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(3) The Department shall annually produce educational materials suitable for distribution to the general public describing the importance of proper maintenance and operation of on-site systems and the impact of such systems on public health and the environment. In addition to its own distribution, the Department shall make such materials available to local approving authorities and other interested persons.

(4) Any person owning or operating a facility on which an on-site subsurface sewage treatment and disposal system is installed shall be responsible for the inspection and maintenance of, and any necessary upgrades to, the system.

15.301: System Inspection

(1) Inspection at time of transfer. Except as provided in 310 CMR 15.301(2), 15.301(3), and 15.301(4), a system shall be inspected at or within two years prior to the time of transfer of title to the facility served by the system. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time. If weather conditions preclude inspection at the time of transfer, the inspection may be completed as soon as weather permits, but in no event later than six months after the transfer, provided that the seller notifies the buyer in writing of the requirements of 310 CMR 15.300 through 15.305. A copy of the inspection report shall be submitted to the buyer or other person acquiring title to the facility served by the system.

(2) The following transactions shall not be considered transfers of title for the purposes of 310 CMR 15.301(1):

- (a) taking a security interest in a property, including but not limited to issuance of a mortgage;
- (b) refinancing a mortgage or similar instrument, whether or not the identity of the lender remains the same;
- (c) a change in the form of ownership among the same owners, such as placing the facility within a family trust of which the owners are the beneficiaries, or changing the proportionate interests among a group of owners or beneficiaries;
- (d) adding or deleting a spouse as an owner or beneficiary; or a transfer between spouses during life, out right or in trust; or the death of a spouse;
- (e) the appointment of or a change in a guardian, conservator, or trustee.

(3) Applicability to specific transfers of title.

(a) Condominium units. The condominium association shall be responsible for the inspection, maintenance, and upgrade of any system or systems serving the units, unless otherwise provided in the governing documents of the condominium association. For a facility comprised of five condominium units or more, each system located on the facility shall be inspected at least once every three years and all existing systems shall be inspected by December 1, 1996. For a facility comprised of fewer than five condominium units:

- 1. each system located on the facility shall be inspected at least once every three years and all existing systems shall be inspected by December 1, 1996, or
- 2. at the time of transfer of title of any unit, the system serving that unit shall be inspected in accordance with the time of transfer provisions of 310 CMR 15.301.

(b) Foreclosure or deeds in lieu of foreclosure. Inspection of the system must occur within two years before or six months after the execution of the memorandum of sale (irrespective of whether the foreclosing institution, the loan guarantor, the loan servicer, an unaffiliated third party, or any combination thereof, is/are executing such memorandum of sale) or delivery of the deed in lieu of foreclosure to the foreclosing institution or the loan servicer. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time. To the extent that foreclosing institutions or loan servicers have contractually allocated responsibility for the inspection to the unaffiliated third party or the loan guarantor acquiring the property within the specified timeframes, such foreclosing institutions or loan servicers will not be responsible for inspection of the system(s). Entities foreclosing on properties are required to notify those who acquire title of the inspection and upgrade requirements contained at 310 CMR 15.300 through 15.305, in writing, prior to or at the time of transfer.

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(c) Inheritance by will or intestacy (without a will). With the exception of inheritance by a spouse which would not require an inspection, inspection of the system must occur within two years before or one year after the will being allowed by the probate court and the appointment of the executor; or within two years before or one year of the appointment of an administrator if the deceased dies intestate regardless of whether the property passes specifically or as part of the residue of the estate. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time. Executors or administrators are required to notify, in writing, those who acquire title to real property from an estate of the inspection and upgrade requirements contained at 310 CMR 15.300 through 15.305.

(d) Legal life estate or an interest for life or for a term of years in trust. Inspection of the system must occur within two years before or six months of the death of the life tenant or the expiration of a present interest in trust for a term of years. If a successive life interest or an interest in trust for a term of years passes to a spouse, the inspection must occur within two years before or six months of the death of the last surviving spouse or the expiration of a present interest in trust to the spouse for a term of years. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time.

(e) Inter-family transfers where new parties are involved (e.g. parents deed property to children). Inspection of the system must occur within two years prior to transfer or if weather conditions prevent inspection at the time of transfer, the inspection must occur as soon as weather permits, but in no event later than six months after the transfer. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time.

(f) Tax taking either by the federal, state, or municipal government. Inspection of the system must occur within two years prior to transfer by governmental entity to buyer or within six months after the expiration of the right of redemption, provided that the governmental entity notifies the buyer in writing of the requirements contained at 310 CMR 15.300 through 15.305 for inspection and upgrade, if necessary. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time.

(g) Levy of execution that results in a conveyance of property. Inspection of the system must occur within two years prior to officer's deed of debtor's interest to buyer or within six months after the expiration of the right of redemption, provided that the officer notifies the buyer in writing of the requirements contained at 310 CMR 15.300 through 15.305 for inspection and upgrade, if necessary. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time.

(h) Bankruptcy. Inspection of the system must occur within two years prior to transfer by bankruptcy trustee to buyer or within six months after the transfer, provided that the debtor notifies the buyer in writing of the requirements contained at 310 CMR 15.300 through 15.305 for inspection and upgrade, if necessary. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time.

(i) Change in ownership or the form of ownership where new parties are introduced (e.g., introduction of new beneficiary/ies in a nominee trust; introduction of new joint tenant(s) or new tenant(s) in common; introduction of new parties where property is transferring from joint ownership to nominee or business trust, or where a new general partner is introduced; creation of a legal life estate or an interest for life or for a term of years in trust for a party other than the creator or his or her spouse, etc.). Inspection of the system must occur within two years prior to transfer or if weather conditions prevent inspection at the time of transfer, the inspection must occur as soon as weather permits, but in no event later than six months after the transfer, provided that the new party is notified in writing of the requirements contained at 310 CMR 15.300 through 15.305 for inspection

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and upgrade, if necessary. In a nominee trust situation, whoever has authority to add a new beneficiary is responsible for the inspection. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time.

(4) Exclusions. Inspection of a system is not required at the time of transfer of title of the facility served by the system in the following circumstances:

- (a) a certificate of compliance for the system has been issued by the approving authority within two years prior to the time of transfer; or
- (b) the owner of the facility or the person acquiring title has signed an enforceable agreement with the approving authority to upgrade the system or to connect the facility to a sanitary sewer or a shared system within the next two years following the transfer of title, provided that such agreement has been disclosed to and is binding on the subsequent owner(s); or
- (c) the facility is subject to a comprehensive local plan of on-site septic system inspection approved in writing by the Department and administered by a local or regional governmental entity, and the system has been inspected at the most recent time required by the plan. A comprehensive local plan may prioritize systems to be inspected on the basis of proximity to water resources, soil or geological conditions, age or size of systems, history of performance, frequency of pumping or other routine maintenance activity, or other relevant factors, and may establish different schedules and frequency of inspection on the basis of such criteria, provided that all systems are inspected at least once every seven years by a System Inspector approved by the Department.

(5) A system shall be inspected upon any change in use or expansion of use of the facility served, for which change or expansion a building permit or occupancy permit from the local building inspector is required. Unless the system is a cesspool, failing as set forth in 310 CMR 15.303 and 15.304(1), or a significant threat to public health, safety and the environment as set forth in 310 CMR 15.304(2), upgrade of the system is not required if the system was designed to accept design flows resulting from the change in use or expansion of use. Upgrades to accept increases in actual or design flow to any cesspool or to any other system above the existing approved capacity shall be in accordance with 310 CMR 15.352. Whenever an addition to an existing structure which changes the footprint of a building with no increase in design flow is proposed, the system inspection shall be an assessment to determine the location of all system components, including the reserve area, in order to ensure that the proposed construction will not be placed upon any of the system components. If official records are available to make a determination regarding location of system components, an inspection is not required for footprint changes.

(6) Facilities where the total design flow generated on the facility equals or exceeds 10,000 gallons per day at full build out, shall be inspected by the last day of the calendar year pursuant to the following schedule in accordance with the provisions of 310 CMR 15.006 and the applicable provisions of 310 CMR 15.300 through 15.354 or 314 CMR 5.00 and 6.00. Such systems shall be reinspected during the fifth calendar year following the applicable year of initial inspection listed below and then during every fifth calendar year thereafter. An inspection of a system conducted within 30 months prior to the last day of the applicable year of initial inspection may be used as the initial inspection, provided that a System Inspection Form approved by the Department is submitted to the Department within 30 days of the inspection.

Year of initial inspection	Basin in which system is located
1997	Charles, Housatonic, Hudson (Hoosic), North Coastal, Ten Mile
1998	Blackstone, Chicopee, Connecticut, Nashua
1999	Boston Harbor (Neponset), Cape Cod, French & Quinebaug, Merrimack, Narragansett Bay/Mt. Hope Bay, Parker
2000	Buzzards Bay, Deerfield, Ipswich, Islands Millers, Shawsheen
2001	Concord (Sudbury, Assabet, Concord), South Coastal, Farmington, Taunton, Westfield