

*Navigating the CWMP Regulatory
Approval Process:*

Strategies and Case Studies

**Waquoit Bay National Estuarine Research Reserve
October 28, 2009**

**Nathan C. Weeks, P.E.
Stearns & Wheler GHD**

Presentation Outline

- Regulations to address
- Strategies
- Case studies



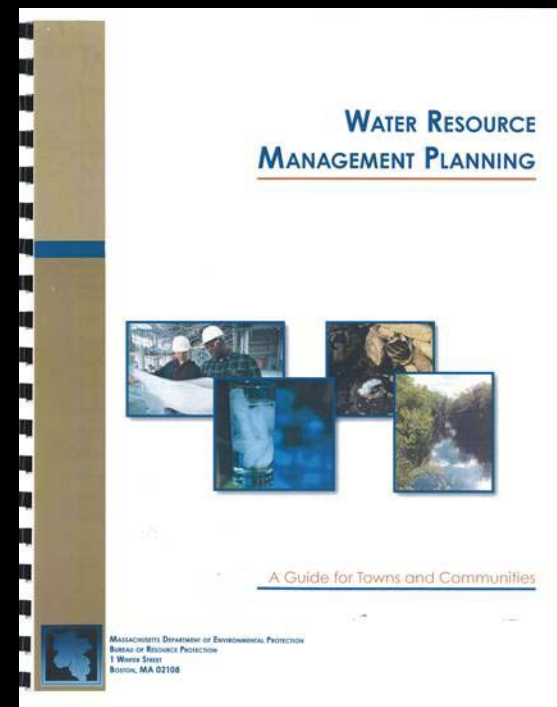
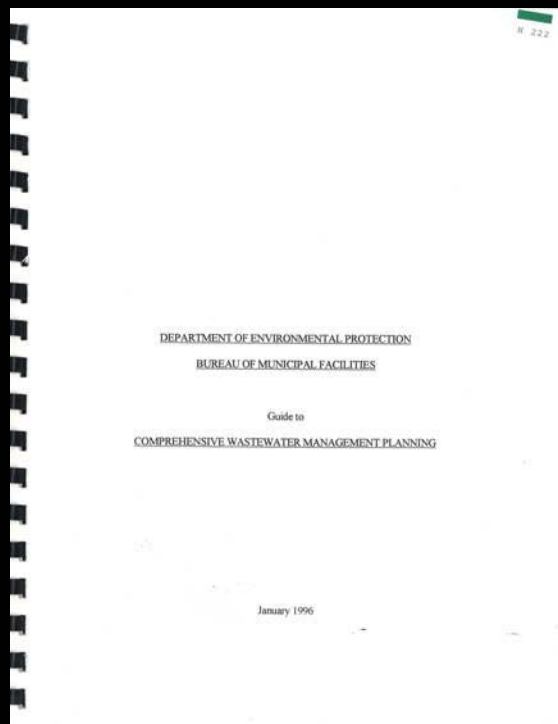
Regulations

Primary Regulatory Stakeholders:

- Massachusetts Department of Environmental Protection (MassDEP)
- Executive Office of Environmental Affairs (EOEA) and their Massachusetts Environmental Policy Act (MEPA) Unit
- Cape Cod Commission (CCC) and Development of Regional Impact (DRI) Process

Regulations (continued)

- MassDEP Guide to Comprehensive Wastewater Management Planning (CWMP), January 1996
- MassDEP Water Resource Management Planning, no date



Regulations (continued)

- MassDEP guidance on State Revolving Fund (SRF) low interest loans
 - 310 CMR 44.00

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

310 CMR 44.00: DEP SELECTION, APPROVAL AND REGULATION OF WATER POLLUTION ABATEMENT PROJECTS RECEIVING FINANCIAL ASSISTANCE FROM THE STATE REVOLVING FUND

Section

- 44.01: Authority
- 44.02: Purpose
- 44.03: Definitions
- 44.04: Eligible Projects
- 44.05: Priority System
- 44.06: Project Selection Criteria
- 44.07: Eligible Project Costs
- 44.08: Planning Requirements
- 44.09: Environmental Review and Federal Cross-cutter Requirements
- 44.10: Affirmative Action and Minority/Women Business Enterprise Requirements
- 44.11: Project Approval and Regulation

44.01: Authority

310 CMR 44.00 has been adopted pursuant to M.G.L. c. 21, § 27A.

44.02: Purpose

310 CMR 44.00 sets forth the Department's authority and responsibilities to select, approve and regulate water pollution abatement projects receiving financial assistance under the State Revolving Fund (SRF) Program.

The Department may issue supplemental policies, guidelines, guidance documents and/or administrative procedures to assist in the implementation and administration of 310 CMR 44.00.

44.03: Definitions

For the purposes of 310 CMR 44.00 *et seq.*, the following terms shall have the meaning set forth in 310 CMR 44.00 unless the context clearly requires otherwise:

Clean Water Act: The Federal Water Pollution Control Act, Public Law 92-500, 33 USC § 1251, *et seq.*

Collection System Project: Projects for the construction of a collection system or its related components. Collection systems generally consist of each and all of the common lateral sewers and appurtenances of publicly owned treatment works which are primarily installed to receive wastewaters from individual structures or from private property, and which include service connection "Y" fittings and service connections within the boundary of the public way or easement.

Community Septic Management Program: As authorized by St. 1996, c. 15, § 2, and by any other applicable law, a loan program to local governmental units administered within the Fund and under 310 CMR 15.000 (Title 5) through underlying betterment agreements between the local governmental unit and such homeowners pursuant to M.G.L. c. 111, § 127B(6).

Comprehensive Water Resource Management Plan: In accordance with the Department's Guide to Water Resource Management Planning, a Comprehensive Water Resource Management Plan identifies all the community's needs/problems in one sector of its water resource structure, evaluates alternative means of meeting those needs, selects the most cost-effective and environmentally appropriate remedy, and proposes an implementation plan and schedule. There are three types of Comprehensive Water Resource Management Plans: Comprehensive Wastewater Management Plans that evaluate the community's wastewater infrastructure management needs, Comprehensive Water Supply Management Plans that focus on the

Regulations (continued)

- Massachusetts Environmental Policy Act (MEPA) regulations and review process
 - 301 CMR 11.00



Regulations (continued)

- CCC regulations and guidance on Development of Regional Impact (DRI) reviews
 - Enabling legislation
 - Regional Policy Plan

Strategies

So...

You need the support from several important entities:

- Town
- MassDEP
- MEPA (EOEA Secretary)
- CCC

Strategies (continued)

The CWMP documents

- Plan of Study (POS)
- Needs Assessment Report (NAR)
- Alternatives Screening Analysis Report (ASAR)
- Draft CWMP (DCWMP)
- Final CWMP (FCWMP)

MassDEP typically provides an Approval Letter


Strategies (continued)

MEPA Review documents

- Environmental Notification Form (ENF)
- Draft Environmental Impact Report (DEIR)
- Final Environmental Impact Report (FEIR)
- Additional useful item
 - Notice of Project Change (NOPC)

These get approved with a
Secretary's Certificate

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Boston, MA 02114

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July 17, 2009

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
PHASE III - FINAL EIR/COMPREHENSIVE WASTEWATER MANAGEMENT PLAN

PROJECT NAME : Chatham Comprehensive Wastewater Management Plan
PROJECT MUNICIPALITY : Chatham
PROJECT WATERSHED : Cape Cod
EOEA NUMBER : 11510
PROJECT PROPONENT : Town of Chatham
DATE NOTICED IN MONITOR : June 10, 2009

As Secretary of Energy and Environmental Affairs, I hereby determine that the Phase III - Final Environmental Impact Report (FEIR) submitted on the above project **adequately and properly complies** with the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62I) and with its implementing regulations (301 CMR 11.00).

Project Overview

The Town of Chatham's comprehensive wastewater management planning process has been undertaken for the purposes of:

- 1) Evaluating and planning for the impacts to the Town's marine and freshwater resources from existing development and anticipated future residential and commercial growth in the Town of Chatham over the 20-year project planning period (ending in 2030);
- 2) Evaluating and quantifying the Town of Chatham's existing and future contributions to nitrogen loading of coastal embayments and freshwater ponds from on-site septic systems over the project planning period;

Strategies (continued)

CCC DRI Review Documents

- Joint Review Process form
- Additional reports and studies as needed

These get approved with a
CCC Decision



CAPE COD COMMISSION

3226 MAIN STREET
P.O. BOX 226
BARNSTABLE, MA 02630
(508) 362-3828
FAX (508) 362-3136
E-mail: frontdesk@capocodcommission.org

DATE: SEPTEMBER 20, 2007

TO: JOHN KLIMM, TOWN MANAGER
MARK ELLS, SUPERINTENDENT, DEPT OF PUBLIC WORKS

FROM: CAPE COD COMMISSION

RE: DEVELOPMENT OF REGIONAL IMPACT
CAPE COD COMMISSION ACT, SECTIONS 12 & 13

APPLICANT: TOWN OF BARNSTABLE
MAIN STREET
HYANNIS, MA 02601

PROPERTY OWNER: TOWN OF BARNSTABLE, MASSACHUSETTS

COMMISSION PROJECT#EOEA#6553/ BARNSTABLE WASTEWATER FACILITIES PLAN

PROJECT LOCATION: WATER POLLUTION CONTROL FACILITY
BEARSES WAY, HYANNIS, MA

DECISION OF THE CAPE COD COMMISSION

Strategies (continued)

Possible (linear) step by step process

- Complete CWMP (5 step process: POS, NAR, ASAR, DCWMP, FCWMP)
 - Get Town support
- File ENF (*and get Certificate)
- Complete DEIR *
- Complete FEIR*
- File DRI Application
 - Complete needed studies and get CCC Decision

Strategies (continued)

Possible Combined Process No. 1

- Complete first 4 steps of CWMP process: POS, NAR, ASAR, DCWMP)
 - Receive Town support
- File Expanded ENF (ENF combined with DCWMP) and Joint Review Application (*and get Certificate)
- Complete combined FCWMP and FEIR *
- Receive final CCC DRI Decision

Strategies (continued)

Possible Combined Process No. 2

- File POS, ENF, and Joint Review Form at same time (*and get Certificate)
 - Possibly request special review process
- Complete and file NAR *
- Complete and file ASAR *
- Complete and file combined DCWMP and DEIR *
- Complete and file combined FCWMP and FEIR *
- Receive final CCC DRI Decision

Strategies (continued)

Possible Combined Process No. 3

- Complete first 3 steps of CWMP process (POS, NAR, ASAR)
 - Receive Town support
- File ENF and Joint Review Process application (*and get Certificate)
- Complete combined DCWMP and DEIR *
- Complete combined FCWMP and FEIR *
- Receive final CCC DRI Decision

Provincetown Case Study: 1996 to 2001

History

Modified Combined Process No. 2

- Filed POS
- Filed ENF and Joint Review Form at same time and requested Special Review Process (*and received Certificate)
- Completed and filed NAR *
- Completed and filed ASAR *
- Completed and filed combined DCWMP and DEIR *
- Completed and filed combined FCWMP and FEIR *
- Received final CCC DRI Decision

Falmouth -WFH Case Study: 1998 to 2001

History

Combined Process No. 2

- Filed POS, ENF, and Joint Review Form at same time (*and received Certificate)
- Completed and filed NAR
- Completed and filed ASAR
- Completed and filed combined DCWMP and DEIR *
- Completed and filed combined FCWMP and FEIR *
- Received final CCC DRI Decision

Barnstable Case Study: 1980s to 2007

History

Modified Process No. 2

- Completed and filed NAR in 1993
- Completed ASAR, filed NOPC, and requested Special Review Process (*and received Certificate)
- Filed additional NOPC for implementation projects *
- Completed and filed combined DCWMP and DEIR *
- Completed and filed combined FCWMP and FEIR *
- Received final CCC DRI Decision

Chatham Case Study: 1997 to 2009

History

Modified Process No. 2

- Filed POS
- Filed ENF and Joint Review Form at same time and requested Special Review Process (*and received Certificate)
- Completed and filed NAR *
- Filed NOPC *
- Completed and filed combined ASAR, DCWMP and DEIR *
- Completed and filed combined ASAR, FCWMP and FEIR *
- Received final CCC DRI Decision

Falmouth – S. Coast Estuaries Case Study: 2007 & Ongoing

History

Combined Process No. 3

- Completed first 3 steps of CWMP process (POS, NAR, ASAR)
 - Received Town support
- Filed ENF and Joint Review Process application (*and received Certificate)
- Will submit combined DCWMP and DEIR (late 2009)
- Will submit combined FCWMP and FEIR
- Will get final CCC DRI Decision

Orleans Case Study: 2005 & Ongoing

History

Combined Process No. 1

- Completed first 4 steps of CWMP process: POS, NAR, ASAR, DCWMP)
 - Received Town support
- Filed Expanded ENF (ENF combined with DCWMP) and Joint Review Application (*and received Certificate)
- Will submit combined FCWMP and FEIR
- Will get final CCC DRI Decision

Additional Cape Projects

Mashpee

Dennis

Eastham

Yarmouth

Harwich

Navigating the CWMP Regulatory Approval Process:

Strategies and Case Studies

Questions and Discussion

