NEW YORK STATE OF OPPORTUNITY. | Environmental Facilities Corporation | Department of Environmental Conservation | Department of Health

STATE SEPTIC SYSTEM REPLACEMENT FUND

PROGRAM OUTLINE

February 8, 2018

TABLE OF CONTENTS

1. Background –

a. The Clean Water Infrastructure Act of 2017 established the "State Septic System Replacement Fund" (Fund). The purpose of this Fund is to replace existing cesspools and septic systems that are having significant and quantifiable environmental and/or public health impacts to groundwater used for drinking water, or a threatened or impaired waterbody.

2. Definitions –

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

b. "Failure" – means 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 (i.e. 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" – means the state septic system replacement fund created by the Clean Water Infrastructure Act of 2017.

d. "Participating County" – means a county that notifies the New York State Environmental Facilities Corporation (EFC) that it seeks authority to administer a septic system replacement program within its municipal boundaries and agrees to abide by the 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, includes but is not limited to a septic system which is improperly located, 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" - means a system that provides for the treatment and/or disposition of the combination of human and sanitary waste with water not exceeding one thousand gallons per day, serving a single parcel of land, including residences and small businesses.

g. "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 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 used as drinking water, or threatened or an impaired waterbody.

h. "Small business" - means any business which is resident in this state, independently owned and operated, not dominant in its field, and employing not more than 100 individuals.

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 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 enhanced treatment technologies to significantly and quantifiably reduce environmental and/or public health impacts associated with effluent from a cesspool or septic system to groundwater used as drinking water, or threatened or an impaired waterbody located in a priority geographic area, and selected by a participating county for funding from the Fund.

d. The Fund is being targeted to priority geographic areas within participating counties that contain: groundwater supplies (i.e., EPA Sole Source Aquifers and Primary Aquifers); and surface water drinking water supplies and other threatened 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.

e. Only 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 of the Fund are eligible for this program. Seasonal or secondary homes are not eligible for this program.

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

Until such time as priority geographic areas are identified as set forth in paragraph f of this section:

<u>Priority Geographic Areas in Long Island (i.e., Nassau and Suffolk Counties) include:</u>

a. Areas in the 0-50 year contributing zone to public drinking water wells fields;

b. Areas in the 0-25 year contributing zone to surface waters;

c. Areas located in an area where groundwater is less than 10 feet below grade; or

d. Contribute to an area that is listed as a 303(d)-impaired water body.

e. Where a septic system project is located in Nassau or Suffolk counties and in proximity to surface or groundwater identified as threatened or impaired by nitrogen, including groundwater used as drinking water, **a septic system project must reduce nitrogen levels by at least 30%.**

f. Under the Long Island Nitrogen Action Plan, both Nassau and Suffolk Counties are developing Sub-Watershed Wastewater Plans (SWP) to evaluate parcel-specific nitrogen loads from wastewater, fertilizer, stormwater, and atmospheric deposition to the groundwater and receiving waters of more than 200 sub-watersheds. SWPs will identify priority geographic areas for septic system replacements/upgrades, and are expected to be completed in 2018. Once completed, only those priority geographic areas for septic system improvements will be eligible for funding in both Nassau and Suffolk Counties.

5. Septic Repair and Replacement Priority Geographic Areas - Upstate

a. Only septic system projects located on primary or principal groundwater aquifers, or within 250 feet of the following waterbodies in Table 1 that are failing or reasonably likely to be failing are eligible to participate in the program.

Table 1: Septic Repair and Replacement Priority Geographic Areas for Upstate New York.

County	Waterbodies
Allegany	Canacadea Creek, which is tributary to Almond Lake
Broome	Park Creek and tributaries, Whitney Point Lake/Reservoir, Fly Pond, Deer and Sky Lakes
Cattaraugus	Allegany River/Reservoir
Cayuga	Cayuga, Owasco and Skaneateles Lakes
Chautauqua	Findley Lake
Chenango	Chenango and Guilford Lakes
Clinton	Upper Chateaugay Lake
Dutchess	Hillside and Sylvan Lakes
Essex	Willsboro Point – Lake Champlain
Genesee	Bigelow Creek and tributaries, Tonawanda Creek – Middle and Main Stem, and Black Creek – Middle and minor tributaries
Herkimer	North Winfield Creek and tributaries
Jefferson	Moon and Red Lakes and Indian River
Livingston	Conesus Lake
Monroe	Irondequoit Bay and minor tributaries to Irondequoit Bay, Mill Creek and tributaries, and Shipbuilders Creek and tributaries
Onondaga	Otisco and Skaneateles Lakes
Ontario	Canadice, Canandaigua, Hemlock, Honeoye, and Seneca Lakes
Oswego	Lake Ontario
Otsego	Goodyear Lake (just lake itself)
Putnam	Oscawana Lake
Saratoga	Dwass Kill and tributaries
St. Lawrence	Black Lake, St. Lawrence Main Stem, Little River and tributaries, Lower portion of Raquette River, and Indian River
Schoharie	Summit Lake
Schuyler	Lamoka and Waneta Lakes Mill Pond
Seneca	Seneca and Cayuga Lakes
Steuben	Almond, Keuka and Waneta Lakes, Mill and Smith Ponds
Tompkins	Cayuga Lake
Wayne	Lake Ontario and Blind Sodus Bay
Wyoming	Silver and Java Lakes
Yates	Canadaigua, Keuka and Seneca Lakes

6. Septic Inspection and Repair Protocols

a. System Standards -

i. The Septic Program includes standards for determining whether a system will be rehabilitated, upgraded or replaced, and for determining the appropriate rehabilitation, upgrade or replacement of an existing system. This section identifies under what conditions a septic system should be repaired, upgraded or replaced (including the specific issue of cesspools), and sets forth criteria for site analysis to identify the needed repairs, upgrades and replacements.

ii. The Septic 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 or reasonably likely to fail in the near future be upgraded or replaced to 75-A standards.

iii. Wherever feasible, a failed or reasonably likely to fail substandard system shall be brought into full compliance with Appendix 75-A. When full compliance with the standards of Appendix 75-A is not feasible or practicable, the system should be upgraded based upon best professional judgment to the extent feasible to maximize protection of public health and safety. Advanced or Enhanced Treatment Units may also be considered, where practical. Departure from the parameters of Appendix 75-A shall be minimized to allow for the best feasible upgrade within the borders of the lot, while preserving public health, safety and the environment.

b. Septic System Conditions Warranting Repair, Upgrade or Replacement -

i. If any of the following conditions are identified during a Septic Program Inspection, these are indications the septic system is failing or reasonably likely to fail. The process of repair and replacement may require additional inspections and an additional pump-out.

1. Indicators of an overloaded and/or clogged absorption area, including seepage pit, leach field or cesspool:

a. 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.

b. 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.

c. The system contains a cesspool without a separate tank component for primary solids separation and storage, (i.e., no septic tank).

d. The septic tank requires pumping four times a year or more (this may be due solely to the presence of a garbage grinder or may indicate a problem with the septic tank or absorption system).

2. Component Deficiencies:

a. 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 show signs of deterioration or is cracked or otherwise structurally unsound, indicating that significant infiltration or exfiltration is occurring or is imminent.

b. Distribution box is not level.

c. Services line(s) are cracked/opened.

d. Any pretreatment unit is not functioning properly.

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

3. Location Deficiencies:

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

b. 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.

c. 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.

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

7. Septic Program Eligibility –

a. To be eligible for funding from this program, a septic system project must be determined by the participating county to be in a priority geographic

area described in Sections 4 and 5 and meet the criteria of a septic system warranting repair, upgrade and replacement as described in Section 6.

b. Determinations of eligibility will be made by the participating county based on the criteria contained herein, including its 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 system condition may be determined by:

    i. County health department official;

    ii. Other designated authority having jurisdiction, pursuant to septic inspections required by a municipal separate storm sewer system permit; or

    iii. A septic contractor pursuant to the applicable county sanitary code.

c. The inspection, design, repair or replacement of the septic system project must be in accordance with the following:

    i. Both design and construction of any rehabilitation or replacement must have been approved by the County Health Department or another authorized agent.

    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.

    iv. A septic system project located in Nassau or Suffolk counties and in proximity to surface or groundwater identified as threatened or impaired by nitrogen, including groundwater used as drinking water, **must reduce nitrogen levels by at least 30%**.

d. Eligible Costs –

    i. To be eligible for reimbursement, an incurred cost must be reasonable and necessary for work done to a septic system if it is determined by the County Health Department or other authorized agent as identified above in 7(b) that such septic system is failing or reasonably likely to fail prior to any repairs, or such system has

received a Notice of Violation or Notice of Failure prior to any repairs.

ii. Design and installation costs, and costs of the system, system components, or enhanced treatment technologies.

iii. Design costs are eligible, limited only to work needed to complete an approved design, including needed site investigation.

e. Ineligible Costs – the following costs are ineligible 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, and floodplain disturbance permits;

iv. Interest and late fees;

v. Fines and penalties;

vi. The payment of sales tax;

vii. Non-essential site beautification or interior plumbing changes;

viii. Administrative work conducted by the engineer; and

ix. 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.

8. Administrative and Reimbursement Process -

A participating county will notify owners of property served by septic systems (including residences and small businesses) if they are eligible to apply to participate in the Septic System Replacement Program. Once notified, a property owner who undertakes a septic system project may apply to the county for a grant from the Program.

The participating county determines the project's grant award based on the program criteria and consideration of a property's location in relation to a waterbody, impacts to groundwater used as drinking water, and the condition of the property owner's current septic system.

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.

As the Program provides grants on a reimbursement basis, property owners are initially responsible for the total cost of their septic system projects. The property owner may also choose to have the reimbursement paid directly to the contractor, which could reduce the out-of-pocket cost for the property owner.

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

(i) a completed reimbursement request;

(ii) any applicable design approval for the septic system project;

(iii) description of all work completed;

(iv) cost documentation and invoice or invoices for eligible costs; and

(v) 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 issuing reimbursement payments to property owners or their contractors under the Program.

The Environmental Facilities Corporation, which administers the Fund, will provide guidance and a set of template documents to be used by participating counties in the Program, including a notification of property's location in a priority geographic area, an application form, an award letter, and a reimbursement request form.