



NORTHEAST OHIO AREAWIDE COORDINATING AGENCY

MEMORANDUM

TO: NOACA Board of Directors

FROM: Grace Gallucci, Executive Director

DATE: September 4, 2015

RE: Resolution No. 2015-053 - Updates to the Clean Water 2000 Plan – Chapter 4

ACTION REQUESTED

The Board of Directors is asked to approve the updates to Chapter 4 of the Clean Water 2000 Plan. The updates were reviewed and recommended by the Water Quality Subcommittee and the Planning and Programming Committee.

BACKGROUND/JUSTIFICATION FOR CURRENT ACTION

As part of NOACA's goal to complete a comprehensive update of the Clean Water 2000 Plan, the staff is auditing each chapter to identify needed improvements. The audit of Chapter 4 - Wastewater Management and Facility Planning - revealed several instances of contradictory and inconsistent language within the section titled, "Policies for Determining Consistency with the Water Quality Management Plan (Policies)." Correction of these conflicts is a priority to avoid ambiguity when considering Facility Planning Area (FPA) modification requests from Designated Management Agencies (DMAs).

The proposed changes to the Policies, along with rationale for each change, are shown in Attachment A. Below is a summary:

- **Policy 4-1: DMAs and Current FPA Boundaries**
 - *Proposed Change 1* – Clarification of Acceptance by NOACA:
 - The proposed change clarifies that NOACA's acceptance of requested FPA boundary modifications comes only through the approval of the NOACA Board of Directors (Board).
- **Policy 4-2: Modification to FPA Boundaries**
 - *Proposed Change 2* – Relocation of the Review Period to Policy 4-6:
 - Proposed is the relocation of the 90-day review period for FPA boundary changes from Policy 4-2 to Policy 4-6. (see Proposed Change 8 below).
 - *Proposed Change 3* – Pre-Approval by the Ohio EPA of the Transfer of Wastewater Planning Responsibilities:
 - The first sentence of the last paragraph of Policy 4-2 states that the Ohio Environmental Protection Agency (Ohio EPA) must approve the transfer of planning responsibilities for sewer and wastewater treatment prior to consideration by

NOACA's Board. This statement is proposed for removal because it is counter to the current FPA amendment process where the NOACA Board approves the transfer of planning responsibility, through FPA modifications, then submits the changes to Ohio EPA. The Ohio EPA has approved the current modification process, which does not require Ohio EPA pre-approval.

- *Proposed Change 4* – Updating Language to Reflect NOACA's Updated Code of Regulations
 - The phrase “NOACA Governing Board” is proposed to be updated to “NOACA Board of Director” to reflect changes to NOACA's Code of Regulations (NOACA Resolution No. 2013-027).
- **Policy 4-4: Plan Consistency Actions by Ohio EPA and United States Environmental Protection Agency (US EPA)**
 - *Proposed Change 5* – Notifying Local Jurisdictions of Sewer Line Installations Prior to Ohio EPA Review:
 - The last sentence in Policy 4-4 directs NOACA to notify local jurisdictions of the installation or expansion of central sewers not connected to a publicly owner treatment works (POTW) prior to consideration by the Ohio EPA.
 - Fulfilling this portion of Policy 4-4 is not feasible or necessary and is proposed to be removed from Policy 4-4.
 - There is not a requirement to contact NOACA prior to submitting a permit-to-install (PTI) application to the Ohio EPA for sanitary sewer. Therefore NOACA does not have the ability to notify local jurisdictions prior to Ohio EPA consideration.
 - However, the Ohio EPA cannot issue a PTI that is inconsistent with the Clean Water 2000 Plan. If a proposed sanitary sewer line is not consistent with the Clean Water 2000 Plan, then NOACA can work with the applicant and the local jurisdictions on possible solutions.
- **Policy 4-5: Utilization of Areawide Population Projections**
 - *Proposed Change 6* – Clarification of Acceptance by NOACA:
 - The proposed modification is to the last sentence of Policy 4-5 to clarify that population projections different from NOACA's projections must be approved by NOACA's Board prior to being used for consistency determination.
- **Policy 4-6: Modifications to FPAs of DMAs**
 - *Proposed Change 7* – Clarification of Agreement Among Affected Jurisdictions:
 - The last sentence of the first paragraph could be construed that all affected jurisdictions must be in agreement in order for a requested FPA modification to be considered by NOACA's Board. The proposed modified text removes the definitive language and replaces it with language that strongly encourages consensus among local jurisdictions prior to consideration by NOACA's Board and committees.
 - *Proposed Change 8* – Updated Review Period:
 - The review period for FPA modifications is proposed to be relocated to Policy 4-6. The original 90-day review period was added to Policy 4-2 in 2014 (NOACA Resolution No. 2014-08).
 - Nearly all FPA modifications will impact other DMAs requiring the use of Policy 4-6, making the review period location in this policy appropriate.
 - The updated review period removes arbitrary deadlines for consideration by the WQS. Some FPA modifications may require additional time to gather information or convene meetings with affected jurisdictions prior to consideration by the WQS.
 - The proposed review period shifts the responsibility for securing comment letter from NOACA to the applicant DMA. Policy 4-2 states that the DMA requesting the FPA modification is responsible for soliciting support from affected jurisdictions.

- The updated review period removes the limited response options for affected jurisdictions commenting on a FPA modification request.
- The updated review period removes duplicative language already contained in Policy 4-6. For example, Policy 4-6 already contains guidance on the consideration of an FPA modification request by the WQS.
- *Proposed Change 9* – Updating Language to Reflect NOACA’s Updated Code of Regulations
 - The phrase “Policy Board” is proposed to be updated to “Board of Director.”
 - The Planning and Programming Committee is proposed to be added to the review process.
 - The proposed updates reflect changes to NOACA’s Code of Regulations (NOACA Resolution No. 2013-027).

FINANCIAL IMPACT

Recommendation of the updates to the Policies for Determining Consistency with the Water Quality Management Plan will result in no financial impact to NOACA.

CONCLUSION/NEXT STEPS

With Board approval, Chapter 4 of the Clean Water 2000 Plan will be revised and submitted to the Ohio Environmental Protection Agency.

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Attachment A

**Chapter 4
Wastewater Management Facility Planning**

POLICIES FOR DETERMINING CONSISTENCY WITH THE WQMP

Commented [EA1]: Pages 4-11 to 4-18 in the Clean Water 2000 Plan

This section sets forth policies governing changes to Designated Management Agencies and Facility Planning Areas and procedures for determining wastewater management plans consistent with the WQMP. These policies address:

- (1) Designating Management Agencies and their current Facility Planning Area boundaries for wastewater management planning;
- (2) Future Modifications to FPA Boundaries;
- (3) Development of Local Wastewater Management options;
- (4) Ohio EPA and USEPA 208 Plan Consistency Actions;
- (5) Utilization of Areawide Population Projections;
- (6) Modifications to DMAs;
- (7) Nomination of New DMAs.

Policy 4-1: Designated Management Agencies and Current Facility Planning Area (FPA) Boundaries

With the adoption of this Plan update, local jurisdictions or agencies identified in Table 4-1 are confirmed as Designated Management Agencies for wastewater management planning within the Facility Planning Areas set forth in Figures 4-1 through 4-5 of Appendix 4-1.

The Clean Water 2000 WQMP generally accepted FPA boundary decisions that were formally or informally approved by Ohio EPA in the past. Considerable confusion existed in some areas as to which of numerous sewer plans and planning boundary definitions that have been produced over the years should be recognized in the WQMP update. The lack of a formal procedure to clearly identify FPA boundaries and to track changes to these definitions over time is partially responsible for this confusion. The Clean Water 2000 WQMP remedied this situation.

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All owners or operators of POTWs were sent maps identifying FPA boundaries in the 1979 WQMP. During the update process, DMAs were given an opportunity to propose changes within existing FPA boundaries to accommodate changes that had been realized over the last twenty years. This process also allowed a DMA to propose the removal of subareas that it has no plans for sewerage from its previously defined FPA. Expansion of Facility Planning Areas could also be proposed with the consent of affected jurisdictions.¹

NOACA maintains detailed mapping files as part of its Geographic Information System (GIS). With the adoption of this update by the NOACA Board, the files maintained in this format are the definitive statement of all FPA boundaries unless a more detailed definition has been created by a DMA as part of its wastewater planning process. If a DMA has a more detailed map of boundaries in a report that has been submitted to and approved by Ohio EPA, NOACA can accept those boundaries with the consent of affected jurisdictions. In all cases, the NOACA GIS maps are the definitive source of FPA boundaries. Requests for changes to existing boundaries must be submitted by a DMA and will be recognized in the plan only after **review and acceptance approval** by **the NOACA Board of Directors**. NOACA will provide electronic copies of all approved updates to the Northeast District Office of Ohio EPA (and will make them available to the public by posting updates on the Agency's website (www.noaca.org)).

Commented [EA2]: FPA modifications and population projections must ultimately be approved by NOACA's Board for use by the Ohio EPA. The text should reaffirm this requirement.

Each DMA responsible for wastewater planning should develop plans covering a twenty-year time frame. The appropriate time for the development of these twenty-year plans is predicated by the life expectancy of each wastewater treatment plant. When the planning cycle of an existing facility looks to upgrade or expand that facility, a part of the planning that takes place should review wastewater treatment needs for all areas within the plant's

¹ The boundaries that are recognized by this update replace all boundaries previously identified in the original 208 plan for the area. While there continues to be marked similarity between the boundaries established by the original 208 Planning process and the boundaries included in this update, there are notable differences. Boundary changes fall into two categories: those that reflect changes initiated by planning for active sewer extensions, and those that involve a strategic refocusing of planning objectives. Examples of the former category include the boundaries between the FPAs of (a) the Cities of Lorain and Elyria, (b) Medina County and the City of Akron, (c) the Greater Mentor WWTP and the City of Painesville, (d) Greater Mentor WWTP and Heatherstone WWTP. Each of these changes occurred as the former FPA boundary was moved to serve an area in a bordering FPA that could not be otherwise serviced in a timely or efficient manner. The DMAs of both FPAs agreed to the changes and Ohio EPA concurred. New FPAs were established for Amherst and Bedford Heights.

The second category of FPA boundary changes was based on facility planning that progressed after the initial 208 process. Several DMAs centralized their planning focus within their initial 201 FPA boundaries. These communities concluded that they had no intention of extending out to the furthest reaches of their planning area. They have established new boundaries to reflect this. Communities that fall into this group include the City of Oberlin, Newbury Township and Burton Village. The Cities of North Olmsted and Euclid, and Medina County (for its Hinckley WWTP) extended their planning areas to provide service to areas not originally included in a planning area. The Northeast Ohio Regional Sewer District renamed large tracts of their 201 FPA boundaries to "Sewer Planning Option Zones". Their intention is not to extend into any of these areas unless mutually agreed to by local officials and NEORS D.

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FPA boundary over the twenty-year time frame. The results of this planning will be recognized by the WQMP when accepted by Ohio EPA.

Policy 4-2: Modifications to Facility Planning Area (FPA) Boundaries

The NOACA Board must approve all future changes to FPA boundary definitions. The Board must also approve all new FPAs. These changes are effective on Board approval and will be reflected in the next plan update submitted for certification.

The updated plan recognizes the FPA designations that are identified in Figures 4-1 through 4-5. For changes requested after the Board adopts the plan update, the DMA requesting a change must apply to NOACA for redefinition of its boundaries. This will require the DMA to solicit support from all affected jurisdictions including any other DMA that may be affected by the redefinition.

~~Upon receipt of a request for redefinition of FPA boundaries, NOACA staff will notify the affected jurisdictions that the request was received and the jurisdictions have a maximum of 90 calendar days to respond to the proposed boundary change(s). Within that period, an affected jurisdiction may choose to agree with the proposed boundary change(s), object to the boundary change(s) in total, or request NOACA to facilitate an all-parties meeting to review the change(s). If responses from all affected jurisdictions are not received within the 90-day period, those who have not responded will be contacted and notified that the boundary change request will be reviewed at the next Water Quality Subcommittee meeting. At that meeting, a representative from an affected jurisdiction may choose to attend to present their opinion on the change request; however, the Subcommittee may review and make a determination as to whether or not the boundary change can be recommended to the Planning & Programming Committee for review and recommendation to the NOACA Board of Directors for approval. The Water Quality Subcommittee reserves the right to table a boundary change request until the next Water Quality Subcommittee.~~

If a change is sought for a FPA that crosses the planning area boundary between NOACA and NEFCO, the approval of both agencies will be required.

Commented [EA3]: An updated review period added to Policy 4-6.

~~The transfer of planning responsibilities for sewer and wastewater treatment between FPAs are subject to a number of conditions, and must be approved by Ohio EPA prior to consideration by the NOACA Governing Board. Provided the policies of this chapter are followed, any such updates and revisions to NOACA's Clean Water Plan shall be effective for the purpose of permit consistency reviews immediately upon adoption by the NOACA Governing Board/Board of Directors.~~

Commented [EA4]: The statement is counter to the current procedure used to modify Facility Planning Areas (FPAs). The current procedure is accepted by the Ohio EPA.

Commented [EA5]: Reflects changes to NOACA's Code of Regulations (Resolution No. 2013-027).

Policy 4-3: Development of Local Wastewater Management Options

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DMAs should develop wastewater management options within their facility planning areas in consultation with affected local jurisdictions. These options must comply with requirements of the Clean Water Act. To the extent that the option identified involves the enlargement of an existing POTW, the construction of a new POTW or the extension of sewers, that option must conform to consistency requirements of the WQMP (see Policy 4-4).

This update to the WQMP offers local communities an opportunity to have more formalized input into the definition of future waste handling plans in areas that are not yet sewered.

At present, DMAs develop sewerage plans that are optimized from an engineering standpoint within their FPA. While coordination with local jurisdictions regularly occurs when a POTW serves more than a single community, there is no provision in the existing 208 plan that would encourage engineering plans to be amended based upon the desire of a local government to manage growth within its jurisdiction. This update to the 208 Plan provides such a mechanism. Local governments are being encouraged to identify where they want central sewers and where they do not. The DMA in each FPA must consult with affected jurisdictions and take account of their input in cases that do not raise engineering or efficiency limitations.

In those areas where local officials want to restrict wastewater treatment to individual on-site systems, several conditions must be met. The county or municipal health departments responsible for managing on-site systems must authorize their use in the area under discussion. The provisions of ORC 6111 and OAC 3701-29-02 (L&M) that require connection to sanitary sewers when they become available must be complied with. The designation of an area as 'on-site systems only' applies as long as Ohio EPA does not mandate sewers under ORC 6117.34 if a water quality problem is demonstrated. The Clean Water 2000 Plan recommends a number of home sewage disposal management policies and practices for implementation by local health departments as a means of improving the performance of these systems and reducing their impact on water quality (see Chapter 5 below).

Figures 4-6 through 4-10 in Appendix 4-2 indicate in generalized terms the preferences of local officials regarding future sanitary sewer service areas.

As with FPA boundary maps, detailed boundary locations are registered in the GIS database maintained by NOACA. This database will be consulted when consistency reviews are made. Table 4-3 in Appendix 4-2 reflects the input from local elected officials who responded to a request from NOACA in the plan update process. Preferences expressed will be selected from the set of options described in Appendix 4-2

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Some communities in the Region are served by a neighboring community or regional system. The preferences expressed by these communities are subject to the acceptance of the DMA providing service. During a 208 plan consistency review, the DMA must demonstrate that consultation has occurred with communities in its facility planning area to ascertain community preferences for sanitary sewer service.

Policies of local health departments who have legal responsibility and authority to influence wastewater treatment continue to be recognized under this policy. This includes the policy on dry sewers issued by the Lorain County General Health District that provides for the installation of sanitary sewers in subdivisions that are likely to be reached by sanitary sewer extensions in the future while home sewage disposal systems are installed in the interim.

Ohio EPA and ODH are working in consultation with USEPA to develop a NDPES permitting policy that will apply to individual home sanitary treatment systems (HSTSs) that have an off-lot discharge. This WQMP will incorporate the policy arrived at by this negotiation as soon as it is agreed to by Ohio EPA.

Local community plans remain flexible to the extent desired by the community. These plans serve to guide the wastewater management decisions of local landowners. It is recognized that all documented wastewater related water quality problems that exist now or that develop in the future, must be remediated in a timely manner by the best means available. Where wastewater related problems do not exist, local jurisdictions can decide if they prefer to protect water quality by utilizing individual on-site systems or centralized sanitary sewers. By identifying the areas that have no plans for sewer extensions in the next 20 years in this Plan, jurisdictions notify all landowners of the need for them to plan for the installation and maintenance of individual on-site systems. In areas where sanitary sewers are likely to be extended, repair and maintenance of problematic on-site systems may be warranted instead of total system replacement. In all cases, landowners are provided notice by this Plan to consult with local government officials before proceeding with their wastewater plans.

Policy 4-4: 208 Plan Consistency Actions by Ohio EPA and USEPA

Consistency with this Plan will be required whenever an application is made to the Ohio EPA for (a) a permit to discharge pollutants into the waters of the state (NPDES Permit) or (b) a Permit-to-Install. A consistency review will also be required of applicants for grants or loans under the Clean Water Act. Ohio EPA will not approve a permit to install or a Clean Water Act loan or grant until consistency with this Plan has been determined.

Under the WQMP update, a consistency review will be required before Ohio EPA processes an application for a permit to discharge pollutants into the waters of the state.

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This applies to applications to increase an existing discharge amount, to extend new sewer lines into a previously unsewered area, or to install an entirely new discharge. A consistency review will also be required of applicants for grants or loans under the Clean Water Act.

Ohio EPA will notify NOACA of all permit applications that apply to a Publicly Owned Treatment Works (POTW). NOACA must certify that proposed POTW actions are consistent with the current FPA boundary definitions, that they address the future sewerage declarations made by the local officials in the affected area, and that they must conform to population projections contained in the WQMP in accordance with Policy 4-5.

Ohio EPA may process all applications for PTIs that apply to treatment works servicing an individual lot that are in accordance with the declarations by jurisdictions contained in Appendix 4-2.

~~Proposals that involve the installation or expansion of central sewers not connected to a POTW should be referred to the local jurisdiction for review prior to Ohio EPA consideration.~~

Commented [EA6]: There is not a requirement for an applicant to contact NOACA prior to submitting a PTI application to the Ohio EPA. Currently all PTI applications for central sewer installation and expansion must be consistent with NOACA's FPA boundaries and prescriptions for wastewater treatment. If a proposed PTI is inconsistent, then NOACA can notify and work with the local jurisdiction and the PTI applicant on possible solutions. Therefore this statement is not required.

Policy 4-5: Utilization of Areawide Population Projections

All applications subject to Policies 4-3 and 4-4 must utilize population projections that are consistent with those provided in Appendix 4-3. NOACA will periodically update projections based upon new community level census data. Updated population projections will be incorporated into the plan by amendment.

The consistency review process includes the assessment of the most recent population projections generated by the areawide planning process utilized by NOACA.

The Ohio Department of Development prepares the official population projections for the State of Ohio. They allocate projections to the county level. NOACA is the lead agency for allocating the State's county level projections to minor civil divisions in its region. When the agency updates its projections, it will forward a copy to the Northeast District Office of Ohio EPA. The most recent minor civil division population projections produced by NOACA are the ones to be used for consistency reviews.

The minor civil division population projections serve as a starting point for the evaluation of population projections within facility planning areas. The facility planning process may disaggregate community projections to smaller areas. This may be accomplished based on an evaluation of available land for development combined with local zoning. Additional inputs can be used as appropriate. The final allocations will be deemed to maintain consistency with the plan if they agree with the plan's projections. ~~Departure from plan projections must be accepted approved by NOACA's Board of Directors as a condition to maintain consistency with the plan.~~

Commented [EA7]: Population projections must be approved by NOACA's Board for use by the Ohio EPA.

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Policy 4-6: Modifications to Facility Planning Areas of Designated Management Agencies

Designated Management Agencies that own or operate a Publicly Owned Treatment Works for wastewater have lead responsibility for sewer planning within their established Facility Planning Area subject only to appeal to the NOACA Board under Policies 4-6a and 4-6b below.

This policy addresses how lead responsibility for sewer planning is established and how it is to be changed when the need arises. It also gives affected jurisdictions guidance for challenging DMA decisions. It is important to note that Ohio EPA cannot issue a permit for any action that is not consistent with the Clean Water 2000 WQMP. FPA boundary disputes must be strongly encouraged to be resolved prior to the review for consistency of any project by the NOACA Board by NOACA's Water Quality Subcommittee, Planning and Programming Committee and Board of Directors.

A Designated Management Agency (DMA) requesting FPA modification(s) must notify, and solicit support from, the affected jurisdictions (lead DMAs, satellite DMAs, cities, villages, townships and counties) within the proposed modified area, as determined by NOACA staff. The requesting DMA must submit the proposed update to the affected jurisdictions in a manner that can be verified by NOACA on when the information was received. The affected jurisdictions have a maximum 90 calendar days to comment on the requested FPA modification(s), commencing the following working day from which the verifiable notification was received by each jurisdiction from the requesting DMA.

The FPA modification request submitted to NOACA by the DMA applicant must include comment letters received or proof of notification from all affected jurisdictions. Once NOACA has received the FPA modification request, including comment letters or proof of notification from all affected jurisdictions, NOACA staff will proceed with a review to determine consistency with its 208 Plan. Additional information or meetings may be required for the FPA modification request to be consistent with this plan and proceed to the Water Quality Subcommittee for review.

NOACA staff will prepare a recommendation based on its 208 Plan and present the FPA modification request to the Water Quality Subcommittee. NOACA will also notify all affected jurisdictions of the date and time when the Water Quality Subcommittee will consider the FPA modification. At that meeting, representatives from the affected jurisdictions may choose to attend to present their opinions on the proposed FPA modification request. The Water Quality Subcommittee reserves the right to table any FPA modification request until the next Water Quality Subcommittee meeting.

Commented [EA8]: While all attempts should be made among affected jurisdictions and NOACA staff to resolve FPA conflicts prior to consideration by the Water Quality Steering Committee, a proposal without consensus should be considered. Policy 4-6 states that FPA modification request should be open to consideration.

Commented [EA9]: Rationale for Moving and Updating the Review Period for FPA Modifications:

- Nearly all FPA modifications will impact other DMAs requiring the use of Policy 4-6.
- Removed arbitrary deadlines from the review period as some modification requests will require additional time to gather information or hold meetings with affected parties.
- The applicant should be responsible for soliciting support from affected DMAs and jurisdictions per Policy 4-2. NOACA can notify affected jurisdictions of participation opportunities during NOACA's review process.
- Removed language on procedures already included in Policy 4-6 (e.g. consideration by the WQS and a meeting among affected jurisdictions).

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Policy 4-6a: Lead responsibility for sewer planning will be maintained by the Designated Management Agency in each established Facility Planning Area in all cases of challenge when they can demonstrate any of the following:

- a. that the system affordability or financial viability based on Ohio EPA guidelines would be negatively impacted by the suggested change;**
- b. that system efficiency, defined as the ability to meet its NPDES permit limitations, would be compromised by a suggested change; or**
- c. the change would result in a violation of a condition of a Section 201 Facilities Construction Grant received through the USEPA or a provision of a State Revolving Fund Loan administered by the Ohio EPA.**

Conflicts stemming from problems related to officially recognized FPA boundaries are expected to occur from time to time. Furthermore, they may take on new dimensions that were not considered during the development of the original Plan. Some areas covered by an existing facility plan may want sewers to be extended to them while the POTW owner either has no plans to extend service or has unacceptable conditions for service. An appeal process that could result in the redefinition of existing FPA boundaries is necessary.

Under this policy, the Designated Management Agency for an approved FPA will continue to have primacy for sewer planning but that primacy will no longer be as absolute as in the past. The request of any applicant to transfer a specified area out of a recognized FPA needs to be open to consideration. A process to deal with the evaluation of each application must follow established guidelines. For instance, the existing DMA can maintain the right to provide for sewerage of the designated area if it can demonstrate that established Ohio EPA guidelines for wastewater treatment affordability would not be met if the application for change were allowed to proceed. In Ohio, the affordability rate as used by Ohio EPA's Division of Environmental and Financial Assistance is 1.5% of the median family income with the sewer district. The NOACA Board can decide if economic harm is suffered in cases involving the transfer of an area out of an existing FPA in order to pursue a lower costing option.

System efficiency and integrity concerns must be tied to reasonable expectations that a WWTP will be unable to maintain compliance with its discharge permit limits. USEPA or the Ohio EPA must certify those cases where 201 Facility Grant or State Revolving Fund Loan conditions preclude a requested change in FPA boundaries.

In cases where central sewers are needed to comply with an Ohio EPA order to resolve an existing water quality problem, the DMA's primacy standing would be dependent on its ability and willingness to proceed with the sewer extensions and capacity upgrades if necessary. If the DMA is not prepared or is not able to proceed in a timely manner, the applicant for change can request a redrawing of the FPA boundary.

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Policy 4-6b: Lead planning responsibility for limited areas can be transferred from the Designated Management Agency in an established Facility Planning Area in cases of challenge when applicant for change can demonstrate all of the following:

- a. that none of the conditions established by 4-6a apply;
- b. that the existing DMA is unprepared or is unwilling to extend service to the challenged area, or that they have conditions that are unacceptable to the applicant community;
- c. that an alternative sewerage plan exists that protects the environment, and that the alternative plan is technically achievable, economically justifiable, and supported by the affected local government(s) with jurisdiction over the challenged area; and,
- d. that the proposed DMA has legal authority to act.

Transfers must be approved by Ohio EPA and incorporated by amendment to the WQMP. A DMA's lead planning standing would be dependent on its ability and willingness to proceed with the sewer extensions (and capacity upgrades if necessary) to areas assigned to an established DMA that requests such extensions. If the DMA is not prepared or is not able to proceed in a timely manner, the applicant for change can request a redrawing of the FPA boundary. This request would be considered with the intention of identifying viable alternative wastewater alternatives. The applicant would be required to demonstrate that an alternative exists, that the alternative is technically achievable, economically affordable and supported by the affected local government(s) with jurisdiction over the challenged area. Jurisdiction, as used here, refers to political and administrative authority, not the Facility Planning authority of the challenged DMA. However, the applicant may not create a hole or other discontinuity in the planning area of the current DMA that would compromise the ability of that DMA from extending sewer service to any area in its FPA in the future. If the proposed plan is consistent with all other aspects of the WQMP, it can result in a change being made to the existing FPA definition in favor of the applicant. The NOACA ongoing planning process will provide for a meeting with all affected parties in an attempt to effect a consensus agreement. When consensus cannot be reached, the NOACA Water Quality Subcommittee will hear all viewpoints, and render a recommendation for action to the Planning and Programming Committee and the Policy Board of Directors. The Board action on such requests would constitute an update to the Plan as far as future consistency reviews are concerned in the challenged area. (See **Policy 10-4**).

Commented [EA10]: Reflects changes to NOACA's Code of Regulations (Resolution No. 2013-027).

Where no other acceptable solution can be found, a community that is part of another community's FPA can request the right to develop plans to direct their wastewater to an alternative treatment works. This could be another existing POTW or an entirely new facility if one can be constructed. All applications for the redrawing of existing FPA boundaries must be accompanied by preliminary plans that demonstrate that an environmentally acceptable and affordable alternative exists. These plans must

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demonstrate that the reassignment of the area will not jeopardize the ability of the POTW currently slated to serve the disputed area to comply with its NPDES permit conditions. These plans must also estimate the impacts on existing rate structure of that POTW

Policy 4-7: Nomination of New Designated Management Agencies

New Designated Management Agencies can be established to provide sanitary sewer service in newly created Facility Planning Areas. Facility plans generated under this option must be approved by Ohio EPA, and incorporated by amendment to the WQMP.

All entities that are not designated as a DMA must apply for such status before their permit application can be processed. To become a DMA designee, the applicant must have adequate legal authority under Ohio law and clearly identify the geographical extent of its proposed facility planning area and sewer service area. It must also demonstrate that all affected local governments have been consulted in the development of the project. Support from all affected jurisdictions (municipalities in incorporated areas and county government in unincorporated areas) must be secured. Any FPA infringements must be resolved either with the approval of the infringed upon DMA or by appeal to the NOACA Board (see Policies 4-6 and 10-4).

The applicant may propose an area for designation as an FPA that is larger than the current or proposed project service area. This can be done where it makes sense for the purposes of future sewer planning. After the Ohio EPA reviews and approves the request for a FPA designation, the Board will act to adopt a resolution so stating.

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**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE
NORTHEAST OHIO AREAWIDE COORDINATING AGENCY**

WHEREAS, the Northeast Ohio Areawide Coordinating Agency (NOACA) is the Metropolitan Planning Organization (MPO) for the counties of Cuyahoga, Geauga, Lake, Lorain, and Medina, and the areawide water quality management agency for the same region; and

WHEREAS, *Clean Water 2000*, the current update to the NOACA Section 208 Water Quality Management Plan, was adopted by the NOACA Board of Directors, certified by the Governor of Ohio, and approved by the United States Environmental Protection Agency; and

WHEREAS, *Clean Water 2000* provides for modifications to wastewater treatment facility planning area (FPA) boundaries, subject to review by the NOACA staff, the NOACA Water Quality Subcommittee, and the NOACA Planning and Programming Committee; and

WHEREAS, as part of the comprehensive update of the Clean Water 2000 Plan, each chapter has been audited to identify needed improvements; and

WHEREAS, the audit of Chapter 4 - Wastewater Management and Facility Planning revealed several instances of contradictory and inconsistent language within the section titled, "Policies for Determining Consistency with the Water Quality Management Plan (Policies)"; and

WHEREAS, correction of these conflicts is necessary to avoid ambiguity when considering Facility Planning Area (FPA) modification requests from Designated Management Agencies (DMAs); and

WHEREAS, the NOACA Water Quality Subcommittee, Planning and Programming Committee and Executive Committee reviewed the proposed revisions and recommended that the Board of Directors approve the updates to Chapter 4 of the *Clean Water 2000* Plan.

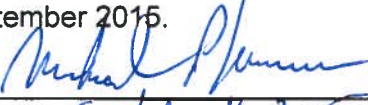
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Northeast Ohio Areawide Coordinating Agency, consisting of forty-five principal officials serving general purpose local governments throughout and within the counties of Cuyahoga, Geauga, Lake, Lorain, and Medina that:

Section 1. The *Clean Water 2000* Plan's Chapter 4 is amended to include the updates to the Policies shown in Attachment A.

Section 2. The Executive Director is authorized to submit the revisions to Ohio EPA for certification by the Governor.

Section 2. The Executive Director is authorized to transmit certified copies of this resolution to appropriate federal, state, and local agencies.

Certified to be a true copy of a Resolution of
the Northeast Ohio Areawide Coordinating
Agency Board of Directors adopted this 11th
day of September 2015.

Secretary: 

Date Signed: September 11, 2015