

From: Matt Poole <mpoole@edgartown-ma.us>
Sent: Friday, December 23, 2022 12:46 PM
To: James Malkin <jimmalkin@gmail.com>
Cc: Tim Carroll <townadministrator@chilmarkma.gov>; Katie Carroll (squidrow@vineyard.net) <squidrow@vineyard.net>; Jane Slater (slaterjn@comcast.net) <slaterjn@comcast.net>; Anna McCaffrey <amccaffrey@chilmarkma.gov>; Bill Rossi (bill.rossi@compass.com) <bill.rossi@compass.com>; Warren M. Doty (warrenmdoty@gmail.com) <warrenmdoty@gmail.com>
Subject: Re: Request for comment regarding proposed DEP regulatory changes

This email below from Andrew Osai at DEP to Tisbury who was gauging the DEP's receptiveness of nitrogen calculations generated in house. I've changed the key takeaways to red font with the following thoughts from me 1 through 3 below in corresponding order:

1. can't get SRF \$\$ without a CWMP,
2. **alternative technologies** means: enhanced treatment systems that are not in the General Use approval category. The kicker for Chilmark is: conventional technologies also potentially means central sewer. That ain't gonna happen in Chilmark. For onsite systems, the two best performers, NitROE and Nitrex, are not ranked in the General Use category (yet) and don't fall within the Conventional definition. As of this writing, that means the best technologies that might actually potentially allow us to meet the TMDL, must be changed out (as in replaced) if they fail to perform. Probably won't end up being a big issue but kind of a tricky point in all this.
3. Clearly, there are a number of benefits to going the 20 year watershed permit route. The primary one is in #1 above, access to low interest money to fund the work.

I think one thing that all the island towns might want to point out during the comment period is: the need for the towns to also receive funding from the state (in addition to the property owners receiving SRF upgrade funding), to support the administrative work to oversee all aspects of this program in the towns. Some form of additional staffing is going to be necessary once this program gets underway in a few years.

Happy Holidays Y'all --

Matt

From: Osei, Andrew (DEP) <andrew.osei@state.ma.us>
Sent: Thursday, December 15, 2022 2:12 PM
To: Maura Valley <mvalley@tisburyma.gov>; Michael Loberg <mdloberg@gmail.com>
Cc: Jones, Timothy M (DEP) <timothy.m.jones@state.ma.us>; Langley, Lealdon (DEP) <lealdon.langley@state.ma.us>; Martin, Gerard (DEP) <gerard.martin@state.ma.us>
Subject: Tisbury's Lake Tashmoo, Watershed Permitting, and Title 5 NSA revisions

*Please see the attached regulation. As required by 310 CMR 44.00, **0% interest on nutrient removal projects require an approved Comprehensive Watershed Management Plan (CWMP).** This incentivizes comprehensive wastewater management planning as MassDEP believes comprehensive planning is the best approach for wastewater management solutions for nutrient removal.*

*With respect to your question about use of Innovative/Alternative Title 5 systems, MassDEP is not an advocate for any specific technology or manufacturer. It is the responsibility of the town to present the desired pathway towards compliance with the surface water quality standards using the Total Maximum Daily Load (TMDL) nitrogen reduction threshold targets. Per the proposed Watershed permit regulations and advised in CWMP/Targeted Watershed Management Plans (TWMP) reviews, **all alternative technologies prescribed in a plan must be backed up by a conventional technology.** Innovative/Alternative Title 5 systems that have not received general use approval are considered alternative technologies. Within the watershed permitting framework, the conventional technology does not necessarily need to be implemented if the alternative technology consistently meets the nitrogen removal obligations established within the watershed permit. If the alternative technology demonstrates that it is not a long-term sustainable solution for nitrogen removal, then the permittee will have to rely on the conventional strategies to assure that the reduction levels required by the watershed permit are consistently met.*

Towns that obtain a watershed permit will not have to fulfill the Title 5 proposed 5-year NSA requirement.

Towns that opt to not get a watershed permit leave themselves at risk of not meeting surface water quality standards and could be subject to litigation by third parties as the reduction realized may not be enough. Watershed Permits also build a basis for ongoing technical assistance with towns and MassDEP as they work to meet the surface water quality standards in their embayment. Title 5 does not set up a similar structure or basis for ongoing technical assistance.

Lastly, nitrogen reduction calculations are best reviewed within the context of permit applications or Massachusetts Environmental Policy Act (MEPA) wastewater plan report review where we require technical memos to document the methodology of calculation and the basis of the approach. MassDEP will be working closely with the Town and its engineering consultants as the Town continues to update their CWMP and, hopefully, apply for a watershed permit in the future.

Thanks

Drew Osei, P.E. - Environmental Engineer

Wastewater Management - Cape & Islands

MassDEP

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Lakeville, MA 02347

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(857) 383-7042 (Mobile)

Andrew.Osei@mass.gov

On Thu, Dec 22, 2022 at 8:52 PM James Malkin <jimmalkin@gmail.com> wrote:
I will follow Matt Poole on this and hope the towns can act in concert.

JMM

jimmalkin@gmail.com

617 416 2984

Getting older is no problem. You just have to live long enough.

On Dec 23, 2022, at 03:11, Tim Carroll <townadministrator@chilmarkma.gov> wrote:

Senator asking for technical feedback and draft suggestions from the towns.

Tim Carroll

Town Administrator

Town of Chilmark

508-645-2101 O 508-627-0034 M 508-645-2110 F

From: Cyr, Julian (SEN) <Julian.Cyr@masenate.gov>

Sent: Thursday, December 22, 2022 2:07 PM

To: Alex Morse <amorose@provincetown-ma.gov>; Darrin Tangeman <dtangeman@truro-ma.gov>; Rich Waldo <Richard.Waldo@wellfleet-ma.gov>; jbeebe@eastham-ma.gov; Peter Lombardi <plombardi@brewster-ma.gov>; jgoldsmith@chatham-ma.gov; Joe Powers <jpowers@town.harwich.ma.us>; esullivan@town.dennis.ma.us; rwhritenour@yarmouth.ma.us; Ells, Mark <mark.ells@town.barnstable.ma.us>; rcollins@mashpeema.gov; Libby Gibson <LGibson@nantucket-ma.gov>; jhagerty@edgartown-ma.us; John Grande, Town Administrator <jgrande@tisburyma.gov>; townadmin@westtisbury-ma.gov; Deborah Potter <dpotter@oakbluffsma.gov>; townadministrator@aquinnah-ma.gov; townadministrator@chilmarkma.gov

Cc: Holcomb, Michael (SEN) <Michael.Holcomb@masenate.gov>; Ganz, Elizabeth (SEN) <Elizabeth.Ganz@masenate.gov>

Subject: Request for comment regarding proposed DEP regulatory changes

Dear Cape and Islands Town Administrators/Managers,

As you are all likely all now aware, MA Department of Environmental Protection (DEP), announced this past Friday the extension of the public comment period on the draft regulations revising Title V (310 CMR 15.000) and the new Watershed Permitting regulations (314 CMR 21.00) through the end of January.

Broadly, I am in favor of these updated regulations. Cape Cod's \$4 billion dollar water quality problem requires that we work in concert to meet the need to reduce nutrient pollution that imperils our greatest resource: our pristine water. Prior generations of Cape Codders and Islanders repeatedly kicked the can down the road on this issue, that choice is

no longer available to us. Investing in wastewater infrastructure also helps solve the region's other dire crisis: housing.

With that, I am eager to hear from all of you regarding technical changes or input you would wish to have communicated to DEP as they develop final regulations. I am aware of the concerns these proposed regulations have caused members of the public and likely to some of you. The details in these final regulations very much matter. By working together, my hope is that we can deliver coordinated feedback to DEP that will result in technical adjustments to these regulations that will both robustly help our region combat its nitrogen pollution problem while ensuring that the cost to towns and homeowners can be managed and kept to a reasonable rate.

To that end, I have, and will continue to, work furiously to bring resources here to address our water quality crisis. SRF eligible projects now can obtain additional capital forgiveness by accessing funds made available to all Cape towns by the Cape Cod and Islands Water Protection Fund, established in 2018. To date, the Cape Cod and Islands Water Protection Fund has provided \$31 million in additional direct subsidy to the region's water quality projects. Furthermore, in the recently passed H.5374 *An Act relating to economic growth and relief for the Commonwealth*, I worked for and secured \$15,000,000 earmarked to the Massachusetts Clean Water Trust to be expended for costs associated with planning and implementing water pollution abatement projects in any watershed that will be designated a nitrogen sensitive area by the DEP (most of our watersheds meet this criteria).

With public comment extended to the end of January, I ask that towns provide technical feedback and suggestions to the draft regulations to my office by Friday January 20th, if not sooner. Liz Ganz (Chief of Staff) and Michael Holcomb (District Director) can provide ongoing assistance in my office. We will work in close partnership with my colleagues in the Cape & Islands Legislative delegation to share technical edits and suggestion in union. I welcome your feedback and thank you for your ongoing partnership on this, and so much else.

Wishing you a happy and restful holiday.

Cheers, Julian

Julian Cyr
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