

Frequently Asked Questions Cesspools and the Rhode Island Cesspool Act

September 1, 2015

Do all cesspools in Rhode Island need to be replaced? What do I have to comply with?

All cesspools in Rhode Island are subject to the Rhode Island Cesspool Act of 2007 and will need to be replaced. The timing for when you will be required to replace your cesspool is determined by the following:

- 1) If your property is subject to sale or transfer, the cesspool must be removed from service within one year of the closing date;
- 2) If your cesspool is failed (see definition below), the cesspool must be replaced within 1 year of the failure, or less if an imminent threat to public health is identified;
- 3) If you have a cesspool that serves a non-residential facility or multifamily dwelling, the cesspool must be replaced as required under current DEM and EPA regulations; or
- 4) If your cesspool is located within one of the three areas described below, the cesspool must be replaced immediately:
 - Within 200 feet of the inland edge of all shoreline features bordering tidal water areas (i.e., Coastal Resources Management Council's jurisdiction);
 - Within 200 feet of all public wells; or
 - Within 200 feet of a water body with an intake for a drinking water supply.

The deadline for replacing cesspools located within these 200-foot zones was January 1, 2014 and all remaining cesspools in these areas are in violation of the Cesspool Act;

If I want to sell my house, do I have to replace my cesspool?

Under the Cesspool Act, any cesspool serving a property subject to sale or transfer with a closing date on or after January 1, 2016, must be removed from service within one year of the closing date. The cesspool must be replaced with a septic system or the building connected to a sewer line if one is available. The upgrade requirement is triggered by the actual closing date. If your property transaction closes prior to January 1, 2016, the upgrade requirement does not apply until the next time the property is transferred.

Who is responsible for upgrading a cesspool when a property is sold?

The law does not specify which party, buyer or seller, is responsible for upgrading the cesspool, only that the upgrade must happen within one year of the closing for the transaction. This means the upgrade is subject to negotiation between the buyer and seller and that either party can take responsibility. If the cesspool is not upgraded within one year, the owner of the property at that time (one year after closing, i.e. the new owner) will be subject to enforcement action.

Are all real estate transactions covered under the Cesspool Act?

The cesspool upgrade requirements of the Act are triggered any time a property changes ownership, with the specific exception of transfers in the following cases:

- (1) Between current spouses;
- (2) Between parents and their children;
- (3) Between full siblings; or
- (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.

Does the law apply to foreclosures?

Yes, any cesspool serving a foreclosed property must be removed from service within one year of the closing when the property is purchased out of foreclosure.

How do I know if I have a cesspool?

A cesspool is any buried chamber (could be a metal tank, a perforated concrete vault, “beehive” or a covered excavation) that receives sewage from a building for disposal into the ground. (Note: Most home sewage systems installed after 1970 are not cesspools. Regulations became effective at that time that prohibited new installations of cesspools. Hence, if your system received an approval by the state after 1970, it is most likely not a cesspool.) If you know you are not connected to the public sewer system, but don’t know whether you have a cesspool or a septic tank with a leachfield, you will have to hire someone to determine if you have a cesspool. Class I, II, or III licensed septic system designers or Registered septic system inspectors can make this determination. Average inspection costs are likely to range from \$75-\$250, plus an additional \$150 to \$200 if the cesspool needs to be pumped. Inspections can be done any time of year. A list of registered septic system inspectors and Licensed Designers is available online at:

<http://www.dem.ri.gov/programs/benviron/water/permits/isds/pdfs/cesspect.pdf>.

How do I know if my cesspool is in one of these 200 foot zones?

The public wells, water bodies for drinking water supply and the coastline features can be determined from the information below. Once you have determined that you are in close proximity to one of these features, you will have to make a determination (or hire a professional) as to whether or not you are within 200 feet.

- The water bodies from which water is withdrawn for drinking water supply are: Bristol County Water Authority – Kickemuit Reservoir; Cumberland (town of) – Sneece Pond; Eleanor Slater Hospital/Zambarano Unit – Wallum Lake; Jamestown (town of) – Jamestown Reservoir; New Shoreham (town of) – Fresh Pond and Sands Pond; Newport (city of) – Easton Pond, Green End Pond, Lawton Valley Reservoir, Nelson Pond, Nonquit Pond, St. Mary’s Pond, Sisson Pond, Watson Reservoir; Pawtucket Water Supply Board – Happy Hollow Pond; Providence Water Supply Board – Scituate Reservoir; Stone Bridge Fire District – Stafford Pond; Woonsocket (city of) – Reservoir No. 1; Yawgoog Scout Reservation – Yawgoog Pond.
- To learn if a facility has a public well, refer to the RI Department of Health Public Health Directory website at: <https://healthri.mylicense.com/Verification/Search.aspx?facility=Y> Search under “Profession: Public Water System” and enter the name of the facility or business you are interested in. Note that public wells include large municipal wells and also wells serving schools, factories, mobile home parks, nursing homes, restaurants, hotels, etc.
- For an overview of the CRMC jurisdictional area, refer to the RI Coastal Resources Management Council “Coastal Shoreline Feature” guide at: http://www.crmc.ri.gov/guidesreports/CRMC_Coastal_Shoreline_Features.pdf .

How do I know if I have a “failed cesspool”?

A failed cesspool is one that meets **any** of the criteria below. Note that a cesspool can appear to function in a manner that disposes of the waste and still be considered a “failed cesspool” under any of the five criteria below. In other words, a backup of sewage or leakage onto the ground surface are not the only criteria for failure.

- The cesspool fails to accept sewage, as evidenced by sewage backing up onto the ground surface or into the building it serves;
- The liquid level in the cesspool is less than 6 inches from the bottom of the pipe that drains into it;
- The cesspool has to be pumped more than 2 times per year;
- The cesspool has been shown to have contaminated a drinking water well, stream or wetland; or
- The bottom of the cesspool is below the groundwater table at any time of year, resulting in direct connection between the waste in the cesspool and the groundwater.

How much does it cost to replace a cesspool with a proper septic system?

The average cost to replace a cesspool with a conventional septic system is approximately \$10,000-\$15,000. However, replacements on very small lots, lots in close proximity to wells and water bodies, or lots subject to other constraints might not be feasible with conventional septic systems. In such cases, the use of more advanced systems with alternative technologies may be required. Under the State’s septic system rules, cesspools within the CRMC Special Area Management Plans for the Salt Ponds and Narrow River that have to

be replaced under the Cesspool Act or because of failure will have to be replaced with an advanced septic system that reduces nitrogen. These alternative systems are more expensive than conventional systems. See financing options below.

How much does it cost to tie-in to a sewer system?

The cost for a sewer tie-in depends on the distance from the home to the sewer stub, the presence of obstacles above ground (e.g., a pool), or below ground (e.g., ledge), and any required re-plumbing in the home. The typical cost can range from \$2,000 to \$4,000.

My neighborhood is planned to be sewer. Do I need to replace my cesspool?

No, provided you meet **all** of the following:

- The cesspool is not failed;
- Your property is proposed to be sewer no later than January 1, 2020;
- You do not propose to increase flow of wastewater to the cesspool (for residential structures, you are not proposing to add a bedroom) prior to the installation of sewers;
- Your city or town obtains bonding authorization for expansion of sewers to the area of the building served by the cesspool; and
- You certify in writing that the building will be connected to the sewer system within 6 months of receipt of notification to connect to the sewer system.

Is there any financial assistance available for replacing my cesspool?

Financial assistance in the form of low-interest loans is available through the Clean Water Finance Agency for residents replacing their cesspool (or conventional system that has failed) in municipalities that have enacted wastewater management programs and are participating in the Community Septic System Loan Program. Contact your city or town directly to find out if your community participates in this program.

If I want to install a pool/shed/deck in my yard, do I have to replace my cesspool?

Building an accessory structure such as a swimming pool or storage shed in your yard will not, by itself, trigger the requirement to replace your cesspool under the Cesspool Act. However, accessory structures take up space that may be needed to install a code-compliant septic system in the future. Homeowners should carefully consider the location of such structures in light of the potential need to replace a cesspool at a later date, whether under the Cesspool Act, due to system failure, or pursuant to the state septic system Rules. Careful siting of accessory structures can avoid the need to relocate these structures or incur additional costs for the installation of a new septic system.

Why are cesspools considered to be bad for the environment compared to a conventional septic system?

All cesspools in Rhode Island pre-date 1968, the first year regulations for septic systems took effect. Cesspools are considered substandard systems. They don't treat wastewater, they merely dispose of it. Cesspools concentrate the wastewater in one location, often deep within the ground and in direct contact with groundwater, causing groundwater contamination. This groundwater flows into drinking water wells and surface waters contributing to adverse public health and environmental impacts. In contrast, conventional septic systems place the wastewater well above the level of soils saturated by groundwater and they disperse this effluent over a large area, which results in substantial removal of pathogens and other pollutants.

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- If you have questions about cesspools, local wastewater management, or RI DEM's Septic System Program, see <http://www.dem.ri.gov/programs/benviron/water/permits/isds/index.htm>.
 - For other questions on the topics listed here, please contact Jon Zwarg in the DEM Office of Water Resources at 401-222-4700 ext.7205 or at jonathan.zwarg@dem.ri.gov.