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(5) Facilities with an increase in the nitrogen loading rate in accordance with 310 CMR 15.262(6) and (7) shall be inspected annually. The inspection shall document at a minimum: whether the system has been continually operated as approved; if the system consists of a greywater filter, whether it is operating properly; and whether compost and blackwater are disposed of off-site in accordance with all applicable laws and regulations. The results of each annual inspection shall be submitted to the Department and the Local Approving Authority by January 31st of the following year.

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 complete 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) Units in a Condominium or Cooperative Corporation. The cooperative corporation or 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 or the cooperative corporation. For a facility comprised of five or more condominium or cooperative units, each system located on the facility shall be inspected at least once every three years instead of at time of transfer of title and all existing systems shall be inspected by December 1, 1996. For a facility comprised of fewer than five condominium or cooperative 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.

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- (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.
- (c) Inheritance by Will or Intestacy (Without a Will). With the exception of inheritance by a spouse or inheritance of residential real property between any of the relationships listed in 310 CMR 15.301(4)(d), the 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 after 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) Interfamily Transfers That Are Not Excluded Under 310 CMR 15.301(4)(d). Inspection of the system must occur within two years prior to transfer of title or if weather conditions prevent inspection at the time of transfer, the inspection must occur as soon as the 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.

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(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; a change in the controlling ownership interest of a corporation, 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 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 a new system has been issued by the Approving Authority within three years prior to the time of transfer and system pumping records demonstrate that the system was pumped at least once during the third year; 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; or

(d) the transfer is of residential real property between the following relationships:

1. between current spouses;

2. between parents and their children;

3. between full siblings; and

4. 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.

(5) A system shall be inspected prior to any change in the type of establishment, or increase in design flow, or prior to any expansion of use of the facility served for which a building permit or occupancy permit from the local building inspector is required. If the system is a cesspool, or if the system is failing as set forth in 310 CMR 15.303 or 15.304(1) or is a significant threat to public health, safety, welfare and the environment as set forth in 310 CMR 15.304(2), then the system shall be upgraded prior to the change in the type of establishment, increase in design flow or expansion of use of the facility. Prior to an increase in the design flow to any cesspool, or to any system above the existing approved capacity, the cesspool or the system shall be upgraded in accordance with the standards applicable to new construction. Whenever an addition to an existing structure which changes the footprint of a building with no increase in

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design flow is proposed, the system inspection shall be an assessment to determine the location of all system components, including the reserve area. The proposed construction shall not be placed upon any of the system components or within any applicable setback distances in 310 CMR 15.211. If official records are available to make a determination regarding location of system components, an inspection is not required for footprint changes.

(6) Facilities with a total design flow of 10,000 or more gallons per day but less than 15,000 gallons per day at full build out shall be inspected by the last day of the applicable calendar year listed below in compliance with the provisions of 310 CMR 15.006, and applicable provisions of 310 CMR 15.300 through 15.354, or 314 CMR 5.00. Such systems shall, unless subject to 310 CMR 15.301(3)(a), be re-inspected during the fifth calendar year following the applicable year of initial inspection, and then during every fifth calendar year thereafter. An inspection of a system conducted within 30 days 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. The Department may accept a Certificate of Compliance for the entire system, issued by the Department within the two year period prior to an inspection deadline, as a substitute for a required system 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

Basin boundaries shall be determined by reference to the most recent edition of the Massachusetts GIS maps. If all of the components of a system are not located in the same basin, then the system shall be inspected during the earliest of the applicable inspection years.

(7) Shared systems shall be inspected every three years.

(8) When a facility is divided or the ownership of two or more facilities is combined as specified in 310 CMR 15.010(2) or (3), all systems serving the facility or facilities shall be inspected.

(9) All systems shall be inspected when the owner or operator thereof is ordered to do so by the local Approving Authority, the Department or court.

(10) The results of any inspection(s) required by 310 CMR 15.301 shall be submitted to the Approving Authority on a current System Inspection Form approved by the Department within 30 days of the field inspection of the system components by the approved System Inspector, provided that this sentence shall not be construed to require the owner of a system or a System Inspector to submit to the Approving Authority the results of a voluntary assessment of the condition of a system that is not performed to comply with a requirement of 310 CMR 15.301. Any system determined to require upgrade pursuant to 310 CMR 15.303 or 15.304 solely as a result of a voluntary assessment shall not be subject to the deadlines for completion of upgrades in accordance with 310 CMR 15.305 unless the owner or operator of the system is ordered to do so by the local Approving Authority, the Department or court. Inspection forms for systems with design flows over 10,000 gpd, and systems serving state or federal facilities shall be submitted to the Department by the approved System Inspector and the owner. All inspections required by 310 CMR 15.301 shall be conducted by a currently approved System Inspector. For each required inspection, the System Inspector shall complete the System Inspection Form in its entirety. Failure to complete the form is a violation of 310 CMR 15.302.

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

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(11) Failure of an owner or operator of a system to have the system inspected, and use or operation of any system described in 310 CMR 15.301(1) through (10) after the dates or events set forth therein without a required inspection shall constitute violations of 310 CMR 15.000. The failure to submit the required inspection form in accordance with 310 CMR 15.301(10) shall create a rebuttable presumption that the required inspection has not been performed.

15.302: Criteria for Inspection

(1) The intent of 310 CMR 15.302 is to provide reasonable guidance for the inspection of existing systems in as non-intrusive a manner as possible, set forth the requirements for conducting an inspection, and to avoid damage to the system and any unnecessary disturbance of the surrounding soil area which is related to the treatment process. At a minimum, the septic tank and distribution box, if present, or cesspool, if present, shall be located, uncovered and inspected, and reasonable professional efforts shall be made to locate and identify other components and features, as described in 310 CMR 15.302(2) and (3). The inspection is not designed to provide information to demonstrate that the system will adequately serve the use to be placed upon it by the new owner. The inspection criteria are intended to allow for timely inspection to avoid undue delay in the transfer of property.

- (2) An inspection shall consist of the collection and recording of the following information:
- (a) a general description of the system components and layout;
 - (b) quantification of the source/type of sanitary sewage. This should include type of use (domestic or commercial/industrial) as well as the design flow and whether or not the facility being served is occupied at the time of the inspection;
 - (c) an analysis of the factors set forth in 310 CMR 15.303 (failure criteria) and, if the system has a design flow of 10,000 gpd or greater, 15.304 (threats to public health and environment);
 - (d) water use records for the previous two years for facilities served by public water supply, if available from the supplier;
 - (e) a description of the septic tank including:
 1. approximate age, size, and condition of the tank;
 2. distance between bottom of grease/scum layer and the bottom of the outlet baffle;
 3. distance between the top of the scum layer and the top of the outlet tee;
 4. thickness of the grease/scum layer;
 5. depth of the sludge layer and distance from sludge to outlet tee;
 6. physical condition of inlet and outlet tees;
 7. any evidence of leakage into or out of tank; and
 8. any evidence of backup of effluent.
 9. a characterization of the distribution box, and of dosing tanks with pumps, if any, including:
 - a. any evidence of solids carryover;
 - b. leakage into or out of the distribution box;
 - c. whether the flow is equally divided; and
 - d. any evidence of backup.
 10. a description of the condition of the soil absorption system including:
 - a. any signs of hydraulic failure;
 - b. condition of surface vegetation;
 - c. level of ponding within disposal area;
 - d. encroachments into disposal area; and
 - e. other sources of hydraulic loading.
 11. the location of private water supply well (if any) in relation to system components; and
 12. a copy of pump-out records on file with the local Approving Authority.