

2ND ANNUAL
CAPE COASTAL
CONFERENCE

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Linking Science with Local Solutions and Decision-Making

**Preserving Local Control and Lower Cost Options for
Nutrient Management:
Cape Cod Fertilizer Management DCPC**

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Background

- August 2012- Chapter 262 Acts of 2012 includes amendments to MGL Ch. 128:
 - MDAR preemption over local nutrient (fertilizer) regulation
 - Exception: regulations adopted pursuant to CCC Act (exception extended to Dec. 2014)
 - DCPC is CCC Act vehicle that allows towns to adopt by-laws/ regulations in furtherance of DCPC

District of Critical Planning Concern (DCPC)

- Designation authorized per CCC Act
- Commission may propose DCPC designation
- Allows for protection and preservation of distinct values and resources of regional, state or national significance through planning and regulation
- After CCC and AOD approve DCPC designation:
 - DCPC implemented and administered by individual town/s through adoption of regulations or by-laws.
 - Once local implementing regulations adopted by a town, must be certified by CCC for consistency w/ DCPC designation

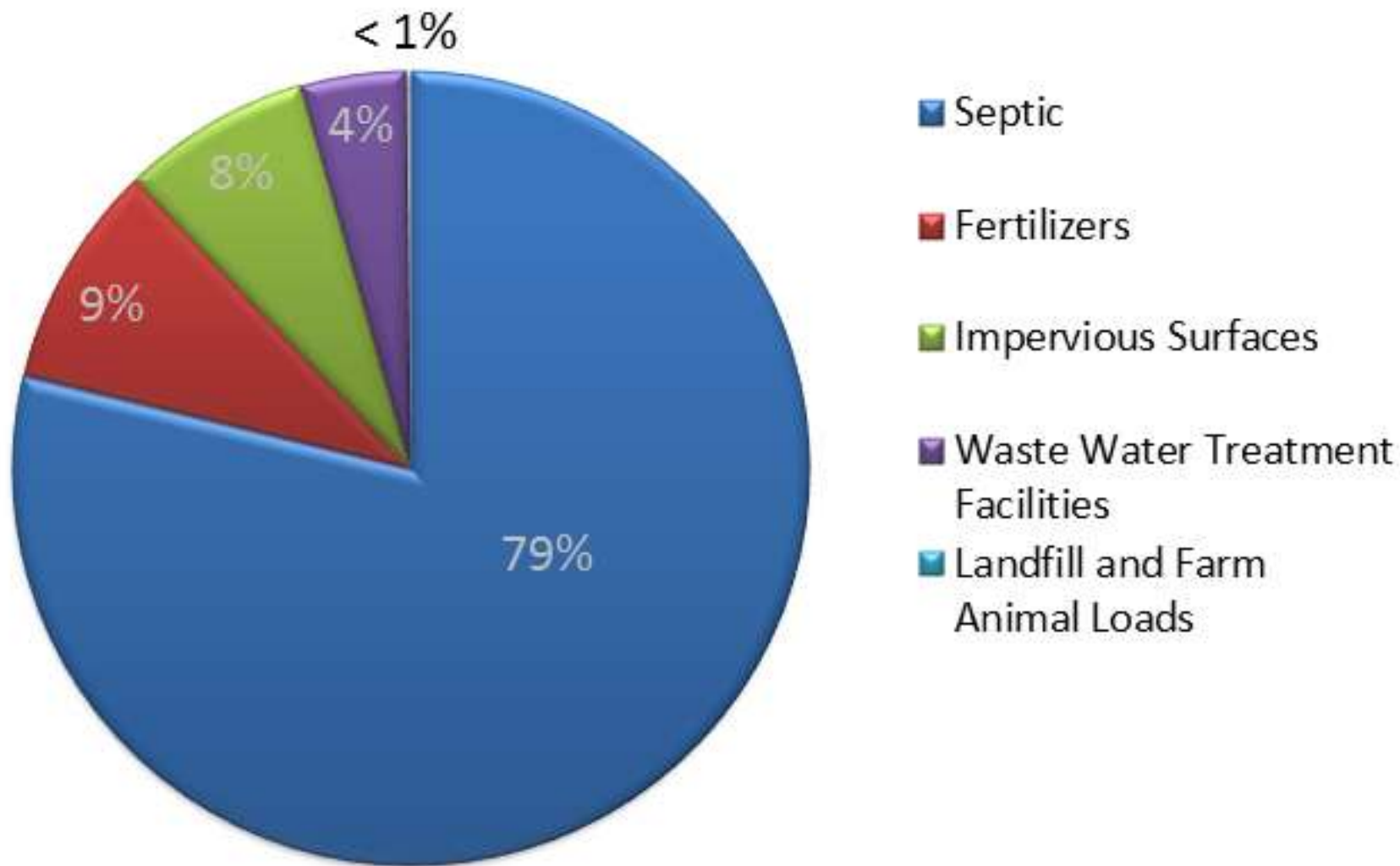
Fertilizer Management DCPC Designation

- Cape-Wide designation
- Recommended for approval by Commission August 2013
- Approved by AOD September 2013 as Barnstable County Ordinance 13-07
- Allows towns to hold public hearings and adopt local regulation until the end of 2014
- Local regulation must be consistent with the DCPC Designation, which includes Guidelines for Regulations; MDAR regulations; and UMASS BMP's
- Water protection purposes

Fertilizer Management DCPC- Purpose

- Fertilizer (especially residential) is a significant contributor and controllable source of nitrogen
 - See “Cape Cod Fertilizer and Pesticide Use Study/ Inventory,” Final 2014, Horsley and Witten
- Better fertilizer management results in lower nutrient contribution to water resources
- Water Quality Improvements
 - Nitrogen Loading in watersheds and embayments
 - Impairment/ eutrophication of fresh waterbodies
 - Nitrate in drinking water
 - Assist in meeting TMDLs (Possible credits)
- MDAR preemption
 - Allows towns to adopt regulations and maintain local control over fertilizer
- Lower cost and less burdensome option for nutrient management (vs sewerage etc)
- Ability to incorporate Best Management Practices and education through regulation

Cape Wide Controllable Nitrogen Loads



Note: Data Averaged from Existing Massachusetts Estuaries Project Reports

Local DCPC Implementing Regulations

- Consistency with DCPC Designation (including Guidelines for regulations), MDAR regulations & UMass Extension BMPs
 - MDAR draft regulations released 3/14 (comment period extended to 07/14)
 - No specific controls on N quantity
- Regional Model Regulations / Bylaw
 - Drafted by Cape Cod Commission Staff with notice/input from Stakeholders, Towns, UMass Extension Program & MA Dept. of Agriculture
 - Voluntary, Town by Town hearing & adoption, assisted with development of the model ensuring regional consistency
 - Adoption of Model is presumed consistent with the above
- Deadline: CCC Certification of adopted local Implementing Regulations by Dec. 2014

Guidelines for Implementing Regulations in DCPC Designation

- Time, Place, Manner restrictions on fertilizer applications
 - Ex. TOY restrictions; resource area limitations; quantity limitations, etc.
- Opportunity for Certification/ Licensing process for Applicators
- Enforcement Authority
- Education/ outreach opportunities
- Consistency with UMASS Turf BMP's, which were incorporated into the designation
- Exemptions
 - Ex. agriculture

Snapshot of CCC Model Regulations/ By-law

- Option: Regulations or General By-law
(CCC website- DCPC webpage)
- Applies to fertilizer application to turf including to:
 - Organic and inorganic commercial products
 - Combination products
 - Commercial and home agricultural uses/ compost exempt
- Non-certified applicators required to meet uniform standards:
 - Phosphorus limitations
 - No application of P without test, unless establishing new lawn
 - Nitrogen limitations
 - No more than 3.2 lbs/ 1000 sq ft
 - Minimum 20% slow release
 - Single application no more than 1.0 lb/1000 sq ft
 - Min. 4 week intervals for N applications
 - Nov 12-April 14 application TOY restriction
 - Enforcement authority to regulate/ prohibit applications within 100 ft buffer zone
 - Application restrictions- heavy rain events and impervious surfaces
- Certified applicators allowed to comply with flexible UMass BMPs
 - Certain professional applicators presumed to be proficient in the UMass BMPs
 - Anyone may seek certification. Homeowners encouraged.
- County may assist with certification process/ education in UMass BMPs
 - County Extension received funding for nutrient management FY14
- Local enforcement