

Ongoing Areawide Water Quality Management Planning



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Chapter 8: *Ongoing Areawide Water Quality Management Planning*

The Evolution of “208” Planning

In the years since 1977 when OKI completed the original Areawide Water Quality Management Plan under Section 208 of the Clean Water Act, much has changed at the national, state, and regional levels. Federal and state policies and programs have increasingly focused on watershed planning and nonpoint sources of pollution; federal and state funding for wastewater facilities have generally experienced a downward trend; and federal funding for “208” planning has dropped to a small fraction of what was available when such plans were first developed in the 1970’s.

State funding for “208” planning must compete with many other environmental programs and with many other state priorities each time that Ohio prepares its biennial budget. At the same time, consent decrees issued to Ohio EPA in the 1990’s made clear that while “208” planning may be a (largely) unfunded mandate, it is still required by federal law and must be maintained. In particular, the wastewater discharge permits and wastewater facility construction permits issued by Ohio EPA cannot be “substantially inconsistent” with “208” planning because of requirements in federal and state law, nor can federal funding be released for wastewater facilities that are inconsistent with “208” planning. These requirements result in OKI staff receiving requests from the Ohio EPA, from local wastewater management agencies, and from private sector developers for “208” consistency reviews, in which OKI staff determine if a given wastewater facility project is substantially consistent with the OKI “208” plan.

Given these circumstances, OKI has continued “208” planning based on available funding and for many years made updates to the original plan that were partial or incremental. In the period between 1978 and 2009 OKI passed 26 amendments to the “208” plan for Butler, Clermont, Hamilton and Warren Counties, many of which were sparked by the need for localized updates to avoid impeding permits and funding for wastewater facility improvements. The “208” work undertaken from the fall of 2009 to the spring of 2011 builds upon earlier updates and amendments, and has been the first opportunity for a major and fully integrated plan update, made possible by federal funding through the American Recovery and Reinvestment Act of 2009 and by funding appropriated in the Ohio budget for state fiscal years 2010 and 2011.

The Plan Amendment Process

In making updates and amendments to the plan, OKI follows a process that includes defining the issue(s) to be addressed; gathering and analyzing relevant information from local, state and federal sources; conferring with local management agencies and Ohio EPA; notifying potentially affected jurisdictions; seeking public input; preparing a staff report and recommendation; and presenting the report, amendment or update to the relevant OKI policy body for action. (On a quarterly basis the 117-member OKI Board of Directors meets and acts as the policy body, and during the other months an OKI Executive Committee of approximately 30 members has been named to act as the policy body.) After an update or amendment has been adopted by OKI, it is provided to the State of Ohio for certification before the State sends it to U.S. EPA for federal review and approval.

When local jurisdictions request plan amendments from OKI, the following specific steps are involved:

Steps in Amending the “208” Plan

- 1) The jurisdiction notifies OKI of its desire for a plan amendment.
- 2) The jurisdiction meets with appropriate OKI staff for a pre-submittal conference to review the amendment process steps, documentation required, and background material.
- 3) The jurisdiction prepares the request letter and documentation required for the plan amendment and submits it to OKI.
- 4) OKI reviews the documentation and requests additional documentation as appropriate.
- 5) OKI makes arrangements for public notification and opportunity for input on the proposed amendment in keeping with federal and state requirements.
- 6) OKI prepares a staff report and recommendation and summarizes the results of public input for consideration by the OKI Executive Committee (which meets monthly) or Board of Directors (which meets quarterly).
- 7) The OKI Executive Committee or Board of Directors considers the amendment, staff recommendation and public input and takes action.
- 8) If approved, the amendment is forwarded to the appropriate state agency for certification by the governor.

Depending on the complexity of the amendment request and supporting documentation, the meeting schedule of the OKI Executive Committee and Board of Directors, and the level of interest from the public and potentially affected parties, it may take OKI from 3 to 6 months to go through the amendment process, assuming no additional information is requested of the applicant. The information required for evaluating plan amendment requests is tailored to the scope of the specific request, but typically includes some combination of items from the following list.

Information Checklist for “208” Amendment Requests

- 1) A. letter requesting the plan amendment, explaining the reason for the request
- 2) Appropriate map(s), preferably in digital form, showing:
 - the boundaries of the current sanitary sewer system and all existing wastewater treatment plants (including package plants)
 - the location of trunk lines and lift stations
 - the location of any system overflow points
 - the current Facility Planning Area (FPA) boundary
 - the proposed FPA boundary, if applicable
 - unsewered areas within existing and proposed FPAs
 - appropriate jurisdictional boundaries

- 3) Existing service population and twenty-year population projections for the (existing, and if applicable, proposed) FPA based on best available census data
- 4) Description of existing and proposed wastewater treatment options for the FPA including options for the unsewered/undeveloped areas within the FPA, e.g., onsite septic systems, package plants, etc.
- 5) Table(s) showing the plant permit number under the National Pollutant Discharge Elimination System (NPDES), current plant permit limits, current demand, existing plant design capacities, and projected plant capacities
- 6) Discussion of how the proposed wastewater treatment options will meet the needs of the proposed population
- 7) Discussion of how the proposed wastewater treatment options will be protective of water resources, including streams, rivers, lakes, wetlands, and groundwater
- 8) Summary of the entity's financial and managerial capability to undertake the proposed project and its projected financial impact on ratepayers
- 9) Documentation of any public participation involved in proposing the wastewater treatment improvements
- 10) Acknowledgements from other jurisdictions located within or adjacent to the existing FPA that they have been notified of the proposal, and copies of any relevant service agreements

Criteria and Policy Considerations

OKI considers some general criteria when evaluating plan amendment requests, while also considering circumstances unique to each individual request. Because circumstances vary from request to request, the following general criteria are not listed in order of priority nor are they weighted.

General Criteria for Evaluating 208 Amendment Requests

- 1) Mitigation of public health hazards (such as those due to failing onsite systems)
- 2) Need for water quality maintenance or improvement and timeliness of service
- 3) Adequate wastewater treatment capacity for existing and projected needs
- 4) Opportunity for treatment on a watershed or sub-watershed basis (e.g. enables gravity sewers and eliminates lift stations)
- 5) Existing development patterns and population densities suitable for centralized wastewater treatment systems

- 6) Local comprehensive plans indicating growth areas for which new infrastructure will be needed, areas where slow growth or no growth is expected, and existing and projected population densities
- 7) Financial and institutional capability of management entity or entities
- 8) Impact on rate payers
- 9) Agreement or neutrality among jurisdictions affected and potentially affected
- 10) Degree and content of public participation

When approached with a plan amendment request, OKI encourages the applicant to consult with potentially affected jurisdictions to arrive at consensus before pursuing the amendment. OKI cannot compel potentially affected jurisdictions to agree but will attempt to facilitate communication. In the absence of agreement among the jurisdictions potentially affected by a proposed plan amendment, the OKI Board of Directors or Executive Committee will determine whether additional information or communication is needed before they take action on the amendment request.

For some circumstances involving designated management agencies (DMAs) and service agreements OKI does not require a “208” plan amendment. For example, when a DMA for wastewater collection wants to expand its sewer service area within an FPA where another DMA is responsible for wastewater treatment, and the treatment DMA is agreeable and has adequate capacity, no plan amendment is required if a service agreement is reached between the DMAs. If neighboring DMAs enter into a sanitary sewer service agreement that crosses an FPA boundary between them, they have the option of requesting a plan amendment to change the FPA boundary that is crossed, but OKI does not require it.

As previously indicated in Chapter 7, OKI also does not require a “208” plan amendment when wastewater agencies that have been designated to manage collection and/or treatment within the limits of their corporate boundaries experience a change in those boundaries; such a change is made administratively by OKI when the DMAs provide documentation of their updated corporate boundaries.

Future Planning Activities

In response to requests from Ohio EPA, local jurisdictions and developers, OKI will continue to perform consistency reviews to determine if proposed wastewater facilities are substantially consistent with the “208” plan. OKI will also continue to evaluate plan amendment requests from local jurisdictions and provide related information to local governments and the public before taking the request and the input received to OKI’s Board of Directors or Executive Committee for action. Based on available funding, OKI will determine scopes of work for future “208” plan updating in consultation with funding agencies and local jurisdictions in Butler, Clermont, Hamilton and Warren County.