

Frequently Asked Questions on the Proposed BAT Regulation Revisions

Effective November 24, 2016, there is no longer a universal requirement to install Best Available Technology (BAT) units on new construction outside of the Critical Area (all land within 1,000 feet of Maryland's tidal waters and tidal wetlands including the Chesapeake Bay, Atlantic Coastal Bays and their tributaries). Understandably, this action raises a number of questions for property owners. Answers are provided to a few of these questions below.

I just started the process of having my house built and have a septic permit issued which specifies the installation of a BAT unit. Is it too late to change that?

For new construction in Carroll County where BAT has not been required for site-specific reasons, an applicant can change their septic permit after it has been issued and before the installation is complete. The process requires a visit to the Health Department to physically strike out references to the BAT unit on the permit and any associated attachments (drawings, etc.) and add in the specifications for a properly sized two-compartment septic tank. The application then goes back through the issuance process. The revised permit will be sent to the installer listed on the permit and must be in hand before the tank is installed. Reissuance could take up to two weeks or more depending on the volume of these changes our office receives.

My septic system failed and the Health Department told me that I must replace my septic tank with a BAT unit. How will the new regulation impact me?

If the BAT unit was necessary because of site-specific conditions, it will remain a requirement. Some properties just do not meet current regulatory requirements. The soils may be too slow or too shallow (relative to underlying rock or water tables) or there may be very limited repair area or setback requirements from wells, surface water, or other features cannot be met. In those cases, it is critical to use every tool available to ensure that a system will function and last. The BAT unit is one of those tools. A BAT unit discharges effluent that is significantly cleaner and is loaded with dissolved oxygen to the absorptive portion of the system (trenches, mound,...). This helps to keep that part of the system going. As stated in earlier responses, a BAT unit should be viewed as a positive feature. Without it, your new system would be much more likely to prematurely fail. If BRF funds are available, they may be used to cover the cost of this part of the repair especially in cases of financial hardship.

I live outside the Critical Area and built a house recently. I had to install a Best Available Technology (BAT) unit at my expense. Can I have it removed now and, if so, what is the process for doing that?

If the installation of your BAT unit was not paid for through the Bay Restoration Fund (BRF), you certainly have the option of replacing it with a conventional two-compartment septic tank. To do so, you would go through the same permit process that was followed for the installation of your existing system. Consider the following though before taking this route:

1. While a BAT unit outside of the Critical Area may provide minimal benefit to the Chesapeake Bay, it is a great boon to your septic system and the groundwater underlying your property. The liquid leaving a BAT unit is significantly cleaner than what comes out of a standard septic tank. That means the soils under the absorptive part of your system (trenches, mound,...) are less likely to clog over time. A system that might last 15 to 20 years on a septic tank may last indefinitely on a properly maintained BAT unit. Ultimately, that is a savings of money and inconvenience to you. It also means less nitrates get into your groundwater which can impact drinking water quality for you or your neighbors.
2. There is an expense associated with removing a BAT unit and installing a septic tank. The money spent on this process would likely keep a BAT unit in good working order for decades.

If you are into green or clean or just like holding onto your money, our advice would be to keep the BAT.

I replaced my septic tank with a BAT unit using a BRF grant. What if I want to switch back to a septic tank?

Because your unit was installed using State moneys and you signed an easement agreement that was subsequently recorded in the Office of Land Records, you have a much deeper commitment to sticking with your BAT unit. This should not be viewed as a bad thing. The State paid for the installation and initial operation and maintenance (O&M) for an “appliance” that, properly maintained, should extend the life of your septic system well beyond what would normally be expected. Since everything but the electrical cost (usually a few dollars a month) was covered for the first five years, you will really only be out the cost of operating and maintaining it from the sixth year on. Typically, these yearly O&M costs are around \$200. A new absorptive bed (trenches, mound, etc.) will probably cost anywhere from \$4,000 to well over \$20,000! Other relevant reasons for keeping a BAT unit can be found in the answer to the first question above.

If you really feel strongly about replacing the BAT unit, you would want to consult with an attorney about the easement agreement. Extinguishing this agreement would require concurrence of whoever signed it for the State. This could likely not happen without reimbursing the BRF with at least a prorated amount of the original grant award. This has yet to be worked out and really would not make sense financially.