



Department of
Environmental
Conservation

Environmental
Facilities Corporation

State Septic System Replacement Fund

PROGRAM OUTLINE

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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 improve water quality by providing a source of funding for the replacement of cesspools and septic systems in New York State. The Septic System Replacement Fund Program provides funding to counties to help homeowners replace cesspools and 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, as well as stressed or impaired waterbodies where sewerage is not an available option.

2. Definitions

- a. Cesspool – a drywell that receives untreated sanitary waste containing human excreta, which sometimes has an open bottom and/or perforated sides.
- b. Failure – evidence of dye on the ground surface or in a watercourse, evidence of sewage effluent on the ground surface or in a watercourse, deemed to be technologically deficient 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.
- c. Fund – the Septic System Replacement Fund created by the Clean Water Infrastructure Act of 2017.
- d. 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.
- e. Reasonably Likely to Fail System – as judged by a County Health Department official or other authorized 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.
- f. 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.
- g. 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; or installation of advanced or enhanced treatment technologies, including an advanced nitrogen removal system, to significantly and quantifiably reduce environmental and/or public health impacts associated with effluent from a cesspool or septic system to groundwater or surface water used as drinking water source or to a stressed or an impaired waterbody where septic systems and cesspools are known, or suspected to, adversely impact the waterbody. This does not include connecting a home or business to a public sewer or decentralized wastewater system.

- h. 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.
- i. Priority Geographic Area: The priority waterbodies are listed on the EFC website (<https://www.efc.ny.gov/SepticReplacement>).
- j. Priority Geographic Area for surface waterbodies – the area covered by 250 feet from each side of a priority waterbody as listed on the EFC website (<https://www.efc.ny.gov/SepticReplacement>).
- k. 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://gisservices.dec.ny.gov/gis/dil/>. The WI/PWL is updated every two years.
- l. 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.

3. Septic Program Description

- a. Only participating counties are eligible to receive funds.
- b. The Fund is administered by EFC and participating counties are authorized to reimburse property owners for up to 50% of the eligible costs incurred for eligible septic system projects, up to ten thousand dollars (\$10,000).
- c. An eligible septic system project means the replacement of a cesspool with a septic system; the installation, replacement, or upgrade of a septic system or septic system components; or installation of advanced or enhanced treatment technologies, including an advanced nitrogen removal system, to significantly and quantifiably reduce environmental and/or public health impacts associated with effluent from a cesspool or septic system to groundwater or surface water used as drinking water source or to a stressed or an impaired waterbody where septic systems and cesspools are known, or suspected to, adversely impact the waterbody located in a Priority Geographic Area, and selected by a participating county for funding from the Fund. This does not include connecting a home or business to a public sewer or decentralized wastewater system.
- d. Advanced or enhanced treatment units, when technologies are commercially available, including septic systems that treat both phosphorous and nitrogen, and/or emerging contaminants of concern, 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 and other stressed or impaired surface waters where septic systems and cesspools are known or suspected to be adversely impacting the waterbody. The counties and Priority Geographic Areas within these counties are further defined in Sections 4 and 5.

- f. Single family, two family, 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 and upgrades 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 should routinely meet the standards established in Appendix 75-A. The repair and 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 flooding¹ impacts to septic system performance should be considered and incorporated into determining the appropriate replacement 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 Suffolk County Nine Element Plan.
- Priority areas identified in the Nassau County Nine Element Plan.

5. Septic Repair and Replacement Priority Geographic Areas – Upstate

Upstate eligible waterbodies were determine using the following determinations:

- i. Waterbodies used for public drinking water supplies²;

¹ Visit the NYSDEC website to view Flood Risk Management Guidance

² Waterbodies that are Class A, AA, A-S, AA-S according to the WI/PWL segment; WI/PWL segments that have a public water supply intake located within the WI/PWL segment

- ii. Waterbodies that are stressed or impaired³ surface waters and where septic systems and cesspools are known, or suspected to, adversely impact the waterbody.

A list of Priority Geographic Areas can be found at the following website, (<https://www.efc.ny.gov/SepticReplacement>). Septic systems located within 250 feet of the waterbodies listed on the above website that are in Failure or are a Reasonably Likely to Fail System are 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.

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

- a. If any of the following conditions are identified during a septic inspection, these are indications the septic system is in Failure 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.
 - i. Indicators of an overloaded and/or clogged absorption area, including seepage pit, leach field, or cesspool.
 - ii. 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.
 - 1. 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.
 - 2. The system contains a cesspool without a separate tank component for primary solids separation and storage, (i.e., no septic tank).
 - 3. The septic tank requires pumping four times a year.
 - iii. Component deficiencies
 - 1. 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.
 - 2. Distribution box is not level.
 - 3. Services line(s) are cracked/opened.
 - 4. Pretreatment unit is not functioning properly.

³ Waterbody Inventory/Priority Waterbodies List (WI/PWL) segments that are listed as impaired or stressed for nutrients

5. Other system components are deteriorated, not properly installed, or otherwise not functioning correctly.

iv. Location deficiencies

1. Any portion of the absorption area extends to within two feet of the seasonal high groundwater level.
2. 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.
3. 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.

- v. Any portion of the absorption field is located within 100 feet of a waterbody and the replacement system employs enhanced treatment technology.**

vi. Technology deficiencies

- i. Counties that have Nine Element Watershed Plans (9E) that recommend the use of advanced or enhanced treatment units 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 septic systems that remove less than 50% of nitrogen is inadequate. Therefore, in Nassau and Suffolk Counties, only septic systems that remove at least 50% of the nitrogen will be eligible for Septic System Replacement Program funding.

7. Septic Program Eligibility

- a. To be eligible for funding from the Fund, a 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 where septic systems and cesspools are known or suspected to be a major source of pollutants, and the condition of the property owner's current septic system. Septic systems condition may be determined by:
 - i. A County Health Department official;
 - ii. Another designated authority having jurisdiction, pursuant to septic inspections required by a municipal separate storm sewer system permit;
 - iii. A septic contractor pursuant to the applicable county sanitary code; or
 - iv. Other 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 system project must be in accordance with the following:
 - i.** The design and construction of any rehabilitation or replacement must comply with the conditions and requirement of local permitting jurisdictions (local health departments, local code enforcement, or other state or local authorities).;
 - ii.** 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;
 - iii.** 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
 - iv.** A septic system project located in Nassau or Suffolk counties must reduce nitrogen levels by at least 50%.
- d.** Eligible Costs for Reimbursement
 - i.** 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 in Failure 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.
 - ii.** Design costs limited to work needed to complete an approved design, including needed site investigation, as-built drawings, and inspections.
 - iii.** Installation costs, and costs of the system, system components, and enhanced treatment technologies.
- e.** Ineligible Costs for Reimbursement:
 - i.** Routine maintenance such as a pump-out of a septic tank;
 - ii.** Any expenses that are not appropriately documented;
 - iii.** Government permit fees, including but not limited to, fees assessed for building permits, zoning permits, construction compliance certifications, and floodplain disturbance permits;
 - iv.** Interest and late fees;
 - v.** Fines and penalties;
 - vi.** Sales tax payment;
 - vii.** Non-essential site beautification;
 - viii.** Non-essential interior plumbing changes;
 - ix.** Administrative work conducted by the engineer; and
 - x.** 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

- i.** Replacement septic systems located in an existing or planned sewage collection system area.
- ii.** Replacement septic systems in areas 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 recommends sewerage to resolve water quality impairments.
- iii.** Sewer connections (i.e., a lateral) to a public sewer or decentralized wastewater system.
- iv.** Replacement of a cesspool with another cesspool.
- v.** Repairs to cesspools.
- vi.** Counties have to ability to determine any project is ineligible based on local site characteristics.

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 reimbursement 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. 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. The property owner may choose to have the reimbursement paid directly to the 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:
 - i.** completed reimbursement request;
 - ii.** description of all work completed;
 - iii.** cost documentation and invoice(s) for eligible costs; and
 - iv.** if applicable, a written authorization for a septic system contractor directly to receive the property owner's reimbursement.

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.

- e. EFC will provide guidance and a set of template documents to be used by participating counties, including a notification of property's location in a Priority Geographic Area, an application form, an award letter, and a reimbursement request form.