

Title 5 requires that a copy of the inspection report be provided to the buyer or other person acquiring title to the property serviced by the system. The inspection is not a guarantee that the system will continue to function adequately and is not a guarantee that the system will not fail at a later date.

There are special inspection requirements for condominiums. The condominium association is responsible for the inspection, maintenance, and upgrade of the system(s) serving the units, unless the governing documents of the association provide otherwise. Condominium units must be inspected once every three years. If there are four or fewer units, they must be inspected every three years or within two years prior to the sale of one of the units.

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## Costs

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The price of an inspection is typically between \$300 - \$500. While the owner of the property is responsible for compliance, the seller, buyer, and mortgage lender may decide who will pay for the cost of the repair or upgrade, which can be negotiated as part of the sales agreement.

The cost for repairs or upgrades depends on the nature of the problem, location and size of the system, site restrictions and soil conditions. A simple repair may cost \$500 and upgrades may cost over \$12,000.

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## Resources

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Department of Environmental Protection (DEP)  
Title 5 Hotline 800-266-1122 or

617-292-5886 or [www.mass.gov/dep/](http://www.mass.gov/dep/)

Local Board of Health

National Small Flows Clearinghouse 800-624-8301



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## WHAT IS TITLE 5

*We prevent the American Dream  
from becoming a Nightmare!*



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*Title 5 is the Commonwealth of Massachusetts' environmental code governing septic systems. Title 5 is designed to protect you and your neighbors from the public health threats caused by septic systems that do not function properly. On-site sewage and cesspools systems that are not properly sited or maintained contribute pathogens and nutrients to groundwater and surface water that endanger drinking water supplies, surface water bodies, and shellfish beds. Over 30% of homes in Massachusetts use on-site wastewater systems.*

Since the regulations were first written, they have been revised to encourage compliance with the regulations and to minimize financial hardships and delays for homeowners. Title 5 has also been modified to increase the allowable percolation rate for on-site disposal systems from 30 to 60 minutes per inch.

The Department of Environmental Protection, local Boards of Health, and system owners all share in the responsibility for the proper siting, construction, upgrade, and maintenance of on-site systems. The local Boards of Health are the primary regulatory authorities for Title 5.

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## **ON-SITE WASTE WATER DISPOSAL SYSTEMS**

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On-site waste water disposal systems include conventional septic systems, cesspools and alternative systems. They are individual systems that treat small wastewater flows, usually under 10,000 gallons per day. Homes that are not connected to a sewer system use major septic systems or cesspools both of which are regulated by the State Department of Environmental Protection (DEP) and the local boards of health.

**CESSPOOLS:** A cesspool has a pipe carrying waste from the home to a pit. The pit acts as both a settling chamber for solids and a leaching system for liquids.

The use of cesspools may overload the capacity of the soil to remove bacteria, viruses, and phosphorous, and to nitrify ammonia and organic nitrogen compounds. Title 5 does not require that cesspools be replaced, only those that fail, are very close to private or public water supplies or pose a threat to public health.

**SEPTIC SYSTEMS:** A conventional on-site septic system has an on-site tank where solids can settle and begin to degrade, a distribution box, and a soil absorption system (SAS) that further treats the effluent by removing some of the bacteria, viruses, phosphorous, and nitrogen. These components are connected together by pipes, called conveyance lines.

**TIGHT TANKS:** Tight tanks are similar to on-site tanks, except that they have no outlet and must be pumped out at regular intervals. While Title 5 discourages the use of tight tanks, they are allowed in some situations where there is no other feasible alternative.

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## **Title 5 Inspectors**

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Only DEP approved soil evaluators and system inspectors can perform the required system inspections and soil tests. A list of approved inspectors is available from your local Board of Health. Certified health officers, registered sanitarians, and professional engineers qualify automatically and therefore may not be on the list. Title 5 inspectors are not required to carry liability insurance.

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## **Inspections**

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The inspection should be done in the least intrusive manner possible. Cesspools must be pumped out and examined. A septic tank may be pumped but it is not required. The leach field is usually not dug up.

If a system passes, the inspector is required to submit an approved system inspection form to the local Board of Health within 30 days.

If the system fails a required inspection, the inspector is required to submit the form to the local Board of Health within 30 days. The system must be repaired or upgraded within 2 years following the inspection, regardless of whether the property is sold. There are, however, certain circumstances where the DEP or the Local Board of Health may approve a longer schedule in order to achieve maximum feasible compliance with Title 5.

If the defect to the system is minor, a "conditional pass" may be issued whereby once the defect is repaired or replaced with local Board of Health approve, the system passes inspection.

For most property transfers, the inspection must occur within two years prior to the time of transfer. There are some exceptions to this requirement such as if inclement weather conditions prevent inspection at the time of the transfer. If the system has been pumped annually since its inspection and the pumping records are available, the inspection is valid for three years.

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## **Compliance**

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Whenever feasible, a failed system must be upgraded to full compliance with Title 5. If this is not possible, you generally have to apply to the local Board of Health for a variance.

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## **Buying or Selling Property with an On-Site System**

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Title 5 requires inspections of septic systems and cesspools before a home is sold or enlarged. Title 5 requires that systems be inspected when property is sold to new owners or there otherwise is a transfer of title to new owners. The homeowner must provide a copy of the inspection to the buyer.

A system does not have to be inspected if the transfer is residential real property and is between (a.) current spouses, (b.) between parents and their children, between full siblings, and where the grantor transfers the real property to be held in a revocable or irrevocable trust, where at least one of the designated beneficiaries is of the first degree of relationship to the grantor. Other situations include refinancing a mortgage or similar financial instrument, taking of a security interest in a property, appointment or change in guardian, trustee.

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## **Responsibility for Title 5 Test**

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The property owner is generally responsible for obtaining an inspection. An inspection must be conducted by a DEP approved System Inspector. In most cases the inspection report is submitted to the local Board of Health.