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CAPE COD
COMMISSION

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Minutes
Outer Cape
208 Workshop- Waste Management Agencies
Wednesday, April 8, 2015 1:00 p.m.
Truro Community Center
Truro, MA

Paul Niedzwiecki, Executive Director of the Cape Cod Commission, welcomed everyone to the meeting. He said the purpose of the meeting was to discuss Waste Treatment Management Agency designations as prescribed by Section 208 of the Clean Water Act. He explained that the Commission is required to designate WMAs in the plan. A WMA refers to the entities, body or bodies that have been designated to be responsible for the implementation of the Clean Water Act Section 208 Plan Update. The Commission listed all of the existing eligible entities in the 208 Update. These entities include the 15 towns and around 20 other independent agencies, which are capable of meeting WMA federal requirements. It has always been the Commission's intent to nominate the 15 towns as WMAs. Mr. Niedzwiecki said that if a town has a Comprehensive Wastewater Management Plan, facilities plan or a facility then it is already the responsible party.

Mr. Niedzwiecki reviewed the responsibilities of a WMA:

- Carry out the areawide waste treatment management plan;
- Manage waste treatment works and related facilities;
- Directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;
- Accept and utilize grants, or other funds from any source, for waste treatment management purposes;
- Raise revenues, including the assessment of waste treatment charges;
- Incur short- and long- term indebtedness;
- Assure in implementation of an areawide waste management plan that each participating community pays its proportionate share of treatment costs;D

- Refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and
- Accept for treatment industrial wastes.

Mr. Niedzwiecki said that all 15 towns meet the requirements.

Mr. Niedzwiecki said that the Cape Cod Commission would like town feedback on the designation of WMAs from towns. He explained that there would be a series of three Mid Cape meetings that would focus on two watersheds for discussion purposes.

Mr. Niedzwiecki said the timeline for WMA designations will begin in April with a meeting to discuss the principles for establishing allocation of nitrogen responsibility. There will be two meetings in May. The first meeting will cover the development of watershed scenarios, none of which are intended to be adopted as an actual plan. The scenarios are intended to show possibilities and address any political issues. The second meeting in May is to discuss organization and institutional structures. The Commission will bring in outside counsel and provide an opportunity for towns to ask questions of outside counsel and each other. The timeline ends with the June 1st designation.

Mr. Niedzwiecki said the first step in allocating nitrogen responsibility is to come to an agreement on terms. He introduced Erin Perry, Special Projects Coordinator who reviewed terms, all of which are included in the 208 Plan Update. The terms include:

- Natural attenuation of nitrogen: the naturally occurring retention or reduction of nitrogen in wetlands or ponds.
- Unattenuated load: the nitrogen load deposited within the watershed.
- Attenuated load: the nitrogen load from the watershed that reaches the embayment after the effect of natural attenuation in wetlands or ponds.
- Controllable load: wastewater, fertilizer and stormwater. The Commission calculates controllable load the same as Massachusetts Estuaries Project calculates it, but the Commission uses updated land use and water use information.
- Buildout: the total of new development and redevelopment that is projected to occur over a planning horizon, typically 20 years.
- Watershed: an area of land that drains to a common receiving body of water.
- Embayment: a bay or physical conformation resembling a bay.
- Sub-embayment: a cove within an embayment.

Mr. Niedzwiecki used the Commission's watershed viewer to show a map with the Cape's 101 watersheds, a map of the 53 shared watersheds and highlighted the shared subembayments. He said the shared subembayments are areas with

municipal overlap. This overlap is the reason why there needs to be an agreement on terms and a discussion on nitrogen responsibility.

Mr. Niedzwiecki said for discussion purposes Wellfleet Harbor would be the subembayment that would be discussed at the meeting. He explained that existing nitrogen responsibility within the subembayment is calculated using existing attenuated controllable load, future responsibility will be calculated using buildout unattenuated controllable load.

He said the TMDL target for Wellfleet Bay is 24,774 kg. This number represents how much nitrogen the subembayment can handle without becoming eutrophic. He said the existing load is shared by the towns of Eastham (3,497 kg), Truro (523 kg) and Wellfleet (29,012 kg.). The percentage responsibility for attenuated existing load is 11% Eastham, 2% Truro and 88% Wellfleet. The total nitrogen that needs to be removed to meet water quality standards is 8,258 kg. Existing nitrogen responsibility in kilograms, or how much nitrogen each town needs to remove in kilograms is 3,497 for Eastham, 523 for Truro and 29,012 for Wellfleet. The buildout unattenuated increases to 3,867 kg. for Eastham, 821 kg. for Truro and 42,469 kg. for Wellfleet. The percentage responsibility from unattenuated buildout is 8% Eastham, 2% Truro and 90% Wellfleet. The total nitrogen to be removed from buildout attenuated load is 22,383 kg. The nitrogen that needs to be removed when looking at unattenuated buildout is 3,867 kg. for Eastham, 821 kg. for Truro and 42,469 kg. for Wellfleet.

Mr. Niedzwiecki said the Commission has come up with five principles for allocating nitrogen responsibility:

1. Assign responsibility at the subembayment level
2. Start with unattenuated load and apply attenuation where available
3. Calculate existing responsibility from existing attenuated nitrogen load
4. Calculate future responsibility from unattenuated potential nitrogen load
5. Data updates every five years with option and process for local modifications

Mr. Niedzwiecki said the principles will be applied in the subembayments at the next meeting. The third meeting will be a discussion on legal issues. The Commission would like to meet with the 15 towns, share the watershed reports that have been prepared for the 53 shared watersheds and gather feedback. The designation will be submitted to MassDEP on June 1, 2015. The Commission does not have the authority to force a town to act. The 208 process is to help towns address the problem and make it an easier process with the tools and assistance from Commission staff.

An attendee asked why current nitrogen responsibility is calculated on attenuated nitrogen load and future responsibility is calculated with unattenuated nitrogen load. Mr. Niedzwiecki said attenuated nitrogen load is the best information available for the problem we face now. He said that from a growth management

perspective unattenuated load provides uniform numbers across the Cape but that the Commission is willing to use a better method.

An attendee asked what the consequences would be if a town fails to act. Mr. Niedzwiecki said there are a number of enforcement mechanisms, but he is not overly concerned about enforcement because towns understand the problem and are working to fix it. He said the inflexible regulatory system acted as an impediment to previous planning. The 208 Plan and process has reduced some barriers to compliance and made it easier to implement more creative solutions that are more suitable to our region.

Mr. Niedzwiecki said that the designation of towns as WMAs is due to MassDEP on June 1st. US EPA is going to look for action by towns over the next 12 months (June 2015-June 2016). The Commission has worked on a series of watershed reports that show the hybrid process in shared watersheds. These will be shared with communities for feedback and will set the parameters for discussions between communities.

Mr. Niedzwiecki thanked everyone for coming.

The meeting ended at 2:00.