

Water & Environment Subcommittee

May 8, 2024

9:30 a.m. to 11:00 a.m.

Remote Meeting Access via Zoom

<https://us02web.zoom.us/j/84839340921?pwd=bzJmU3kwbkw2QTJsancwSE9RdmVKdz09>

AGENDA

1. Introductions
2. **Water Quality Planning**
 - a. Water Capacity and Future Development Opportunities. Recent manufacturing and data center developments are high volume water users. Speakers from the Dayton Development Coalition and the Ohio Department of Development will provide insight on how water and wastewater capacities play a role in site selection.
 - i. Matt Shimp – Dayton Development Coalition
 - ii. Eric Lindner – Ohio Department of Development
 - b. Overview of the Facility Planning Area update process, and review of the draft memo and calendar for SFY 2025 (attached)
3. **Climate Pollution Reduction Planning Grant (CPRG)**
 - a. Scenario Design for the Miami Valley
 - b. Comprehensive Climate Action Plan (CCAP) Engagement Update
4. **SFY 2025 Meeting Dates:** Second Wednesdays in January, March, May, September and November: September 11, 2024, November 13, 2024, January 8, 2025, March 12, 2025 and May 14, 2025.
5. Adjourn



MIAMI VALLEY

Regional Planning Commission

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MEMORANDUM

To: Wastewater Designated Management Agencies (treatment operators)
From: MVRPC Staff
Date: May 8, 2024
Subject: Annual Calendar for Facility Planning Area Updates – DRAFT

Purpose

The Purpose of this memo is to remind wastewater treatment Designated Management Agencies in the Miami Valley Regional Planning Commission water quality planning counties about the process for proposing, review, and approval of updated wastewater Facility Planning Areas. This memo further provides a generic annual calendar for compiling and approving such updates for the MVRPC Board of Directors.

Background

A Facility Planning Area (FPA) is the geographic territory for which a Designated Management Agency (DMA) is responsible for the planning, financing, construction, operation, and maintenance of wastewater collection and treatment systems. DMAs are usually cities, villages, counties or in some cases special wastewater authorities. A DMA may have need to update their FPA for a number of reasons:

- A one-off update to accommodate a new development, not anticipated during a previous FPA update;
- A comprehensive update resulting from a thorough review of the wastewater facility plan;
- An internal prioritization update, establishing or updating sub-areas within the FPA.

MVRPC maintains the regional water quality management plan, which compiles all local facility plans and FPAs into a single document. Updates to FPAs must be approved by the MVRPC Board of Directors for inclusion in the regional plan. As always, MVRPC encourages communities to develop FPAs and facility plans in coordination with local comprehensive or development plans, and local zoning. Together, these planning tools can send clear signals to the development community as to the form, type, and density of development desired within your community. They will also chart a roadmap for investments to ensure adequate waste treatment capacity to manage expected flows and protect water resources.

Preferred FPA Update Process

MVRPC's Facility Planning Policies and FPA Update Guidelines (attached) describe the process for review and approval of FPA Updates. Those documents, approved by the MVRPC

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Board of Directors in 2005, are not proposed to be changed here. Rather this memo seeks to clarify the process.

1. Ideally, MVRPC will receive proposals for updates to Facility Planning Areas that have been carefully reviewed and approved by the governing authority of the FPA proposed for update. This internal review process should have included opportunities for public review and comment. Proposed updates that would also change one or more surrounding FPAs must demonstrate concurrence from the neighboring DMAs in the proposed change. It is not required, but DMAs may seek assistance in development of proposed FPA updates from MVRPC staff. MVRPC can assist in census data, watershed and community mapping, and public and stakeholder engagement through the FPA planning process.
2. A proposal for an FPA update to MVRPC must be accompanied by a complete application, answering all the elements listed in the FPA Update Guidelines document. Upon receipt, MVRPC staff will conduct a completeness review and work with the proposing DMA to fill gaps in the application, if any.
3. Complete applications will be scheduled for review by the MVRPC Water & Environment Sub-committee at a future meeting. The proposing DMA will be asked to make a presentation to the subcommittee regarding the proposed update. Participants in the Water & Environment Sub-Committee will be invited to provide input to MVRPC staff regarding the proposed FPA update. Input received will contribute to the development of the MVRPC staff recommendation to the MVRPC TAC and Board of Directors regarding the FPA update proposal.
4. MVRPC staff will conduct an annual water quality management plan amendment process, which will include proposed FPA updates. The process will include a 30-day public comment period (including a public meeting), and review and consideration by the MVRPC Technical Advisory Committee and the MVRPC Board of Directors.
5. MVRPC staff will forward Board-approved FPA updates to Ohio EPA for certification by the Governor of Ohio and US EPA.

Generic Amendment Calendar

MVRPC staff will work to include water quality management plan updates on the agenda of the MVRPC Board of Directors at least annually in the month of June 2025. This aligns with MVRPC's fiscal year and with the beginning and ending dates of MVRPC's annual contracts with Ohio EPA for water quality planning. Working backwards from that target, the amendment would be on the TAC agenda in May 2025, and the 30-day public comment period and public meeting would occur in the month of April 2025.

DMAs developing proposals for FPA updates should work towards developing a complete proposal package in time to present the proposal to a Water & Environment Sub-committee meeting sometime between July 2024 and March 2025. Dates for WESC meetings in SFY 2025 will be September 11, 2024, November 13, 2024, January 8, 2025, March 12, 2025 and May 14, 2025.



**Guidelines for Facility Plan (FP) and
Facility Planning Area (FPA) Update Proposals:
Content, Submittal & Review**

**Facility Plan Updates
(With or without change in Facility Planning Area)**

- I. As part of its NPDES permit process, the Ohio EPA is encouraging, and in some instances requiring, Publicly Owned Treatment Works (POTWs) to update their Wastewater Treatment Facility Plans (previously known as 201 Facility Plans). As the Designated Planning Agency responsible for their review and approval, MVRPC is requiring that Facility Plan and Facility Planning Area Update proposals shall include the following minimum elements:
 - A. Appropriate map(s) rendered as an ESRI GIS dataset (i.e., coverage, shapefile, or geodatabase) projected in Ohio State Plane South, Feet, NAD83. Alternatively, an electronic CAD file (i.e., .dwg or .dxf) can be submitted. Maps must include the following elements:
 - 1) all existing wastewater treatment plants (including package plants);
 - 2) the current FPA boundary;
 - 3) any proposed FPA boundary changes;
 - 4) sub-area boundaries (where applicable) as described by the following table:

Sub-area Category	Description
1	Areas currently served with sanitary sewers
2	Areas expected to be served with sanitary sewers connected to an existing POTW during the next twenty years
3	Areas expected to be served with sanitary sewers connected to a new POTW in the next twenty years
4	Areas expected to remain on individual on-lot systems or semi-public systems, and where local officials are oriented to maintaining an unsewered status for the foreseeable future
5	Areas currently unsewered where local officials are oriented to accepting sewers if feasible and if found to be consistent with the AWQMP
6	Areas for which no wastewater management options have been declared

- 5) appropriate water bodies, and watershed boundaries with HUC numbers; and
- 6) appropriate jurisdictional boundaries.

- B. Twenty (20) year population projections for the existing FPA and any proposed FPA changes based on the most recent census data. Population projections must be in relative agreement with MVRPC population projections.
- C. Description of existing and proposed wastewater treatment options for the FPA including future options prescribed for the unsewered / undeveloped areas within the FPA, i.e. on-site septic systems, package plants. Treatment options shall be described for the following scenarios within the FPA, as appropriate.
 - 1) Areas currently served with sanitary sewers;
 - 2) Areas expected to be served with sanitary sewers connected to an existing POTW during the next twenty years;
 - 3) Areas expected to be served with sanitary sewers connected to a new POTW in the next twenty years;
 - 4) Areas expected to remain on individual on-lot systems or semi-public systems, and where local officials are oriented to maintaining an unsewered status for the foreseeable future;
 - 5) Areas currently unsewered where local officials are oriented to accepting sewers if feasible and if found to be consistent with the WQMP; and
 - 6) Areas for which no wastewater management options have been declared.
- D. Description of plans to provide wastewater treatment to any proposed FPA additions and verification of capability to do so. This should include information on current plant flow, current plant capacities, and estimates of future flow and population projections (based on current census data) for any new area to be incorporated, as well as schedules for planned upgrades.
- E. Table(s) showing current plant permit limits, existing plant capacities, and projected plant capacities.
- F. Discussion of how the proposed wastewater treatment options (current and projected treatment type, capacity, coverage, etc.) will meet the needs of the projected population and/or additional population to be served by an FPA boundary modification.
- G. Discussion of how the prescribed wastewater treatment options will be protective of pertinent critical water resources (groundwater, lakes, rivers, streams, wetlands, prime farmland, etc).
- H. Discussion of how any proposed changes in the FPA boundaries and associated wastewater treatment options agree or conflict with the plans (zoning codes, comprehensive land use plans, watershed plans, etc.) of contiguous FPAs and potentially impacted jurisdictions.
- I. Documentation of any public participation involved in updating the FP and/or FPA along with endorsements from any other sewer districts, FPAs, and/or jurisdictions located within and/or adjacent to the Facility Planning Area. MVRPC recommends DMAs employ a public involvement strategy along the lines of the Public Participation rules detailed in 40 CFR Part 25.1 throughout the FP and FPA update processes.

- II. Submissions of proposed plan updates shall provide elaboration commensurate to the complexity of the proposal. Facility Plan and Facility Planning Area Update proposals shall consist of
 - A. A cover letter formally outlining the nature of the request and
 - B. A summary document (maximum of 20 pages) containing the information required in Subsection A through H above (20 page maximum excludes the supporting documentation described in Subsection I. above). The letter, summary and supporting documents, and maps must be submitted electronically for rapid distribution to the appropriate review committees. Hard copies may be requested by MVRPC, as needed.

- III. The process for review and approval of Facility Plan and/or Facility Planning Area Update proposals shall follow the following sequence:
 - A. Proposals will be reviewed by MVRPC staff for completeness. MVRPC may request additional information as appropriate.
 - B. MVRPC staff will submit complete proposal for review and input to the MVRPC Areawide Facility Planning Subcommittee. Applicant will have the option of making a brief formal presentation on the proposal to the Subcommittee.
 - C. Staff collects input on the proposal from the Areawide Facility Planning Subcommittee.
 - D. Staff forwards proposal and input to the MVRPC Technical Advisory Committee for additional input. Applicant will have the option of making a formal presentation on the proposal.
 - E. Staff summarizes all input and develops recommendation.
 - F. Staff presents proposal, input, and recommendation to MVRPC Board of Directors for action.
 - G. Approved updates are included in future amendments and revisions to the MVRPC's Areawide Water Quality Management Plan, and subsequently forwarded to the Ohio EPA for State and Federal certification.

- IV. To facilitate timely review and action on Update proposals, the applicant should be aware of the general meeting schedule of each of the committees mentioned above. Depending on when in the schedule an FPA boundary change proposal is submitted, it may take from 2 to 3 months to go through the approval process, assuming no additional information is requested of the applicant. The following general meeting schedule is used:

Committee	Meeting Schedule
Areawide Facility Planning Subcommittee	As needed. Strive to schedule with quarterly meetings of the Great Miami River Watershed Network (March, June, September, December)
MVRPC Technical Advisory Committee	3 rd Thursday of the month. (9:30 a.m.)
MVRPC Board of Directors	1 st Thursday of each month. (9:30 a.m.)

**Approved by the MVRPC Board of Directors
On September 1, 2005.**



AREAWIDE WASTEWATER FACILITY PLANNING POLICIES

**Adopted by MVRPC Board of Directors
September 1, 2005**

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PURPOSE

This purpose of this document is to present background and establish policies to guide MVRPC's process for review and approval of updates to Wastewater Treatment Facility Plans and/or modifications to their associated Facility Planning Areas.

Within the Miami Valley Region, MVRPC serves as the designated Areawide Planning Agency for Darke, Preble, Miami, Montgomery, and Greene Counties. This planning region includes portions of the Great Miami and Little Miami River watersheds. In the undesignated areas of Ohio, Ohio EPA carries out the municipal wastewater planning function. Wastewater Treatment Facility Plans and their associated Facility Planning Areas are the cornerstones of MVRPC's Areawide Water Quality Management Plan (AWQMP). The purpose of periodically updating Facility Plans and Facility Planning Areas is to ensure that wastewater treatment needs are met in ways that are protective of water resources into the future.

AREAWIDE WATER QUALITY PLANNING BACKGROUND

Requirements for Areawide Water Quality Planning are specified in Sections 205(j), 208 and 303 of the Clean Water Act. Municipal wastewater treatment is one of the six elements that need to be addressed in each 208 AWQMP. One of the objectives of Section 208 of the Clean Water Act was to establish integrated and coordinated facility planning for wastewater management. In order to accomplish this objective in urban areas where competition for service areas was expected to be a concern, the Clean Water Act also called for the Areawide Planning Agencies to assist in the resolution of such conflicts as they might arise.

Owners and operators of wastewater treatment plants (WWTPs, aka Publicly Owned Treatment Works or POTWs) are identified in the AWQMP as Designated Management Agencies (DMA). Each DMA is responsible for developing and maintaining a Wastewater Treatment Facility Plan (FP) that identifies and prescribes wastewater management options in a surrounding Facility Planning Area (FPA). These management options must represent current and best understanding about where sewers will be extended and where areas will remain unsewered over the course of the next twenty years.

The original FPA boundaries were delineated by each DMA with the cooperation of MVRPC and Ohio EPA. The establishment of the FPA boundaries was approached in various ways. Some communities desired to limit their planning area to the extent of their existing jurisdictional authority. Others extended their boundaries outside of their jurisdictional boundaries based on the natural drainage boundaries. At the time, natural drainage boundaries were seldom breached, as the use of pumping stations had not yet become as commonplace as today. In some areas, the County Sanitary Engineer assumed the facilities planning role for a portion of a County. In others, special Sewer Districts took a regional approach to providing sewer service into the future.

As part of the DMA designation process, the owners/operators of treatment facilities were designated by the 208 AWQMP to have the authority for sewer-related planning in clearly delineated boundaries. These boundaries were once commonly referred to as 201 Facility Planning Areas as required under Clean Water Action Section 201

Construction Grants program. They are now simply called Facility Planning Areas (FPAs).

For all of the facility planning actions that were taken in the past, there had to be a rationale for each decision made by the DMA involved. In addition to MVRPC approval, Ohio EPA had to concur with each of these decisions, at least as to the effects that they would have on receiving streams. DMAs had to develop and implement plans that would satisfactorily solve any pollution problems associated with their system. Expansion of a service area beyond that identified in the facility plan was allowed as long as they met all applicable water quality standards and had received the consent of affected jurisdictions.

Ohio EPA's decisions concerning certain NPDES permits, permits to install (PTIs) and State Revolving Fund loans for wastewater treatment may not be inconsistent with the AWQMP. Ohio EPA and MVRPC coordinate on ensuring that new wastewater treatment-related proposals are consistent with the current AWQMP.

POLICY A: DESIGNATED MANAGEMENT AGENCIES (DMAs)

Primary DMAs

Each Facility Planning Area shall have a single primary DMA for municipal wastewater treatment. The 1983 MVRPC 208 AWQMP established the basis for evaluating all sanitary sewer plans that have been proposed since the Plan was originally adopted. For each area where sewers are planned, a single local management agency is designated to take the lead in facility planning. This agency becomes the primary Designated Management Agency (DMA) for wastewater management planning. DMAs may include municipalities, counties, and sanitary sewer districts authorized under Ohio law to perform these functions.

The designation of DMAs guards against duplication of services and investment in infrastructure by preventing multiple and potentially competing treatment facilities from being planned for the FPA. This is important because cost/benefit and feasibility analyses hinge on the projected service demand. The sizing of sewer lines and wastewater treatment plants must reflect existing and projected populations. If two POTWs were to compete for the same customers, the duplication of service would be cost prohibitive, could result in plant operation problems, or both.

The 1983 Plan specifies an entity within each FPA that serves as the primary DMA. While the designation gives the primary DMA the lead responsibility for wastewater treatment planning, it does not imply that the DMA has an exclusive right or responsibility to provide wastewater treatment within part or all of the FPA (see satellite DMAs, below). The DMAs are listed in Figure 1.

Satellite DMAs

Satellite DMAs may be identified to carry out wastewater treatment functions via agreements with Primary DMAs. Many FPAs encompass land areas that lie outside of the political jurisdiction boundaries of the DMA responsible for wastewater planning. The AWQMP recognizes all service agreements that exist among a treatment facility owner/operator and the jurisdictions serviced by that facility. Those agreements may also specify which wastewater planning functions are to be assumed by the satellite jurisdictions. Each satellite jurisdiction named in such an agreement shall be recognized as a Satellite DMA for wastewater planning in accordance with the service agreement with the Primary DMA.

POLICY B: FACILITY PLANNING AREA (FPA) BOUNDARIES

MVRPC shall maintain master maps of each DMA's FPA boundaries. The FPA serves as the "study area" for which each primary DMA shall develop and maintain a Facility Plan to provide for adequate wastewater treatment within the FPA over a 20-year time frame. Each facility plan shall include prescriptions that describe how and by whom wastewater will be managed within that DMA, as well as allocations for projected growth within that DMA.

Overlapping FPAs

The overlap of multiple FPAs will not be permitted in Facility Plan and FPA updates. The Facility Planning process is intended to provide an organized and efficient approach to wastewater treatment planning. Allowing the overlap of FPAs brings undue confusion and conflict to the process, in addition to potentially resulting in duplication of effort, unwise public expenditures on redundant infrastructure, and excess plant capacities.

DMA's may consider establishing a Primary-Satellite DMA relationship to resolve overlapping boundary issues.

FPA Boundary Conflicts

When the original AWQMP was developed, there was little conflict in the establishment of the FPA boundaries. Any conflicts that did arise were generally resolved to the satisfaction of all parties and subsequently incorporated into the Plan. Before Ohio EPA accepted any FPA boundary delineation, affected municipalities and counties had to agree on the boundary. As a result of this, facility planning proceeded in a timely manner throughout the Miami Valley Region.

More recently, with increased growth and development, and the renewed emphasis on wastewater treatment facility planning, there is greater potential for conflict between DMA's. Such conflicts may be in various forms: (1) One DMA desires to assume facility planning responsibility over a portion of an adjacent FPA, where that FPA's Primary DMA has not provided desired wastewater planning, or (2) Two or more DMA's desire to assume facility planning responsibilities in an area not within any FPA.

Applicants involved in such conflicts are expected to make every effort to arrive at a solution acceptable to all parties involved. A Primary-Satellite DMA agreement may be considered as a possible solution. Upon request the Areawide Facility Planning Sub Committee (AFPSC) may suggest alternatives to the parties involved. The AFPSC shall provide input to MVRPC staff as to a resolution. Staff shall make a recommendation to the Board of the MVRPC, after consultation with the Technical Advisory Committee.

POLICY C: MODIFICATIONS TO FPA BOUNDARIES

All future changes to FPA boundaries are subject to approval of the MVRPC Board of Directors. In addition, the Board must approve all new FPAs. Such changes are effective upon Board approval and will be reflected in the next AWQMP update submitted for certification.

The current AWQMP recognizes the FPA designations that are identified in Figure 1, included with this policy. A DMA requesting a change must apply to MVRPC 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. If a change is sought for an FPA that crosses the planning area boundary between MVRPC and OKI or MVRPC and Ohio EPA, then the approval of both involved agencies will be required.

Initial application for a change to an FPA shall be made to the AFPSC, which shall provide input to MVRPC staff as to a recommendation and/or a resolution. Staff shall recommend an action to the Board of the MVRPC after consultation with the Technical Advisory Committee (TAC).

All applications for the redrawing of existing FPA boundaries must be accompanied by plans that demonstrate that an environmentally acceptable and affordable Facility Plan exists. These plans must demonstrate that the boundary change will not jeopardize the ability of the WWTP to comply with its NPDES permit conditions. These plans must also estimate the impacts on existing rate structure of that POTW. If the requested boundary change also involves a boundary conflict, the applicant and other affected parties are expected to make every effort to resolve the conflict prior to submitting for the boundary change, per the position stated in Policy B, above.

The AFPSC shall consider the following factors when reviewing an application for FPA boundary changes:

- 1) The proposal's effect upon attainment of any Water Quality Standard in any applicable receiving waters;
- 2) The proposal's effect upon any other DMA's Facility Plan as regards, for example, facility engineering or financing;
- 3) The proposal's compatibility with land use plans within and surrounding the FPA;
- 4) The degree of local support for the proposal; and
- 5) The degree to which the proposed change enhances the quality, sustainability, and coordination of growth, development and conservation planning in the Region and;
- 6) The degree of preference for full utilization of existing facilities and sewers over expansion of other facilities and sewers.

POLICY D: DEVELOPMENT OF LOCAL WASTEWATER MANAGEMENT OPTIONS

The development of a Wastewater Treatment Facility Plan or Plan Update involves the identification of viable local wastewater management options or prescriptions. To accomplish this each FPA shall be subdivided according to the type of wastewater treatment in existence, proposed, and/or predicted. The following categories generally occur:

Table 1	
Category	Description
1	Areas currently served with sanitary sewers
2	Areas expected to be served with sanitary sewers connected to an existing POTW during the next twenty years
3	Areas expected to be served with sanitary sewers connected to a new POTW in the next twenty years
4	Areas expected to remain on individual on-lot systems or semi-public systems, and where local officials are oriented to maintaining an unsewered status for the foreseeable future
5	Areas currently unsewered where local officials are oriented to accepting sewers if feasible and if found to be consistent with the AWQMP
6	Areas for which no wastewater management options have been declared

The decision as to the classification of any given area is made by the Primary DMA in cooperation with any other affected jurisdictions, MVRPC, and the Ohio EPA.

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 AWQMP that would encourage engineering plans to be amended based upon the desire of a local government to manage growth within its jurisdiction. This policy update 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 into account 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) and (M) that require connection to sanitary sewers when they become available must be complied with. The designation of an area as “onsite systems only,” or Category 4 from Table 1, applies as long as Ohio EPA does not mandate sewers under ORC 6117.34 if a water quality problem is demonstrated.

Policies of local health departments, which have legal responsibility and authority to influence wastewater treatment, continue to be recognized under this policy. Ohio EPA

and ODH are working in consultation with USEPA to develop a NDPEs permitting policy that will apply to individual on-site wastewater treatment systems that have an off-lot discharge. The AWQMP will incorporate the policy arrived at by this negotiation as soon as it is agreed to by Ohio EPA.

Local community plans may 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 a Facility Plan, jurisdictions notify all landowners of the need for them to plan for the installation and maintenance of 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 Facility Planning Policy to consult with local government officials before proceeding with their wastewater plans.

POLICY E: AWQMP CONSISTENCY REVIEWS

Planning for future wastewater treatment needs is an inexact science. Assumptions are made relative to the size and extent of population growth. During the engineering phase of some projects, obstacles sometimes arise that render previously preferred alternatives impractical. With time, local conditions can change, resulting in modifications to previously preferred alternatives. Additions to existing treatment works or new treatment works continue to be proposed to meet growth demands. Planning changes that resulted from these factors were accommodated in the Plan by the development of a consistency review procedure.

Changes may be requested for a variety of reasons, including an increase in discharge, new discharges, upgrades in treatment processes, the extension of sewer lines to previously unsewered areas, or the installation of pump stations. As the Areawide Planning Agency, MVRPC is responsible for evaluating applications to ensure that they are consistent with the AWQMP.

All proposed plan changes shall be reviewed for consistency with AWQMP for two reasons: 1) the financial arrangements for the development of treatment works must be based on a sound estimate of future requirements and service; and 2) The AWQMP requires planning for wastewater treatment capacity to meet only actual and anticipated treatment needs. These financial and planning issues are important concerns, thus AWQMP Consistency Reviews shall be required for any project proposed by an Areawide DMA.

Under the AWQMP, any action proposed by a DMA shall be deemed consistent with the Plan as long as it:

- (1) Meets Ohio EPA's regulatory and technical requirements,
- (2) Consist solely of actions that are within the existing FPA boundary, and
- (3) Conforms to accepted regional population projections (see Policy F).

If a DMA plans to extend service outside of its established FPA boundary, consistency will not be attained until all affected parties agree to the need for the change. If a proposal infringes on the boundary of another adjacent FPA, the applicant must secure the permission of the DMA within that neighboring FPA. In instances where applicants propose to extend service into areas where no facility planning has yet taken place (no FPA exists), such a proposal can be deemed consistent with the AWQMP by MVRPC and Ohio EPA, as long as the local jurisdictions affected by the extension agree to it. In any of these cases, the process for submitting a boundary modification to the AFPSC (see Policy C, above) should be observed.

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 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.

Due to the need for timely response, Consistency Reviews shall be conducted by MVRPC staff. Staff shall keep the AFPSC informed as to Consistency Reviews performed, including subjects of the reviews, timeliness, and responses or results.

POLICY F: UTILIZATION OF AREAWIDE POPULATION PROJECTIONS

As time has passed, the population projections used in the original 1983 AWQMP have become outdated. MVRPC's original AWQMP and the Facility Plans it references were based upon population projections from the 1980 census. Facility Plan Updates and Facility Planning Area modifications since that time have been based on the most current census data available. MVRPC currently utilizes population projections based on the 2000 census for all of its planning purposes.

The Ohio Department of Development prepares the official population projections for the State of Ohio. They allocate projections to the county level. MVRPC further disaggregates the State's county level projections into traffic analysis zones (TAZ) for its transportation planning counties (Greene, Miami, and Montgomery). This is accomplished based on an evaluation of available land for development, combined with local zoning requirements. Additional inputs are used as appropriate. The most recent TAZ population projections produced by MVRPC, are the ones to be used for consistency reviews. MVRPC staff will assist jurisdictions seeking the current population projections for the TAZs corresponding to their Facility Planning Areas.

In the cases of Darke and Preble Counties, where MVRPC-produced TAZ population projections do not exist, ODOD county-level projections may be used. The county-level population projections can serve as a starting point for the evaluation of population projections within facility planning areas. The facility planning process may disaggregate county projections to smaller areas, using justifiable or documented assumptions, such as existing zoning and land use plans. MVRPC can assist in this process, if desired.

The consistency review of population projections used to size the proposed facility or project guards against the use of optimistically high projections that could lead to the inability of a community to financially support its WWTP if the projections are not realized.

AFPSC shall review all Facility Planning applicants' population projections for consistency with the MVRPC population projections. If an applicant's projections are not consistent, the applicant will be notified of the discrepancy and of the need to justify and/or rectify the projections.

POLICY G: MODIFICATIONS TO DESIGNATED MANAGEMENT AGENCIES (DMAs)

Primary DMAs 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 MVRPC Board. Status as a DMA, however, does not imply that a jurisdiction or POTW has an exclusive right to provide services within an FPA.

In situations where (1) a Primary DMA has failed to provide services as outlined explicitly in its current Facility Plan, (2) the Facility Plan itself does not clearly prescribe how particular areas are to be served or by whom, (3) an Ohio EPA mandate for wastewater improvement exists, or (4) new situations arise that were not anticipated in the Facility Plan, then a case can be made for abandoning previous FPA boundaries and DMA designations so that new ones can be developed. In its 1993 Water Quality Management Plan Certification document, the Ohio EPA states:

“Ohio EPA will consider existing 208 planning and planning areas to the extent that the source(s) of the new discharges seeking permits were specifically anticipated and addressed in the planning process so that a specific entity was actually assigned responsibility for undertaking and providing treatment for the discharge. Where 201 Planning has been carried out and a specific alternative has been implemented, Ohio EPA will consider existing 201 planning areas to the extent that service to the entire planning area was the alternative chosen for implementation.”

Conflicts related to officially recognized FPA boundaries may occasionally occur. Furthermore, such conflicts 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 Primary DMA 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 Primary DMA 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. A well documented request of any applicant to transfer a specified area out of a recognized FPA will be given consideration. A process to deal with the evaluation of each application must follow established guidelines. For instance, the DMA will maintain the right to provide for sewerage of the designated area if it can demonstrate that its treatment system will be harmed by a redesignation. If the DMA can show that it will suffer economic harm, or if it can demonstrate that system integrity would be compromised by the change, it must be given the opportunity to maintain primacy while meeting the water quality and wastewater treatment needs of the subject area. Demonstrations of economic harm need to show that established federal guidelines for wastewater treatment affordability would not be met if the application for change were allowed to proceed.

When the need arises to consider changes to DMA designations within an FPA or affected jurisdictions seek to challenge DMA decisions and/or designations, the following policies shall apply:

- 1) 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 the DMA can demonstrate any of the following:
 - a) That the system affordability would be negatively impacted by the suggested change; or
 - 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.

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.

- 2) Lead planning responsibility for limited areas can be transferred from the Primary DMA in an established FPA in cases of challenge when an applicant for change can demonstrate all of the following:
 - a) That none of the conditions established in 1 (a) – (c) above apply (the burden of proof shall remain upon the existing DMA);
 - 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 jurisdiction;
 - c) That an alternative sewerage plan exists that protects the environment, and that the alternative plan is technically achievable, economically justifiable, and politically acceptable;
 - d) That the alternative plan enhances the quality, sustainability and coordination of growth and development in the Region; and
 - e) That the proposed DMA has legal authority to act.

Transfers must be approved by Ohio EPA and incorporated by amendment to MVRPC's AWQMP. A DMA's lead planning status could be dependent on its ability and willingness to proceed with the sewer extensions (and capacity upgrades if necessary) to an area assigned to an established FPA that requests such extensions. If the existing DMA is not prepared or is not able to proceed in a timely manner, and the applicant for change meets the burden required in Policy G (2), above, the applicant for change may request a redrawing of the FPA boundary (pursuant to Policy C, above) and, if necessary, the establishment of a new DMA (pursuant to Policy H). This request would be considered with the intention of identifying viable wastewater alternatives. The applicant would be required to demonstrate that a technically achievable, economically affordable and politically acceptable alternative exists. This plan could take the form of a Primary-Satellite DMA agreement. If the proposed plan is consistent with all other

aspects of the AWQMP, it can result in a change being made to the existing FPA definition in favor of the applicant.

Where no other acceptable solution can be found, a jurisdiction that is part of another jurisdiction'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.

The applicant is expected to make every effort to arrive at a solution acceptable to all parties. However, upon request, MVRPC's ongoing Facility 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 MVRPC Areawide Facility Planning Subcommittee and Technical Advisory Committee will hear all viewpoints, and offer input to a staff recommendation that will be considered by the MVRPC Board of Directors.

A Board action on requests to modify a DMA would constitute an update to the AWQMP as far as future consistency reviews are concerned in the challenged area. It is important to note that Ohio EPA cannot issue a permit for any action that is not consistent with the AWQMP. FPA boundary disputes must be resolved prior to the review for consistency of any project by the MVRPC Board.

POLICY H: NOMINATION OF NEW DMAS

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 the wastewater treatment options to be selected for the area. It must also demonstrate that all affected local governments have been consulted in the development of the project. Evidence of 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 affected DMA or by appeal to the MVRPC Board. 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 purposes of future sewer planning.

The AFPSC shall review such applications for new DMAs, and provide input to staff as to a resolution. Staff shall recommend action to the MVRPC Board of Directors, after an Ohio EPA technical review and consultation with the Technical Advisory Committee.

The AFPSC shall consider the following factors when reviewing an application for designation of a new DMA:

- 1) The proposal's effect upon attainment of water quality standards in any applicable receiving waters;
- 2) The proposal's effect upon any other DMA's Facility Plan as regards, for example, facility engineering or financing;
- 3) The proposal's compatibility with land use plans within and surrounding the FPA;
- 4) The degree of local support for the proposal; and
- 5) The degree to which the proposed change enhances the quality, sustainability, and coordination of growth and development planning in the Region.
- 6) The degree of preference for full utilization of existing facilities and sewers over expansion or other facilities and sewers.

II. RECOMMENDATIONS FOR SUPPORTING ACTIONS BY LOCAL JURISDICTIONS

In wastewater treatment planning it is important to recognize the priorities and input of local governments and agencies.

Recommendation A: The content and recommendations found in local and regional land use plans and comprehensive plans should be incorporated into the development of individual Wastewater Treatment Facility Plans and the AWQMP. The effectiveness of the AWQMP will be enhanced to the extent that it is consistent with these locally approved documents.

Recommendation B: Local jurisdictions should consider the use of the Joint Economic Development District (JEDD) approach or the Community Economic Development Agreement (CEDA) approach to address conflicting interests in the process of wastewater treatment infrastructure. Numerous cases exist in the Region where a municipality owns and operates a POTW whose FPA includes portions of surrounding townships. Some of these communities have a policy of extending sewer service only to areas that are annexed into the community. This is required because the municipalities have used their tax base to support the construction, operation, and maintenance of their sewer infrastructure and are attempting to insure all beneficiaries pay a fair share of these costs. Annexation is the tool that they choose to use to accomplish this, but compulsory annexations in order to receive sanitary sewer service are often strongly contested.

Consideration of substitute measures such as a JEDD or a CEDA is encouraged to meet the needs of both the municipality in question and the neighboring township. A JEDD or CEDA can be established by neighboring communities and can allow an exchange of services and a sharing of tax revenues. In the scenario of a municipality attempting to recover capital costs, township residents in the area to be affected by the extension of sewer lines agree to be subject to a tax sharing agreement that would provide the municipality with the funds that they seek before extending the sewer lines. Where loss of business base is an issue, additional tax sharing may have to be negotiated. While not a solution for every case, consideration of the JEDD or CEDA approach is encouraged by MVRPC as a means of attaining the goals of the AWQMP.