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GUIDANCE ON TITLE 5 SYSTEM IN MASSACHUSETTS PER 310 CMR 15.00

When are System Inspections “Title 5 Inspections” Required?

- **Within 2 years before a sale.** If weather conditions prevent inspection at the time of a sale, the inspection must take place within 6 months afterward.
- **When there is a proposed change to the facility which requires a building or occupancy permit.**
- **Any change in the footprint of a building,** to make sure that new building construction will not take place on top of any system components or on the system’s reserve area.
- **For large systems** with a design flow of 10,000 to 15,000 gallons per day or more at full build-out, on the basin schedule shown in 310 CMR 15.301(6), and every five years thereafter.
- **Every 3 years for shared systems.**
- **When the property is divided, or ownership of 2 or more properties is combined.**
- **When MassDEP or the local Board of Health orders an inspection.**

Property Transfers with Special Requirements

System inspections must occur within 2 years before or 6 months after the following types of property transfers, provided that the transferring entity notifies the buyer in writing of the requirements of 310 CMR 15.300-15.305 for inspection and upgrade. If the system is pumped once per year following the date of the inspection, then the inspection remains valid for three years, provided the inspection report includes records demonstrating that the system has been pumped at least once a year during that time.

- **Foreclosure** or deeds in lieu of foreclosure
- Levy of execution that results in a **conveyance of property**
- **Bankruptcy**
- **Sale of a condominium unit or condominiums:**
 - Condominiums with 5 or more units - all systems must be inspected every 3 years.
 - Condominiums with fewer units must either inspect all systems every 3 years, or the system serving the unit being transferred must be inspected within 2 years prior to transfer.

When you DON'T need a T5 inspection

- **Transfers between certain family members:** Title 5 does not require a system inspection if the transfer is of residential real property, and is between the following relationships:
 1. Between current spouses;
 2. Between parents and their children;
 3. Between full siblings; and
 4. Where the property is held in a trust. See the "Guidance on Exemptions from Title 5 System Inspections", below.
- **Refinancing a mortgage** or similar financial instrument;

- Taking of a **security interest** in a property, e.g., issuance of a mortgage;
- **Appointment of, or a change in, a guardian, conservator, or trustee;**
- Any other **change in ownership or the form of ownership where NO NEW parties are introduced** (e.g., for estate planning or in a divorce);
- The property owner or buyer has signed an enforceable agreement with the Board of Health to **upgrade the system** or to connect the facility to a sanitary sewer or a shared system within 2 years following the transfer of title, provided that such agreement has been disclosed and is binding on subsequent owners;
- The property is subject to a **comprehensive local plan of septic system inspection** approved in writing by MassDEP and administered by a local or regional government; and the system has been inspected at the most recent time the plan requires.

Other Types of System Inspections

New Construction and Upgrades

A new or upgraded system does not require inspection. These systems receive a Certificate of Compliance from the local Board of Health. This certification exempts the system from the inspection requirement for any transfer of title within the next 2 years. This exemption continues up to 3 years, provided that system pumping records demonstrate that the system was pumped at least once during the third year.

Changes of Use and Increases in Flow

These situations require a system inspection only if the modification requires a building permit or occupancy permit. For example:

- adding a bedroom to a house
- adding seats to a restaurant
- changing the type of business operating at a commercial location.
- Any change in the footprint of a building also requires an inspection to determine the location of the system, to ensure that construction will not be located on top of any system components or on the reserve