

# NEW YORK STATE DEPARTMENT OF HEALTH

*Bureau of Water Supply Protection*

*Room 1110, Corning Tower, Empire State Plaza, Albany, New York 12237*

## Residential Onsite Wastewater Treatment Systems FACT SHEET #1

### Need for Licensed Design Professionals - Residential Onsite Wastewater Treatment Systems

**Purpose:** Provide guidance to regulatory officials and interested parties regarding the need for a licensed professional engineer or architect to design residential (individual) onsite wastewater treatment systems (OWTSs). The State Education Department has reviewed this document with the State Department of Health and offers the following as guidance in applying the requirements of the New York State Education Law relating to the design of OWTSs.

**Licensed Design Professional:** The Department of Health and the State Education Department recognize that, generally, OWTS design activities come within the definition of the practice of professional engineering or architecture under [Article 145](#) or [Article 147](#) of Title VIII of the New York State Education Law and that OWTS designs must be prepared by a design professional appropriately licensed by and currently registered with the State Education Department or otherwise authorized under such law. In addition, [10NYCRR Part 75](#) (Part 75) defines a design professional as "...a person licensed to practice engineering or architecture in New York State by the State Education Department in accordance with Article 145 or Article 147 of Title VIII of the New York State Education Law, respectively, and who is currently registered with the New York State Education Department". Part 75 also states that "Plans for the design of individual onsite wastewater treatment systems shall be prepared directly by or under the supervision of a design professional." Please be advised that licensees providing OWTS design services must be qualified to provide those services based upon education, training, and experience. Any licensee providing services that they are not qualified to provide may be subject to professional misconduct charges.

OWTS design activities include the evaluation of surface and subsurface site conditions at a defined parcel of land, which may include the investigation of soil characteristics, the performance of soil percolation tests, the determination of subsurface boundary condition and depths, the measurement and recording of existing surface features both natural and manmade, and the subsequent application of these data and the data related to proposed wastewater generation to design an OWTS. These activities generally fall within the scope of practice of professional engineering or architecture.

**New Residential Construction:** The design of all new residential OWTSs (including conventional systems) shall be performed by an appropriately licensed design professional, as defined above. The design may also be issued/approved by county health departments where such issuance/approval is performed and authorized by an appropriately licensed design professional on staff. Private practice engineers and architects, and engineering and architectural firms with appropriately licensed design professionals may also provide such services.

**Additions or Alterations:** An OWTS evaluation shall be performed and submitted by a licensed design professional for home alterations resulting in an increase in the number of bedrooms, for complete home replacements (including those resulting in the same number of bedrooms) and for alterations resulting in significant increases in wastewater generation. The evaluation must document if the existing OWTS complies with applicable State and local design standards, if the OWTS and its components are in satisfactory condition and functioning properly and if the existing OWTS can properly treat the proposed increase in wastewater generation. If the existing OWTS does not comply with regulatory design standards or needs significant modification, the licensed design professional shall prepare plans and oversee the installation of the alterations to the OWTS. This may include incorporating appropriate mitigative measures and/or designs as such ordinarily come within the scope of practice of professional engineering.

**Repairs and Replacements:** The repair or replacement of OWTS components "in kind" or "like-for-like" may not require the involvement of a licensed design professional. However, repair or replacement of any type of absorption field that involves relocating or extending an absorption area to a location not previously approved for such, does require a licensed design professional. A licensed design professional is required when repair or replacement involves installation of a new subsurface treatment system at the same location or the use of an alternative system (i.e., raised system, mounds, or sand filter) or innovative system design or technology.

**Note:** In all cases: 1) local government, watershed protection agencies or other jurisdictional agency rules and regulations may also apply; 2) All OWTS design plans must be prepared by a design professional licensed to practice in New York State; 3) When no regulatory agency is responsible for inspection of a constructed OWTS, it is recommended that a written certificate of compliance be submitted by a New York State licensed professional engineer or architect prior to occupancy.

**For questions concerning this Fact Sheet:**

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