

# Department of Environmental Protection

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## BARNSTABLE WATERSHED PERMIT

Name and Address of Applicant: The Town of Barnstable  
Department of Public Works  
382 Falmouth Road  
Hyannis, Massachusetts 02601

Date of Application September 01, 2023

Watershed Permit Number 02

Date of Issuance DRAFT

Date of Expiration DRAFT

Effective Date DRAFT

### I. AUTHORITY FOR ISSUANCE

Pursuant to authority granted by Chapter 21 Section 27 of the Massachusetts General Laws and Section 2A of Chapter 259 of the Acts of 2014, the Massachusetts Department of Environmental Protection ("Department" or "MassDEP") hereby issues the following Watershed Permit ("Permit") to the Town of Barnstable ("Permittee"), subject to the terms and conditions set forth below.

\_\_\_\_\_  
Andrew F. Osei, PE  
Watershed Management Program  
Bureau of Water Resources

\_\_\_\_\_  
Date

## **II. PURPOSE**

- 1) The Town of Barnstable contains seven watersheds: the Popponesset Bay Watershed; Rushy Marsh Watershed; Barnstable Harbor Watershed, Three Bays System Watershed; Centerville River System Watershed; Halls Creek Watershed; and the Lewis Bay Watershed. Three of the seven watersheds are solely within the Town's borders: the Centerville River System Watershed; Rushy Marsh Watershed; and Halls Creek Watershed. The rest are shared with neighboring communities. Four of the seven watersheds have a Total Maximum Daily Load (TMDL) for nitrogen. MassDEP has issued Nitrogen TMDLs for Popponesset Bay (2006), Three Bays System (2007), the Centerville River System (2007), and Lewis Bay (2015). These watersheds are impaired by excessive Nitrogen, as demonstrated in each of the respective Massachusetts Estuaries Project reports ("MEP Report"), and the associated Total Maximum Daily Load (TMDL) Reports.
- 2) The purpose of this Permit is to authorize work needed to implement the Permittees' mitigation strategy and acknowledge progress, as set forth according to the Permittees' plan titled, Town of Barnstable Comprehensive Wastewater Management Plan, dated January 2020 ("CWMP"). The Permittee's CWMP fulfills the requirement in 314 CMR 21.03 to include a Watershed Management Plan (WMP) when applying for a Watershed Permit. This permit establishes the 2020 CWMP including the addendum to the CWMP as part of the application dated February 17, 2025 and titled, Town Responses to DEP Questions as the Permittee's WMP and additional updates provided for Tables 6-1 and 6-2 of the 2020 CWMP. In accordance with 314 CMR 21.05(1), the proposed activities, schedule, and facilities set forth in the WMP, including all Department-approved modifications, shall be enforceable requirements of, and incorporated into the Permit.
- 3) In accordance with applicable provisions of 314 CMR 21.05, this Permit establishes performance standards and timeframes under an adaptive management framework for achieving the water quality and habitat quality restoration goals. These goals are the metrics for fostering the protection of designated uses established by the Department for the Town of Barnstable's embayments under the Massachusetts Water Quality Standards, 314 CMR 4.00. Considering 314 CMR 4.00, all embayments covered by this permit are classified as SA. Popponesset Bay, Three Bays, and Centerville River System are classified as SA and SB.

## **III. REGULATED AREA**

- 1) The Permittee has voluntarily agreed to work to achieve the water quality and habitat quality restoration goals established by the MEP reports, Nitrogen TMDL reports, and subsequent scientific evaluations as referenced in the WMP for the respective watersheds.
- 2) The areas regulated under this Permit are Popponesset Bay Watershed, Rushy Marsh Watershed, Three Bays System Watershed, Centerville River System Watershed, Halls Creek Watershed, Lewis Bay Watershed, and Barnstable Harbor Watershed, as shown in Figure 1, which is attached hereto ("the Regulated Area").



- a. The Centerville watershed is completely within the municipal boundaries of the Town of Barnstable and has a Nitrogen TMDL report;
- b. The non-Nitrogen TMDL Halls creek watershed and Rushy Marsh watershed are completely within Barnstable's municipal town boundaries;
- c. The non-Nitrogen TMDL Barnstable Harbor watershed is a shared watershed and the area within Barnstable's municipal town boundaries are covered under this permit as a regulated area;
- d. The Nitrogen TMDL Popponesset Bay Watershed, Three Bays System Watershed, and Lewis Bay Watershed are shared watersheds and the areas within Barnstable's municipal boundaries are covered under this permit as a regulated area;

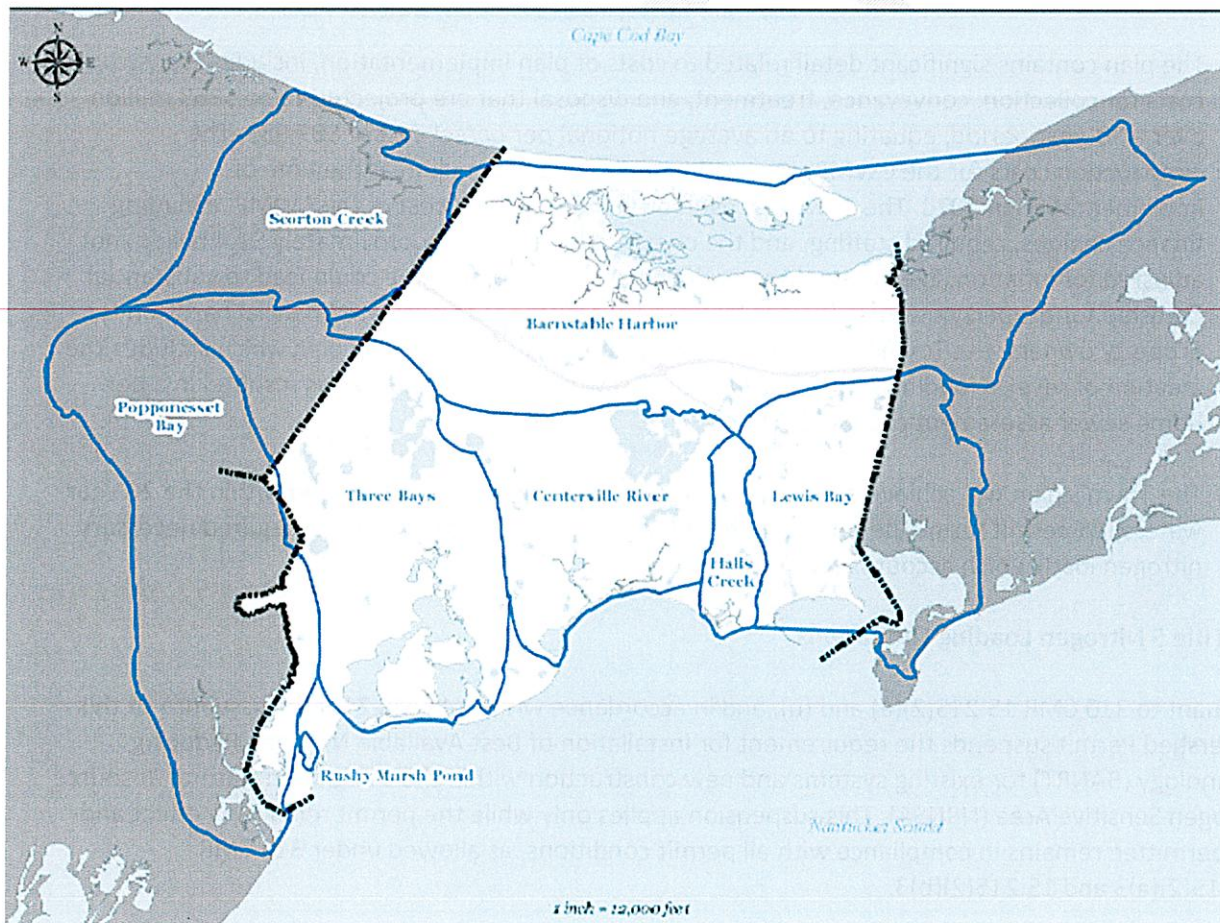


Figure 1. Town of Barnstable Watershed Regulated Area

#### **IV. SPECIAL CONDITIONS**

##### **A. Determination of Reasonable Progress**

The Department finds that the Watershed Management Plan (WMP) demonstrates reasonable progress in achievement of the required Necessary Nitrogen Load Reductions within the permit term due to the following items:

- 1) The Town has described logistical and technical feasibility constraints in completion of an extensive sewer expansion project (approximately 210 miles of sewerage) within a 20-year time frame, including project size, complexity and limitations on contractors.
- 2) The plan contains significant detail related to costs of plan implementation, including construction costs for collection, conveyance, treatment, and disposal that are projected to be \$863 million over a 30-year period, equating to an average notional per parcel cost of \$87,953. The construction costs for the CWMP were estimated to be \$863 million at the time of implementation in 2020. The Town has estimated that the total cost of the CWMP, including finance charges, required staffing, and the construction costs, is approximately \$1.4 billion, not adjusted for inflation. Execution of the project in a shorter timeframe could lead to substantial hardship for property owners. To provide financial assistance to alleviate financial hardship for property owners, the Town has developed and implemented a financing plan which includes the creation of several funding sources to offset the sewer assessments and has resulted in a per home sewer assessment cap of \$10,000.
- 3) The Town's plan will achieve a removal of 80% of unattenuated nitrogen load within the 20 year-watershed permit term. The unattenuated nitrogen load is greater than the required necessary nitrogen load, which accounts for attenuation.

##### **B. Title 5 Nitrogen Loading Limitations**

Pursuant to 310 CMR 15.215(2)(a) and (b), and in accordance with 314 CMR 21.03(1), issuance of this Watershed Permit suspends the requirement for installation of Best Available Nitrogen Reducing Technology (BANRT) for existing systems and new construction within the designated Natural Resource Nitrogen Sensitive Area (NRNSA). This suspension applies only while the permit remains in effect and the permittee remains in compliance with all permit conditions, as allowed under 310 CMR 15.215(2)(a)3 and 15.215(2)(b)3.

##### **C. Groundwater Discharge Permits**

The Department has issued Groundwater Discharge Permit #21 to the Town of Barnstable, which is incorporated herein by reference, and is one component of the implementation activities described in the WMP.



#### D. Implementation Schedule

The Rushy Marsh watershed, Halls Creek watershed, and the area within Barnstable's municipal boundaries of the Barnstable Harbor watershed do not have TMDLs and are therefore not Nitrogen Sensitive Areas (NSA). As there are no necessary nitrogen removal loads for those watersheds, the Permittee is not required to achieve removals in those watersheds and is encouraged to maintain existing assimilative capacity. The 2020 CWMP presents the results of a scientific evaluation of the proposed approach that satisfies the necessary nitrogen load reduction per sub-watershed to demonstrate that the proposed plan is modeled to meet the TMDL. 314 CMR 21.04(1) requires a Watershed Management Plan (WMP) to achieve the Necessary Nitrogen Load Reductions during the permit term or make reasonable progress toward achieving that goal. Per 314 CMR 21.02, Necessary Nitrogen Load Reduction is the estimated nitrogen load that must be reduced in order to foster restoration of the waterbody to applicable water quality and habitat quality standards that have been identified in a TMDL, Alternative Restoration Plan, MEP Report, or Scientific Evaluation as being necessary to meet the designated uses of the waterbody established by the Department under 314 CMR 4.00: Massachusetts Surface Water Quality Standards. The proposed plan presented in the 2020 CWMP is a 30-year plan which goes beyond the 20-year term of this permit. The Town plans to achieve a removal of 80% of unattenuated nitrogen load during the permit term in compliance with 314 CMR 21.04(1)(c). The use of unattenuated nitrogen loads in the watershed permit and watershed management plan is a conservative approach as the unattenuated nitrogen load is greater than the necessary nitrogen load. As defined in 314 CMR 21.00, necessary nitrogen load accounts for attenuation, which leads to a requirement for less nitrogen removal. Planning with the goal of unattenuated nitrogen load removal focuses on source reduction. The total proposed nitrogen load removal presented below is the load of nitrogen the Town is committed to removing during the 20-year watershed permit term.

The permittee is proposing to achieve load removal solely through sewer expansion; however, through adaptive management, the permittee may modify sewer extension plans based on the development of alternative strategies. The sewer expansion schedule and estimated unattenuated nitrogen ("N") removal from sewer expansion is the performance standard of compliance for this permit.

The Permittee shall take the following actions in accordance with the schedules in IV. Special Conditions, A through G below. These schedules are a culmination of Figure 5-1, Figure 6-1 and Table 6-2 of the WMP, which provide information from Table 6-1 and Table 6-2 of the 2020 CWMP that has been modified to reflect adaptive management changes in implementation schedule since the publication of the 2020 CWMP. This information was submitted as an addendum to the CWMP as part of the application dated February 17, 2025, titled, *Town Responses to DEP Questions* and the response to technical review of the draft permit dated April 18, 2025. These schedules are subject to adaptive management.

1. Centerville River

<b>Centerville River Watershed</b>			
Period	Years	Years	Unattenuated N Removal from Sewer Expansion (kgN/Year)
1	1 to 5	2022 to 2026	2,000
2	6 to 10	2027 to 2031	16,000
3	11 to 15	2032 to 2036	3,700
4	16 to 20	2037 to 2041	3,700
Total Proposed Nitrogen Load Removal (Years 1-20)			25,400
Total Proposed Nitrogen Load Removal (Years 1-30)			25,400

2. Lewis Bay

<b>Lewis Bay Watershed</b>			
Period	Years	Years	Unattenuated N Removal from Sewer Expansion (kgN/Year)
1	1 to 5	2022 to 2026	0
2	6 to 10	2027 to 2031	1,000
3	11 to 15	2032 to 2036	2,250
4	16 to 20	2037 to 2041	2,250
Total Proposed Nitrogen Load Removal (Years 1-20)			5,500
Total Proposed Nitrogen Load Removal (Years 1-30)			5,500

3. Popponesset Bay

<b>Popponesset Bay</b>			
Period	Years	Years	Unattenuated N Removal from Sewer Expansion (kgN/Year)
1	1 to 5	2022 to 2026	0
2	6 to 10	2027 to 2031	0
3	11 to 15	2032 to 2036	0
4	16 to 20	2037 to 2041	3,070
Total Proposed Nitrogen Load Removal (Years 1-20)			3,070
Total Proposed Nitrogen Load Removal (Years 1-30)			3,070

4. Three Bays

Three Bays			
Period	Years	Years	Unattenuated N Removal from Sewer Expansion (kgN/Year)
1	1 to 5	2022 to 2026	0
2	6 to 10	2027 to 2031	5,400
3	11 to 15	2032 to 2036	7,000
4	16 to 20	2037 to 2041	9,100
Total Proposed Nitrogen Load Removal (Years 1-20)			21,500
Total Proposed Nitrogen Load Removal (Years 1-30)			31,900

5. Barnstable Harbor

Barnstable Harbor			
Period	Years	Years	Unattenuated N Removal from Sewer Expansion (kgN/Year)
1	1 to 5	2022 to 2026	130
2	6 to 10	2027 to 2031	600
3	11 to 15	2032 to 2036	1,500
4	16 to 20	2037 to 2041	1,500
Total Proposed Nitrogen Load Removal (Years 1-20)			3,730
Total Proposed Nitrogen Load Removal (Years 1-30)			3,730

6. Halls Creek

Halls Creek			
Period	Years	Years	Unattenuated N Removal from Sewer Expansion (kgN/Year)
1	1 to 5	2022 to 2026	230
2	6 to 10	2027 to 2031	370
3	11 to 15	2032 to 2036	200
4	16 to 20	2037 to 2041	200
Total Proposed Nitrogen Load Removal (Years 1-20)			1,000
Total Proposed Nitrogen Load Removal			2,200



(Years 1-30)	
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- a) The strategy of sewer expansion set forth in Section IV.A.1. above is an enforceable requirement of the Permit, unless and until action is taken to modify the WMP by changing the strategy or the approved 20-year total proposed nitrogen load removal in accordance with the terms and conditions of the permit, 314 CMR 21.05(1), 314 CMR 21.06 (1), or withdrawal from the Permit in accordance with 314 CMR 21.10 (12). Any prospective changes to the WMP or the approved implementation schedule shall be presented in the five-year Annual Reports required by Section VI.10. of this Permit. Any such proposed changes are subject to the Department's review and approval through a WP96 application for major modification or WP97 for minor modification.

## E. Monitoring and Reporting

### 1. Sentinel Sampling Stations

The Permittee shall monitor water quality at the sentinel sampling stations in each corresponding watershed as shown and referenced in the MEP Report, and record the results, in accordance with the following:

#### a) Barnstable Harbor Sentinel Stations

Frequency	Sub Watersheds/Stations	Parameters	Sample Type
Four times per year between July and September	Barnstable Harbor (Barnstable Great Marshes) Sentinel Stations (BM-11, BM-13, BSH-4),	Particulate Organic Nitrogen (PON), Dissolved Organic Nitrogen (DON), Dissolved Inorganic Nitrogen (DIN), Dissolved Oxygen (DO), Chlorophyll a, Secchi Depth, salinity	Grab/Observation

#### b) Centerville River Sentinel Stations

Frequency	Sub Watersheds/Stations	Parameters	Sample Type
Four times per year between July and September	Centerville River Watershed Sentinel Stations (BC-T, BC-7), Scudder Bay Sentinel Station (BC-3)	Particulate Organic Nitrogen (PON), Dissolved Organic Nitrogen (DON), Dissolved Inorganic Nitrogen (DIN), Dissolved Oxygen (DO), Chlorophyll a, Secchi Depth, salinity	Grab/Observation



c) Lewis Bay Sentinel Station

Frequency	Sub Watersheds/Stations	Parameters	Sample Type
Four times per year between July and September	Lewis Bay Sentinel Station (BHY-3), Uncle Roberts Cove Sentinel Station (BHY-4), Hyannis Inner Harbor Sentinel Stations (BH-1, BH-2), and Mill Creek Sentinel Station (MC-1)	Particulate Organic Nitrogen (PON), Dissolved Organic Nitrogen (DON), Dissolved Inorganic Nitrogen (DIN), Dissolved Oxygen (DO), Chlorophyll a, Secchi Depth, salinity	Grab/Observation

d) Popponesset Bay Sentinel Station

Frequency	Sub Watersheds/Stations	Parameters	Sample Type
Four times per year between July and September	Sentinel Region Popponesset Bay (PBh)	Particulate Organic Nitrogen (PON), Dissolved Organic Nitrogen (DON), Dissolved Inorganic Nitrogen (DIN), Dissolved Oxygen (DO), Chlorophyll a, Secchi Depth, salinity	Grab/Observation

e) Three Bay Sentinel Stations

Frequency	Sub Watersheds/Stations	Parameters	Sample Type
Four times per year between July and September	The Narrows Region Sentinel Station (Unnamed), and North Bay Sentinel Stations (TB-5, TB-6)	Particulate Organic Nitrogen (PON), Dissolved Organic Nitrogen (DON), Dissolved Inorganic Nitrogen (DIN), Dissolved Oxygen (DO), Chlorophyll a, Secchi Depth, salinity	Grab/Observation

f) Rushy Marsh Sentinel Station

Frequency	Sub Watersheds/Stations	Parameters	Sample Type
Four times per year between July and September	Rushy Marsh Sentinel Station (RM-2)	Particulate Organic Nitrogen (PON), Dissolved Organic Nitrogen (DON), Dissolved Inorganic Nitrogen (DIN), Dissolved Oxygen (DO), Chlorophyll a, Secchi Depth, salinity	Grab/Observation

g) Halls Creek

Frequency	Sub Watersheds/Stations	Parameters	Sample Type
Four times per year between July and September	Halls Creek Sentinel Station (BC-14)	Particulate Organic Nitrogen (PON), Dissolved Organic Nitrogen (DON), Dissolved Inorganic Nitrogen (DIN), Dissolved Oxygen (DO), Chlorophyll a, Secchi Depth, salinity	Grab/Observation

2. Implementation Strategy Monitoring Program

Effluent limitations from the Barnstable Water Pollution Control Facility (BWPCF) Groundwater Discharge Permit #21 establish a maximum daily concentration limit of 10 mg/L of Total Nitrogen, with best efforts to meet a limit of 6 mg/l according to annual nitrogen load limitations.

**F. Modifications**

1. In accordance with 314 CMR 21.06 (4), The Department shall process a significant modification or revocation of the Watershed Permit in the same manner as an application for a Watershed Permit under 314 CMR 21.04, but the public comment period for significant modifications will be limited to 30 days. Unless otherwise determined by the Department, significant permit modifications are those that would materially change:



- a. the permit's required pollutant load reductions and require an extension in the permit schedule;
- b. the method or technology to achieve Necessary Nitrogen Load Reductions if such method or technology was not part of the approved Watershed Management Plan; or
- c. the timeframe to achieve said reductions.

Unless otherwise determined by the Department, other modifications are minor modifications and not subject to the requirements of 314 CMR 21.04. The Department may revise a Watershed Permit to accommodate minor modifications. Only the significant permit modifications shall be subject to a request for an adjudicatory hearing pursuant to 314 CMR 21.11. Significant permit modifications shall not be implemented until the Department issues the revised Watershed Permit that includes those modifications.

#### **G. Adaptive Management Framework**

1. In accordance with 314 CMR 21.05(3), this Permit establishes an adaptive management framework in which future decisions will be made as part of an ongoing science-based process and the needs of the Permittee. The Permittee shall implement this framework to evaluate the effectiveness of their WMP and adjust and modify their strategies and practices in accordance with 314 CMR 21.05(1) to identify whether such modifications are major or minor modifications under 314 CMR 21.06.
2. In accordance with this Permit, the permittee shall address embayment water quality impairment due to excessive Nitrogen from the Town of Barnstable's watersheds and may request to modify the permit in accordance with 314 CMR 21.06(3), if needed, to adequately address the level of impairment.
3. Subject to MassDEP approval, the Permittee may assume the rate of nitrogen reduction (kg/yr.) for non-traditional approaches and/or non-traditional technologies only if the Permittee implements and maintains such approaches and/or technologies in accordance with the terms and conditions of this Permit.
4. If this Permit is revoked or terminated, MassDEP reserves the right, to the extent of its statutory and regulatory authority, to require the Permittee(s), individually or collectively, to implement proven technologies to achieve the water quality and habitat quality restoration goals established by the TMDL Reports established for the watersheds in the Town of Barnstable.
5. The assumed rate of nitrogen reduction (kg/yr.) for both traditional and non-traditional approaches and technologies shall be reviewed by the Department every five years with the data generated from the monitoring of such approaches as reported in the Five-year report required under Section VI.10. of this Permit. A modification of the permit based on adaptive management may be required if the assumed rate of nitrogen reduction is not in alignment with observed nitrogen reduction.
6. The Permittee shall continuously provide a contingency plan for any alternative strategies in the WMP that rely on proven technologies to achieve the target Nitrogen threshold concentrations

at the sentinel sampling stations identified in the most up-to-date MEP Report, TMDL Report, or other scientific evaluation for the respective watershed for the Town of Barnstable.

## **V. COMPLIANCE AND ENFORCEMENT**

### **A. Establishment of Conditions and Limitations.**

This Permit requires the Permittee to implement cost-effective controls and reasonable best management practices and to provide the level of treatment established by other permits issued by the Department to the Permittee, individually or jointly, incorporated herein by reference. This permit specifies an implementation schedule for achieving the water quality and habitat quality restoration goals established by the TMDL Reports for the Town of Barnstable watersheds. The implementation schedule established by this Permit affords the Permittee(s) adequate time to meet the minimum water quality criteria for Nitrogen by utilizing an adaptive management framework to control such sources, as provided by the WMP.

### **B. Enforcement, Violations, and Right of Entry.**

In accordance with 314 CMR 21.09(1), the Department may take action to enforce compliance with 314 CMR 21.00 and the Permit. Enforcement actions may include but are not limited to requiring the Permittee to provide relevant information, revocation of the Watershed Permit, the imposition of civil administrative penalties, or other actions authorized by 314 CMR 21.00 or other applicable law. Violations of 314 CMR 21.00 include but are not limited to those listed in 314 CMR 21.09(2).

## **VI. APPEALS**

According to 314 CMR 21.11, during the 21-day period following issuance of the Watershed Permit, the determination to deny the permit, or the issuance of significant permit modifications under 314 CMR 21.06(4), the applicant or any person aggrieved by the issuance or the determination, if that aggrieved person also filed comments during the public comment period or provided testimony at a public hearing, may file a request for an adjudicatory hearing. The appeal of a significant permit modification(s) shall be limited to the significant modification(s). The requirement to file written comments or provide testimony at a public hearing may only be excused if the final Watershed Permit reflects significant changes from the Department's tentative determination that could not be reasonably anticipated. If the Department revokes or terminates a Watershed Permit, the permittee may request an adjudicatory hearing within 21 days following issuance of the revocation or termination. The standing of a person to request an adjudicatory hearing and the procedures for filing such request are governed by M.G.L. c. 30A and 310 CMR 1.01: Adjudicatory Proceeding Rules for the Department of Environmental Protection.



## **VII. GENERAL CONDITIONS**

In accordance with 314 CMR 21.10, the following general conditions apply to all Watershed Permits.

**(1) Duty to Comply.** Except as provided in 314 CMR 21.10(2), each permittee shall comply with all terms and conditions of this permit, 314 CMR 21.00, M.G.L. c. 21, §§ 26 through 53, and all other applicable state and federal statutes and regulations. Noncompliance with any of the foregoing is grounds for enforcement action, permit termination, permit revocation, permit modification, or denial of a permit renewal application.

**(2) Treatment of Co-permittees.** Notwithstanding 314 CMR 21.10(1), each co-permittee is severally liable for those activities they agree to carry out under the approved Watershed Management Plan.

**(3) Notification of Delays.** Each permittee shall promptly notify the Department, in writing, upon learning of any delay in compliance with the implementation schedule established by this permit. Such notice shall state the anticipated length and cause of the delay, the measure or measures to be taken to minimize the delay, and a timetable for implementing the measure or measures. The permittee shall take appropriate measures to avoid or minimize any such delay. Notification will not shield the permittee from liability associated with noncompliance with the permit's implementation schedule.

**(4) Proper Operation and Maintenance.** Each permittee, at all times, shall properly operate and maintain all Conventional and Alternative Control Approaches and Technologies and related appurtenances which are installed or used by the permittee pursuant to, or to achieve compliance with, the terms and conditions of this permit.

**(5) Duty to Mitigate.** Each permittee shall take all reasonable steps to minimize or prevent any significant adverse impact on human health or the environment that may result from non-compliance with this permit.

**(6) Relationship to Other Permits.** This permit shall not be construed to relieve the permittee, individually or collectively, of the obligation to comply with the terms and conditions of any other permit, order or approval, including any Section 401 Water Quality Certificate, issued by the Department.

**(7) Duty to Monitor.** Each permittee shall carry out the approved monitoring activities established by this permit. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Monitoring information required by this permit shall be retained for five years following the life of the permit, or as otherwise approved by the Department. Records of monitoring information include:

- (a) the date, exact location, and time of sampling or measurements;
- (b) the individual(s) who performed the sampling or measurements;
- (c) the date(s) analyses were performed;

- (d) the individual(s) who performed the analyses;
- (e) the analytical techniques or methods used; and
- (f) the results of such analyses.

Monitoring must be conducted according to test procedures approved by the Department or the EPA for such purposes, unless other test procedures are specified in the permit.

**(8) Duty to Report Monitoring Results.** Each permittee shall report to the Department the results of monitoring required by this permit pursuant to 314 CMR 21.05(2). Each permittee shall report to the Department the results of monitoring performed for purposes of this permit at the intervals specified in this permit or in the permittee's approved monitoring plan. All reports prepared in accordance with the terms and conditions of this permit shall be available for public inspection.

**(9) Toxics Control.** In conducting activities under this permit, each permittee shall not discharge any pollutant or combination of pollutants in toxic amounts. Any toxic components of such activities shall not result in any demonstrable harm to aquatic life or violate any state or federal law, regulation, or water quality standard.

**(10) Five-year Reporting.** Each permittee shall submit reports to the Department every five years. The initial five-year report is due five years from the effective date of this permit and every five years thereafter until the end of the permit term. The reports shall contain information regarding activities of the previous five years. At a minimum, the following information shall be contained in each five-year report:

- (a) a description, including dates, of the installation of any treatment and control systems and facilities, or approaches taken, during the reporting period;
- (b) a summary of results of any monitoring information that has been collected and analyzed during the reporting period;
- (c) a performance evaluation of the treatment and control systems and facilities, and approaches taken, during the reporting period, including identification of any non-compliance, performance shortcomings, or challenges along with recommended corrective actions and optimization activities, as necessary;
- (d) a discussion of the activities planned, and the associated critical path for the next five-year reporting cycle, consistent with the implementation schedule;
- (e) a self-assessment review of compliance with the terms and conditions of this permit during the reporting period; and
- (f) a progress report which describes the progress made in achieving the Necessary Nitrogen Load Reductions and water quality and habitat quality restoration goals required to achieve the designated uses for the waterbody, including an evaluation of the results of the permittee's water quality management program to date, any proposed adjustments and modifications to the strategies and practices under the approved Watershed Management Plan, pertinent sampling and monitoring results, including sentinel station monitoring results (if applicable), as well as other data pertinent to the technologies installed and approaches taken under the approved Watershed Management Plan as of the date of the report, any proposed nitrogen reduction credits for Alternative Control Approaches and Technologies, any changes requested to the



approved implementation schedule, and any other information requested by the Department.

**(11) Modification of the Approved Watershed Management Plan or Implementation Schedule.**

A request for any modifications to the approved Watershed Management Plan or the implementation schedule established by this permit must be in writing. A modification of the plan or schedule shall become an effective and enforceable requirement under this permit upon the Department's approval of that modification in accordance with 314 CMR 21.06.

**(12) Notification of Contract Changes.** In the event the permittees agree to amend an Intermunicipal Agreement or other mutually binding agreement governing their obligations under the Watershed Permit or one or more of the permittee(s) unilaterally rescinds, terminates or otherwise withdraws from the agreement, then the permittees shall promptly notify the Department in writing of such action. A permittee's withdrawal, termination, or rescission with respect to the agreement shall operate as a termination of the Watershed Permit with respect to that permittee and the terms of 310 CMR 15.215(2)(d) requiring individual system upgrades and Best Available Nitrogen Reducing Technology for New Construction shall go into effect in the corresponding watershed area for each permittee to whom the termination is applicable pursuant to 314 CMR 21.10(14).

**(13) Duty to Provide Information.** Each permittee shall furnish to the Department any information which is requested to determine compliance with this permit or whether cause exists for modifying, revoking, reissuing, or terminating the permit. Each permittee shall also furnish the Department, upon request, copies of records required to be kept by this permit.

**(14) Termination of Permit Coverage.** Any one or more of the permittees may terminate coverage under this permit by providing written notice to the Department at least 60 days in advance of the date such termination is to take effect. Such notice shall include public notice of a public hearing to be held at least 30 days prior to the termination date. At least 30 days before the hearing, the permittee terminating coverage shall publish notice of the public hearing in the Environmental Monitor and in a local or regional newspaper with the largest readership distribution both online and in hardcopy, if hardcopy exists, within the area that may be affected by the termination and in accordance with the provisions in 314 CMR 21.04(2)(d) for Environmental Justice Populations. The permittee terminating coverage will also request that notice be published in the local town or city hall and on the website of the community or communities that may be affected. The Department will post the notice on the Department's webpage. Such notice will not be construed to relieve any permittee, individually or collectively, of the obligations to comply with the terms and conditions of this permit while such coverage remains in effect. A permittee's termination of coverage under this permit shall operate as a termination of the Watershed Permit with respect to that permittee and the terms of 310 CMR 15.215(2)(d) requiring individual system upgrades and Best Available Nitrogen Reducing Technology for New Construction shall go into effect in the corresponding watershed area for each permittee to whom the termination is applicable.

**(15) Facility Closure Requirements.** Each permittee shall notify the Department in writing at least 30 days prior to the closure of any treatment or control system or facility covered by this permit. The Department may require specific measures during deactivation of such systems to

prevent any significant adverse health or environmental impacts.

**(16) Planned Changes.** Each permittee shall notify the Department in writing as soon as possible of any planned alterations or additions to any treatment or control system or facility covered by this permit, provided that such alterations or additions are not subject to any other permit issued by the Department pursuant to 314 CMR 3.00: Surface Water Discharge Permit Program or 314 CMR 5.00: Ground Water Discharge Permit Program, or any Section 401 Water Quality Certificate issued by the Department. The Department may require specific measures to prevent any significant adverse health or environmental impacts that may result from such changes.

**(17) Anticipated Noncompliance.** The permittee shall give advance notice to the Department of any planned changes in the treatment, facilities, operations or activities authorized by the permit which may result in noncompliance with permit requirements within 30 days of acquiring knowledge or information that may result in noncompliance with the permit requirements.

**(18) Permit Actions.** This permit may be modified or revoked by the Department in accordance with 314 CMR 21.06. The filing of a request by the permittee for a permit modification or a notification of planned changes or anticipated noncompliance does not stay any permit term or Condition. The Department shall process a significant modification or revocation of the Watershed Permit in the same manner as an application for a Watershed Permit under 314 CMR 21.04, but the public comment period for significant modifications will be limited to 30 days. Unless otherwise determined by the Department, significant permit modifications are those that would materially change:

- a. the permit's required pollutant load reductions require an extension in the permit schedule or a permit renewal to achieve the revised reductions;
- b. the method or technology to achieve Necessary Nitrogen Load Reductions if such method or technology was not part of the approved Watershed Management Plan; or
- c. the timeframe to achieve said reductions. Unless otherwise determined by the Department, other modifications are minor modifications and not subject to the requirements of 314 CMR 21.04.

The Department may revise a Watershed Permit to accommodate minor modifications. Only the significant permit modifications shall be subject to a request for an adjudicatory hearing pursuant to 314 CMR 21.11. Significant permit modifications shall not be implemented until the Department issues the revised Watershed Permit that includes those modifications.

**(19) Inspection and Entry.** Each permittee shall allow the Department and its authorized representatives to enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records required by this permit are kept, to: access and copy, at reasonable times, any records pertaining to the implementation of pollutant reduction actions authorized by the approved Watershed Management Plan or the permit and any records that must be kept under the conditions of the permit; inspect at reasonable times any properties, facilities, equipment, activities, or operations regulated or required under this permit; and sample or monitor at reasonable times for the purpose of determining compliance with the terms and conditions of the approved Watershed Management Plan and this permit. In addition, each permittee shall make reasonable efforts upon request of the Department to secure from the



owners and operators of premises owned or operated by third parties access at all reasonable times to conduct such activities.

**(20) Property Rights.** The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, or authorize any injury to private property, or any invasion of personal rights.

**(21) Compliance with Laws.** The issuance of this permit does not relieve the permittee of the permittee's obligations to comply with applicable federal, state, and local laws, regulations, ordinances and bylaws.

**(22) Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**(23) Duty of Public Availability.** The permittee shall make all documents identified in 314 CMR 21.00 (including but not limited to: the application, draft permit, final permit, requests for modification, and annual reports) available to the public on the permittee's public website. The permittee shall put all documents on the website within five days of providing them to or receiving them from the Department, and all posted documents shall remain on the website throughout the permit term.

**(24) Continuation of an Expiring Watershed Permit.** 314 CMR 21.07 provides that a Watershed Permit shall not expire until the Department has issued a decision denying or approving the permittee's renewal application if:

- (a) the permittee submitted a complete renewal application at least six months prior to the date of expiration of the Watershed Permit; and
- (b) the Department, through no fault of the permittee, does not issue or deny a renewed permit on or before the expiration date of the previous permit.

Watershed Permits continued under 314 CMR 21.07 remain fully effective and enforceable until the Department issues a decision denying or approving the permittee's renewal application.

**(25) Permit Renewal.** Any Watershed Permit issued under 314 CMR 21.00 may be renewed pursuant to 314 CMR 21.06. To seek renewal, the permittee must file an application for renewal at least six months before the expiration date of the existing permit in accordance with the provisions of 314 CMR 21.06(5).

**(26) Other Permits and Authorizations Unaffected.** To the extent that any permittee is subject to a permit or legal authorization more stringent than the terms and conditions of the Watershed Permit, the permittee shall comply with the more stringent requirements. Further, the Department may issue permits and conduct other regulatory and enforcement activities as necessary within the watershed boundaries subject to the Watershed Permit without limitation.

