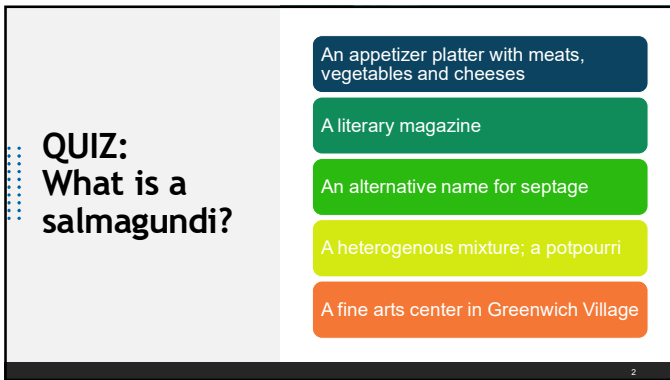
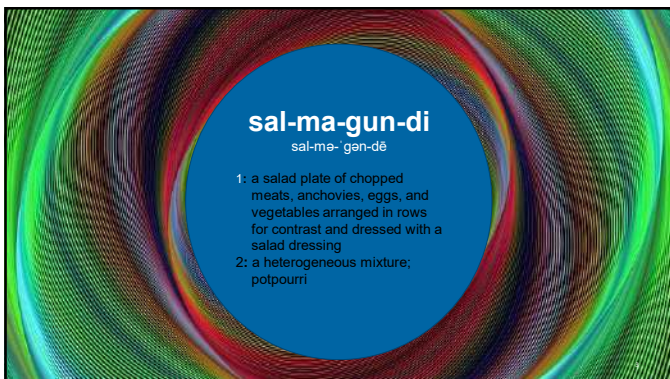


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Topics for Discussion

- Title 5 Program Update
- Title 5/GW Stakeholders Group Update
- MassDEP Staff Update
- Property Transfers & System Inspections
- LUA & Variance Refresher
- MassDEP & Title 5
- Questions & Answers

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DISCLAIMER

This presentation pertains solely to 310 CMR 15.000, Title 5 of the State Environmental Code, and is for educational and informational purposes only. Please note that municipalities may have regulations that are more restrictive than Title 5.

Any reference to a proprietary technology in the presentation is solely for illustration and does not constitute an endorsement of or comment upon said technology by the presenter or MassDEP. The same applies to any questions posed to the presenter and the accompanying answers.

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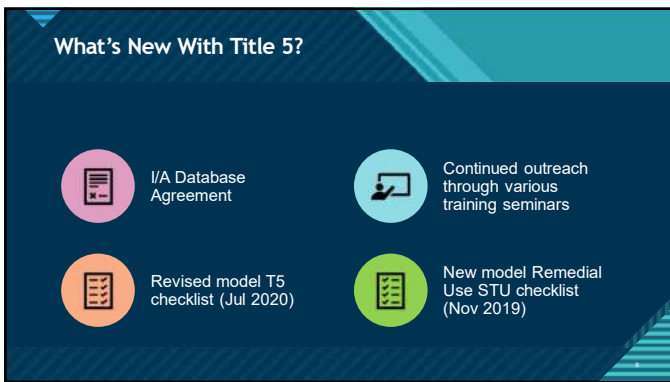
Poll: Who is my audience?

- Health agent/administrator
- Board of Health member
- Designer: PE or RS
- Soil Evaluator
- System Inspector
- Other

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Outreach and Training

- Various health seminars:
 - MEHA
 - MHOA
 - NEIWPCC Onsite Seminar
- Other training:
 - MHOA Conference
 - Soil Evaluator Class
 - Title 5 101 for BOHs*



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Revised Model Title 5 Checklist


- Revised July 2020
- Updated regulatory references
- Required legal document listings for:
 - Tight tanks;
 - Seasonal dwellings;
 - Facility nitrogen aggregation plans; and
 - Shared systems

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<https://www.mass.gov/lists/title-5-septic-system-forms#title-5-construction-&-repairs-forms->


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New Model Remedial Use Approval Secondary Treatment Unit Checklist

- November 2019
- Upgrades only – no new construction
- STUs only – Bioclere, Waterloo, FAST, Hoot, etc.
- Including but not limited to requirements of:
 - DSCP application;
 - Deed notice; and
 - Service contract.

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<https://www.mass.gov/lists/title-5-septic-system-forms#title-5-innovative/alternative-technologies-forms->

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GW/Title 5 Stakeholders Group Update

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Purpose: Address 12 EO562 Comments

- Initially met in in 2017
- MassDEP working on 4 remaining comments:
 - Nitrogen Sensitive Area Designation - 9/03/2020 virtual meeting
 - Guidance for LUA Approval for Moldering Privies (document will be issued shortly);
 - Virus removal & gw separation study (MASS Test Center); &
 - Multi-residence design flow study (UMass Donahue Institute).
- Next meeting on 10/03/2020

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MassDEP Title 5 Staff Update

a.k.a Who's Who at MassDEP

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MassDEP Regional Title 5 Contacts

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NERO Wastewater Info Line 978-694-3215 Claire Golden claire.golden@mass.gov 978-694-3244	WERO John Bourcier john.bourcier@mass.gov 413-755-2112 Matt Sokop matthew.sokop@mass.gov 413-755-2218	Dan Kurpaska daniel.kurpaska@mass.gov 413-755-2274

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MassDEP Boston (HQ) Title 5 Contacts

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Title 5 and I/A Program Staff

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Property Transfers & System Inspections

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A Few Things to Bear in Mind:

- Required prior to transfer
- Some exceptions:
 - Condos
 - Shared systems
 - Certain familial transfers ¹
 - Large systems (MassDEP is the Approving Authority)
 - Recent Certificate of Compliance ²
 - Enforceable agreement
 - Groundwater Permittees



¹ See MassDEP document
² Must be for full system (septic tank through SAS)

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Built-In Problems

- BOH review of system inspection reports not required:
 - Unfunded mandate
 - Practices vary from town to town
- Even if reviewed, how to determine recent transfers:
 - Town/City Hall communication issues
 - Manpower issues



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If you audit to ensure SI is completed...

- Establish procedure to checking records:
 - Quarterly review of Assessor's transfers?
 - Review of local newspaper listing of transfers?
- If submitted, rest a bit easy....at least it's done!
- If not, form letter to existing owner, past owner (if address is known), realtor(?), lending institution(?)
 - Outline regulatory requirements
 - Fill in info (transfer date), owner(s) names, deadlines for SI to be completed, etc.



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If you review the actual SI reports ...

- Is the SI approval current?
- Was it submitted in a timely manner (30 d)?
- Have all applicable sections been completed?
- Did they review the BOH files?
 - If not, why not?
 - If available and not consulted, incomplete.
- If well testing required, was it done and by whom?
 - If SI did not sample and include report, incomplete.



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If the SI report is deficient....

- Call the SI?
 - If minor deficiency (missing signature, water records, etc.)
 - Deadline for submittal
- Letter?
 - To whom? Depends on timing
 - SI
 - Property owner(s): new or prior
 - Realtor (if applicable)
 - Lending institution (if applicable)
 - Deadline for correction
 - Consequences if not corrected

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If SI report is not submitted (or not done) or was deficient and notification was not addressed...

- Enforcement
- Penalty
- Required upgrade or connection to sewer (if available)
- SI Referral to MassDEP

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SI (or SE) Referrals to MassDEP

- Submittal requirements
 - Narrative describing what has occurred with dates
 - Any applicable documentation
 - SI (or SE) report
 - Contradicting information or contradicting SI (or SE) report
- Ongoing enforcement – not open to the public until finalized
- MassDEP's timelines – not consistent with any related concurrent activities such as legal action

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Local Upgrade Approval & Variance Refresher

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LUA & Variance Specifications

LUA

- Upgrade (repair) only
- Failed or nonconforming system [310 CMR 15.403(1)]
- No increase in flow
- Notification of abutters is required for two particular LUAs
- Solely handled by the local BOH

VARIANCE

- Upgrade or new construction
- Standards of proof must be met:
 - Equal environmental protection; and
 - Denial would be manifestly unjust*
- For new construction*, demonstration that the denial would deprive applicant of all beneficial use

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Local Upgrade Approval

- 310 CMR 15.404 and 15.405
- Goal of full compliance
- Consideration of effects on public health, safety and the environment
- Best professional judgment
- Ranked listing of options to be considered
- Some options may not be possible (i.e. gw separation)
- 10 day notification to abutter(s) affected by well or property line setback reduction(s) with public hearing

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Variances

- 310 CMR 15.410, 15.411 and 15.413
- Goal of full compliance
- Standards of proof:
 - Consideration of effects on public health, safety and the environment
 - Written request
 - 10 day notification to all abutters with public hearing
 - Written approval
 - Conditions

Equal Environmental Protection and Manifestly Unjust to Deny

New construction: Manifest injustice means that owner is deprived of any beneficial use of the property.

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MassDEP & Title 5

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MassDEP's Responsibilities

- Approving Authority for certain facilities
- Approval of Soil Evaluators & System Inspectors (NEIWPCC)
- Certain variances (schools flow)
- Enforcement, including Soil Evaluator & System Inspector
- Technical and regulatory assistance
- Alternative technology approvals
- Alternative design flow approval (WP70)
- Non-sanitary wastewater discharges to septic (WP70a)

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... as Approving Authority

- State owned or operated facilities
- Federally owned or operated facilities
- Large systems
- Case-by-case basis
 - BOH referral
 - Enforcement



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... for Certain Variances

- 310 CMR 15.416 – Schools Flows
 - Average daily water use (with school in session)
 - 200%

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... for Enforcement

- Soil Evaluator and System Inspector Enforcement*
 - Clear documentation of what occurred
 - Any evidence in support of the allegation
- Enforcement

NON ACO ACOP UAO PAN

* Previous discussed in greater detail.

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... Technical and Regulatory Assistance

- Boards of Health
- Consultants
 - Engineers
 - Sanitarians
 - Soil Evaluators
 - System Inspectors
- Public

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Questions & Answers

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Alternative Technology Reminder:

- If a technology is proposed and you don't see it on the MassDEP website, it is not approved.
- Technologies include:
 - Active and passive technologies;
 - Effluent tee filters;
 - System additives; and
 - System restoratives or preparatory processes.
- Contact regional MassDEP office or the I/A program in Boston.

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QUIZ:
What should you do if you find that the system you just inspected has a design flow of 12,000 gpd?

Submit the system inspection report to the local BOH

Submit the system inspection report to MassDEP

Submit the system inspection report to both the BOH and to MassDEP

Don't submit the system inspection report to anyone but the owner

Other

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