

3225 MAIN STREET • P.O. BOX 226  
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD  
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • [www.capecodcommission.org](http://www.capecodcommission.org)

**MEMORANDUM**

TO: Assembly of Delegates  
DATE: February 23, 2018  
Re: Explanation-Proposed Amendment to Chapter A, CCC Enabling Regulations

---

The proposed amendment adds a new section 2(d)(iii) to Chapter A of the Code of Cape Cod Commission Regulations: *Enabling Regulations Governing Review of Developments of Regional Impact (“Enabling Regulations”)*.

Under the current version of the *Enabling Regulations*, the Commission is required to undertake Development of Regional Impact (“DRI”) review for most if not all proposed municipal water quality plans and projects, including town-wide comprehensive wastewater management plans.

The proposed amendment would exempt towns from DRI review for water quality plans and projects that have nutrient remediation as a primary purpose. The amendment applies equally to plans and projects previously reviewed and approved by the Commission as DRIs, and modifications to such plans or projects would not require further DRI review.

The Commission proposes that DRI review would be replaced with a staff-level review by the Commission, and approval through a determination by the Commission’s Executive Director that local plans and projects are consistent with the Cape Cod Area-wide Water Quality Management Plan Update (“208 Plan Update”). Staff would report to the Commission board when and as consistency reviews and determinations are completed. The Commission has prepared a draft guidance document for towns outlining consistency with the 208 Plan Update, which distills ten consistency criteria from the larger Plan (attached).

This new review and approval process will allow the Commission to be more supportive and collaborative with towns in their development of solutions to water quality problems. This process also provides a better platform to deal with multiple towns on common water quality solutions in shared watersheds, and promotes public engagement at earlier stages of planning and plan development which should increase community support for these plans and projects.

DRI review is not well-suited to review town water quality improvement initiatives which are systemic, not necessarily associated with any particular parcels of land, might not involve ‘development’ in its traditional sense, and which may not have discrete permitting and implementation timelines. Water quality initiatives are often long-term projects subject to changing conditions over time, and are types of municipal infrastructure, necessary to support forms of ‘traditional’ development. Finally, one of the most important determinations the Commission makes during DRI review is whether there are inherent benefits from a project to the region. Given the region’s pressing water quality issues, the benefit of these town water quality efforts should be presumed.