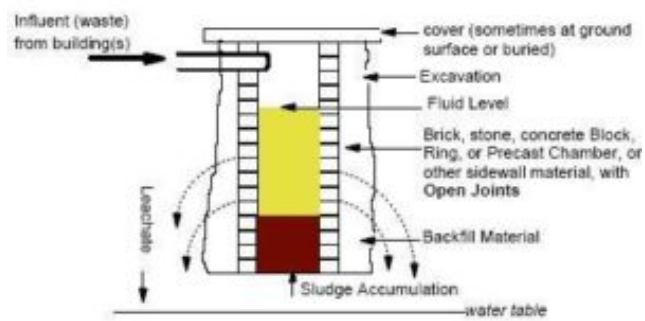


Rhode Island Cesspool Act of 2007



TITLE 23
Health and Safety

CHAPTER 23-19.15
The Rhode Island Cesspool Act of 2007

SECTION 23-19.15-1

§ 23-19.15-1. Short title.

This chapter shall be known and may be cited as the "Rhode Island Cesspool Act of 2007."

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1.)

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SECTION 23-19.15-2

§ 23-19.15-2. Legislative findings.

The general assembly hereby recognizes and declares that:

- (1) There exists a need to abate pollution and threats to public health caused by cesspools.
- (2) It is estimated that there are more than twenty-five thousand (25,000) cesspools within the state as of 2013.
- (3) Cesspools are a substandard and inadequate means of sewage disposal.
- (4) Cesspools contribute directly to groundwater and surface water contamination and environmental impacts will be exacerbated by increased precipitation, storm frequency, and sea level rise.
- (5) Wastewater disposed from cesspools contains bacteria, viruses, ammonium, and other pollutants, and may also include phosphates, chlorides, grease, and chemicals used to clean cesspools.
- (6) Wastewater disposed from cesspools violates drinking water health standards for certain contaminants.
- (7) Wastewater disposed from cesspools can pose significant health threats to people who come into contact with, or consume, contaminated surface waters or groundwaters.
- (8) Appropriate treatment of sewage disposed into the ground is essential to the protection of public health and the environment, particularly in relation to Narragansett Bay and the rest of the state's coastal region, and public drinking water resources.
- (9) Replacement of cesspools with onsite wastewater treatment systems (OWTS) technology reduces risks to public health and the environment.
- (10) In sewerred areas, sewer tie-ins offer a readily available, environmentally preferable means of mitigating problems and threats caused by cesspools.
- (11) A fund exists to assist homeowners with the costs of removing cesspools and inadequate septic systems and replacing them with an approved OWTS if the community in which the homeowner resides has created a wastewater management district in accordance with chapter 24.5 of title 45.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1; P.L. 2015, ch. 163, § 1; P.L. 2015, ch. 185, § 1.)

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SECTION 23-19.15-4

§ 23-19.15-3. Declaration of purpose.

The purpose of this chapter is to phase out use of cesspools beginning with those located in close proximity to tidal water areas and public drinking water supplies. Additionally, this chapter provides for the connection of properties served by cesspools to available sewer lines and requires the identification and replacement of cesspools on all properties throughout the state that are subject to sale or transfer.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1; P.L. 2015, ch. 163, § 1; P.L. 2015, ch. 185, § 1.)

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SECTION 23-19.15-5

§ 23-19.15-4. Definitions.

For the purposes of this chapter the following terms shall mean:

(1) "Cesspool" means any buried chamber other than an onsite wastewater treatment system (OWTS), including, but not limited to, any metal tank, perforated concrete vault, or covered hollow or excavation, that receives discharges of sanitary sewage from a building for the purpose of collecting solids and discharging liquids to the surrounding soil.

(2) "Department" means the department of environmental management as established in chapter 17.1 of title 42.

(3) "Director" means the director of the department of environmental management or his or her designee.

(4) "Failed cesspool" means a cesspool where one or more of the following conditions exist: (i) The cesspool fails to accept or dispose of sewage, as evidenced by sewage at the ground surface above or adjacent to the cesspool, or in the building served; (ii) The liquid depth in a cesspool is less than six (6) inches from the inlet pipe invert; (iii) Pumping is required more than two (2) times a year; (iv) The cesspool is shown to have contaminated a drinking water well or watercourse; or (v) There is shown to be direct contact between the bottom of the cesspool and the groundwater table.

(5) "Onsite wastewater treatment system" or "OWTS" means any system of piping, tanks, disposal areas, alternative toilets, or other facilities designed to function as a unit to convey, store, treat, and/or dispose of sanitary sewage, by means other than discharge into a public sewer system. A cesspool is not an OWTS.

(6) "System inspector" means a person who is registered as an inspector and capable of properly assessing the condition of an OWTS.

(7) "Transfer" means a transfer of real property except between the following relationships:

(i) Between current spouses;

(ii) Between parents and their children;

(iii) Between full siblings; or

(iv) 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.

(8) "Wastewater" means human or animal excremental liquid or substance, putrescible animal or vegetable garbage or filth, including, but not limited to, waste discharged from toilets, bath tubs, showers, laundry tubs, washing machines, sinks, and dishwashers.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1; P.L. 2015, ch. 163, § 1; P.L. 2015, ch. 185, § 1.)

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SECTION 23-19.15-7

§ 23-19.15-5. Inspection requirements for cesspools located in close proximity to tidal waters and public drinking supplies.

(a) Unless exempted under subsection 23-19.15-8(a), the owner of property served by a cesspool in the following areas shall cause an inspection to be performed on said cesspool by a system inspector in accordance with a schedule established by the department, but no later than January 1, 2012:

- (1) Which cesspool is within two hundred feet (200') of the inland edge of a shoreline feature bordering a tidal water area [corresponding to the jurisdiction of the RI coastal resources management council];
- (2) Which cesspool is within two hundred feet (200') of a public drinking water well; and
- (3) Which cesspool is within two hundred feet (200') of a surface drinking water supply, specifically the impoundment from which water is drawn via the intake.

The inspection shall be conducted by a system inspector as defined herein and reported in accordance with procedures required by the department, and the results shall be recorded on forms prescribed by the department.

(b) Pursuant to § 5-20.8-13, every contract for the purchase and sale of real estate that is, or may be, served by a private cesspool shall provide that potential purchasers be permitted a ten-day (10) period, unless the parties mutually agree upon a different period of time, to conduct an inspection of the property's on-site sewage system in accordance with procedures required by the department in subsection (a) of this section before becoming obligated under the contract to purchase.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1; P.L. 2008, ch. 475, § 61; P.L. 2015, ch. 163, § 1; P.L. 2015, ch. 185, § 1.)

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SECTION 23-19.15-8

§ 23-19.15-6. Cesspool removal and replacement.

(a) Any cesspool located in close proximity to tidal water areas and public drinking water supplies and required to be abandoned pursuant to this chapter shall be replaced with an approved OWTS, or the building served by the cesspool shall be connected to a public sewer, prior to the applicable deadlines contained in subsection (b) of this section.

(b) Cesspools found to be located within the areas identified in § 23-19.15-5(a) shall cease to be used for sewage disposal and shall be properly abandoned in accordance with the following schedule:

(1) *Tier 1.* Any cesspool deemed by the department or a system inspector to be failed in accordance with this chapter shall be properly abandoned within one year of discovery unless an immediate public health hazard is identified, in which case the director may require a shorter period of time.

(2) *Tier 2.* Any cesspool located on a property that has a sewer stub enabling connection to a public sewer shall be properly abandoned, and the building served by the cesspool shall be connected into the sewer system of such premises with such sewer and fill up and destroy any cesspool, privy vault, drain, or other arrangement on such land for the reception of sewage, excluding any Rhode Island department of environmental management OWTS-approved system, prior to January 1, 2014.

(3) *Tier 3.* Any cesspool within two hundred feet (200') of a public drinking water well, or within two hundred feet (200') of the inland edge of a shoreline feature bordering a tidal water area [corresponding to the jurisdiction of the RI Coastal Resources Management Council], or within two hundred feet (200) of a surface drinking water supply [specifically, the impoundment from which water is drawn via the intake], shall be properly abandoned by January 1, 2014.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1; P.L. 2011, ch. 285, § 1; P.L. 2011, ch. 380, § 1; P.L. 2015, ch. 163, § 1; P.L. 2015, ch. 185, § 1.)

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SECTION 23-19.15-9

§ 23-19.15-7. Waiver.

The director may grant a waiver, to the extent necessary, from applicable provisions listed in § 23-19.15-6(b) provided the homeowner demonstrates undue hardship, defined as having an annual income of less than or equal to eighty percent (80%) of the appropriate household size area median income determined by the federal Housing and Urban Development standards for the community within which the cesspool is located, and the cesspool is not a failed system as defined herein. No waiver shall exceed five (5) years from the dates specified in § 23-19.15-6(b). Any waiver granted shall expire upon transfer or sale of the land or easement upon which the cesspool is located.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1; P.L. 2011, ch. 285, § 1; P.L. 2011, ch. 380, § 1; P.L. 2015, ch. 163, § 1; P.L. 2015, ch. 185, § 1.)

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SECTION 23-19.15-10

§ 23-19.15-8. Exemption.

(a) The provisions of §§ 23-19.15-5, 23-19.15-6(a) and 23-19.15-12(a) shall not apply to any cesspool located in an area of a community covered by municipal, on-site wastewater management ordinance that requires the risk-based phase out of cesspools on an alternative schedule that meets the purposes of this act.

(b) The provisions of §§ 23-19.15-6(b)(2) and 23-19.15-12 shall not apply to any cesspool located on a property that is properly designated to be sewered no later than six (6) years after the applicable deadlines provided in § 23-19.15-6(b)(3) provided: (1) The sewerage project is identified in the city, town, or sewer district's wastewater facilities plan as approved by DEM prior to January 1, 2013; (2) The municipality, acting through its city or town council, states in writing to the director of the department of environmental management by January 1, 2013, that the municipality will complete construction of the sewerage project on or before January 1, 2020; and (3) The property owner certifies, in writing, that the dwelling/building will be connected to the sewer system within six (6) months of receipt of the notification to connect to the sewer system and that no increase in the design sewage flow or number of bedrooms in the building will occur until the connection is made.

(c) In addition to subdivision (b)(2) of this section, the municipality must demonstrate by December 31, 2014, that it has bond authorization or some other dedicated financial surety for expansion of sewers to the area of the building served by the cesspool. If the municipality fails to demonstrate such surety, this exemption shall terminate and the cesspool shall be replaced by June 30, 2015.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1; P.L. 2008, ch. 475, § 61; P.L. 2011, ch. 285, § 1; P.L. 2011, ch. 380, § 1; P.L. 2015, ch. 163, § 1; P.L. 2015, ch. 185, § 1.)

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SECTION 23-19.15-11

§ 23-19.15-9. Notice to remove and replace cesspools.

(a) The owner of any cesspool who or that has not complied with the requirements pursuant to this chapter shall be in violation of this chapter and subject to enforcement action by the department in accordance with chapters 17.1 and 17.6 of title 42 of the general laws.

(b) Notwithstanding the above provisions, the director may require the abandonment and replacement of any cesspool with an approved OWTS prior to the dates specified in § 23-19.15-6(b) if the cesspool is a large capacity cesspool as defined pursuant to applicable federal regulations governing underground injection control (UIC) facilities.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1; P.L. 2008, ch. 475, § 61; P.L. 2015, ch. 163, § 1; P.L. 2015, ch. 185, § 1.)

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SECTION 23-19.15-12

§ 23-19.15-10. Regulations.

The department shall promulgate rules and regulations as may be necessary to implement and carry out the provisions of this chapter.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1.)

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SECTION 23-19.15-13

§ 23-19.15-11. Severability and construction.

The provisions of this chapter shall be severable, and if any court declares any phrase, clause, sentence, or provision of this chapter to be invalid, or its applicability to any government, agency, person, or circumstance is declared invalid, the remainder of the chapter and its relevant applicability shall not be affected. The provisions of this chapter shall be liberally construed to give effect to the purposes thereof.

History of Section.

(P.L. 2007, ch. 136, § 1; P.L. 2007, ch. 233, § 1.)

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SECTION 23-19.15-14

§ 23-19.15-12. Cesspool removal and replacement requirements at property transfer.

(a) Any cesspool found to be serving a building or use subject to sale or transfer shall be removed and replaced with an OWTS or the building served by the cesspool shall be connected to a public sewer system within twelve (12) months of the date of sale or transfer.

(b) Should the manner of wastewater disposal be unknown, an inspection shall be conducted to determine if a cesspool is present on the property. This inspection shall be done by a system inspector prior to the time of sale or transfer.

(c) Pursuant to § 5-20.8-13, every contract for the purchase and sale of real estate that is or may be served by a private cesspool shall provide that potential purchasers be permitted a ten-day (10) period, unless the parties mutually agree upon a different period of time, to conduct an inspection of the property's onsite sewage system in accordance with procedures required by the department in § 23-19.15-5(a), before becoming obligated under the contract to purchase.

History of Section.

(P.L. 2015, ch. 163, § 2; P.L. 2015, ch. 185, § 2.)

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Health and Safety
Relating to Location, Design, Construction and
Maintenance of Onsite Wastewater Treatment
CHAPTER 23-19-15
Systems (OWTS)
The Rhode Island Cesspool Act of 2007
<https://rules.sos.ri.gov/regulations/part/250-150-10-6>
SECTION 23-19-15-15

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