

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."

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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 within certain portions of the state the need to abate pollution and threats to public health caused by cesspools, particularly high-risk cesspools that pose direct threats to public health and the environment.

(2) It is estimated that there are more than fifty thousand (50,000) cesspools within the state as of 2006.

(3) Cesspools are a substandard and often inadequate means of sewage treatment and disposal.

(4) Many cesspools contribute directly to groundwater and surface water contamination.

(5) Wastewater disposed from cesspools contains bacteria, viruses, ammonium and other pollutants with high biochemical oxygen demand, and may also include phosphates, chlorides, grease, and chemicals used to clean cesspools.

(6) Wastewater disposed from cesspools frequently exceeds 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 modern ISDS technology reduces risks to public health and the environment.

(10) In sewered areas, sewer tie-ins offer a readily available, low-cost 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 ISDS if the community in which the homeowner resides has created a wastewater management district in accordance with chapter 24.5 of title 45.

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SECTION 23-19.15-3

§ 23-19.15-3 Declaration of purpose. – The purpose of this chapter is to phase-out use of cesspools that present the highest risk to public health and/or the environment – namely, cesspools located in close proximity to tidal water areas and public drinking waters. Additionally, this chapter is intended to allow for the identification and assessment of cesspools on all properties throughout the state that are subject to sale, and to phase-out any such cesspools that are found to be failed.

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SECTION 23-19.15-4

§ 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 individual sewage disposal system, including, but not limited to, any metal tank, perforated concrete vault or covered hollow or excavation, which 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) "Individual sewage disposal system" or "ISDS" 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.

(6) "System inspector" means a person approved by the department as capable of properly assessing the condition of an ISDS.

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SECTION 23-19.15-5

§ 23-19.15-5 Inspection. – (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 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 which is or may be served by a private cesspool, shall provide that potential purchasers be permitted a ten (10) day 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 23-19.15-5(a), before becoming obligated under the contract to purchase.

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SECTION 23-19.15-6

§ 23-19.15-6 Cesspool removal and replacement. – (a) Cesspools found to be located within the areas identified in subsection 23-19.15-5(a) above 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 which 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 ISDS approved system, prior to the one year anniversary of the sale in ownership. If such abutting owner or occupant of land who is required to connect to the sewage system fails to do so in prescribed time period, then such abutting owner or occupant of land shall be required to pay usage fees as if such abutting owner or occupant of land were connected to the sewage system.

(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, 2013, excluding those properties subject to subsection (a)(2) above.

(b) Any cesspool required to be abandoned pursuant to this chapter shall be replaced with an approved ISDS, or the building served by the cesspool shall be connected to a public sewer, prior to the applicable deadlines contained in subsection 23-19.15-6(a).

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SECTION 23-19.15-7

§ 23-19.15-7 Waiver. – The director may grant a waiver, to the extent necessary, from applicable provisions listed in subsection 23-19.15-6(a) provided the homeowner demonstrates undue hardship and the cesspool is not a failed system as defined herein. No waiver shall exceed five (5) years from the dates specified in subsection 23-19.15-6(a). Any waiver granted shall expire upon transfer or sale of the land or easement upon which the cesspool is located.

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SECTION 23-19.15-8

§ 23-19.15-8 Exemption. – (a) The provisions of § 23-19.15-5 and subsection 23-19.15-6(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 subsection 23-19.15-6(a) shall not apply to any cesspool located on a property that is properly designated to be sewered no later than five (5) years after the applicable deadlines provided in subsection 23-19.15-6(a) provided: (1) it is not a failed cesspool as defined herein; (2) the owner does not increase the design sewage flow into the cesspool or add bedrooms to the building served by the cesspool; (3) the municipality holds bonding authorization or some other dedicated financial surety for expansion of sewers to the area of the building served by the cesspool; and (4) 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.

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SECTION 23-19.15-9

§ 23-19.15-9 Notice to remove and replace cesspools. – (a) The owner of any cesspool who 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 ISDS prior to the dates specified in subsection 23-19.15-6(a) if the cesspool is a large capacity cesspool as defined pursuant to applicable federal regulations governing underground injection control (UIC) facilities.

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SECTION 23-19.15-10

§ 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.

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SECTION 23-19.15-11

§ 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.