



# Regulation

BREAKOUT SESSION | JUNE 24, 2016

Kristy Senatori, Cape Cod Commission

Gary Moran, MassDEP

DJ Johnston, MassDEP



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Kristy Senatori, Cape Cod Commission

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# Regulatory Streamlining

strategies to successfully implement established water quality goals

## TARGETED



Targeted watershed plans reduce upfront planning time, lower cost & focus attention where most needed



Reductions in fertilizer use and stormwater runoff, supported by performance monitoring, should lower nitrogen reduction targets



## REDUCTION CREDITS

## WATERSHED PERMIT

WMAs allocate nitrogen loads on a watershed basis. The watershed permit lists technology options identified for implementation by stakeholders & each permittee's specified annual discharge limit.

# WMA Regulatory \ Status

	Shared Watershed Planning	MEPA Certificate	CCC Approved or In Review Process
Barnstable	●	●	●
Bourne	●		
Brewster	●		●
Chatham	●	●	●
Dennis	●		
Eastham	●		
Falmouth	●	●	●
Harwich	●	●	●
Mashpee	●	●	●
Orleans	●	●	●
Provincetown		●	●
Sandwich	●		
Truro			
Wellfleet	●		
Yarmouth	●		

● Post 208 Plan Update    ● Prior to 208 Plan Update



## APPLICANT files:

- MEPA Environmental Notification Form (ENF)
- CCC DRI Application

*Within 20-day MEPA comment period*

MEPA and CCC  
hold joint scoping session  
and public hearing

es:

Notification



20 day MEPA  
comment period

# CCC Subcommittee meets to consider report to MEPA

# MEPA issues certificate on ENF, scope of review



# Applicant files Draft Environmental Impact Report (FEIR)

*Within 30 day MEPA Comment Period*

MEPA and CCC  
hold joint public hearing

30 day MEPA  
Comment Period

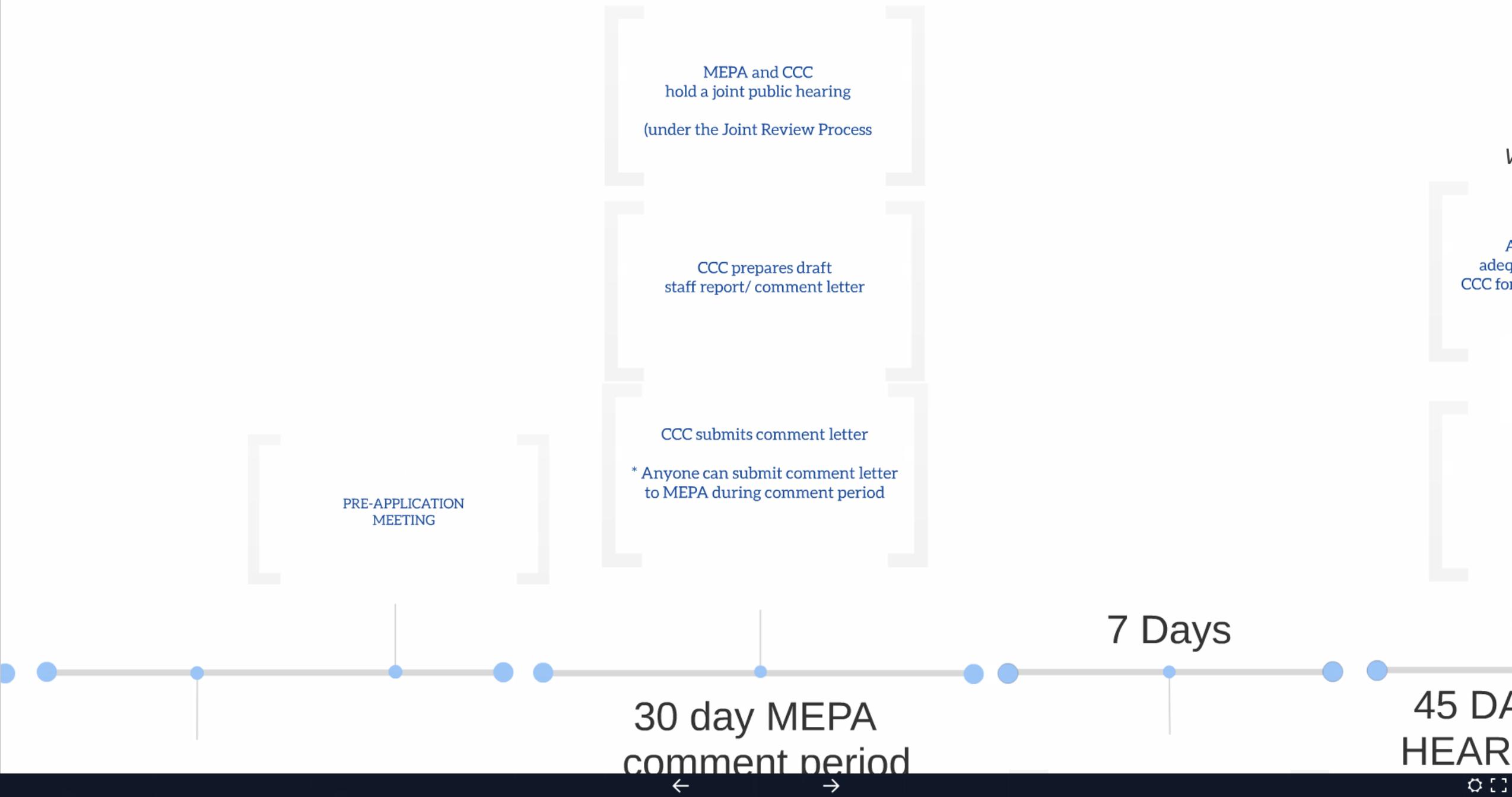
CCC Subcommittee meets to  
consider DEIR  
compliance report

**MEPA issues certificate on  
DEIR and issues be addressed  
in FEIR**

APPLICANT files  
EIR with  
MEPA

# PRE-APPLICATION MEETING

Within 30 day MEPA Comment Period



MEPA and CCC  
hold a joint public hearing  
(under the Joint Review Process)

CCC prepares draft  
staff report/ comment letter

# CCC submits comment letter

- \* Anyone can submit comment letter to MEPA during comment period

7 Days

A  
riod

45 D  
HEAR

MEPA issues  
certificate on EIR



*Within 45 days*

After final certificate of  
adequacy issues under MEPA...  
CCC formally begins review process

Applicants submits  
DRI application to  
CCCC

7 Days

90 day DRI Hea

**45 DAYS TO BEGIN  
HEARING PROCESS**

*Begins within 60  
Must be completed*



After final certificate of  
adequacy issues under MEPA...  
CCC formally begins review process

Applicants submits  
DRI application to  
CCCC

# 90 day DRI Hearing Period

N  
SS

60

*Begins within 60 days of referral  
Must be completed 90 days thereafter*

## CCC Begins public hearing process

- Hearing notice(s)
- Staff report(s)
- Public hearing(s)
- Subcommittee meeting(s)
- Draft Decision

*Within 60 days of the close of the hearing process*

CCC renders a decision on the DRI project

60 day DRI decision period

AC  
SRI





# ACCESS TO SRF FUNDS

# ORLEANS CWMP PROCESS

view: 20 MONTHS

Total Commission review:  
7.5 MONTHS plus a 60 day extension (requested by town)



May 2009

Orleans files EENF  
with MEPA

Joint Hearing on  
S/FEIR

Joint Hearing on  
EENF

January 28, 2011

Certificate issued on S/FEIR



# May 2009

Orleans files EENF  
with MEPA



# Joint Hearing on EENF



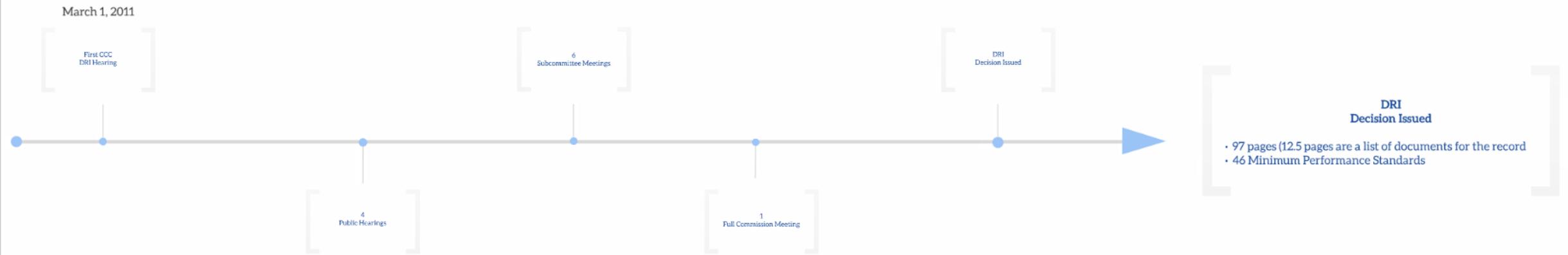
# Joint Hearing on S/FEIR

January 28, 2011

Certificate issued on S/FEIR

Total MEPA review: 20 MONTHS

# Total Commission review: 7.5 MONTHS plus a 60 day extension (requested by town)



March 1, 2011

First CCC  
DRI Hearing



4

# Public Hearings

6

# Subcommittee Meetings

1

# Full Commission Meeting

# DRI

## Decision Issued

## **DRI Decision Issued**

- 97 pages (12.5 pages are a list of documents for the record)
- 46 Minimum Performance Standards

# Special Review Procedure Pursuant to MEPA

Would allow certain targeted water quality improvement projects in Barnstable County that are consistent with the area-wide 208 plan update and which also require review under MEPA to move through the regulatory review processes more expeditiously

- -Expedited review for individual water quality improvement projects
- -Allows for review of TWMPs which promotes priority planning and cooperation in shared watersheds
- -Less time and fewer required regulatory filings to get plan and project approvals

# Draft 208 Consistency Review

All nutrient management planning in the region shall be subject to review for consistency with the Section 208 Plan Update.

*208 Plan Update Recommendation R3.7*

# Draft 208 Consistency Review

## General review requirements:

- WMA assumes responsibility for controllable nitrogen within its jurisdiction
- Plan meets nutrient reduction targets
- Watershed level planning considered a hybrid approach
- Public was engaged to obtain plan consensus
- Submission includes growth management strategy

# Draft 208 Consistency Review

## General review requirements (cont.):

- Plan includes Adaptive Management Plan
- Plan includes monitoring program
- WMA commits to 5-year 208 Consistency reviews
- In shared watersheds, WMA seeking certification shall collaborate with neighboring WMAs on nitrogen allocation, shared solutions, cost saving measures



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MassDEP

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# “Watershed Permit” Program Summary

- a new MassDEP wastewater management and impact mitigation permitting program
- initially offered as a Pilot Program to Cape Cod towns consistent with the updated 208
- provides a permitting mechanism to approve nontraditional methods of wastewater management and/or impact mitigation that could not otherwise be approved by MassDEP



# Permit Elements

- the program will allow the town to receive watershed specific permit/s based on an adaptive management approach rather than reliance solely on traditional technologies
- the Watershed Permit will be a renewable 20 year permit – based on up to a 40 year planning and implementation timeline
- obtaining and complying with a Watershed Permit is a demonstration that a Municipality is voluntarily taking appropriate steps to address wastewater and that additional regulatory action is not necessary



# Applicability and Process

- the Watershed Permit will be available to a Wastewater Management Agency (WMA)
- will need to develop a Comprehensive Wastewater Management Plan (CWMP) or a Targeted Watershed Management Plan (TWMP) for each permitted watershed
- in some case, Towns will be able to address subwatersheds with a Watershed Permit, but must address the entire watershed if it is completely within the Town's boundary
- it an umbrella permit; if it includes an actual discharge of treated or untreated wastewater, a typical discharge-specific MassDEP ground or surface water discharge permit will be required and incorporated



# Compliance and Program Withdrawal

- permittee can relinquish permit at any time
- MassDEP reserves the right to withdraw the permit if agreed upon milestones are not met or the plan is not implemented as proposed
- so long as permit is complied with and water quality standards are met, additional regulatory action will not be needed



# Watershed Permit Application

- the permit application will require submittal of a Watershed Permit Plan that addresses the pollutants of concern using an adaptive management approach to select the mitigation strategies
- the Plan will need to achieve compliance with established restoration targets for the receiving waters as identified in a TMDL or MEP report
- for nitrogen mitigation, compliance shall be demonstrated by the achievement of a threshold nitrogen concentration at a sentinel station or stations as identified in a TMDL or MEP report
- when there is an approved up-to-date 208 plan, the Watershed Permit Plan must be consistent with that document.



# Watershed Permit Plan

- describe the permittee's authority and ability to secure the necessary financing and permits and conduct or contract for all required activities
- delineate the boundaries of the entire watershed or subwatershed being permitted, and identify all parcels within the watershed(s) or subwatershed(s)
- when a watershed crosses a municipal boundary, appropriate consideration should be given for regional solutions, such as inter-municipal agreements or other mechanisms



# Adaptive Management

- the plan must include all the proven and alternative technologies/approaches to be used in the entire watershed
- for alternative technologies and approaches, the plan must include demonstration protocols, including monitoring, that will confirm efficacy
- the plan must include a timeline to evaluate effectiveness of alternative technologies and approaches to determine when they should be discontinued, expanded to other service areas, or replaced by other alternative technologies or approaches or proven technologies
- the plan must include a conceptual contingency plan which describes what proven technologies and approaches will be implemented to meet reduction targets in the event that some or all of the proposed alternative technologies and approaches fail to meet projected targets



# one cape

*implementing* solutions for clean water

June 23-24 | Resort and Conference Center at Hyannis