

M E M O R A N D U M

TO: NEFCO General Policy Board

FROM: Eric Akin, Environmental Planner

DATE: November 13, 2013

SUBJECT: Request for Approval of Changes to the Notification Requirements in NEFCO Clean Water (208) Plan Amendment Guidelines

Background

At NEFCO's September 4, 2013, Environmental Resources Technical Advisory Committee (ERTAC) meeting, there was a discussion on the notification requirements for amending a facilities planning area (FPA) in NEFCO's Clean Water (208) Plan. The discussion focused on the need to notify every local government "within the proposed 201 update FPA" even if the area being amended does not impact all local governments within the FPA. The current amendment guidelines in Policy 3-6 of Chapter 3 state that all local governments within the FPA, regardless of the scope or size of the proposed amendment, must be notified and given a maximum of 45 days to comment on the proposed amendment. This can result in wasted efforts by the management agency proposing the amendment, and confusion for local governments being asked to provide comments on a project outside of their jurisdictions. The requirement can also add unneeded delays to the amendment process by having to wait the full 45 days for local government officials to comment on an amendment that may be well outside of their township, village, or city.

The current FPA amendment guidelines were approved by NEFCO's Board in 2011. The intent of including the requirement of contacting local governments about pending FPA amendments is so they are aware and have an opportunity to provide feedback on the amendment within or affecting their jurisdictions. NEFCO staff agreed that language should be added to the "Guidelines for Amending a 201/208 Facilities Planning Area" in Chapter 3 to clarify that the entity proposing an amendment needs to provide request for comment letters to local jurisdictions affected by where the proposed amendment is located, and not necessarily all of the local governments within the FPA.

Please note that the entire Clean Water Plan can be viewed on NEFCO's website: www.nefcoplanning.org. Click on the Environmental tab.

Recommended Changes

The staff worked with the ERTAC members to develop the following recommended changes (shown as underlined text) to the amendment guidelines found under Policy 3-6 in Chapter 3 of the Clean Water Plan:

- a) The DMA requesting the Facilities Planning Area (FPA) amendment must submit the proposed update to the DMA that has authority over the area in question, the lead DMA

for the 201 Facilities Planning Area, NEFCO, and local governments to be affected by within the proposed updated Facilities Planning Area for review and comment. The DMA requesting the amendment must be able to show adequate proof of when the notification process started. The final determination on local governments affected by an amendment will be made by NEFCO staff (Executive Director) in consultation with the management agency requesting the amendment, and will be based on the location, scope, and any other details that define the area of influence of the proposed amendment.

- b) The DMA requesting the amendment must attempt to secure comment letters from the DMA that has authority over the area in question, the lead DMA, and local governments to be affected by within the proposed 201 ~~update~~ FPA update, as determined by NEFCO.
- c) If not already provided, the DMA that has authority over the area in question, the lead DMA, and local governments to be affected by within the proposed 201 ~~update~~ FPA update (as determined by NEFCO) will have a maximum of 45 days upon receipt of the proposed amendment (unless extended by the ERTAC) to respond to the DMA requesting the update. The 45-day response period is based on the adequate proof of when the notification process began; as provided by the management agency submitting the proposed amendment.

These changes will limit the number of local governments required to be contacted to those directly affected by the change. That is, local governments need to be contacted only if the proposed 208 changes are occurring within or will directly impact their jurisdictions.

ERTAC Review

The proposed changes were reviewed at the October 2nd and November 6th ERTAC meetings. At the November 6th meeting, the ERTAC recommended the General Policy Board approve changes to the notification requirements in the Clean Water Plan's "Guidelines for Amending a 201/208 Facilities Planning Area" as shown above.

Attached is Resolution No. FY2013-016. Thank you for your consideration.

RESOLUTION NUMBER FY2014-016

RESOLUTION OF THE GENERAL POLICY BOARD OF THE NORTHEAST OHIO
FOUR COUNTY REGIONAL PLANNING AND DEVELOPMENT ORGANIZATION
(NEFCO) APPROVING THE NOTIFICATION REQUIREMENTS FOR FACILITIES
PLANNING AREA AMENDMENTS UNDER NEFCO'S CLEAN WATER PLAN

WHEREAS, NEFCO is the designated water quality management planning agency for Portage, Stark, Summit and Wayne Counties; and

WHEREAS, as part of that designation it is NEFCO's responsibility to coordinate the use and amending of its Clean Water Plan, also known as the 208 Plan; and

WHEREAS, NEFCO received funding from the Ohio EPA to maintain and update of the Clean Water Plan for Portage County, Stark County, Summit County, and Wayne County; and

WHEREAS, Policy 3-6 in Chapter 3 of the Clean Water Plan contains "Guidelines for Amending a 201/208 Facilities Planning Area" and includes notification requirements for local governments; and

WHEREAS, a designated management agency (DMA) in the NEFCO region requested a review of these amendment guidelines to clarify which local governments within a facilities planning area (FPA) require notification for a proposed amendment; and

WHEREAS, language has been added to the "Guidelines for Amending a 201/208 Facilities Planning Area" which states that NEFCO will determine those affected local governments for each FPA amendment based upon the "location, scope, and any other details that define the area of influence of the proposed amendment", and

WHEREAS, the NEFCO Environmental Resources Technical Advisory Committee (ERTAC) discussed and added details to the proposed changes to the notification requirements at the October 2nd and November 6th, 2013, meetings and recommended NEFCO General Policy Board approval of the changes;

NOW, THEREFORE, BE IT RESOLVED that the NEFCO General Policy Board approves the changes to "Guidelines for Amending a 201/208 Facilities Planning Area" found in Policy 3-6 of Clean Water Plan and authorizes transmitting them to the Ohio EPA for inclusion in the next update of the Ohio Water Quality Management Plan.

Certified as action taken by the
NEFCO General Policy Board at its
regular meeting held on November
20, 2013.



Bob Breneman, Secretary
NEFCO General Policy Board