

**TITLE 5 INSPECTION FORM  
AND ENFORCEMENT**

2010 MassDEP/ MHOA  
Health Officer Seminars



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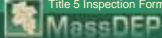
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**GOALS FOR THIS SESSION**

- Common problems with how Title 5 System Inspection Forms are completed
- Ways to address these issues before they pose problems
- How a BOH may pursue enforcement against an inspector for violations of Title 5
- When MassDEP involvement is appropriate or warranted



Title 5 Inspection Form and Enforcement

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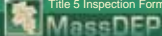
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**LET'S START AT THE BEGINNING**

- Current Form?
- MassDEP website:  
<http://www.mass.gov/dep/water/approvals/t5forms.htm#inspect>
- Lower left corner – check the date
- Current form has 09/08 date
- Check at least monthly to make sure the form is “up-to-date”
- Check to see if the municipality has a local bylaw related to inspections:
  - Licensing
  - Additional requirements/forms
  - Additional private water well testing, if applicable



Title 5 Inspection Form and Enforcement

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**There's no excuse to not use a current form!**

t5ins - 09/08

Title 5 Inspection Form and Enforcement  
MassDEP

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### OWNERSHIP INFORMATION

**MSWord version fills in info to subsequent pages**

- Required on every page of Inspection Report
- May be put on form before or after inspection
- Must be legible
- Must be accurate
  - Make sure who the owner is – no realtor's information
  - Use date of field inspection

Title 5 Inspection Form and Enforcement  
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Pages 1-17

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### GENERAL INFORMATION

- Inspector's Information
  - Complete
  - Accurate
  - Legible
  - Include certification number
- May be filled out pre- or post- inspection
- Inspector must actually perform the inspection
  - No agents of the inspector
  - No subordinates/employees of the inspector

Title 5 Inspection Form and Enforcement  
MassDEP

Page 1

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## B. CERTIFICATION

- Make sure this corresponds with pages 2-5

**B. Certification**

I certify that I have personally inspected the sewerage disposal system at this address and that the information reported is accurate and complete as of the time of the inspection. The inspection was performed based on my training and experience in the proper function and maintenance of on-site sewerage disposal systems. I am a DEP approved system inspector pursuant to Section 18.340 of Title 8 (310 CMR 18.000). The system:

Passes       Conditionally Passes       Fails

Needs Further Evaluation by the Local Approving Authority

Inspector's signature \_\_\_\_\_ Date \_\_\_\_\_

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## SYSTEM PASSES

- If the system passes indicate such
- If unable to evaluate any of the failure criteria (see pages 4 and 5), explain under comments:
  - i.e. The system is a one leaching pit system with no d-box. As such, the liquid depth in the d-box (a failure criteria) cannot be evaluated. Explain under comments.

**A) System Passes:**

I have not found any information which indicates that any of the failure criteria described in 310 CMR 18.303 or in 310 CMR 18.304 exist. Any failure criteria not evaluated are indicated below.

Comments: \_\_\_\_\_

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## SYSTEM CONDITIONALLY PASSES

If one of these components needs to be replaced, and the system, upon completion of the replacement/repair, will pass:

1. Septic Tank;
2. Backup/breakout due to:
  - a. Broken pipe
  - b. Obstruction
  - c. Unlevel/broken d-box
3. System pumped more than 4 times annually due to:
  - a. Broken pipe
  - b. Obstruction

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### CONDITIONAL PASS: SEPTIC TANK

- System will pass if septic tank replaced
  - >20 years old
  - Structurally unsound
  - Infiltration/exfiltration
- Only metal tanks that can remain are
  - <20 years old; and
  - Structurally sound; and
  - Not leaking; and
  - Certificate of Compliance

Need to pull a DSCP for the replacement. CoC can only be for the repaired component!

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### CONDITIONAL PASS: PIPE

- Backup or high d-box water level:
  - If broken pipe, replace pipe
  - If obstructed pipe, remove obstruction
- > 4 Pump outs in a year:
  - If broken pipe, replace pipe
  - If obstructed pipe, remove obstruction

If replacing pipe, pull a DSCP and get a CoC for only that work done.

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### CONDITIONAL PASS: D-BOX

If backup or high water level in d-box is caused by broken or settled/uneven d-box and system will otherwise pass:

- Pull a DSCP to perform the work
- Receive a CoC that is only for that work performed.

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## FURTHER EVALUATION BY BOH

- Pass unless BOH determines otherwise:
    - Cesspool/privy within
      - 50 feet of surface water; OR
      - 50 feet of BVW or salt marsh
  - Fail unless BOH (and PWS?) determines otherwise:
    - System with septic tank and SAS and
      - SAS is within 100 feet of a surface water supply or tributary thereto; OR
      - SAS is within Zone 1 of the PWS; OR
      - SAS is within 50 feet of a private water supply well
    - System with septic tank and SAS with SAS between 50 and 100 feet from private water supply well\*
  - Other
- \* Passes if well free of coliform bacteria and ammonia nitrogen and nitrate nitrogen are both less than 5 ppm

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## FAILURE CRITERIA:

- Applicable to all:
  - All questions must be answered
    - Yes
    - No
  - Leaching pits (1978 code) are not inspected as if they are cesspools
- Large Systems:
  - If the system is >7,500 gpd, double check design flow
  - Answer all questions
  - If yes for any Large System question or for any other failure criteria, system is in failure. Owner needs to contact MassDEP.

Leaching pits don't fail if < 6 inches to inlet or < 1/2 day storage above water level.

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## C. CHECKLIST

- Need to answer all questions
  - Yes
  - No
  - N/A: only applies for  
*Were as built plans of the system obtained and examined? (if they were not available note as N/A)*
- Accurate answers
- SAS info:
  - Existing information: BOH as-built or design plan (perhaps a previous inspection if appropriate)
  - Determined in field: if not existing info

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### D. SYSTEM INFO: Commercial, Etc. 1

- Type of Establishment  
If more than one facility served, list:  
retail shopping center with 4,500 sf retail, 2,000 sf bank, 8 chair hair salon and 45 seat fast food restaurant
- Design flow (based on 310 CMR 15.203)  
Using the types of facilities served and their respective sizes, calculate out the design flow  
If there's a different design flow in the BOH records, note it.
- Basis of design flow  
Show the calculations  
Add a sheet of calculations to make it neater

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### D. SYSTEM INFO: Commercial, Etc. 2

Grease trap present?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Industrial waste holding tank present?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Non-sanitary waste discharged to the Title 5 system?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Water meter readings, if available:	_____

- Information on previous slide is important
- Is grease trap needed?
  - Is non-sanitary waste going to the septic?

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### GENERAL INFO: Pumping Records

Source of information:	_____
Was system pumped as part of the inspection?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, volume pumped:	_____ gallons
How was quantity pumped determined?	_____
Reason for pumping:	_____

Homeowner  
Pumper  
BOH  
List all that apply

If system pumped as part  
of inspection,  
the pumper gave the info.

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### D. SYSTEM INFO: Type of System

- Pick one and only one
- If there's more than one, there should be more than one report
- If it is something not listed, spell it out under Other
- Approximate ages of components and source of info
- Odors

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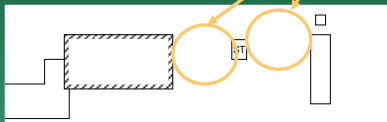
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### D. SYSTEM INFO: Building Sewer

- Depth
- Material
- Distance to water line or well
- Comments, as appropriate
- Locate on site plan!!

Important to gain access to basement.

What happens in these areas?



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### D. SYSTEM INFO: Septic Tank 1

Septic Tank (locate on site plan)

Depth below grade: \_\_\_\_\_

Material of construction:

concrete     metal     fiberglass     polyethylene     other (explain): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If tank is metal, list age: \_\_\_\_\_

Is age confirmed by a Certificate of Compliance? (attach a copy of certificate)     Yes     No

Dimensions: **Measure carefully**

Sludge depth: **Use a sludge judge or similar tool.** \_\_\_\_\_

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## D. SYSTEM INFO: Septic Tank 2

**Septic Tank (cont.)**

Distance from top of sludge to bottom of outlet tee or baffle: \_\_\_\_\_ **Make** \_\_\_\_\_

Scum thickness: \_\_\_\_\_ **sure** \_\_\_\_\_

Distance from top of scum to top of outlet tee or baffle: \_\_\_\_\_ **to** \_\_\_\_\_

Distance from bottom of scum to bottom of outlet tee or baffle: \_\_\_\_\_ **fill** \_\_\_\_\_

How were dimensions determined? \_\_\_\_\_ **in.** \_\_\_\_\_

Comments (see pumping recommendations, inlet and outlet tee or baffle condition, structural integrity, liquid levels as related to outlet invert, evidence of leakage, etc.): \_\_\_\_\_

If anything looks different or if there are unexpected odors, note it.

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## D. SYSTEM INFO: Grease Trap

**Grease Trap (locate on site plans)**

Depth below grade: \_\_\_\_\_ **feet** \_\_\_\_\_

Material of construction:

concrete    metal    fiberglass    polyethylene    other (specify): \_\_\_\_\_

Dimensions:

Scum thickness: \_\_\_\_\_

Distance from top of scum to top of outlet tee or baffle: \_\_\_\_\_

Distance from bottom of scum to bottom of outlet tee or baffle: \_\_\_\_\_

Date of last pumping: \_\_\_\_\_ **Day** \_\_\_\_\_

If grease trap is "beneath the sink" type, note it on Inspection Report.

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## D. SYSTEM INFO: Tight/Holding Tank 1

**Tight or Holding Tank (tank must be purged at time of inspection) (locate on site plans)**

- If facility is served solely by a tight tank, fill this out
- If facility is served by multiple systems, one Form for each one
- If facility has a holding tank for hair salon wastes, etc., fill this out

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### D. SYSTEM INFO: Tight/Holding Tank 2

The screenshot shows a form with the following sections:

- Depth below grade:** [ ]
- Material of construction:**  concrete  metal  fiberglass  polyethylene  other (specify):
- Dimensions:** [ ]
- Capacity:** [ ]
- Design Flow:** [ ]
- Alarm present:**  Yes  No
- Alarm tested:** [ ]
- Alarm in working order:**  Yes  No
- Comments:** [ ]

Callouts:

- "For what it serves" points to the Capacity field.
- "Tank has to be pumped as part of inspection. Also include prior inspection date." points to the Date of last pumping field.
- "Check alarm at time of inspection. Manually activate the alarm – then answer this question." points to the Alarm in working order field.

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### D. SYSTEM INFO: Tight/Holding Tank 3

Check the bottom of Page 11

\* Attach copy of current pumping contract (required). Is copy attached?  Yes  No

- Contract should be in place – homeowner
- BOH may actually have a copy also
- If not, opportunity for BOH to require it

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### D. SYSTEM INFO: D-box

- If d-box is present, it must be opened!
- Using a camera from the septic tank is fine for locating the d-box, but it still must be opened.
- Under special circumstances, camera may be used but BOH must OK it prior to it being done.

**One of the most common complaints from BOHs who review inspection reports.**

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### D. SYSTEM INFO: Cesspools

- Must be pumped as part of inspection
- Get required measurements pre-pump-out
- Record other observations post-pump-out

Number and configuration \_\_\_\_\_  
Depth - top of liquid to inlet invert \_\_\_\_\_  
Depth of solids layer \_\_\_\_\_  
Depth of scum layer \_\_\_\_\_  
Dimensions of cesspool \_\_\_\_\_  
Materials of construction \_\_\_\_\_  
Indication of groundwater inflow  Yes  No

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### D. SYSTEM INFO: Privy

- Materials
- Dimensions
- Depth of solids
- Preferable to pump-out at time of inspection but not required by regulations

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### D. SYSTEM INFO: Sketch

- Very important but often times neglected
- Two options
  - Hand sketch
  - Separate drawing
- Make it
  - Legible
  - Neat
  - Complete
  - Understandable
  - Include component labels

**MAKE SURE TO SHOW:**  
Streets  
Significant Structures  
(garage, shed, etc)

**DENOTE AS MANY TIES  
TO STRUCTURES AS  
POSSIBLE**

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### D. SYSTEM INFO: Site Exam (GW) 1

- Check slope
- Surface water
- Check cellar – need to gain access
  - Building sewer info and location
  - Dampness/sump pumps
- Shallow wells

Estimated depth to high ground water:

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### D. SYSTEM INFO: Site Exam (GW) 2

- Obtained from design plans - date
- Observed site
  - Abutting property
  - Deep hole within 150 feet of SAS
- Check with local BOH - explanation
- Checked with local excavators/installers - document
- Accessed USGS database

Describe how you established high GW elevation

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### E. REPORT COMPLETENESS CHECKLIST

- Inspection Summary A, B, C, D, or E checked
- Inspection Summary D (System Failure Criteria Applicable to All Systems) completed
- System Information – Estimated depth to high groundwater
- Sketch of Sewage Disposal System either drawn on page 15 or attached in separate file

**ALL OF THESE NEED TO  
BE COMPLETED AND  
CHECKED PRIOR TO  
SUBMITTAL OF THE  
INSPECTION REPORT.**

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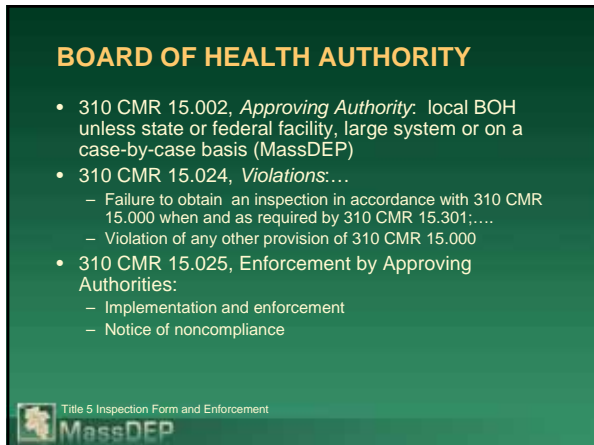
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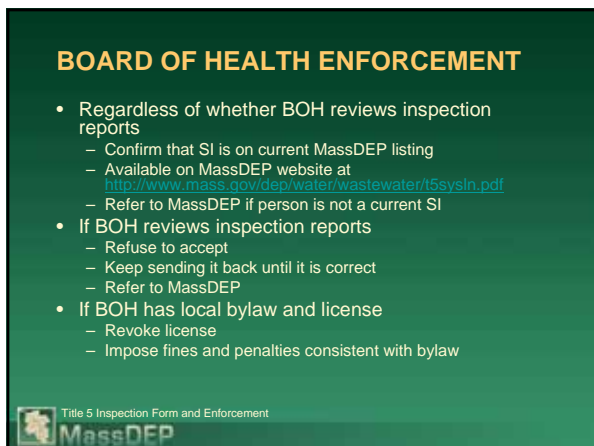
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## LOCAL ENFORCEMENT

- Rejection of inspection report
  - Written
    - Inspector
    - Property Owner
    - Realtor (if known)
  - Clearly outline what is incorrect and/or incomplete
  - State that as a result there is no valid Title 5 System Inspection for the subject property

This usually gets the realtor's attention!



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## LOCAL BYLAWS\*

- 310 CMR 15.003(3) and (5)
  - BOH may enact more stringent bylaws
  - Must conform to MGL c 111, s 31 and MGL c 321A, s 13
  - Must file with MassDEP's Boston office
- Some BOHs have required
  - SI and/or SE registrations
  - Fees for System Inspection Report filing/review
  - Additional inspectional requirements (private well testing, etc.)

\* Local BOHs may enact more stringent regulations. Whether a particular community does is strictly at that community's discretion. MassDEP is providing this for informational purposes only.



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## MassDEP'S AUTHORITY TO ENFORCE

- 310 CMR 15.340, Approval of System Inspectors
  - Required MassDEP approval and licensing
  - Renewal procedures
  - Revocation/Suspension authority
- 310 CMR 15.024, Violations:
  - Violation of any provision of 310 CMR 15.000



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## MassDEP ENFORCEMENT SOURCES

- Complaint:
  - Property owner
  - Realtor
  - Attorney
- Referral from BOH
- Discovery



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## MassDEP'S ENFORCEMENT OPTIONS

- Correspondence
  - No violations
  - Corrections requested
- Notice of Noncompliance
- Enforcement Conference
  - Administrative Consent Order (ACO)
  - Administrative Consent Order with Penalty (ACOP)
- Unilateral Administrative Order (UAO)
- Penalty Assessment Notice (PAN)



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## CORRESPONDENCE

- No violations
  - Respond back to complainant
  - No violations of inspectional process or criteria
  - Camera vs. no camera
- Corrections
  - System Inspections for which MassDEP is the Approving Authority
  - Outline deficiencies
  - Deadline for compliance



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### NOTICE OF NONCOMPLIANCE

- Not appealable enforcement document
- Outlines violations
- Outlines deadline and tasks to achieve compliance
- Lowest level of MassDEP enforcement
- Used
  - Minor paperwork and inspectional deficiencies
  - Does not affect ultimate inspection result



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### ACO AND ACOP

- Mutually agreed-to document
- Outlines violations
- Order section contains schedule and tasks to achieve compliance
- Contains stipulated penalties if Order is violated
- May contain penalty regardless (ACOP)
- Demand for payment of stipulated penalties is appealable



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### UAO

- Unilaterally issued document by MassDEP
- In case of system inspections, only issued if ACO/ACOP not possible
- Order section contains schedule and tasks to achieve compliance
- May be appealed though DALA



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## PAN

- Unilaterally issued document by MassDEP
- Contains demand for payment of a penalty
- Is appealable
- Usually issued in conjunction with a UAO



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## CONDITIONS OF ENFORCEMENT *TYPICAL\**

- NON
  - Abide by inspectional criteria
  - Complete forms in accordance with requirements
  - Submit a certain number of inspection reports for MassDEP review
- ACO/ACOP/UAO
  - Suspension/revocation of approval as a SI
  - Minimum time person is not eligible to retake course/exam
  - Correction of previous inspection reports
  - Notification of affected property owners (non-certified SI)
- Penalties (under either ACOP or PAN)
  - Outline of payment schedule
  - In ACOP, some penalty may be suspended pending compliance with ACOP conditions

\* Typical conditions imposed in these enforcement documents. These examples do not represent required or all conditions that may be imposed



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## MassDEP CONTACT INFORMATION

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## MassDEP WEB REFERENCES

Inspection FAQs:

<http://www.mass.gov/dep/water/wastewater/inspects.htm>

SI alphabetical listing:

<http://www.mass.gov/dep/water/wastewater/t5sysln.pdf>



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