Regional Plan, the process shall be as shown below:

- "(1) Any proposed change to the support documents shall be presented to the -CRAG Board of Directors Metro Council with the following information:
 - (a) Reasons for proposed action;

(b) Basis of data;

(c) Method of obtaining data;

(d) Period in which the data was obtained;

(e) Source of the data;

(f) Alternatives considered; and

- (g) Advantages and disadvantages of the proposed action.
- "(2) Following approval by the CRAC Board of Directors Metro Council, amendments to the support documents shall be attached to appropriate documents with the following information:
 - (a) Approved change and replacement text for the document;
 - (b) Specific location of change within the document;
 - (c) Reasons for the change; and
 - (d) Date of Board Council action approving the change."

Section 10. <u>Section 3.04.10</u> of the Metro Code is amended to read as follows:

"SECTION 10. 3.04.10 APPLICATION OF RULES ORDINANCE

"These rules This chapter shall apply to all portions of Clackamas, Washington and Multnomah County Counties within the jurisdiction of Metro."

Section 11. <u>Section 3.04.11</u> of the Metro Code is hereby amended to read as follows:

"SECTION-11: 3.04.11 SEVERABILITY

- "(A) The sections hereinabove of this chapter shall be severable, and any action or judgment by any state agency or court of competent jurisdiction invalidating any section of these rules this chapter shall not affect the validity of any other section.
- "(B) The sections of the -document adopted by these rules-Regional Plan shall also be severable and shall be subject to the provisions of subsection (A) of this section.
- "(C) For purposes of this section, the maps included in the Waste-Treatment Component of the Public Facilities and

-Services Element Regional Plan shall be considered as severable sections, and any section or portion of the maps which may be invalidated as in subsection (A) above shall not affect the validity of any other section or portion of the maps."

Section 12. FINDINGS

This Ordinance incorporates the findings attached as Appendix A.

ADOPTED by the Council of the Metropolitan Service District this g_{md} day of October, 1980.

Presiding Officer

ATTEST:

Clerk of the Council

AJ/JL/gl 205B/92

APPENDIX A

FINDINGS

- (1) In 1975 CRAG was designated as the Areawide Waste

 Treatment Management Planning Agency for the Portland metropolitan

 area pursuant to Section 208 of the Federal Water Pollution Control

 Act Amendments (PL 92-500).
- (2) CRAG conducted a \$1.8 million, two-year study to develop a "208" plan which resulted in a plan with 14 support documents which was adopted by CRAG Rule No. 78-4 dated June 22, 1978.
- (3) Annual recertification of the "208" plan is required to maintain Metro's designation as Areawide Waste Treatment Planning Agency and eligibility for "208" grants.
- (4) Annual recertification of the "208" plan is required to maintain the eligibility of local jurisdictions for "201" Sewerage Works Construction Grants.
- (5) In order for the plan to be recertified, it must be submitted to DEQ for review and submission to the Governor by November 1, 1980. The Governor must then recertify the plan to the Environmental Protection Agency by December 1, 1980.
- (6) In order that the recertification deadlines may be met, the Council finds that major revisions in the "208" plan are neither needed nor desirable at this time. The plan should be revised to reflect the assumption by Metro of CRAG's "208" responsibilities in January 1979. The revisions are needed to ensure that the plan accurately reflects the different operating procedures and statutory

authorities of Metro.

- (7) Metro is in the process of making revised regional population estimates and undertaking the development of a regional capital improvement plan to support urban growth policies. Upon completion of these two projects a more substantive revision of the "208" plan will be appropriate.
- (8) Metro, pursuant to ORS 268.390, is required to prepare and adopt a functional plan to control metropolitan area impacts on water quality.
- The CRAG "208" plan as revised herein is consistent with the Statewide Land Use Planning Goals as is indicated by the following paragraphs.

GOAL #1 CITIZEN PARTICIPATION. The Water Resources Policy Alternatives Committee was formed to advise Metro staff and Council on technical and policy matters related to water resources That Committee is made up of members as follows: management.

- Citizens At-Large
- 3 Environmental Organizations
- 1 Water Recreation Organization
- 1 Construction Industry Member
- 1 Home Builders Association Member
- 1 Water Recreation Industry Member
- 1 Clackamas County (staff)
- 1 Multnomah County (staff)
- 1
- 1
- Washington County (staff) City of Portland (staff) Port of Portland (staff) 1
- 1 Cities in Washington County
- 1 Cities in Multnomah County
- 1 Cities in Clackamas County
- 1 Sanitary Districts
- 1 Soil and Water Conservation Districts
- 1 Water Districts
- 1 Clark County Regional Planning Council
- Portland General Electric 1
- 1 Oregon Department of Environmental Quality
- 1 Oregon Department of Water Resources
- Oregon Department of Fish and Wildlife

U. S. Army Corps of EngineersU. S. Environmental Protection Agency

The Water Resources Policy Alternatives Committee has regular monthly meetings and through its "208" subcommittee provides for substantial public input in all phases of the "208" planning process. All member jurisdictions of Metro were advised by mail of the proposed revisions, and the schedule of public review of the proposed revisions.

Goal #1 has been complied with by the substantial public involvement mechanism provided by the Water Resources Policy Alternatives Committee, and the opportunties for public comment before the Committee and the Council on September 10, September 25 and October 2.

GOAL #2 LAND USE PLANNING. The CRAG "208" plan was the product of a \$1.8 million two-year study which dealt extensively with the issues and problems of water quality in the region. action taken by this ordinance carries that plan forward without substantive change. The present action is taken for two purposes: to achieve the federally mandated "recertification" so that federal planning and facilities grants may continue, and (2) to reflect the succession of Metro to CRAG's "208" planning responsibilities and the differences between the enabling statutes of CRAG and Metro.

A more complete application of Goal #2 factors is not appropriate until the revised regional population estimates and the regional capital improvements plan are available for a substantive reevaluation of the 1978 plan.

This plan revision has been coordinated with citizens and

affected governments directly by mail and through the Water Resources Policy Alternatives Committee.

GOALS #3 and #4 AGRICULTURAL LANDS and FOREST LANDS.

This action is not inconsistent with Goals #3 and #4. Efficient provision of sewerage services within the Urban Growth Boundary (UGB) is essential to reduce premature pressures to develop rural agricultural and forest land.

MATURAL RESOURCES. The 1978 plan was adopted in part to protect waterways and fish and wildlife habitats from the dangers that may result from improper sewerage treatment. The present action carries forward the effort begun by that plan without substantive change.

GOAL #6 AIR, LAND AND WATER RESOURCES QUALITY. The central purpose of the 1978 plan carried forward by this action is the maintenance and improvement of water quality. The federal goal under which "208" plans are adopted calls for "fishable and swimable waters by 1983." During preparation of the 1978 CRAG plan the carrying capacity of water resources and the threat to water quality posed by expected sewerage effluent loading was directly addressed and incorporated into the plan provisions. There is no sufficient information to propose substantive changes in that plan in this action for recertification.

GOAL #8 RECREATIONAL NEEDS. The plan is consistent with Goal #8 in that achievement of federal water quality goals will increase the availability of water related recreational opportunities.

GOAL #9 ECONOMY OF THE STATE. Recertification of the "208" plan is required for continued "208" planning funds and "201"

construction funds. The continued receipt of those funds is essential to the achievement of water quality goals and the ability to service expected urban development.

GOAL #10 HOUSING. One of the key limiting factors in housing construction is the ability to collect and treat sewerage effluent. The continued planning and development of sewerage facilities will be possible if the plan is recertified.

GOAL #11 PUBLIC FACILITIES AND SERVICES. The 1978 plan was adopted to establish a framework whereby local jurisdictions, Metro and the State could plan and construct facilities for the collection and treatment of wastes. Federal statute requires the creation of such a framework so that the provision of federal funds for planning and construction of waste collection and disposal systems will be coordinated and in compliance with federal clean water mandates. This is consistent with the Goal #11 dictate "to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." The present action to achieve recertification carries that effort forward without substantive change.

GOAL #14 URBANIZATION. Efficient provision of urban services is essential if the planned urbanization of land within the UGB is to occur in a timely manner. Planning and construction of sewerage treatment facilities will be hampered if the "208" plan is not recertified. Since the information required for a detailed substantive update is not available, the existing plan should be recertified with only the minor changes proposed so that the sewerage facilities needed to achieve Goal #14 urbanization goals will not be delayed.

AGENDA MANAGEMENT SUMMARY

Metro Council TO: FROM:

Executive Officer

SUBJECT: Revision and Adoption of "208" Regional Waste Treatment

Management Plan

I. RECOMMENDATIONS:

ACTION REQUESTED: Adoption of Ordinance No. 80-102, For The Purpose of Adopting and Implementing the Regional Waste Treatment Management Plan; and amending Chapter 3.04 of the Metro Code.

POLICY IMPACT: Annual recertification of the "208" plan В. is required to maintain Metro's designation as Areawide Waste Treatment Planning Agency and eligibility for "208" Water Quality Planning Grants.

In addition to "208" grants, annual certification of the "208" plan is required to maintain the eligibility of local jurisdictions for "201" Sewerage Works Construction Grants. There are 15 local jurisdiction projects on the Draft FY 81 Priority List.

Metro, as the successor agency to CRAG, was designated by the Governor as the Section 208 Areawide Waste Treatment Management Planning Agency for the Portland metropolitan region. As such, Metro is required to review and update the "208" plan annually and submit it to the Department of Environmental Quality (DEQ) for recertification by the Governor. The existing "208" plan adopted by CRAG Rule No. 78-4 as the Waste Treatment Management Component of the Public Facilities and Service Element of the Regional Plan was never formally adopted by Metro. This plan, however, has been used by Metro in reviewing comprehensive plans of local jurisdictions and as the basis for awarding Section 201 Sewerage Works Construction Grants within the region.

BUDGET IMPACT: Adoption of Ordinance No. 80-102 has no C. impact on the Metro budget. Failure to adopt this Ordinance could jeopardize Metro's elegibility for "208" funding. FY 1981 "208" grants total \$143,623.

II. ANALYSIS:

BACKGROUND: In 1975 CRAG was designated by the Governor Α. as the Areawide Waste Treatment Management Planning Agency for Washington, Multnomah and portions of Clackamas Counties pursuant to Section 208 of the Federal Water Pollution Control Act Amendments (PL92-500). As the "208"

agency CRAG initiated a \$1.8 million, 2-year study to develop a plan to meet the federal goals of fishable, swimable waters by 1983. The plan which resulted, as well as the 14 support documents, was adopted by the CRAG Board in June, 1978.

In January, 1979, CRAG was merged with the Metropolitan Service District to form Metro. The "208" designation was transferred by the Governor to the new agency and the planning area was reduced to conform to the new Metro boundary. Areas outside this boundary came under the jurisdiction of the DEQ. Since 1979 Metro has continued to administer the "208" plan and has utilized it as a tool in developing the Urban Growth Boundary and in reviewing local comprehensive plans. Metro, however, has never formally adopted the "208" plan.

One requirement of the "208" planning process is that the plans be kept up to date and recertified annually by the Governor. (Prior to this year there has not been a process for recertification.) The schedule for recertification is as follows:

- October 1 Planning Agency submits implementation report and plan revisions to DEQ for review.
- November 1 DEQ submits plans to Governor's office with recommendations.
- December 1 Governor recertifies plans to the Environmental Protection Agency (EPA).

The plan revisions recommended by staff at this time are minimal. The proposed changes are indicated along with the original text adopted by CRAG; the significant changes are as follows:

- . Redrafting Rule No. 78-4 as an Ordinance.
- Changing all reference to CRAG and MSD to Metro.
- Revising maps and charts to eliminate areas outside the Metro boundary.
- Revising the Intent and Policies (Article 1, section 1) to reflect Metro's responsibilities to adopt functional plans in specific areas as opposed to CRAG responsibility to develop a regional framework plan.

Metro is in the process of revising regional population estimates and undertaking the development of a regional Capital Improvement Plan to support urban growth policies. Upon completion of these two projects a more substantial revision of the "208" plan will be considered.

B. ALTERNATIVES CONSIDERED: Staff considered drafting a Metro ordinance which would adopt the existing CRAG "208" plan and make the appropriate revisions. It was felt that this would result in a confusing document. Since the CRAG plan has never been adopted by Metro, staff has revised it directly.

The proposed plan revisions were reviewed by the Water Resources Policy Alternatives Committee (WRPAC) on September 10, 1980. With minor changes, the WRPAC approved the "208" plan revisions and unanimously recommended Council adoption of Ordinance No. 80-102.

C. CONCLUSION:

- 1. Annual revision of the "208" plan is a responsibility of Metro as the designated Areawide Waste Treatment Management Planning Agency.
- 2. Recertification of the plan is required to maintain eligibility for both Section 208 and Section 201 grants.
- 3. The amount of revision at this time is minimal pending completion of ongoing Metro planning related to population and regional capital improvement programs.
- 4. Metro, pursuant to ORS 268.390 (1) (b) and 268.390 (2) is mandated to prepare and adopt a functional plan to control metropolitan area impacts on water quality.
- 5. It is appropriate for Metro to adopt the CRAG "208" plan as a functional plan for Regional Waste Treatment Management.

JL/gl 116B/92 9/25/80

TITLE For the Purpose of Adopting and
Implementing a Regional Waste Treatment
Management Plan and Amending Chapter 3.04

of the Metro Code

DATE INTRODUCED September 25, 1980

FIRST READING September 25, 1980

SECOND READING October 2, 1980

DATE ADOPTED October 2, 1980

DATE EFFECTIVE October 2, 1980

ROLLCALL

	Yes	No	Abst.
Burton	X		
Status Oleson	Х		Rent line
Williams on	Х		
Berkman	X		
Kirkpatrick	X		THE RESERVE OF THE RE
Deines	Х		
Rhodes	Х		Parks 1
Schedeen	X		
Midden Bonner	Х		10 th 0 th
Banzer	X		
Peterson			
Kafoury		N. Chi	