NEW YORK STATE | Department of Environmental Conservation | Environmental Facilities Corporation

# State Septic System Replacement Fund

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# 1. Background

The Clean Water Infrastructure Act (CWIA) of 2017 (L. 2017, c. 57, Part T) established the Septic System Replacement Fund to provide funding to counties to help homeowners replace Cesspools and repair or replace Septic Systems. This grant program seeks to reduce the environmental and public-health impacts associated with the discharge of effluent from Cesspools and Septic Systems to groundwater and surface water used as public drinking water where sewering is not an available option.

# 2. Definitions

**Best Use(s) and Classifications** – The assessment of New York State's surface waters is specific to the Best Use(s) assigned to a waterbody. All waterbodies in New York State are classified to reflect their Best Use(s) in accordance with NYS Environmental Conservation Law (ECL) protections for sources of water used for drinking, bathing, boating, fishing, and shellfishing (ECL 17-0301). Requirements for the protection of water quality vary based on the classification of a waterbody and its Best Use(s). For additional information on how water quality assessments are conducted, please see the New York State Department of Environmental Conservation's Consolidated Assessment and Listing Methodology (CALM, updated May 2023) at https://dec.ny.gov/sites/default/files/2024-05/calm.pdf

**Cesspool** – a drywell that receives untreated sanitary waste containing human excreta, which sometimes has an open bottom and/or perforated sides.

**Enhanced Septic System Project** – the replacement of a Cesspool or Septic System with an onsite decentralized wastewater treatment system(s) that (i) at a minimum, is designed to reduce total nitrogen in treated effluent to 19 mg/L or (ii) significantly and quantifiably reduces environmental and/or public health impacts associated with phosphorus or per- and polyfluoroalkyl substances (PFAS) and associated compounds[1] in effluent from a Cesspool or Septic System.

**Failure** – evidence of dye on the ground surface or in a watercourse, evidence of sewage effluent on the ground surface or in a watercourse, or other obvious Failure of system components (e.g., collapse of a septic tank). Observed effluent may need to be confirmed as a Failure by the introduction of dye into the treatment system and subsequent field observation for dye.

**Fund** – the State Septic System Replacement Fund created by the Clean Water Infrastructure Act of 2017.

**Participating County** – a county that notifies the New York State Environmental Facilities Corporation (EFC) that it seeks authority to administer a Septic System Replacement Fund Program within its municipal boundaries and agrees to abide by the state program's goals, guidelines, eligibility requirements, and reimbursement procedures and provide information to property owners regarding program parameters, including eligibility criteria.

**Priority Geographic Area** – Priority Geographic Areas in Long Island (Nassau and Suffolk Counties) include:

- Priority areas identified in the Nassau County Nine Element Plan.
- Priority areas identified in the Suffolk County Nine Element Plan.

[1] At this time, Enhanced Septic Systems eligible for 75% reimbursement up to $25,000 only include systems listed as Residential General Use or Provisional Use Approvals on Suffolk County's Article 19 Innovative and Alternative Onsite Wastewater Treatment Systems (I/A OWTS) List, as they have been vetted and tested to meet 19 mg/L of total nitrogen in treated effluent. DEC is currently working to develop an approval process for Enhanced Septic Systems that treat for phosphorus and PFAS, as reduction levels/goals of these contaminants are not yet quantified.

Priority Geographic Areas throughout the rest of New York State include the area within a 250-foot buffer on either side of a waterbody that meets the following criteria:

- Waterbody Inventory/Priority Waterbodies List (WI/PWL) segments that have a known surface Public Water Supply intake (as defined by New York State Department of Health);
- Class A, AA, A-S, AA-S waterbody segments according to the WI/PWL segment.

**Public Water Supply** – NYS Department of Health defines a public drinking water supply as, "any system with at least 5 service connections or that regularly serves an average of at least 25 people daily for at least 60 days out of the year".

**Reasonably Likely to Fail System** – as judged by a County Health Department official or other authorized entity as identified herein, including but is not limited to, a Septic System which is improperly located or improperly loaded; or has components that are improperly installed, deteriorated, or otherwise not functioning; and which system can be expected to fail in the near future.

**Septic System** – a system that provides for the treatment and/or disposition of the combination of human and sanitary waste with water not exceeding 1,000 gallons per day, serving a single parcel of land, including residences and Small Businesses.

**Septic System Project** – the replacement of a Cesspool with a Septic System; the installation, replacement, or upgrade of a Septic System or Septic System components for a Reasonably Likely to Fail System or system in Failure.

**Sewering –** the physical act or existing infrastructure of connecting properties to a public municipal or community wastewater system and, in the context of the Fund, refers to any property or area that:

**i.** is currently connected to a community wastewater system;

**ii.** is under construction to install/connect to a community wastewater system;

**iii.** has plans to install/connect to a community wastewater system; or,

**iv.** has a completed feasibility study or similar report to evaluate options for community wastewater systems that would connect the majority of properties in the area and are utilizing such study or report to apply for other State funding.[2]

**Small Business** – a business which is resident in New York State, independently owned and operated, not dominant in its field, and employing not more than 100 individuals.

**Waterbody Inventory/Priority Waterbodies List (WI/PWL)** – the WI/PWL is a statewide inventory of all New York State waterbodies and includes the most current assessment information for a waterbody segment. The WI/PWL is used to generate water quality assessment factsheets for each waterbody segment. These facts sheets share assessment information with the general public. All factsheets are available on the DECinfo Locator: https://dec.ny.gov/maps/interactive-maps/decinfo-locator

**Waterbody Segmentation** – New York State's waterbodies are assessed by segment. DEC delineates waterbodies into discrete segments and assigns a unique eight-digit segment ID to each waterbody.

**Water Quality Standards (WQS)** – the maximum allowable concentrations of a pollutant developed for the protection of Best Use(s) and assigned to the different classes of waters. WQS can be numeric or narrative. Numeric WQS are expressed as numeric concentrations that cannot be violated. Narrative WQS are descriptive and use terms such as

[2] Sewering is often the best option to improve water quality and should be encouraged wherever feasible. For this reason, Participating Counties should not include Priority Geographic Areas that are known to be sewered or are exploring sewering options. However, not all scenarios are the same, and a feasibility study, report, or initiative to install a community wastewater system may not always be feasible, nor may it be feasible to sewer an entire Priority Geographic Area. Participating Counties are encouraged to reach out to DEC to discuss specific situations. DEC is currently working to develop a process to evaluate these situations.

"none in any amount." Narrative WQS are often associated with numeric guidance values (GVs) established in Technical Operation Guidance Series 1.1.1. DEC considers GVs in conjunction with the narrative WQS when conducting assessments

# 3. Septic Program Description

**a.** Only Participating Counties are eligible to receive funds.

**b.** The Fund is administered by EFC and is authorized to reimburse property owners up to fifty percent (50%) of the eligible costs incurred for eligible Septic System projects, provided that no property owner or septic system installer may be reimbursed more than ten thousand dollars ($10,000.00) per property for such projects; or seventy-five percent (75%) of the eligible costs incurred for Enhanced Septic System projects, provided that no property owner or septic system installer may be reimbursed more than twenty-five thousand dollars ($25,000.00) per property for such projects.

**c.** An eligible Septic System project means the replacement of a Cesspool with a Septic System or Enhanced Septic System; the installation, replacement, repair, or upgrade of a Septic System or Septic System components; or the installation or repair of an Enhanced Septic System or system components that at a minimum, is designed to reduce total nitrogen in treated effluent to 19 mg/L or significantly and quantifiably reduces environmental and/or public health impacts associated with phosphorus or per- and polyfluoroalkyl substances and associated compounds in effluent from a Cesspool or Septic System. This does not include connecting a home or business to a public sewer or decentralized wastewater system.

**d.** Enhanced Septic System Projects, when technologies are commercially available, are preferred and should be encouraged.

**e.** The Fund is being targeted to Priority Geographic Areas within Participating Counties that contain groundwater supplies (e.g., EPA sole source aquifers and primary aquifers), surface water drinking water supplies, or Impaired surface waters. The counties and Priority Geographic Areas within these counties are further defined in Sections 4 and 5.

**f.** Single or two-family residences and Small Businesses with an existing design sewage flow not exceeding 1,000 gallons per day (GPD) as of the date the Participating County signed their participation agreement with EFC are eligible for this program. Seasonal or secondary homes may be eligible for this program if the Participating County determines that an existing Septic System has the reasonable potential to adversely impact a priority waterbody listed on the EFC website. New construction is not eligible for the Fund.

**g.** Replacements, upgrades, and repairs funded through this program shall comply with the conditions and requirements of local permitting jurisdictions (local health departments, local code enforcement, or other state or local authorities). Permitting jurisdictions that do not have specific standards adopted for the repair or replacement of residential onsite wastewater treatment systems (OWTS) should utilize the guidance provided in the New York State Residential Onsite Wastewater Treatment System Design Handbook and the Standards of Appendix 75-A. New construction to replace a Septic System should routinely meet the standards established in Appendix 75-A. The repair or replacement of Reasonably Likely to Fail Systems shall be as close as possible to meeting the standards, and performance intent, of Appendix 75-A to maximize protection of public and environmental health and safety.

**h.** This program does not require that existing non-complying sewage disposal systems that do not meet the standards of New York State Public Health 10 NYCRR Appendix 75-A (Appendix 75-A) but are not failing nor is a Reasonably Likely to Fail System in the near future be upgraded or replaced to 75-A standards.

i. When selecting eligible Septic System projects, sea level rise, rising groundwater levels, storm surges or flooding[3] impacts to Septic System performance should be considered and incorporated into determining the appropriate replacement system.

j. Eligible Septic Systems cannot be in an existing or planned sewage collection system area. Also, eligible Septic Systems cannot be located where a Total Maximum Daily Load (TMDL), Nine Element (9E) Watershed Plans, Drinking Water Source Protection Program (DWSP2) Plans, engineering plans, and other comparable plans that recommend sewering to resolve water quality impairments. Eligible projects do not include a sewer connection (i.e., a lateral), replacing a Cesspool with another Cesspool nor repairing a Cesspool.

k. Sewer connection costs are not eligible for funds.

l. Replacing a Cesspool with another Cesspool is not eligible for funds.

m. Replacing a Cesspool, holding tank, or Septic System with a holding tank is not eligible for funds when a property's lot size and conditions and requirements of local permitting jurisdictions (local health departments, local code enforcement, or other state or local authorities) would allow the installation of a Septic System or Enhanced Septic System.

# 4. Septic Repair and Replacement Priority Geographic Areas – Long Island

Priority Geographic Areas in Long Island (Nassau and Suffolk Counties):

- Priority areas identified in the Nassau County Nine Element Plan.
- Priority areas identified in the Suffolk County Nine Element Plan.

# 5. Septic Repair and Replacement Priority Geographic Areas – Rest of New York State

Priority Geographic Areas throughout the rest of New York State include the area within a 250-foot buffer on either side of a waterbody that meets the following criteria:

- Waterbody Inventory/Priority Waterbodies List (WI/PWL) segments that have a known surface Public Water Supply intake (as defined by New York State Department of Health);
- Class A, AA, A-S, AA-S waterbody segments according to the WI/PWL segment.

Waterbody Inventory/Priority Waterbodies List (WI/PWL) segments that meet the above criteria are listed on the DEC webpage for the program: https://dec.ny.gov/state-septic-system-replacement-fund-ssrp-outline-and-summary. Septic systems located within 250 feet of the waterbody WI/PWL segments listed on the above website that are failing or are a Reasonably Likely to Fail System may be eligible to participate in the program. Septic systems located greater than 250 feet from the waterbodies listed on the above website, and that are defined as Failing or as Reasonably Likely to Fail Systems may be eligible to participate in the program if the Participating County determines that the existing Septic System has the reasonable potential to adversely impact any such waterbody. Participating Counties must remain

[3] Visit the NYSDEC website to view Flood Risk Management Guidance

consistent with their evaluation of these situations and keep record of evidence supporting their decision (e.g. maps, photographic evidence, etc.)

# 6. Septic System Conditions Warranting Repair, Upgrade, or Replacement

If any of the following conditions are identified during a septic inspection, these are indications the Septic System is failing or is a Reasonably Likely to Fail System. It is recommended counties utilize available Septic System inspection training and industry best practices when assessing and deeming systems Reasonably Likely to Fail. The process of repair and replacement may require additional inspections and an additional pump-out.

- **a.** Indicators of an overloaded and/or clogged absorption area, including seepage pit, leach field, or Cesspool.
- **b.** There is back-up of sewage into the facility served by the system or any component of the system because of an overloaded and/or clogged leach field, seepage pit, or Cesspool.
  - **i.** There is a discharge of effluent directly or indirectly to the surface of the ground (through ponding or surface breakout) or to a surface water.
  - **ii.** The system contains a Cesspool without a separate tank component for primary solids separation and storage, (i.e. no septic tank).
  - **iii.** The septic tank requires pumping four times or more a year.
- **c.** Component deficiencies
  - **i.** The septic tank is made of metal and does not comply with the UL-70 standard; or is made of metal, masonry block, or other material and shows signs of deterioration; or is cracked or otherwise structurally unsound, indicating that significant infiltration or exfiltration is occurring or is imminent.
  - **ii.** Distribution box is not level, cracked, opened, or crushed.
  - **iii.** Services line(s) are cracked, opened, or crushed.
  - **iv.** Pretreatment unit is not functioning properly.
  - **v.** Other system components are deteriorated, not properly installed, or otherwise not functioning correctly.
- **d.** Location deficiencies
  - **i.** Any portion of the absorption area extends to within two feet of the seasonal high groundwater level.
  - **ii.** Any portion of the absorption area is located within 100 feet of an individual well, or 200 feet of a Public Water Supply, or 200 feet from an individual well that is located downhill and in direct line of drainage from the absorption facility.
  - **iii.** Any portion of the absorption field is located within 100 feet of a waterbody and the replacement system can be relocated completely outside of the 100-foot buffer.
  - **iv.** Any portion of the absorption field is located within 100 feet of a waterbody and the prospective replacement system employs enhanced treatment technology (Enhanced Septic System project).
- **e.** Technology deficiencies.

# 7. Septic Program Eligibility

Eligibility is subject to the following:

**a.** To be eligible for the Fund, a Septic System Project or Enhanced Septic System Project must be determined by the Participating County to be in a Priority Geographic Area, as described in Sections 4 and 5, and meet the criteria of a Septic System warranting repair, upgrade, or replacement, as described in Section 6.

**b.** Determinations of eligibility will be made by the Participating County based on the criteria contained herein, including the system's impacts to groundwater or surface waters used as drinking water or other waterbodies. The condition of the property owner's current Septic System may be determined by:

- A County Health Department official;
- Another designated authority having jurisdiction, pursuant to septic inspections required by a municipal separate storm sewer system permit;
- A septic contractor pursuant to the applicable county sanitary code; or
- Another entity designated by the county program administrator such as watershed inspector, soil and water conservation district employee, local municipal building inspector with third party expert, and other entity that generates a report that is reviewed by the county program administrator to determine eligibility based on program criteria.

**c.** The inspection, design, repair, or replacement of a Septic Systems project must be in accordance with the following:

- The design and construction of any rehabilitation or replacement must comply with the conditions and requirements of local permitting jurisdictions (local health departments, local code enforcement, or other state or local authorities);
- Septic structures, such as gas baffles or effluent filters in septic tanks and speed levelers in distribution boxes, shall be installed on all systems if practical. When outlet filters are installed, they must be designed and installed so that they can be removed without harming the integrity of the septic tank baffles or sanitary tee;
- In all cases, the least expensive, technologically appropriate alternative needed to upgrade a system as close as is reasonable to Appendix 75-A will be eligible; and
- A Septic System project located in Nassau or Suffolk counties must reduce nitrogen levels in effluent to 19 mg/L or less.

**d.** **Eligible Costs – the following costs are eligible for reimbursement:**

- To be eligible for reimbursement, incurred costs must be reasonable and necessary for work done to a Septic System project. This will be determined by the counties designated managing entity, as identified above in 7(b), that such Septic System is failing or is a Reasonably Likely to Fail System prior to any repairs, or such system has received a Notice of Violation or Notice of Failure prior to any repairs.
- Design costs are eligible but limited only to work needed to complete an approved design, including needed site investigation, as-built drawings, and inspections.
- Installation costs, and costs of the system, system components, and enhanced treatment technologies are eligible.

e. **Ineligible Costs – the following costs are ineligible for reimbursement:**

- Routine maintenance such as a pump-out of a septic tank;
- Any expenses that are not appropriately documented;
- Government permit fees, including but not limited to, fees assessed for building permits, zoning permits, construction compliance certifications, and floodplain disturbance permits;
- Interest and late fees;
- Fines and penalties;
- Sales tax payment;
- Non-essential site beautification;
- Non-essential interior plumbing changes;
- Administrative work conducted by the engineer; and
- Construction observation by the engineer if the engineer, or an entity owned, controlled by or employing the engineer, is also conducting the repair or replacement.

f. **Ineligible projects – the following wastewater projects are ineligible for reimbursement:**

- Replacement Septic Systems located in an existing or planned community wastewater collection system area.
- Replacement Septic Systems in areas where a Total Maximum Daily Load (TMDL), Nine Element (9E) Watershed Plans, Drinking Water Source Protection (DWSP2) Plans, engineering plans, and other comparable plans recommends sewering to resolve water quality impairments.
- Sewer connections (i.e. a lateral) to a public sewer or decentralized wastewater system.
- Replacement of a Cesspool with another Cesspool.
- Repairs to Cesspools.
- Counties have the ability to determine a project is ineligible based on local site characteristics.

g. Counties that have Nine Element Watershed Plans (9E) that recommend the use of enhanced Septic Systems may elect to limit eligibility to those technologies. For example: Nassau County and Suffolk County made the determination that replacing Septic Systems and Cesspools with new Septic Systems must remove Total Nitrogen in effluent to 19 mg/L. Therefore, in Nassau and Suffolk Counties, only Septic Systems that achieve 19 mg/L of Total Nitrogen in effluent will be eligible for State Septic System Replacement Program funding.

# 8. Administrative and Reimbursement Process

a. A Participating County will notify eligible property owners (including residences and Small Businesses) of the availability of funds. Once notified, a property owner who undertakes a Septic System project may apply to the county for funding.

b. If the Septic System project is selected for a grant, the Participating County will notify the property owner of the award, which may reimburse up to 50% of the eligible costs of a Septic System project, up to a maximum amount

of $10,000 per project or up to 75% of the eligible costs of an Enhanced Septic System project, up to a maximum amount of $25,000 per project Once the award letter is accepted, the property owner may proceed and hire a design professional and contractor to complete the work on the Septic System project.

**c.** Funding to the Participating Counties is on a reimbursement basis; therefore, property owners are initially responsible for the total cost of their Septic System projects. Upon the request of a property owner, the Participating County may provide the reimbursement directly to the property owner's septic system project contractor.

**d.** To receive reimbursement, upon completion of the project, a property owner will be required to submit a request for reimbursement to the county. The request must include:

- A completed reimbursement request;
- Any applicable design approval for the Septic System Project;
- A description of all work completed;
- A cost documentation and invoice(s) for eligible costs; and
- If applicable, a written authorization for a Septic System contractor directly to receive the property owner's reimbursement.

**e.** The Participating County will then review the reimbursement request, approving, modifying, or denying the request, as appropriate, and issue reimbursement payments to property owners or their contractors.

**f.** DEC and EFC will provide guidance and a set of template documents to be used by Participating Counties, including an application form, an award letter, and a reimbursement request form.

**g.** It is strongly encouraged that Participating Counties maintain a webpage devoted to the program with relevant information for potential applicants. Information that should be present on a website includes:

- An explanation of the program (including mention of the 250-foot buffer surrounding eligible waterbodies);
- List of eligible waterbodies (WI/PWL segments), map(s) (as a PDF or interactive) of eligible areas (eligible waterbodies with 250-foot buffer);
- A PDF copy of the Septic System Replacement Program Application Form
- A link to the EFC program website; and
- Any other important information specific to the county.