

“Watershed Permit” Program Summary

The Watershed Permit is a new MassDEP wastewater management and impact mitigation permitting program. The Watershed Permit is initially being offered as a Pilot Program to Cape Cod towns, consistent with the updated Cape Cod 208 Area-Wide Water Quality Management Plan, which provides for a watershed-based approach to restore embayment water quality on Cape Cod.

The Watershed Permit provides a MassDEP permitting mechanism to approve nontraditional methods of wastewater management and/or impact mitigation that could not otherwise be approved by MassDEP under a typical wastewater management and discharge permit. Obtaining and complying with a Watershed Permit is a demonstration that a Municipality is taking appropriate steps to address wastewater and that additional regulatory action is not necessary to ensure achievement of water quality standards.

Voluntary enrollment in 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 with customary discharge limit based permits. Towns will have the time to develop a Comprehensive Wastewater Management Plan (CWMP) or a Targeted Watershed Management Plan (TWMP) for each permitted watershed, along with the time to implement the proposed solutions of their plan. The Watershed Permit will be a renewable 20 year permit – based on up to a 40 year planning and implementation timeline - that provides built-in flexibility to try different methods of wastewater management and impact mitigation. The Watershed Permit will allow for alternative technologies and approaches to be utilized. The permit will include demonstration protocols for each alternative approach, generally for up to 5 years, along with requirements for support monitoring and testing to ensure that the proposed nitrogen reductions and removal efficiencies are met. The entire implementation schedule to achieve - or demonstrate that the reduction targets could be achieved through alternative technologies and adaptive management - cannot exceed the 20 year permit term. However, the permit can be renewed to implement a plan that will fully achieve watershed restoration goals using proven technologies and the alternative technologies that met performance goals and validation testing requirements. If the Watershed Permit proposes to include actual discharge of treated or untreated wastewater, a typical discharge-specific MassDEP ground or surface water discharge (5 year) permit will be required and will be incorporated into the Watershed Permit.

The Watershed Permit will be available to a Municipality or a Wastewater Management Agency (WMA). As part of the Cape Cod 208 Area-Wide Water Quality Management Plan update, each Cape Cod Municipality has been designated as a WMA. Like a Town, a WMA is a structured management entity with the ability to raise revenue and expend funds on planning and capital improvement projects, like wastewater management. Cape Cod Municipalities will have a deadline for enrollment in this voluntary permit program. In order to enroll, communities would have to demonstrate community support and a willingness to operate as a WMA.

After enrolling in the program, a WMA would submit the Watershed Permit Application package to MassDEP which would include either a CWMP or a TWMP that uses an adaptive management approach to meet water quality goals over a period of up to 40 years.

1. The Watershed Permit Application must be consistent with an approved, up-to-date, Section 208 Plan if one has been developed for the watershed being permitted.
2. Before submitting the Watershed Permit Application, the CWMP or TWMP the application is based on must go through MEPA review (Cape Cod plans must also undergo Cape Cod Commission District of Regional Impact Review).
3. In some cases, 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.
4. Nitrogen and any pollutant with a TMDL must be addressed in the permit application, but towns may include additional pollutants in their plan if they choose to.
  - a) The CWMP or TWMP for the watershed being permitted must include an adaptive management approach that utilizes one or more technologies to meet water quality goals if they perform as expected. The plan will need to identify "core sewer collection areas" if they are known or believed to exist in the watershed or subwatershed. The plan will also need to provide a back-up plan of proven technologies (wastewater collection and treatment along with I/A Title 5 systems) that will meet water quality goals if nontraditional technologies fail.
  - b) The watershed permit application will need to include compliance points for short-term monitoring of alternative technologies, along with a protocol for technology validation to insure alternative technologies are meeting efficacy and anticipated load reductions. Overall compliance will be demonstrated through sentinel station monitoring or other means as approved by MassDEP.
  - c) In that the program is voluntary, a Town may surrender its Watershed Permit to MassDEP at any time, but must comply with the permit prior to doing so.

The Watershed Permit would be issued, after the public notice process, for the number of years proposed by the WMA, up to 20 years. Built into the permit will be progress review checkpoints, generally between 3 and 5 years, intended to evaluate the ability of nontraditional technologies to meet expectations. General Conditions of the permit will define:

1. Quarterly monitoring for certain systems and annual progress reports
2. The permit modification process – by request of either the permittee or MassDEP
3. Process for permittee to relinquish the permit
4. Grounds for MassDEP to withdraw the permit

DEP reserves the right to withdraw the permit if agreed upon milestones are not met or the plan is not implemented as proposed. Prior to withdrawal, DEP would offer the permittee the opportunity to cure identified problems. If the permit is relinquished or withdrawn and water quality standards are not met, MassDEP's enforcement authority may be used to mandate establishment of a water pollution abatement district and submittal of a groundwater discharge permit application for traditional wastewater treatment technologies.

Note: This Program Summary is not final. The Department will be working with interested towns to further develop this guidance.