

Summary: MassDEP Title 5 Amendments and Watershed Permit Regulations

The Massachusetts Department of Environment Protection (MassDEP) released changes to Title 5 and other regulations that will impact Cape Cod communities, effective July 7, 2023.

The final regulations focus on impaired watersheds due to excessive nitrogen pollution .

Excessive nutrient loading, primarily from septic systems, results in pollution in Cape Cod's water ways, leading to toxic algae growth and fish kills. MassDEP automatically designated 30 watersheds on Cape Cod as "Nitrogen Sensitive Areas" when the regulations became effective.

Only four towns on Cape Cod have publicly owned wastewater treatment facilities, including Chatham, while others are at different stages of building sewer systems and treatment plants, or other methods of mitigating excessive Nitrogen.

A watershed permit, issued by DEP, allows communities to design tailored wastewater solutions, including centralized wastewater treatment, alternative approaches, and/or fertilizer reduction in lieu of requiring individual homeowners to replace their onsite septic systems with nitrogen reducing (IA) systems within 5 years.

Communities have **two years to opt into the watershed permitting process with plans** to address nitrogen pollution and restore estuaries. Failure to obtain a watershed permit within those two years will require new septic systems in nitrogen-sensitive watersheds to include enhanced nitrogen-reducing treatment technology.

The filing of a Notice of Intent or an application for a Watershed Permit prevents the five-year upgrade period for existing systems from commencing at the expiration the two year opt in period. 310 CMR 15.002 (Notice of Intent and Application Period definition); 310 CMR 15.215(2)(a) through (c); 314 CMR 21.03(1

The Town of Chatham has a Watershed Permit that encompasses the Pleasant Bay watershed, in conjunction with, the Pleasant Bay Alliance Towns of Brewster, Orleans, and Harwich. Properties in those areas will not be affected by these Title 5 revisions.

The Town has begun the process of filing the Notice of Intent for the areas of Town not covered by the Pleasant Bay Watershed Permit.

Homeowners will have to update their septic systems with t nitrogen-reducing systems if their communities fail to obtain a watershed permit within the allowed time period. Existing septic systems in these watersheds will need to upgrade within five years, if the watershed permit is not obtained. The cost of installing nitrogen-reducing systems for homeowners can range from about \$20,000 to \$40,000+.