



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**CRAWFORD C. MARTIN  
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September 14, 1967

Honorable Joe G. Moore, Chairman  
Texas Water Quality Board  
Austin, Texas

Opinion No. M-131

Re: Authority of the Texas  
Water Quality Board  
to adopt water quality  
rules and to enforce  
such rules.

Dear Mr. Moore:

You have requested our opinion as to whether the Texas Water Quality Board (created by S.B. 204, Acts 60th Leg. R.S. 1967, p. 745; Art. 7621d-1, V.C.S.) can adopt rules and regulations as to water quality and enforce said rules and regulations. You state that the Texas Water Pollution Control Board (created by Art. 7621d, V.C.S.), the predecessor of the Texas Water Quality Board did adopt water quality criteria by its order 67-5, dated June 30, 1967 and that such are now under review by the U.S. Department of Interior. Federal law provides that the States must adopt water quality standards and provide for the enforcement thereof or the United States Government will act through its Secretary of Interior and "shall promulgate such standards." 33 U.S.C.A. 466, et seq.

You desire answers to the following questions:

- (1) Whether the State Water Pollution Control Board had legal authority to adopt water quality standards? If so, please give citations for the authority.
- (2) Whether the State Water Pollution Control Board had legal authority to enforce water quality standards? If so, please give citations for the authority.
- (3) Whether the Texas Water Pollution Control Board took action, by resolution or otherwise, to adopt and provide for the enforcement of water quality standards?
- (4) Whether the new Texas Water Quality Board has legal authority to enforce water quality standards? If so, please give citations for the authority.

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Your first three questions are answered in the affirmative. The State Water Pollution Control Board not only could, but such State agency did, make valid rules and regulations and provide for enforcement thereof under the authority of Article 7621d, Sec. 4(c), 4(d), 4(e), and Sec. 12, V.C.S.

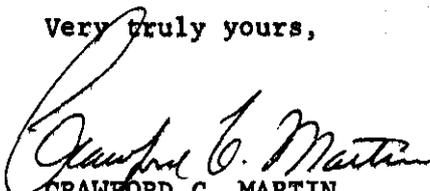
As to question number (4), there is ample authority for the Texas Water Quality Board to enter an order promulgating and adopting the rules of its predecessor State agency; and the Texas Water Quality Act of 1967, effective September 1, 1967, provides for injunctions, civil penalties and criminal prosecutions to enforce the law. S.B. 204, Chapter 313, Acts 60th Legislature, R.S. 1967, Art. 7621d-1, Sections 11 and 15, V.C.S.

#### S U M M A R Y

The State Water Pollution Control Board had legal authority to adopt and enforce water control standards and by its order on June 30, 1967, did adopt water quality criteria and provided for the enforcement thereof. Article 7621d, Secs. 4(c), 4(d), 4(e), and Section 12, V.C.S.

The Texas Water Quality Board has legal authority to enforce water quality standards. Sections 11 and 15 of Article 7621d-1, V.C.S.

Very truly yours,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

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Assistant Attorney General

APPROVED:

OPINION COMMITTEE  
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