



NORTH FRONT RANGE WATER QUALITY PLANNING ASSOCIATION
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Designated Management & Operation Agencies Responsibilities

Designated Management & Operation Agencies Responsibilities (DMOAs):

The Clean Water Act (CWA) calls for local jurisdictions and agencies to carry out specific roles in protecting water quality. Agencies with specific responsibilities in implementing the Clean Water Act are approved DMOAs by the Association and the governor. Several federal and state agencies have regulatory oversight in water quality management; local DMOAs recognized by the Association in the 208 Areawide Water Quality Management Plan (208 AWQMP) are responsible for fulfilling federal and state agencies' legal requirements. With primacy to administer the Federal Clean Water Act, Colorado has regulatory oversight of 208 Planning agencies and their responsibilities according to the federal and state CWA. The federal agency is the U.S. Environmental Protection Agency, and the state agency is the Colorado Department of Public Health and Environment, Water Quality Control Commission.

Depending on a DMOA's assigned role (Management or Operation) recognized by this 208 AWQMP, Counties, Municipalities, Special Districts, and representing administrative boards and councils must have the capability to:

- 1) Carry out their responsibilities according to the 208 AWQMP;
- 2) Have legal authority to provide wastewater service to its designated wastewater utility service area (WUSA);
- 3) Accept and utilize grants or other funds from any source for waste treatment management or nonpoint source control purposes to maintain, protect, or restore water quality in the Larimer/ Weld County region;
- 4) Continuously raise adequate revenues or necessary funding through sewer rates and tap fees, including rate increases as needed having the capabilities to incur short and long-term indebtedness required to implement its assigned portion of the 208 AWQMP to maintain, protect, or restore nonpoint source water quality;
- 5) Make every effort to provide Utility Plans, at least, every ten years regarding regional planning to meet the Colorado Discharge Permit System (CDPS) current and future known water quality-based limits or regulations for point or nonpoint sources;
- 6) Cooperate with and assist the Association in the performance of its Utility Plan responsibilities adopted into the 208 AWQMP.
- 7) Construct wastewater facilities or facility upgrades and nonpoint source best management practices (BMPs) to maintain, protect, or restore regional water quality;
- 8) Refuse wastes from industry, municipality, or subdivision thereof, which does not maintain, protect, or restore water quality in the region; i.e., PFAS
- 9) Effectively manage and operate collection systems, lift stations, and related wastewater treatment works and nonpoint source BMPs to maintain, protect, or restore regional water quality;
- 10) Implementing its portion of the 208 AWQMP requires each participating community to pay its proportionate share of related costs.

The DMOAs and their responsibilities established under this 208 AWQMP recognizes three types of DMOAs: 1) Counties, 2) Municipalities, and 3) Regional Water and Sewer Districts that collect and/or treat municipal wastewater, have the following responsibilities:

- 1) To protect water quality and public health by meeting the requirements of their CDPS, Notice of Authorization (NOA), or National Pollutant Discharge Elimination System (NPDES) permits, and;
- 2) To protect water quality by managing stormwater runoff in compliance with the 208 AWQMP and applicable single and general permit(s);

- 3) A municipality that sells or gives its sanitary sewerage system to another public agency or political subdivision of the state, the Association will delist the original DMOA and transfer the DMOA designation to the new owner of the WUSA infrastructure;
- 4) County and municipal Health Department's responsibility is to protect water quality and public health by regulating the installation and maintenance of on-site wastewater treatment systems for household residences;
- 5) County and municipal Health Department's are responsible for providing Utility Plans and regional data concerning groundwater contamination of on-site wastewater treatment systems for household residences;
- 6) Counties are responsible for providing appropriate methods to evaluate water quality effects related to large lot developments served by on-site wastewater treatment systems within non-urban wastewater utility service areas.
- 7) Counties, municipalities, and townships are responsible for stormwater permits (MS4s) where required by CDPHE.
- 8) Counties are considered the nonpoint source control agency.

County Soil and Water Conservation District's responsibilities are:

- 1) To provide education and technical assistance to farmers in applying best agricultural management practices;
- 2) To prevent water pollution from sediment, nutrients, and pesticides;
- 3) Encourage fish and wildlife habitat consistent with productive agriculture practices.

Responsibilities of Associates and Industry members of the Association, although not recognized as DMOAs, are:

- 1) To protect water quality and public health by meeting the requirements of their CDPS, NOA, or NPDES permits, and;
- 2) To protect water quality by managing stormwater runoff in compliance with the regional 208 AWQMP, local, and state applicable single and general permit(s);
- 3) Adequately fund their wastewater treatment facility ensuring the process can meet the Colorado Discharge Permit System current and future known water quality-based limits or regulations;
- 4) Adequately fund nonpoint source water quality best management practices to maintain, protect, or restore nonpoint source water quality.

DMOAs accept responsibility for implementing their part of the CWA Section 208 and protecting the Larimer/Weld County region's water quality. DMOA status is a prerequisite to participation in the Association to maintain and update the 208 AWQMP.

Relationship of 208 Planning to 208 Management

Management can be considered the doing phase of the 208 processes. In 208 planning, wastewater management policies are agreed upon by the membership DMOAs. Thus, planning is the designing and policy-setting elements, while management is the operational phase when policies are translated into action and implemented. Planning is a continuous process that exists in tandem with management. Planning is not a single act that concludes with completing a Utility Plan but instead guides all DMOAs

involved in areawide water clean-up and protection continuously for all time. The Water Quality Control Commission (WQCC) requires bi-annual 208 AWQMP updates, including DMOA progress on their responsibilities not only within their respective Utility Plans but the overall 208 AWQMP.

DMOAs must provide a financially self-sustaining planning process, including Utility Plan updates every ten years and an independent planning process for wastewater treatment facilities, collection systems, and nonpoint source upgrades to meet current and known future water quality standards. Through DMOAs' Utility Plans, the Association develops and operates a continuing 208 AWQMP process for the region. The WQCC certification of the 208 AWQMP ensures the 208 AWQMP is consistent with the state's Colorado Water Plan and applicable state basin plans. The Association has the duties of monitoring the endorsed 208 AWQMP projects approved through Utility Plans. The Association reports its findings to the DMOAs and the state using the 208 AWQMP bi-annually updates. The Association is not a watchdog of the DMOAs. The Association's primary responsibility is to report to the DMOAs to take corrective action to maintain, protect, or restore water quality. In a majority of cases, EPA expects that these responsibilities will lie with the designated planning agency.

Requirements that Management and Operation Agencies Must Meet

Areawide 208 planning is preparing for management and implementation of approved plans mandated by Congress, both in the actual language of Section 208 and other sections and in the spirit of the act. EPA has emphasized Congress' requirements to ensure Areawide 208 planning is carried out regionally. While Congress was quite specific that 208 plans should be implemented, Section 208 allows states and localities great flexibility in designing areawide water quality management systems. The EPA encourages 208 planning agencies to tailor an institutional network to its own water quality financial needs and organizational style.

A governor can designate one or more DMOAs to carry out the 208 Plan. There is considerable latitude within these agencies' requirements set by Section 208 to allow various metropolitan areas, small towns, and rural areas to devise an acceptable and implementable areawide water quality management plan. Most of the specific requirements for 208 DMOAs outlined relate to the financing, construction, operation, and maintenance of wastewater treatment works and nonpoint source pollution control. These require that DMOAs of an areawide water quality management plan as a whole must be able to:

- 1) design, construct and operate waste treatment works,
- 2) land-use control powers
- 3) accept and use grants,
- 4) raise revenues and assess wastewater treatment charges,
- 5) incur short and long term indebtedness,
- 6) require municipalities to pay a proportionate share of treatment costs,
- 7) be able to refuse wastes from municipalities or subdivisions, which do not maintain, protect, or restore water quality,
- 8) accept industrial wastes,
- 9) set pretreatment standards,
- 10) refuse industrial wastes that do not preserve, protect, or restore water quality, and
- 11) be able to "manage effectively waste treatment works and related facilities." The legal, financial, and organizational capability of managing treatment works is broadly defined to include devices for storage, collection, treatment, recycling, reclamation of municipal sewage or industrial wastes, and nonpoint source pollution control.

Specific to Designated Management Agencies land-use authority refers to the legal power and responsibility of government entities—such as cities, counties, or municipalities—to regulate and control how land within their jurisdiction is developed, used, and maintained. This authority includes enacting zoning laws, land subdivision regulations, environmental protections, building codes, and other planning controls to guide development in a manner consistent with community goals and policies. In essence, land use authority enables these entities to: Designate zones for residential, commercial, industrial, or public use; Set development standards and building requirements; approve or deny land development proposals; and implement comprehensive plans that guide long-term growth and development. In Colorado, a Metro District generally does **not** have direct land use authority.

Instead, land use decisions are primarily made by local government entities such as cities and counties, which hold zoning and land use regulation powers. However, a Metro District can influence land use indirectly through its involvement in infrastructure development, services, and improvements that support land development projects. For example, they might finance or construct water, sewer, transportation, or stormwater infrastructure that facilitates land development, but they do not typically have zoning or land-use planning authority themselves. Legally, a Designated Management agency does not have authority or rights over a service area until it is annexed or incorporated by a township or municipality. To make a determination regarding a Designated Management agency the Association will need to ensure the agency has land-use control powers which may be determined by the agency's service plan and or Order and Decree approved through appropriate courts.

In addition to these requirements related to treatment works, the law includes a general provision about the entire management program. This requirement both ensures flexibility in designing an areawide water quality system, and at the same time, demands innovation on the part of the 208 planning agency DMOAs, on the part of governors who must designate management agencies, and within EPA, which must approve those management agencies designation and 208 plans. This requirement states that DMOAs must be able to carry out their responsibilities of the approved 208 AWQMP. This general feature of the law goes beyond those plan elements relating to the treatment works to ensure that all management functions called for in the 208 AWQMP are handled effectively by some DMOAs. Section 208 of the CWA requires DMOAs to have the legal, financial, and institutional capability to carry out their 208 AWQMP responsibilities. Also, it requires that DMOAs organizations exist with enough political power to fund their duties within the approved 208 AWQMP.

As a result, the Association's primary objective is to create a membership of competent decision-making DMOAs, working together to achieve local, regional, and state water quality objectives at the lowest economic, social, political, and environmental cost. Areawide water quality management must provide a comprehensive and unified approach, achieving the state's water quality standards and agreed upon by the region itself. The 208 AWQMP must address all water pollution sources (point and nonpoint), and if not controlled, taken into account. All DMOA functions must be authorized and funded, and, perhaps the most essential ingredient, a coordinative mechanism provided, i.e., the 208 AWQMP. Congress's apparent aim in writing Section 208 is to overcome irrational fragmentation of responsibility by duplicating services and efforts unnecessarily, as governmental agencies sometimes work at cross purposes with one another. Coordination may be achieved procedurally through 208 Planning agencies when DMOAs agree to collaborate to maintain, protect, or restore water quality regionally. 208 Planning agencies strive to coordinate government agencies locally to prevent duplicated services and efforts regionally. Association members support that these agreed-upon activities in the 208 AWQMP produce a more effective and efficient public service through the collaboration and coordination of wastewater services to preserve, protect, or restore water quality regionally.

What functions will each 208 AWQMP perform, what powers are needed to complete the responsibilities, and does the management program as a whole perform all assignments required? In the 208 AWQMP, vital functions include:

- 1) continuing 208 planning (including policy guidance to DMOAs, revising, updating the 208 AWQMP, evaluating the performance of DMOAs, and the relationship of water quality system with other systems in the region with state and federal governments).
- 2) facilities planning, construction, operation, and maintenance of facilities to collect, intercept, treat, dispose of, reuse, and recycle wastes from municipalities and industries, including stormwater management, nonpoint source runoff controls, sludge disposal or use, regulation of existing and new pollution sources, including nonpoint sources, permits, water quality, and effluent standards, enforcement, and penalty application,
- 3) financing the system, including construction, operation and maintenance, planning, administration, and overhead costs; setting user charge rates, tap fees, pricing policies, and rate and fee increases overtime,

- 4) monitoring; ambient water quality monitoring (point and nonpoint), compliance monitoring, biological monitoring, and support for the general database,
- 5) information systems - GIS, data gathering, storage, retrieval, analysis, dissemination, coordination, and enforcement of the Plan.

What questions will the 208 AWQMP satisfy concerning the DMOAs' responsibilities, and does the 208 AWQMP as a whole perform all assignments required? In the 208 AWQMP key questions answered include:

- 1) Who will require compliance with the 208 AWQMP?
- 2) How will compliance be achieved?
- 3) How will conflicts be resolved among management agencies within the same system, between management and planning functions, between the water quality management system and other systems in the same region?
- 4) Is primary control by local, state, or federal?
- 5) Should construction be split between two or more organizations along subfunctional lines or centralized by the consolidation of wastewater treatment facilities (WWTFs)? For example, should sewer collection lines be built and operated locally and interceptors and treatment plants be handled regionally?
- 6) Does the 208 AWQMP, as a whole, address all sources of pollution, including municipal point sources; stormwater nonpoint source runoff, including combined sewer overflows; nonpoint sources such as runoff from agriculture and concentrated animal feeding operations (CAFOs), and abandoned mines?
- 7) Is DMOAs financing adequate and assured for all needed actions, including operation, construction, overhead, and administrative costs?

Criteria for an Effective Water Quality Management Program

In deciding these 208 planning issues of where to place functions and responsibilities of DMOAs in the 208 AWQMP, judgments must first be made regarding criteria for "effective" membership networks.

Criteria for assigning practical DMOA functions might include:

- 1) Economic efficiency.
 - i. Can the DMOA achieve its water quality goal at the lowest economic cost?
 - ii. Does it achieve economies of scale?
- 2) Equity.
 - i. Are the benefits of clean water and clean-up costs reasonably and fairly distributed over the affected resident population?
 - ii. Are external costs, such as impacts on other environmental problems and effects on other services and social objectives, minimized?
 - iii. Are individuals' rights protected?
- 3) Political accountability.
 - i. Are the DMOAs accessible to, accountable to, and controlled by their affected residents in proportion to their stake in the outcome of governmental decisions?
 - ii. For example, are the agencies not dominated by any single special interest group?
 - iii. Is broadly-based citizen participation encouraged and structured?
- 4) Administrative efficiency.
 - i. Has each DMOA been assigned adequate powers to carry out its 208 AWQMP responsibilities and duties?

- ii. Is each DMOA able to pursue intergovernmental cooperation and reduce interlocal, and membership, functional conflict?
- iii. Does each DMOA in the 208 AWQMP have adequate funding?
- iv. Does each DMOA in the 208 AWQMP utilize fee rate increases to meet current and future known water quality regulations?
- v. Is the DMOA structure sufficiently compatible with existing governmental institutions in the area to be a politically feasible instrument for performing assigned functions?
- vi. Are DMOAs functional with natural flexibility to consider all alternatives and trade-offs regarding the responsibilities and duties of the 208 AWQMP?

Legal Basis

The Association has the authority to assume responsibility for 208 Planning monitoring, planning, coordination, and conflict resolution responsibilities assigned as the designated Section 208 Areawide Water Quality Management Planning Agency. The current versions of the following documents are incorporated into this 208 AWQMP by reference:

- 1) §208 of the Federal Water Pollution Control Act Amendments (P.L. 92-500) as amended by the Clean Water Acts of 1977, 1982, and 1987 (P.L. 95-271, 97-440, and 100-4)
- 2) Federal Register §35.1521 et seq. Vol. 44 No. 101, Wednesday, May 23, 1979, Rules and regulations
- 3) Articles of Association
- 4) Implementing Documents, Policies, Procedures, and Resolutions of the Association.

DMOAs are responsible for planning and financing facilities needed to carry out their role. All DMOAs are accountable for planning, collecting, and treating sewage systems involving multiple DMOAs. Typically, the DMOA is the County or municipality that owns and operates the WWTF, but not always. If a WUSA does not include a treatment plant, the DMOA is responsible for building, managing, and maintaining the collection sewers.

The DMOA's role includes:

- 1) Prepare Utility Plans to meet the Association and CDPHE requirements and water quality goals.
- 2) Serve as the lead applicant to arrange to finance and construct needed facility improvements to meet water quality-based limits and future water quality-based limits.
- 3) Join into service agreements with other political jurisdictions within the Association to operate and maintain wastewater facilities, collection sewers, nonpoint source control, and other DMOA activities.
- 4) Request 208 AWQMP amendments as necessary. NFRWQPA encourages neighboring governments to resolve service area conflicts at the local level through a collaborative process. A membership vote determines the matter's final decision when affected jurisdictions cannot resolve disputes regarding an amendment of the 208 AWQMP through a collaborative process.
- 5) CDPHE reviews the 208 AWQMP and makes necessary recommendations to achieve the region's water quality goals, and the WQCC approves the 208 AWQMP.
- 6) DMOAs cooperate with membership and in the 208 AWQMP and updating process.

The guiding principles used in delineating WUSAs in the 208 AWQMP are:

- 1. WUSAs must comply with the CWA requirements, notably:
 - a) "Waste treatment management shall be on an Areawide basis." [Clean Water Act §201(C)]
 - b) "Identification of those areas which, due to urban-industrial concentrations or other factors have substantial water quality control problems." [Clean Water Act §208(A)(2)]
 - c) WUSAs should use sound planning practices to identify future needs for wastewater collection and treatment facilities.

- d) A WUSA boundary is a planning area for a single specific present or future DMOA's designated wastewater plant(s) and a service area.
- e) A WUSA may include service areas for multiple treatment plants.
- f) WUSAs should be compact and contiguous concentrations of urban land uses without islands of one WUSA surrounding another.
- g) Remote service areas may be included in a WUSA when connected by force main and separated by regions that remain unurbanized.
- h) DMOAs are to design WUSAs to serve residents cost-effectively without duplication of service.
- i) WUSA boundaries should be consistent with adopted local land use and zoning plans.
- j) WUSA boundaries consider the topography selecting gravity sewer lines over lift stations.
- k) DMOAs should develop WUSA boundaries through cooperative dialogue among affected local jurisdictions. The Association encourages neighboring governments to resolve sewage service conflicts at the local level through a collaborative process. A membership vote will determine the matter's final decision if affected local jurisdictions cannot resolve disputes regarding an amendment to the 208 AWQMP through a collaborative process.