



**SUMMARY AND FREQUENTLY ASKED QUESTIONS & ANSWERS**  
**Regarding Final Regulatory Changes of COMAR 26.04.02.07**  
**Effective November 24, 2016**

**SUMMARY OF FINAL REGULATORY CHANGES:**

1. Removes the requirement for Best Available Technology for the removal of nitrogen (BAT) installation on new construction outside of Chesapeake Bay and Atlantic Coastal Bay Critical Areas (within 1,000 feet of tidal water)
2. Statewide, a person may not install, or have installed, for new construction or a replacement system an onsite sewage disposal system where the design flow is 5,000 gallons per day or greater unless sewage disposal system utilizes BAT or equivalent technology.
3. Redefines new construction to NOT include renovation or repair of an existing residence outside of the Chesapeake Bay and Atlantic Coastal Bay Critical Areas.
4. This regulation does not preempt a local jurisdiction's authority to require a BAT system outside the Critical Area in order to protect public health or the waters of the State.
5. Adds a provision that all new BAT systems will be sold with both a 2 year O&M contract and warranty. This is a new regulatory requirement. (Currently all Bay Restoration Funded BAT systems included the first 5 years of O&M as part of the grant).
6. Removes the requirement for a service contract with a certified service provider, but maintains that a system must be operated and maintained by a certified service provider. The owner must ensure the system is inspected and maintained at a minimum of once per year.

**Frequently Asked Questions and Answers**

1. ***When do the final regulations become effective?***  
November 24, 2016
2. ***I have a septic permit for my property outside the critical area, but the system has not been installed, can I change my permit?***  
If your septic permit was issued as a BAT septic system, then your permit may be changed/amended/re-permitted by the approving authority. Any permitted system that has not been installed can potentially be changed to remove the BAT unit, but the property must meet all sections of the regulations and site specific requirements to allow the removal of the BAT unit. Each approving authority will have a procedure for amending/re-permitting the septic permit; you should contact the approving authority for their specific process. Please note in many cases the permit will be reviewed to determine if any technical issues develop with the removal of the BAT unit.
3. ***I have a septic permit for my property inside the critical area. I was required to install a BAT unit because of my building permit. Do I still have to install a BAT unit?***  
Yes.

**4. After Nov. 24<sup>th</sup>, I am building a new home within the critical area do I need to install a BAT unit?**

Yes.

**5. After Nov. 24<sup>th</sup>, I am building a new home outside the critical area do I need to install a BAT unit?**

If you are using a conventional septic system without any variances or special conditions then a BAT unit is not required.

**6. After Nov. 24<sup>th</sup>, I have a property outside the critical area that is improved with a dwelling. I am removing the dwelling and building a new dwelling, do I need to install a BAT unit?**

This answer is generally no.

However, if your property has limitations with available land area and/or the soil conditions do not allow for a conventional sewage disposal system and/or variances are needed to allow the construction, then you may need to install a BAT unit. You should consult with your local approving authority for specifics on your property.

**7. A portion of my property is in the critical area and a portion is out of the critical area, how do I know if I need a BAT unit?**

The location of your septic system is the deciding factor. If your drainfield is in the critical area then a BAT unit is required. Septic systems and drainfields outside the critical area do not require a BAT unit.

**8. I have a BAT unit that was installed and paid for with Bay Restoration Funds (BRF): Can I remove the unit or make it inoperable?**

No, the conditions of funding do not allow for the removal or tampering with a BAT unit regardless of whether the system is inside or outside the critical area.

**9. What if I have a BAT unit outside the critical area that did not receive any BRF money and was not part of any non-conventional agreement, variance or county code/policy, can I remove it?**

Possibly, but you must check with the local approving authority; modifications to any septic system require a permit from the local approving authority.

**10. Can homeowners remove the Agreement and Easement from the deed to their property?**

No, the regulations do not allow the removal or modification to the Agreement and Easement, unless the local approving authority approves the modification and change to the deed.

**11. Must a homeowner maintain service in perpetuity of the BAT system?**

Yes, the regulation does not change the requirement for the operation and maintenance in perpetuity. Any BAT unit installed in Maryland, existing or proposed, must be serviced by a certified service provider.

**12. Who are the service providers?**

To reach our website, simply type the following abbreviation into any web browser:  
[bit.ly/MDESepticUpgradeProgram](http://bit.ly/MDESepticUpgradeProgram)

**13. If I have a problem with my service provider who can I call?**

Your local approving authority or Maryland Department of the Environment 410-537-3778

**14. If I am required to install a BAT unit, is funding available?**

To reach our website, simply type the following abbreviation into any web browser:

[bit.ly/MDESepticUpgradeProgram](http://bit.ly/MDESepticUpgradeProgram)

**15. Can my existing 5 year Operation and Maintenance contract be changed to a 2 year after the regulation is in effect?**

If the property received Bay Restoration Funds for the purchase, installation, and O&M contract, the O&M contract will remain for 5 years. If the property did not utilize BRF funds, the homeowner may renegotiate with the manufacturer and service provider for a two year contract. However, any BAT unit installed in Maryland, existing or proposed, must be serviced by a certified service provider in perpetuity.

**16. Are there other changes related to Operation and Maintenance?**

The requirement for Operation and Maintenance (O&M) of a BAT unit does not change the minimum frequency of annual required service. The homeowner is responsible for ensuring that their system is maintained at least once per year by a service provider. However, a service contract for the BAT unit is no longer required.