

From: Virginia Valiela [mailto:valielav@hotmail.com]
Sent: Tuesday, November 18, 2014 3:33 PM
To: Paul Niedzwiecki; Patty Daley; Erin Perry; Tom Cambareri
Subject: Comments on Draft Section 208 Update

Dear Cape Cod Commission,

You have done an amazing job over the past two years in raising public awareness about nutrient management on the Cape and changing the dialog about how management problems should or could be addressed. In the 1970's, the Cape Towns all realized that water supplies and water pollution crossed political boundaries, but the approach to solving problems has remained at the town-by-town level for the last 40 years. Likewise, State and Federal regulatory assistance or dictates have also been municipally focused.

Approaching issues from a watershed basis is a major paradigm shift, admirable and practical in concept but hard to accomplish in detail. The Draft Section 208 Update aims to provide the tools to deal with nutrient management challenges on a watershed basis, and proposes changes in regulatory structure and authority to accomplish clean-up goals. Not easily done. I believe the current Update is a work-in-progress, with at least two important pieces not yet ready for public review: compliance monitoring standards due in January 2015; and implementation regulations for the Special Review Procedure due from MassDEP by March 15, 2015. Below are my comments on the Update as it presently stands.

1. No issues in Chapters 1, 2 and 3, although I am sure the science and the tools will continue to be refined. In these chapters, the Update pulls together an enormous amount of information, and provides it in a form accessible to the interested layman as planning moves forward.

2. Chapter 4. I am concerned that the concept of "Targeted Watersheds" has become blurred. As originally explained to me, there are two types of watersheds comprising the 57 watersheds to coastal embayments: shared [in two or more towns] or targeted [within one town], but that clarifying statement is not made in the Update as far as I could tell. Instead, on Page 4-2, the heading is "TARGETED WATERSHEDS" and the discussion is about both 'targeted' AND 'shared' watersheds. Figure 4.2 is labeled "Shared Watersheds", but actually shows both 'shared' and 'targeted' watersheds, although neither category is so labeled. The Recommendation R4.4 is for "Targeted Nutrient Management Plan minimum performance standards...." but those standards would/should also apply to 'shared' watersheds.

I believe this section needs a careful review and re-write for consistency. I also think the words 'targeted' and 'shared' should appear in the Glossary as technical terms with specific meanings.

3. For some reason, the numbering of various Recommendations in Chapter 4 is scrambled [see attached verbatim listing of Recommendations]. Also there is no Recommendation R4.3, or it was missed/lost.

4. The seven Recommendations in Chapter 5 [see listing] go to the heart of the regulatory changes that are proposed. It remains to be seen whether the Boards of Selectmen of the 15 towns really know and understand these Recommendations and are prepared to act on them by June 30, 2015 [R5.6]. That seems like a rather aggressive date, considering that the Sec. 208 Update itself won't be finalized before that same date, and as noted above, the DEP implementing regulations won't be available for review before March 15, 2015. I believe the Selectmen will want to know what they are voting on. It does make sense to "convene a Water Management Agency task force" [R5.6] to formulate what the WMA's in the 15 towns might look like, but in order to be effective and meaningful, the task force must have either a Town Manager or a Selectman from each of the 15 Towns on board.

5. Recommendation R5.7 "MassDEP should mandate....water pollution abatement district[s]...as of June 30, 2015." Again, I don't think that deadline is realistic because the actions in Comment #4 need to come first. A deadline like December 2015 would be more workable.

6. Chapter 6. The role that Joint Base Cape Cod will play in the new watershed paradigm is both important and complicated; there are lot of potential outcomes. To date, the four surrounding Towns have had minimal conversations with JBCC regarding wastewater; recent dialogue has been mainly between the CCC and JBCC. The Base has already taken many steps to manage its nutrient load responsibly. The Base is a very important neighbor to the four upper-cape Towns because of the past history of groundwater contamination and the creation of the Upper Cape Water Supply Reserve. It should be noted that because the Base is already sewered, and the discharge site for the Class 1 treated wastewater is just 200' landward of the Cape Cod Canal, the four towns can proceed on their own with their initial watershed planning because there is no nutrient 'load' from the Base's portion of the shared watershed[s].

7. Chapter 7. Cost and Financial Affordability. The sewerage costs are astronomical. The costs of many of the 'alternatives' are significant. Hopefully, some of the Demonstration Projects may bring the cost down somewhat more. Only long range financial planning at the Town level [which means there must be a consensus of what projects have priority] AND some reliable outside funding sources [State and/or Federal] will make a dent in the problem of meeting the TMDL's. There is a lot of work still to be done in this area.

8. Glossary -- a lot of commonly used acronyms are missing: CWMP, CWA, SRP, NPDES...

Thank you for the opportunity to comment.

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DRAFT

CAPE COD AREA WIDE WATER QUALITY MANAGEMENT PLAN UPDATE

Prepared by the Cape Cod Commission and dated AUGUST 2014

LIST OF RECOMMENDATIONS

I=Information R=Regulatory Reform S=Support F=Funding/cost

- S1.1 As part of the Sec.208 Plan Update, the Commission suggests a process or guidance for managing disagreement among parties be developed. P.1-7
- R4.4 Targeted Nutrient Management Plan (TNMP) minimum performance standards and guidance will be drafted and issued pursuant to this Update within 90 days of its approval. P.4-2
- S4.3 Hybrid Watershed Planning Approach P.4-12
- S4.1 That the Cape Cod Commission establish criteria for eligible pilot projects. P.4-12
- I4.1 Performance monitoring and compliance monitoring be required for all technologies. P.4-12
- R4.1 Each watershed will develop an Adaptive Management Plan. P.4-12
- R4.2 Wastewater planning and permitting at the watershed, municipal and regional level shall complete a Sec..208 Plan Update Consistency Review. P.4-16
- S4.2 Cape Cod Commission will create and assign Watershed Teams to provide technical assistance at the local level. P.4-18
- R5.1 US EPA should delegate its authority under the CWA[Clean Water Act] to the Commonwealth of Massachusetts to issue and enforce NPDES permits. P.5-8
- R5.2 MassDEP should consider designating Nitrogen Sensitive Areas. P.5-8
- R5.3 MassDEP should develop a watershed permit. P.5-11
- R5.4 The Commission should amend its regulations to accommodate for the unique nature of capital wastewater management planning. P.5-13
- R5.5 The Commission and MEPA should make changes to regulations for projects designed pursuant to the Sec. 208 Plan Update that are reviewed jointly by both agencies. P.5-15

R5.6 The Cape Cod Commission, the designated Sec.208 regional planning entity, should convene a WMA task force to evaluate waste management agency(ies) for watersheds in the planning area for designation by June 30, 2015. P.5-22

R5.7 MassDEP should mandate the formation of a water pollution abatement district(s) in any planning area watershed without a designated waste management agency(ies) as of June 30, 2015. P.5-25

S6.1 Discussion and coordination with JBCC, MassDevelopment and the CCC regarding a no-net nitrogen land use policy for the base. P.6-13

S6.2 Coordination between MassDOT and the CCC should be continued. P.6-14

I7.1 A regional water quality data warehouse should be established and Barnstable County should assume responsibility for monitoring and maintaining regionally-consistent data sets that are freely accessible to the public. P.7-7

F7.1 This plan recommends MassDEP exercise its discretion in providing principal forgiveness up to 25%. P.7-8

F7.2 The Governor should make these funds available to Cape Cod for monitoring programs and pilot projects that are consistent with this 208 Plan Update. P.7-8

F7.3 A Cape Cod Capital Trust Fund for infrastructure financing should be Established. P.7-9