

SEPTIC SYSTEM REHABILITATION AND REPLACEMENT  
PROGRAM RULES  
(ARTICLE 2-A)

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**Approved by the Board of Directors  
June 22, 1999**

***Revised February 1, 2022***

Equal Opportunity Employer

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**CHAPTER 2:00 – SEPTIC PROGRAM OVERVIEW****2:00:01. Definitions**

*Nothing herein shall be construed to conflict with applicable laws, rules and regulations. Words used in this article mean:*

1. “75-A” – 10 NYCRR Appendix 75-A.
2. “CWC Board” – the Board of Directors of the CWC.
3. “CWC” – the Catskill Watershed Corporation.
4. “Absorption area” – an area to which wastewater is distributed for infiltration to the soil, including tile fields, trenches, seepage pits, cesspools and sanitary privies. (Reference 10 NYCRR Appendix 75-A).
5. “Best available technology (BAT)” – methods, measures or practices determined to be the most practical and effective, given site constraints, to develop a system for on-site treatment and disposal of human waste.
6. “Cesspool” – a covered hole or pit for receiving raw sewage that has not received primary treatment for solids separation through use of a septic tank or other acceptable method.
7. “Design flow” – For residential units, the minimum design flow as shown on Table 1 of 75-A, in section 75-A.3, or in Table 1 of the NYSDOH manual entitled Individual Residential Wastewater Treatment System Design Handbook, 1996 (75-A Handbook). For commercial units, the minimum design flow as shown in the NYSDEC publication entitled Design Standards for Wastewater Treatment Works, 1988, Table 3.
8. “Eligible systems” – Septic systems serving existing single family or two family residences (as defined herein) in the West of Hudson River Watershed and with an existing design sewage flow of less than 1000 gallons per day (GPD) at the date of enrollment are eligible for funding under the Septic Program. Any component of a septic system that has previously received funding for completed repair or replacement under any part of the Septic Program will not be eligible to participate in the Septic Program until the Septic Program has been completed in all areas, unless specifically approved by the Executive Director due to unique circumstances. Unique circumstances may include documentation that the previous funding addressed only part of the component or that a provisional repair was installed.
9. “Leach field” – an absorption area, typically consisting of a field or trench formation.
10. “MOA” – New York City Watershed Memorandum of Agreement.
11. “NOF” – Letter from NYCDEP to the owner of a septic system, which provides a notice of confirmed failure of the septic system.
12. “NOV” – Notice of Violation from NYCDEP to the owner of a septic system, which states that the septic system is violating Watershed regulations.
13. “NYCDEP” – New York City Department of Environmental Protection.
14. “Property Owner” or “Owner” or “Homeowner” – An individual whose name is on the title to the property or an individual that, upon review by the Executive Director, possesses an indication of ownership such as beneficiary or remainder of a trust which has title to the property, holder or remainder of life estate, or member or shareholder of a homeowner’s association which has title to the property.
15. “Primary Residence” – a residence occupied by the property owner, based on presentation of two or more of the following: driver’s license address, voter registration, tax return information, and/or other proof dated at least 30 days prior to property owner’s enrollment in the Program.
16. “Reasonably likely to fail system” – as judged by CWC staff, 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.

17. “Reservoir” – any natural or artificial impoundment of water owned or controlled by New York City that is tributary to the New York City water supply system. (Reference Watershed regulations)
18. “Reservoir stem” – any watercourse segment which is tributary to a reservoir and lies within 500 feet or less of a reservoir. (Reference Watershed regulations)
19. “Residence” – a building, including a mixed commercial/residential use building constructed on or before November 2, 1995 and wholly or partially used for living or sleeping by human occupants. Residence does not include a building that was substantially improved over 75% of its market value within 20 years of date of application for enrollment in the Septic Program or a structure that was not used as a residence for a period of at least three or more years prior to application.
20. “Sanitary privy” – pit, watertight vault or removable watertight receptacle for direct disposal of non-waterborne human waste. (Reference 75-A handbook)
21. “Seepage pit” – a covered pit with an open-jointed or perforated lining through which septic tank effluent seeps into the surrounding soil, sometimes called a leaching pit or leaching pool. (Reference 75-A.8(h))
22. “Septic Program” – the CWC Septic System Rehabilitation and Replacement Program per the MOA and the contracts between CWC and NYCDEP, including individual reimbursements.
23. “Septic system” – a system for on-site treatment and disposal of human waste, including both waterborne and non-waterborne systems.
24. “Sewage” – the combination of human and household waste with water which is discharged to the home plumbing system including the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture, equipment or machine. (Reference 75-A)
25. “Substandard system” – a sewage disposal system that does not meet the standards of Appendix 75-A or of the 75-A Handbook and which is failing or identified as reasonably likely to fail in the near future.
26. “Subsurface sewage treatment system” – any underground system used for collecting, treating and disposing of sewage into the ground including, but not limited to, individual and intermediate sized sewage treatment systems. (Reference Watershed regulations)
27. “Ulster County fill system” – A subsurface sewage treatment system commonly used in Ulster County that has been approved by the New York State Dept. of Health (NYSDOH) for use in Ulster County and that is built upon two (2) feet of situ soil, having a percolation rate from 3 to 10 inches per minute. Ulster County fill system shall include the Ulster County fill system when used in a county other than Ulster if the NYSDOH has approved the system for use in such other county. (Reference Watershed regulations)
28. “Water supply” – the New York City public water supply system, including all watercourses, wetlands, reservoirs, reservoir stems and controlled lakes tributary thereto. (Reference Watershed regulations)
29. “Watercourse” – a visible path through which surface water travels on a regular basis, including an intermittent stream, which is tributary to the New York City water supply. A drainage ditch, swale or surface feature that contains water only during and immediately after a rainstorm or a snowmelt shall not be considered to be a watercourse. (Reference Watershed regulations)
30. “Watershed regulations” – Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources.
31. “Wetland” – any area mapped as a wetland by the New York State Department of Environmental Conservation pursuant to the Environmental Conservation Law, which is at least 12.4 acres in size or has been designated as a wetland of unusual local importance. (Reference Watershed regulations)

## 2:00:02. Septic Program Description

1. The CWC provides funding to rehabilitate and replace septic systems serving single family or two family residences (including mixed use/commercial use buildings), in the West of Hudson River Watershed, with an existing design sewage flow of less than 1000 gallons per day (GPD) as of the date of an inspection. Mixed use commercial buildings shall have no more than two (2) residential units and have a total existing design flow of no more than 1000 gallons per day. The owner of the building must have their primary residence in the building to qualify for primary residence funding levels. New residences or additions constructed less than twenty (20) years from date of application for enrollment in the Septic Program are not eligible for funding.
2. Septic Program funding shall be allocated as set forth below. The priority criteria are based on the issues of public health protection and water quality considerations and on the agreement between the NYCDEP and the CWC.

### **2:00:02:01 Reimbursement for Past Completed Repairs**

1. The property owner of an eligible septic system within or outside current priority areas can be reimbursed under applicable program rules for eligible costs for repairs/replacement completed on or before **DECEMBER 31, 2021** and as provided below. For reimbursements under this section only, CWC staff need not determine if the system was in failure or reasonably likely to fail prior to the repair/replacement.
  - a. For reimbursement requests received on or after March 2, 2010, an eligible system must have been repaired or replaced between July 21, 2008 and **DECEMBER 31, 2021**. To be eligible for reimbursement, all homeowners must either:
    - i. Provide copy of NYCDEP Final Construction Approval; or
    - ii. For repairs/replacement that under the Watershed Regulations do not require NYCDEP Construction approval, such as in-kind septic tank replacements, either:
      1. Notify CWC within a reasonable time prior to such repair/replacement. CWC must witness the installation of repairs/replacements for which reimbursement is requested; or
      2. Submit the following to the CWC Board for approval:
        - a. Sufficient documentation, including invoices and canceled checks, demonstrating that such repair/replacement was completed and paid for; and
        - b. Affidavits signed by the homeowner and contractor, notarized by a notary public, attesting that:
          - i. The work for which reimbursement is requested was completed as described; and
          - ii. Payment was provided to the contractor as described in the documentation.

Upon receipt of all necessary documentation, and any required CWC Board approval, the CWC may pay a portion of reasonable and necessary costs of improvements made to such eligible septic system.

2. An eligible system repaired or replaced after **DECEMBER 31, 2021** will follow Section 2:00:02:03.
3. Every property owner requesting reimbursement under the Septic Program must execute a program participation agreement.

**2:00:02:02 – Program Participation Agreement**

1. Every property owner requesting reimbursement under the Septic Program must execute a program participation agreement.
2. The form program participation agreement will be approved by CWC and DEP and will provide that:
  - a. That the septic system remains the property of the owner
  - b. That the owner consents to exterior inspection by CWC
  - c. That the owner consents to DEP entry upon their property for the purposes of DEP regulatory design and construction approval
  - d. That CWC only provides reimbursement only for work required to achieve appropriate sewage treatment.
  - e. That CWC is not responsible for any federal or state taxes or tax consequences due to CWC funding.
  - f. That the owner is responsible to hire a design professional and contractor of their choice and that CWC does not warranty the work of those individuals
  - g. That the repair or replacement must be completed within two (2) years of the execution date of the program participation agreement
3. The Executive Director, in her/his sole discretion, may grant extensions to the term of the Program Participation Agreement for good cause shown.
4. Participating Property Owners who do not complete a repair or replacement within two (2) years of date of execution of the program participation agreement or by the last day of any approved extension shall not be eligible to reapply for the CWC Septic Program for a period of 6 months following termination of the program participation agreement.

**2:00:02:03 Inspection and Repair in Priority Areas**

1. Overview: CWC will address inspection of septic systems in areas identified by priority criteria, and completion of any needed improvements to these systems. Such inspections will be conducted in order of CWC's Priority Criteria, discussed in section 2:01:01. Under this portion of the Septic Program, the CWC or its agents will inspect eligible septic systems within specific priority areas to identify systems in need of repair or replacement and will provide reimbursement to complete the design and construction of such improvements. This program includes identifying septic systems for inspection, collecting background data, inspecting the septic system as needed to determine failure/likely to fail conditions, and reimbursing for design and completion of improvements if needed.
2. Inspection and Repair Priorities
  - a. The majority of program funds will be dedicated to a program for inspection and repair of septic systems within high priority areas. Such allocation will be based on the need to implement inspection and repair of septic systems within areas identified in the following priority criteria in descending order of importance:
    - i. Residential septic systems with the 60-day travel time as identified in the NYC Land Acquisition Program.
    - ii. Residential septic systems located:
      1. Within 50 feet of a watercourse; and/or
      2. Within 500 feet of a reservoir or reservoir stem.
    - iii. Residential septic systems located between 50 feet and 100 feet of a watercourse.
    - iv. Residential septic systems located between 100 feet and 150 feet of a watercourse.

- v. Residential septic systems located between 150 feet and 200 feet of a watercourse.
  - vi. Residential septic systems located between 200 feet and 250 feet of a watercourse.
  - vii. Residential septic systems located between 250 feet and 300 feet of a watercourse.
  - viii. Residential septic systems located between 300 feet and 350 feet of a watercourse.
  - ix. Residential septic systems located between 350 feet and 700 feet from a watercourse.
  - x. Residential septic systems located more than 700 feet from a watercourse.
- b. Within the above priority steps, the following factors will be given due consideration by the CWC and its authorized agents to further prioritize systems on an individual basis:
- i. Soil characteristics
  - ii. Depth to seasonal high groundwater table
  - iii. Slope of site
  - iv. Flood plains
  - v. Age of system
  - vi. Incidence of maintenance on system
  - vii. Specific distances from watercourse, reservoir, or reservoir stem in a. above.
  - viii. Occupancy/Usage
  - ix. Flow rate/design flow
  - x. Signs of failure
3. Reimbursement for repairs/replacements of inspected systems will be as follows:
- a. Every eligible property owner must sign a program participation agreement prior to CWC inspection.
  - b. If CWC determines during the inspection that the septic system should be repaired or replaced, the Homeowner shall hire a design professional to prepare the design of such repair or replacement as well as the submission to NYCDEP for approval.
  - c. After the Homeowner has obtained design approval from NYCDEP, the Homeowner shall obtain a quote from a contractor selected by the homeowner either on a CWC bid form or contractor's bid quote form. Prior to the start of construction, the Homeowner must submit the quote to CWC for funding approval. The Homeowner is also responsible to obtain any necessary permits from local municipalities and the County or State Department of Health, whichever is applicable, before proceeding with construction. In the event that a request for reimbursement exceeds \$25,000, the Board of Directors shall approve the scope of work and the cost of the system before construction may begin. In the event the quote exceeds \$30,000, the Homeowner shall supply to CWC detailed quotes from at least three unrelated contractors, and the Board of Directors must approve the scope of work and the cost of the system before construction may begin. The CWC Board may waive the requirement for three detailed bids from unrelated contractors based upon unique circumstances.
  - d. After construction is complete, and a NYCDEP Construction Approval has been issued, the Homeowner shall submit an application for reimbursement to CWC.

### **2:00:03 Prattsville – Washington Street Priority Area**

1. Overview: CWC may transfer funds from the Future Stormwater Program to the Septic Program funds, to be allocated for the design, construction and implementation of the Prattsville – Washington Street Priority Area. These funds shall be used solely for a cost-effective sewer extension from the Prattsville Sewer Collection System to the residences located on the properties identified below,

including service lines (laterals) from each individual property to the sewer extension system, and hook-up residences within the Priority Area to the Prattsville Wastewater Treatment Plant.

2. The “Prattsville – Washington Street Priority Area” shall include, and is limited to, the following four residential properties as identified on the Greene County Property Tax maps as of the effective date of these Program Rules (September 3, 2013):
  - a. 74.14-3-27, 74.10-2-10, 74.10-2-11, and 74.10-2-12.
3. CWC shall enter into a contract with the Town of Prattsville to implement the project in the Prattsville – Washington Street Priority Area for an amount not to exceed \$300,000 and such contract shall provide, but not be limited to, the following provisions: the design plans and specifications for the project shall be approved by NYCDEP before the commencement of construction; the sole and limited structures to be connected to the Prattsville WWTP as part of the Prattsville – Washington Street Priority Area are the existing residences located on the properties identified above.

## **2:00:04 Public Education and Outreach**

The CWC shall engage in Public Education and Outreach to disseminate information on the availability of the individual septic reimbursements and information about how to maintain a septic system. Such education and outreach may include the following activities:

- a. Public Notice
- b. Direct Public Mailings
- c. CWC Newsletter
- d. Contact with other Watershed Based Agencies
- e. Informational Workshops
- f. Distribution of Brochures

Following repair or replacement of each septic system, CWC may supply the system owner with information about how to maintain the system. The information shall provide the owner with a summary of how the system works, how to care for the system, who to contact with questions or problems with the system, and a schedule of maintenance activities. A CWC representative or its agent may review the information and maintenance schedule with the owner. CWC or its agents shall keep records of each transaction of such information.

## **CHAPTER 2:01 – SEPTIC PROGRAM RULES**

### **2:01:01. CWC Schedule of Values**

1. CWC shall determine reasonable cost for each component of the work based on the cost of similar work within the Watershed Area.
2. The CWC Executive Director may approve a payment of an additional 100% over the schedule of values upon submission of appropriate demonstration/documentation that the cost is reasonable and justified.
3. Work by engineers is limited to only what is necessary to produce an approved plan.
4. The CWC shall establish a construction schedule of values based on the cost of similar work within the Watershed Area.
5. The CWC shall make payments according to the established schedule of values after receipt of a completed application form with attachments, including documentation of the date that NYCDEP and

CWC were notified, the date of the inspection and a description of subcontractor work completed (i.e., tank pump-out, test pits), NYCDEP approval of design and of construction, a description of work completed, and subcontractors' invoices.

### **2:01:02. Homeowner Portion of Cost**

1. For non-primary residents, (*e.g. second home, rental property - both short term and long term*) the CWC shall reimburse 60% of the eligible cost of needed repairs or replacements.
2. For primary residents, the CWC shall reimburse 100% of the eligible cost of needed repairs or replacements. Solely for the purposes of this Program, primary residence status shall be determined by two or more of the following: voter registration address, driver's license, tax returns, and/or other proof dated at least 30 days prior to property owner's enrollment in the Program. The property owner(s) must be the primary resident(s) for primary residence status to apply.
3. The percentage of cost eligibility shall be set when the property owner first applies to the Program. The homeowner portion of cost shall not change for the subsequent owner of the property, even if his/her residency status is different than that of the prior owner who first participated in the Programs.
4. Homeowner is responsible for 100% of pro-rata costs for design and construction costs attributable to additional bedrooms constructed within twenty (20) years of date of application.

### **2:01:03. Eligible Costs**

1. Before any payments are made under this program a system must be determined an eligible system.
2. In order to be eligible to apply for reimbursement, the cost incurred needs to be reasonable and necessary for work done to a septic system if it is determined by CWC that such septic system be failing or reasonably likely to fail prior to any repairs, or such system has received an NOV or NOF prior to any repairs, or has unique circumstances approved by the Executive Director. For reimbursement requests received after March 1, 2010, the rehabilitation or replacement of such septic system must have occurred on or after July 21, 2008. The applicant must submit a completed reimbursement application form provided by CWC.
3. The inspection, design, repair or replacement of the system must be in accordance with the following:
  - a. Inspection shall include no more than one pump-out of each treatment unit.
  - b. Design costs are eligible, limited only to work needed to complete an approved design, including needed site investigation.
  - c. CWC may deem ineligible costs incurred for oversized systems or work that CWC determines to be outside the requirements of 75-A and Chapter 18-38 of the Watershed regulations, not otherwise required as a condition of NYCDEP approval and superfluous to the achievement of adequate sewage treatment. Administrative work done by the engineer or construction observation by the engineer, if the engineer, or an entity owned, controlled by or employing the engineer, is also constructing the repair or replacement, shall also be ineligible, unless the contractor constructing the repair or replacement is also the participating homeowner seeking reimbursement.
  - d. Both design and construction of any rehabilitation or replacement must have been approved by NYSDEP.

4. CWC must determine the cost of work performed to be reasonable. CWC staff shall determine costs to be reasonable based upon the established schedule of values.
5. A homeowner seeking reimbursement for necessary incidental costs that were required for installation of an adequate septic system might be eligible for reimbursement at reasonable costs. Potential necessary incidental costs shall include but not be limited to the following:
  - a. Purchase of land/easements: The cost of land purchase, easements and/or maintenance agreements may be considered eligible on a case by case basis if needed for installation of an adequate septic system. Such costs must be pre-approved by CWC in writing.
  - b. Legal costs required solely for installation of the septic system. Such costs must be pre-approved by CWC in writing.
  - c. Survey costs used for topography studies needed for the design of the septic system. Such costs must be pre-approved by CWC in writing.
  - d. Reduced flow fixtures: Reduced flow fixtures shall be installed if cost savings to the program are demonstrated. The allowance for reduced flow toilets will be limited to basic white fixtures based on the established schedule of values. If the homeowner desires fixtures that are above the approved standard they shall pay the additional cost of such fixtures. If the homeowner refuses to install the fixtures, they will be responsible for the additional cost incurred to construct the larger leach-field that will be required. Time of use and total flow for faucets and showerheads are not controlled by flow rate standards, and as such are not an eligible cost. The CWC offers a water saving kit that converts fixtures to low flow standards as part of this program. The homeowner is urged to install these items.
  - e. 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.
6. 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.
7. In the event that costs to repair a septic system eligible for reimbursement, as set forth in Paragraph 2, may also be eligible for reimbursement through public or private insurance or a governmental agency (including, but not limited to, the Federal Emergency Management Agency), a homeowner shall complete and submit a claim to such insurance or government agency for the costs of the septic system repair or remediation prior to seeking payment from CWC for these costs. Any eligible cost for such repair or remediation that is not covered by said insurance, government agency, or grant program may be eligible for payment by CWC. The homeowner shall provide to CWC a copy of each such claim, including all correspondence, as well as approval or denial of such claim.

#### **2:01:04. Disallowed Costs**

1. Any expenses that are not appropriately documented shall be disallowed.
2. Government permit fees, including but not limited to fees assessed for building permits, zoning permits, and floodplain disturbance permits are disallowed.
3. Expenditures that do not follow the prior approval and notification procedures, as required by CWC and/or NYCDEP, are disallowed.

4. Interest and late fees are disallowed.
5. Fines and penalties are disallowed.
6. The payment of sales tax is disallowed.
7. Eligible construction services shall not include non-essential site beautification or interior plumbing changes.
8. Administrative work conducted by the engineer is disallowed.
9. 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 is disallowed.

#### **2:01:05. CWC Duplication of Payment Prohibited**

1. Except as provided herein, CWC will pay only once for the rehabilitation and replacement of a component of an eligible system. Any component of a septic system that has previously received funding for completed repair or replacement under any part of the Septic Program will not be eligible for participation in the Septic Program for a period of ten (10) years from the date of construction completion, unless specifically approved by the Executive Director, due to unique circumstances. Unique circumstances may include documentation that the previous funding addressed only part of the component, that a managed repair was installed, or that a provisional repair was installed.
2. CWC shall reduce the eligible reimbursement under this Program by the amount a homeowner received from, or is approved to be provided by, private or public insurance, a governmental agency (including Federal Emergency Management Agency), and/or grant for the repair or replacement of an eligible septic system as defined in these Program Rules. In order to be eligible for such partial payment by CWC the eligible septic system repair or replacement must be performed in accordance with the Watershed Regulations.
3. After ten (10) years from date of construction completion, CWC may fund a component or system an additional time, absent misuse by the property owner and in the sole discretion of the CWC Board of Directors in consultation with the Executive Director. Misuse includes but is not limited to failure to maintain the system, failure to maintain the integrity of an absorption field (including but not limited to driving across the absorption field, storage of materials or debris atop of the absorption field) overuse of the system, including through use beyond the design capacity of the system/component. As part of consideration of such an application, CWC may require an applicant to submit additional documentation, including but not limited to records of prior maintenance and metered water usage for a period of not less than six months.
4. CWC shall maintain records of the status of all septic systems addressed under this program, based on property owner, tax identification number and location. CWC shall compare such records against program records for previous repairs and Alternate Design Program payments to prevent duplicate payments.

#### **2:01:06. Areas with Limited Eligibility**

1. Some residences within the Watershed have limited eligibility to be included in the Septic Program because another MOA program will potentially alleviate the need for a functioning septic system at

that residence. All homeowners in receipt of an NOV/NOF should contact CWC to confirm eligibility under the Septic Program before assuming full program eligibility.

2. Properties located in the following areas may have limited eligibility to be included in this program:
  - a. Residences scheduled to be included in the sewer extension programs in the vicinity of NYC owned wastewater treatment facilities:
    1. Village of Tannersville/Town of Hunter
    2. Hamlet of Grand Gorge
    3. Village of Margaretville/Town of Middletown
    4. Hamlet of Grahamsville
    5. Hamlet of Pine Hill
  - b. The portions of the following 22 communities that are participating in the New Sewage Treatment Infrastructure Program: [Listed as Community, Town (County)]
    1. Village of Hunter, Town of Hunter (Greene Co.)
    2. Village of Fleischmanns, Town of Middletown (Delaware Co.)
    3. Hamlet of Windham/Hensonville, Town of Windham (Greene Co.)
    4. Village of Andes, Town of Andes (Delaware Co.)
    5. Hamlet of Roxbury, Town of Roxbury (Delaware Co.)
    6. Hamlet of Phoenicia, Town of Shandaken (Ulster Co.)
    7. Hamlet of Prattsville, Town of Prattsville (Greene Co.)
    8. Hamlet of Bloomville, Towns of Kortright/Stamford (Delaware Co.)
    9. Hamlet of Boiceville, Town of Olive (Ulster Co.)
    10. Hamlet of Hamden, Town of Hamden (Delaware Co.)
    11. Hamlet of Delancey, Town of Hamden (Delaware Co.)
    12. Hamlet of Bovina Center, Town of Bovina (Delaware Co.)
    13. Hamlet of Ashland, Town of Ashland (Greene Co.)
    14. Hamlet of Haines Falls, Town of Hunter (Greene Co.)
    15. Hamlet of Trout Creek, Town of Tompkins (Delaware Co.)
    16. Hamlet of Lexington, Town of Lexington (Greene Co.)
    17. Hamlet of S. Kortright, Towns of Kortright/Stamford (Delaware Co.)
    18. Hamlet of Shandaken, Town of Shandaken (Ulster Co.)
    19. Hamlet of West Conesville, Town of Conesville (Schoharie Co.)
    20. Hamlet of Claryville, Towns of Denning/Neversink (Ulster & Sullivan Co.)
    21. Hamlet of Halcottsville, Town of Middletown (Delaware Co.)
    22. Hamlet of New Kingston, Town of Middletown (Delaware Co.)
    23. Hamlet of Shokan, Town of Olive (Ulster Co.)
3. Except as provided herein, properties listed in 2 above will be excluded from participating in the Septic Program. When a failure confirmed by NYCDEP at a property located within one of the areas listed in 2 above regardless of whether or not such property is in a priority area as identified in Section 2:00:02:03, requires a temporary repair to manage failure, the property may be eligible for Septic Program for a managed repair. The Executive Director of CWC must approve such managed repair, and shall base approval on the severity of the threat to water quality and the timing of the anticipated alternate program. This section does not apply to communities that do not participate in the alternate program.
4. Upon approval by the Executive Director to proceed with a managed repair, CWC staff and/or the property owner shall consult with NYCDEP staff to discuss scope of the needed repair. The homeowner is responsible for procuring a design professional to obtain an approved design. The homeowner will also obtain a quote for the work. The quote for the work will be submitted to CWC

for funding approval. The homeowner shall complete the repair and submit the costs for reimbursement. For each system that receives a managed repair and is subsequently not included in an alternate program, CWC may review the managed repair and implement design if any upgrade is needed, as determined by CWC Executive Director.

5. A property owner who is eligible to participate in the alternate program listed above, but elects not to, shall not be eligible to participate in the Septic Program until all other systems within the Watershed have been inspected under the program, unless specifically approved by the Executive Director, due to unique circumstances.
6. If any of the communities listed above do not participate in the alternate program, property owners in the non-participating communities shall not be eligible to participate in the Septic Program until all other systems within the Watershed have been inspected under the program, except as provided in Section 2:00:02:01. This ineligibility will not apply to properties that are participating in the Septic Program either as of October 26, 2009 or prior to a community determining not to participate, either by resolution, vote of eligible property owners, or inaction, whichever is later. For the purposes of this paragraph, communities means the proposed service areas as identified in the New York State Environmental Facilities Report dated December, 2002.
7. Properties in the Prattsville – Washington Street Priority Area as defined in Section 2:00:03(2) are eligible to participate in the Septic Program to the extent that:
  - a. The Septic Program Funds used shall connect these Properties via a sewer extension to the Prattsville WWTP collection system;
  - b. Are funds specifically transferred from the Future Stormwater Program to the Septic Program for such defined purpose;
  - c. Each Property has been determined to be unsuitable for an on-site SSTS repair due to each Property's small lot size, terrain, unsuitable soils, and short depth to ledgerrock; and
  - d. Each Property is included in the Prattsville Sewer District and would have been connected to the Prattsville WWTP as part of the NIP Program except that the Prattsville NIP Block Grant funding has been fully expended.

#### **2:01:07. Coordination with NYCDEP**

1. Septic waste generated under this program shall be accepted at NYCDEP owned wastewater treatment plants provided such plants are capable of handling the waste, and such acceptance is consistent with the MOA.
2. CWC will notify the NYCDEP on a regular basis of approved reimbursement request in a manner that is consistent with the MOA.

#### **2:01:08. Application for Reimbursement**

1. To apply for reimbursement, a homeowner shall fill out an application form supplied by CWC. In filling out the form, the homeowner shall supply information requested regarding the design approval, costs incurred, costs paid and any other information and supporting documents requested by CWC to determine eligibility of the costs. The following documentation is required to verify cost incurred, and to process reimbursements:
  - a. True copy of contractor invoice(s), AND
  - b. Any one of the following:
    - i. Canceled check(s);

- ii. Money order receipt(s); or
  - iii. Contractor/design professional receipt(s).
2. The availability of funds for individual reimbursement of homeowners is not intended to establish an entitlement for any person. CWC reserves the right to limit the ultimate reimbursement in order to avoid excessive charges and to preserve the fiscal integrity of the Septic Program.

### **2:01:09. Review of Applications**

1. Where the total amount requested for reimbursement of construction costs is less than or equal to \$25,000, the CWC Executive Director shall be authorized to approve, modify or deny the reimbursement request. Where the total amount requested for reimbursement of construction costs is more than \$25,000, the staff recommendation shall be forwarded to the CWC Board of Directors who shall review the application and recommendation and approve, modify or deny the reimbursement request. In the event that a request for reimbursement of construction costs is more than \$30,000, the homeowner shall supply to CWC detailed quotes from at least three unrelated contractors. The staff recommendation shall be forwarded to the CWC Board of Directors, who shall review the application and recommendation and approve, modify or deny the reimbursement request. The CWC Board may waive the requirement for three detailed bids from unrelated contractors based upon unique circumstances.
2. Approval of a request for reimbursement shall be conditioned upon the owner's agreement to have his/her septic system pumped out and/or inspected, if so requested by NYCDEP. Any such pump-out will be paid for by CWC.

### **2:01:10. Appeals Process**

1. An applicant who believes that his or her application for reimbursement under the Reimbursement Program was wrongly denied, in whole or in part, may request a review of the disputed claim(s) by the CWC Board of Directors. The applicant shall submit such request for appeal in writing to the President of CWC by certified mail, return receipt requested. In the request for appeal, the applicant shall identify the reason for the appeal, and shall include a completed CWC appeal form. The CWC Board shall act upon each written request no later than the next regularly scheduled CWC Board meeting occurring at least fifteen (15) days after CWC's receipt of the completed written request for appeal.
2. The CWC Board may also reverse the decision to deny reimbursement, in whole or in part, in four instances:
  - a. The applicant was wrongly deemed ineligible;
  - b. The applicant was wrongly denied reimbursement, in whole or in part, based upon an incorrect determination that the work for which reimbursement is sought was not necessary;
  - c. That the applicant was wrongly denied reimbursement, in whole or in part, based upon an incorrect determination that the cost of the work for which reimbursement is sought is not reasonable; or
  - d. That there are special circumstances involved that warrant eligibility to the program or that warrant reimbursement.
3. The decision of the CWC Board of Directors after appeals is not subject to further review or revision by CWC.

**2:01:11. Method of Payment**

1. CWC shall pay the approved amount to the applicant within 30 days of receipt of a completed application.
2. Reimbursements shall be paid as discussed in Chapter 2:00 and 2:01:
  - a. When the homeowner has paid the contractor in full, a check will be issued directly to the homeowner;
  - b. In the case of an estate seeking reimbursement, a check will be issued to the estate; or
  - c. If the homeowner cannot or does not wish to pay the contractor, the CWC will issue a two-party check payable to the homeowner and the contractor for the approved cost.

**CHAPTER 2:02 – CWC INSPECTION AND REPAIR PROTOCOLS****2:02:01. System Standards**

1. 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 chapter identifies under what conditions a septic system should be repaired, upgraded or replaced (including the specific issue of cesspools), and sets forth guidelines for site analysis to identify the needed repairs, upgrades and replacements.
2. These rules do not require that existing non-complying sewage disposal systems that do not meet the standards of Appendix 75-A but are not failing or reasonably likely to fail in the near future be upgraded or replaced to 75-A standards.
3. The Standards for the Septic Program are consistent with New York City Watershed Rules and Regulations governing existing subsurface sewage treatment systems. The governing provisions are from Paragraph 9 of Section 18-38 of the Watershed Rules and Regulations. The design and construction of the septic system repairs must be approved by NYCDEP through the NYCDEP permit process.
4. 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. 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 reserving public health, safety and the environment.
5. The Septic Program may allocate funds for voluntary inspection and repair of septic systems in specific priority areas. Such inspections and repairs shall be conducted in accordance with these inspection protocols. These inspection protocols may also be used in the Reimbursement Program.

**2:02:02. Inspection Protocols**

1. The inspection should begin with an initial discussion with the homeowner(s) to describe the overall program. CWC staff should highlight that the work consists of the following primary parts:
  - a. An owner interview to obtain voluntary participation in the Septic Program. During the owner interview, the CWC staff shall inform the homeowner of all cost sharing provisions,

- the schedule of value limits, program eligibility criteria and that all CWC information is subject to the Freedom of Information Act;
- b. An initial inspection of the septic system and adjacent areas (including a dye test if needed);
  - c. A detailed inspection of any problems identified in the initial inspection, if needed;
  - d. Determination of repairs needed; and
  - e. Implementation of such repairs (design and construction).
2. During the initial contact, CWC staff should inform the owner(s) of the specific tasks that they will be doing during the inspection of the septic system and adjacent areas, including but not limited to:
    - a. Examining internal plumbing configuration and connections;
    - b. Recording general layout of the septic system components;
    - c. Assessment of external site features, including observation of conditions which may indicate septic problems;
    - d. Dye test if needed to identify failing systems, which may require one or more brief revisits to check for dye on the property; and
    - e. Collection of data which could indicate that the system is “likely to fail” in the near future.
  3. Failure is defined as 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) in the judgment of CWC staff. 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. Should a system be found to be failing, “reasonably likely to fail” or a substandard disposal system (such as cesspools in priority criteria areas 2:01:01(2)(B)(1)(a, b)), as specified in the Watershed Agreement, appropriate staff from NYCDEP, in accordance with NYCDEP’s Rules and Regulations, will have the opportunity to review and approve proposed changes to the system.
  4. If the initial inspection identifies failure or “reasonably likely to fail” conditions, CWC staff will proceed with detailed inspection of identified problems, which may include inspection of the septic tank (including pump-out if needed for inspection).

To the extent practicable, CWC shall notify, require its contractors to notify, or require property owners to notify NYCDEP at least five (5) business days in advance of the date, time and location at which to participate in and witness System inspections and/or pump-outs, the in-kind replacement or upgrading of a septic tank, or other work related to the remediation of a failed component are scheduled to be performed so that NYCDEP may be present.
  5. The pump-out will be conducted separately by a private contractor(s), who will be responsible to uncover the septic tank and if necessary the D-box, provide the pump-out and restore the property. CWC staff will inspect the tank at the time of the pump-out.
  6. CWC staff shall record inspection information and shall make every effort to complete as much information on the form as possible to accurately describe the site and septic system to insure that the inspection is valid and useful.

### **2:02:03. Septic System Conditions Warranting Repair, Upgrade or Replacement**

1. 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.

2. 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 as a result 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).
  - e. Other indicator in the judgment of CWC staff.
  
3. 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.
  
4. 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 300 feet of a reservoir or reservoir stem or within 100 feet of a watercourse or New York State regulated freshwater wetland.
  - c. 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.
  
5. Sanitary privies must be of the pit, watertight vault, or removable watertight receptacle type. All sanitary privies should be constructed in accordance with the NYSDOH handbook entitled Individual Residential Wastewater Treatment Systems Design Manual. Sanitary privies should be evaluated as to performance and location and, where appropriate, brought up to current standards for non-waterborne systems. If a determination is made that a sanitary privy is an inadequate sewage disposal method based on its location and/or the volume of disposed waste, a composting toilet or subsurface sewage treatment system should be installed. CWC will bring up to standards a substandard and reasonably likely to fail sanitary privy if this is the only sewage disposal method for the residence. Otherwise, such sanitary privy should be abandoned.

#### **2:02:04. Site Analysis and Repair Guidelines**

These guidelines are presented as a platform to begin assessing repair, upgrade and replacement options needed to address septic system failures. Final repair, upgrade or replacement decisions should, as always, be tailored to the specific site and based upon best professional judgment.

1. The problem is caused by an inadequate septic tank:

- a. If there is no septic tank, a new, complete septic system may be required. At minimum, a tank should be installed. Evaluate the site and site soils. Design and install a new septic system if needed. (Note: seamless septic tanks are a standard item now, if desired).
  - b. Leaking septic tank:
    - i. Repair or replace.
    - ii. Evaluate the site and site soils. Design and install a new septic system if needed. (Note: seamless septic tanks are a standard item now, if desired).
  - c. Corroded tank or cover:
    - i. replace, upgrading to current standards.
  - d. Baffle or Sanitary Tee is missing or damaged:
    - i. Repair or replace. Sanitary tees and gas deflection baffles are required for all CWC repairs and replacements.
    - ii. If repair that includes sanitary tee or baffles is impractical, consider tank replacement.
  - e. Tank is undersized for dwelling:
    - i. replace tank or install a second tank.
  - f. Access/inspection ports are buried too deep, or no access port exists:
    - i. Install watertight extension collars to bring ports within 12" depth from surface; or
    - ii. Install a new septic tank cover which has ports (septic tank access still needs to be 12" below grade).
  - g. Septic tank is not level:
    - i. level if tank is malfunctioning. Determine the cause of the tank being out of level (i.e.: erosion) and address it to avoid further problems.
2. Distribution box (D-box) is inadequate:
- a. D-box is out of level:
    - i. determine *why* the D-box is out of level, level the D-box, and address the cause of the D-box being out of level.
    - ii. Add speed-levelers to the outlet ports on gravity systems if they are missing.
  - b. D-box cracked or broken:
    - i. replace the D-box and, on gravity systems, add speed-levelers to the new D-box.
3. A plugged leach field or seepage pit causes the problem:
- a. Leach field or seepage pit is completely nonfunctional (i.e., Effluent is diverted to a road ditch or stream).
    - i. Evaluate site and site soils.
    - ii. Design and install a new subsurface treatment system.
  - b. If high groundwater is the reason for inadequacy:
    - i. Install a curtain drain to lower the water table to a depth that will ensure proper groundwater separation in accordance with current standards. (A raised system or Ulster County Fill System may be necessary and should be installed in accordance with current standards.)
    - ii. If the site will not support an absorption area see section 4(c) below.
  - c. Seepage effluent is ponded in some trenches (i.e., partial hydraulic failure):
    - i. Determine the likely cause (e.g.: out-of-level D-box – is it really a plugged leach field, or could it be due to water overuse, surface water diversions, etc.);
    - ii. Check leach field performance with a dye test;
    - iii. Evaluate site and site soils;

- iv. Recommend installation of water-saving fixtures, or redirect surface/sump water discharge if storm water is improperly being sent to the septic system;
      - v. Replace the failed lateral(s), close off the flow to these laterals and replace and properly size lateral(s) parallel along other side of field, reconfigure D-box; or
      - vi. Relocate the absorption area.
    - d. Inadequate area is available for leach field expansion or replacement:
      - i. Consider pumping effluent to a suitable area;
      - ii. Install the Best Available Technology (BAT);
      - iii. Consider joining with a neighbor's leach field, if possible (this option requires a maintenance agreement between homeowners.); or
      - iv. Consider non-waterborne septic system options.
4. The problem is caused by poor siting of the leach field/seepage pit:
  - a. Expansion is possible: evaluate site and expand absorption area as necessary.
  - b. Expansion is not possible (due to site or soil constraints):
    - i. Evaluate soils.
    - ii. Design and install a *replacement*, if possible.
    - iii. If impossible, then see 3(c) above.
  - c. There is insufficient setback distance (from watercourse, well, property line, etc.):
    - i. Consider performing a dye test.
      1. If dye is detected, then replace or repair the system with the Best Available Technology (BAT).
      2. If no dye is detected, expand the absorption area if appropriate and/or add a second septic tank in series.
5. Improperly functioning or located sanitary privy:
  - a. Evaluate site/use.
  - b. Relocate sanitary privy if necessary.
  - c. Rehabilitate to current standards for non-waterborne systems or abandon.