

EXPANDED SEPTIC SYSTEM  
REHABILITATION AND REPLACEMENT  
PROGRAM RULES  
(ARTICLE 13)

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*Approved by the Board of Directors*

***Revised***  
***08-03-21***

**Equal Opportunity Employer**

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**Chapter 13:00 –Expanded Septic Program Overview****13:00:01. 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. “2014 Standards” – NYSDEC publication entitled Design Standards for Intermediate Sized Wastewater Treatment Systems, 2014;
3. “CWC Board” - the Board of Directors of the CWC;
4. “CWC” - the Catskill Watershed Corporation;
5. “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, hereafter called 75-A).
6. Alteration or Modification or Qualifying Alteration or Modification – changes in use of the entity served by the septic system, including changes in flow generated by the entity, such that: (i) the septic system will continue to treat sewage without the admixture of industrial wastes or other wastes as defined in Article 17 of the State Environmental Conservation Law; and (ii) the design flow of the septic system following the alteration or modification (or the resumption of use of a discontinued SSTS) is no greater than 200% of the flow that would be attributed to the existing use (or use prior to discontinuation) under current design standards with a maximum increase of 2,000 gallons per day (gpd) (“Maximum Qualifying Expansion”), except that if the septic system is subject to a SPDES permit, the Maximum Qualifying Expansion(s) in total may be no greater than 200% of the flow limit in the SPDES permit, with a maximum of 2000 gpd.
7. “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.
8. “Design flow” – the design flow as determined by the Owner’s design professional in a manner consistent with the 2014 Standards.
9. Eligible Applicant – small business, not-for profit-corporation, or governmental entities as such terms are defined in these Program Rules in the West of Hudson Watershed.
10. “Eligible Failed or Likely to Fail Systems”- Septic systems serving an Eligible Applicant in the West of Hudson River Watershed that CWC staff determine to be in failure or is reasonably likely to fail and such system was constructed on or before November 2, 1995 or was constructed after that date and in operation for at least 20 years prior to date of application to CWC.
11. Eligible Equipment and Methods System – a Septic system in the West of Hudson Watershed serving a population center or an entity that is “public” for the purposes of the New York State Public Health Law Section 1104, as described in the September 27, 1993 NYSDOH Declaratory Ruling, MOA Attachment UU
12. Eligible Upgrade System – Septic Systems in the West of Hudson Watershed serving an Eligible Applicant that CWC staff determine to have a Qualifying Alteration or Modification.
13. Employee – Full Time Equivalent Employee or full-time employee who is employed at least thirty hours per week.
14. “Failed” or “Failure” - evidence of dye on the ground surface or in a watercourse, or evidence of sewage effluent on the ground surface or in a watercourse, or other obvious failure of system component (e.g. collapse of a septic tank) in the sole judgment of CWC. 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.
15. Full Time Equivalent Employee – a combination of employees, each of whom individually is not a full-time employee because they are not employed in average at least thirty hours per week, but who, in combination, are counted as the equivalent of a full-time employee.

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16. “Governmental Entities” –a county, city, town, village, school district, or other local municipal entity, including a fire district and other firefighting organization regardless of how such district or organization is incorporated, located within the boundaries of the West of Hudson watershed as defined in the Watershed Regulations, excluding the City of New York, State of New York, and the United States government, and each of their agencies and authorities.”
17. “Individual Residential Septic System” – a septic system serving a single family or two family residence in the West of Hudson River Watershed and with an existing design sewage flow of less than 1000 gallons per day without the admixture of industrial wastes or other wastes, as defined in New York State Environmental Conservation Law section 17-0701.
18. “Intermediate-Sized Septic System” – an on-site subsurface sewage treatment system serving an industrial, institutional, municipal, commercial, or multi-family residential facility, and receiving sewage without the admixture of industrial wastes or other wastes, as defined in the New York State Environmental Conservation Law section 17-0101.
19. “Leach field” - an absorption area, typically consisting of a field or trench formation.
20. “Locally Based Employee” – an employee of a not-for-profit organization whose primary place of employment is the property wholly or partially served by an Eligible Failed or Likely to Fail System or Eligible Upgrade System.
21. “MOA” – New York City Watershed Memorandum of Agreement.
22. “Not-for-Profit Corporation” – an entity formed exclusively for a purpose or purposes, not for pecuniary profit or financial gain, for which a corporation may be formed pursuant to the New York Not-For-Profit Corporation Law or similar law of another state, where no part of the assets, income, or profit of such entity is distributable to, or inures to the benefit of its members, directors, or officers except to the extent permitted by the New York Not-For-Profit Corporation Law.
23. “NYCDEP” – New York City Department of Environmental Protection.
24. “NYSDEC” – New York State Department of Environmental Conservation
25. “NYSDOH” – New York State Department of Health
26. “Owner” – property owner of an Eligible System
27. “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.
28. “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).
29. “Reservoir stem” - any watercourse segment which is tributary to a reservoir and lies within 500 feet or less of the reservoir. (Reference Watershed regulations).
30. “Sanitary privy” - pit, watertight vault or removable watertight receptacle for direct disposal of non-waterborne human waste. (Reference 75-A handbook).
31. “Septic Program” – the CWC Septic System Rehabilitation and Replacement Program per paragraph 124 the MOA and the contracts between CWC and NYCDEP, including individual reimbursement.
32. “Septic system” or “Subsurface Sewage Treatment System” or “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 but does not include an Individual Residential Septic System.
33. “Septic V Program Agreement” – the written agreement between NYCDEP and CWC registered on July 23, 2019.
34. “Sewage” - the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as

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may be present. The admixture of sewage with industrial waste or any other waste as herein defined, shall also be considered "Sewage."

35. "Small Business" – a business, that at the time of its enrollment in the Program, is resident in New York State, independently owned and operated, and employs one hundred or less individuals and, as applied under MOA Paragraph 145(ii). The number of employees shall include the employees of each affiliated business. Affiliated business shall be defined in accordance with the federal Small Business Act regulations 13 C.F.R. Section 121.103 *et seq.* Small Business may include an unincorporated entity, a sole proprietorship, a building or project with three or more residences that are rented, or a mobile home park consisting of three or more mobile homes rented/owned as residences.
36. "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).
37. "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).
38. "Watershed regulations" or "WRR" – Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources (Title 10 New York Code of Rules and Regulations Part 128, Title 15 of the Rules of the City of New York Chapter 18).
39. "West of Hudson River Watershed" or "West of Hudson Watershed" - the Ashokan, Cannonsville, Pepacton, Neversink, Rondout, and Schoharie Reservoirs and their drainage basins.
40. "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).

**13:00:02. Expanded Septic Program Description**

The CWC provides funding to rehabilitate, replace an Eligible Failed or Likely to Fail System or expand/upgrade a septic system for a Qualified Alteration or Modification, or fund equipment or methods of operation required by NYCDEP for a septic system serving a population center or governmental entity, as further defined herein. For failed or likely to fail septic systems or Qualified Alteration or Modification, the eligible septic system must serve a Small Business, Not-for-Profit Corporation or Governmental Entity in accordance with these Program Rules and consistent with Septic V Program Agreement. All eligible systems must be located within the West of Hudson Watershed.

**13:00:02:01 Inspection, Repair and Reimbursement for Eligible Failed or Reasonably Likely to Fail Septic Systems**

1. Overview:

At an Owner's request, CWC will inspect septic systems serving an Eligible Applicant and in priority areas, and determine if each system inspected, or its individual components, are in failure or reasonably likely to fail. CWC shall then reimburse the Owner for any needed improvements to the system in accordance with the NYCDEP approved repair design, as required by the Watershed Regulations. Such inspections will be conducted in order of CWC's Priority Criteria, discussed in section 13:00:02:02(2). As provided herein, the CWC will reimburse the costs for the Owner to procure services to complete the design and construction of such improvements in accordance with these Program Rules.

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2. Inspection and Repair Priorities

- A. The majority of program funds will be dedicated to a program for inspection and repair of Eligible Failing or Likely to Fail septic systems within Priority Areas inside the West of Hudson Watershed, using the following priority criteria in descending order of importance:
  - 1) Eligible Failing or Likely to Fail septic systems located within the 60 day travel time as identified by the NYCDEP Land Acquisition Program
  - 2) Eligible Failing or Likely to Fail septic systems located:
    - a) within 700 feet of a watercourse.
    - b) more than 700 feet from a watercourse
- B. Within the above priority areas, the following factors will be given due consideration by the CWC and its authorized agents to further prioritize systems on an individual basis: (and not in any priority order)
  - 1) Soil characteristics
  - 2) Depth to seasonal high groundwater table
  - 3) Slope of site
  - 4) Flood plains
  - 5) Age of system
  - 6) Incidence of maintenance on system
  - 7) Specific distances from watercourse, reservoir, or reservoir stem in (A.) above
  - 8) Occupancy / Usage
  - 9) Flow rate / design flow
  - 10) Signs of failure

2. Payment for repairs/ replacements of inspected failed or reasonably likely to fail septic systems will be as follows:

- A. If CWC determines during the inspection that the Eligible Septic System, or individual components, is in failure or is reasonably likely to fail, and should be repaired or replaced, the Owner shall secure a preliminary design of such repair or replacement and forward the preliminary design with soil test results clearly shown on documents to CWC for review. CWC shall submit design comments indicating what CWC will fund to the Owner. The Owner is responsible to submit a final design to NYCDEP for its review and approval pursuant to the Watershed Regulations. Certain Eligible Septic Systems, including systems serving facilities regulated by NYSDOH and/or possessing SPDES permits are also required by New York State regulations to obtain design and construction approvals from NYSDOH and/or NYSDEC for repairs to or replacement of their septic system.
- B. After the Owner has obtained design approval from NYCDEP and NYSDOH/NYSDEC (if required), the Owner shall obtain a quote on a CWC bid form. CWC requires that the Owner submit the quote to CWC for funding approval. The Owner is also responsible to obtain any necessary permits and/or approvals from local municipalities and the County, NYSDOH, or NYSDEC, if 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.
- C. After construction is complete, and a NYCDEP and NYSDOH/NYSDEC (if required) Construction Approval has been issued, the Owner shall submit an application for reimbursement to CWC with a copy of the NYCDEP Construction Approval.

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**3. CWC and Owner Portion of Costs for Failed or Reasonably Like to Fail Septic Systems**

Applicant*	Number of Employees*	% of Reimbursement*
Small Business	20 or fewer	100%
	21 to 100	75% up to \$100,000 100% for eligible costs over \$100,000
Not for Profit	5 or fewer locally based	100%
	6 or more locally based	75% up to \$100,000 100% for eligible costs over \$100,000
Governmental Entity	Not applicable	100%

\*Chart is for summary purposes only. See text of these Program Rules below for more detailed explanation

- A. For Small Businesses with twenty-one (21) or more Employees, CWC shall reimburse 75% of the eligible costs of needed repairs or replacements up to \$100,000.00 and then 100% of any eligible costs over \$100,000.00.
- B. For Small Businesses with 20 or fewer Employees, CWC shall reimburse 100% of the eligible costs for needed repairs or replacements
- C. For Governmental Entities, CWC shall reimburse 100% of the eligible costs for needed repairs or replacements.
- D. For Not-for-Profit Corporations with 5 or fewer Locally Based Employees, CWC shall reimburse 100% of the eligible costs of needed repairs or replacements.
- E. For Not-for-Profit Corporations with 6 or more Locally Based Employees, CWC shall reimburse 75% of the eligible costs of needed repairs or replacements up to \$100,000.00 and then 100% of any eligible costs over \$100,000.00.

**13:00:02:02 Inspection, Repair and Reimbursement for Alterations or Modifications**

**1. Overview –Alterations or Modifications for Existing Septic Systems:**

Where an Owner desires to make or has made an eligible alteration or modification to an existing septic system after February 14, 2017, at the Owner’s request, CWC will inspect Eligible Upgrade Systems. CWC shall then reimburse the Owner for any of the Eligible costs associated with such Alteration or Modification in accordance with these Program Rules.

**2. Payment for Qualifying Alterations or Modifications will be as follows:**

A. For eligible septic systems where construction was completed after July 23, 2019 the Owner may procure a design professional to undertake a review of the existing septic system (or proposed work) and prepare a report. Such report shall be provided to CWC. If a replacement system is required to comply with the Watershed Regulations requirements for new systems, the Owner shall secure a preliminary design of such upgrades and forward the preliminary design, with soil test results clearly shown on documents, to CWC for review. CWC shall provide design comments and indicate the funding scope to the Owner. The Owner is responsible to submit a final design to NYCDEP for its review and approval as required by the New York City Watershed Regulations.

B. After the Owner has obtained design approval from NYCDEP pursuant to the Watershed Regulations and NYSDOH/NYSDEC (if required), the Owner shall obtain a quote on a CWC bid form and submit the quote to CWC for funding approval in accordance with the Schedule of Values and

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these Program Rules. The Owner is also responsible to obtain any necessary permits and/or approvals from local municipalities and the County or State Agencies, 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.

C. After construction is complete, and a NYCDEP and NYSDOH/NYSDEC (if required) Construction Approval has been issued, the Owner shall submit an application for reimbursement to CWC.

D. Construction Approval.

**3. CWC and Owner Portion of Costs**

Applicant*	Number of Employees*	% of Reimbursement*
Small Business	20 or fewer	100%
	21 to 100	75% up to \$100,000 100% for eligible costs over \$100,000
Not for Profit	5 or fewer locally based	100%
	6 or more locally based	75% up to \$100,000 100% for eligible costs over \$100,000
Governmental Entity	Not applicable	100%

\*Chart is for summary purposes only. See text of these Program Rules below for more detailed explanation

- A. For small businesses with twenty-one or more employees, the CWC shall reimburse 75% of the eligible cost of upgrade or needed repairs or replacements up to \$100,000, and then 100% of any eligible costs over \$100,000.
- B. For small businesses with 20 or fewer employees, CWC shall reimburse 100% of eligible costs for upgrade or needed repairs or replacements
- C. For governmental entities, the CWC shall reimburse 100% of the eligible cost of upgrade or needed repairs or replacements.
- D. For not for profit corporations with 5 or fewer locally based employees, the CWC shall reimburse 100% of the eligible cost of upgrade or needed repairs or replacements.
- E. For not for profit corporations with 6 or more locally based employees, the CWC shall reimburse 75% of the eligible cost of upgrade or needed repairs or replacements up to \$100,000, and then 100% of any eligible costs over \$100,000

**Owners Cost Share Determination**

The percentage of cost eligibility shall be set when the Eligible Applicant first applies to and agrees to participate in the Expanded Septic Program. The owner portion of cost shall not change for the subsequent owner of the property, even if its status is different than that of the prior owner who first participated in the Expanded Septic Program.

**13:00:02:03 Groundwater Disputes and Watershed Regulations Requirements**

**1. Single or Two Family Residences**

For new systems serving single or two family residences or intermediate sized SSTs (including alterations or modifications to such existing septic systems greater than 200% of flow that would be attributed to existing use), CWC can reimburse for certain eligible costs



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regarding high groundwater determination. Funding may be provided from the CWC Board on an annual basis from the Catskill Fund for the Future. Total funding provided shall not exceed \$1,420,000.00. Eligible costs include, but are not limited to, incremental costs associated with a NYCDEP determination of high groundwater based on soil tests where the applicant's licensed professional engineer has issued a written report indicating the absence of the groundwater condition identified by NYCDEP. Such funds may also be used to pay costs eligible for Alternate Septic Funds under MOA Paragraph 129.

**2. Intermediate Sized SSTS**

For intermediate sized SSTS, at the CWC Board's sole discretion, CWC may reimburse 100% of the incremental costs associated with a NYCDEP determination of high groundwater based on soils tests for new septic system or non-qualifying modification or alteration of a septic system, where:

- A. The applicant's licensed professional engineer has issued a written report indicating the absence of seasonally high groundwater at the elevation identified by DEP; and
- B. A NYCDEP identified licensed professional engineer has provided (or has had an opportunity to provide) a written response justifying DEP's determination; and

The CWC Board issues a written finding that in their sole discretion upon review of the entire record, the preponderance of the evidence supports the applicant's licensed professional engineer's determination and that the preponderance of evidence does not support NYCDEP's determination of seasonally high groundwater elevation.

**13:00:02:04 – Methods or Operations Solely Required by the Watershed Regulations**

1. Overview – For certain costs of equipment or methods required solely by the Watershed Regulations, and not otherwise required under State or federal law, CWC can provide reimbursement to the owner for such costs.

2. CWC shall reimburse 100% of eligible costs. For the purposes of this section, eligible costs means the cost of any equipment or methods of operation required solely by the Watershed Regulations and not otherwise required by State or federal law for a septic system serving a population center or an entity that is "public" for purposes of PHL Section 1104, as described in the September 27, 1993 NYSDOH Declaratory Ruling, MOA Attachment UU.

**13:00:03. Public Education and Outreach**

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

- a. Public Notice
- b. CWC Newsletter
- c. Contact with other Watershed Based Agencies
- d. Distribution of Brochures

**CHAPTER 13:01 – EXPANDED SEPTIC PROGRAM RULES**

**13:01:01. 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 West of Hudson Watershed.

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2. The CWC Executive Director may approve a payment of up to an additional 100% over the schedule of value 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 or report.
4. The CWC shall establish a construction schedule of values based on the cost of similar work within the Watershed Area.

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 was 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.

**13:01:02. Eligible Costs for Failed or Reasonably Like to Fail Systems**

- 1) Before any payments are made under this program a system must be determined an Eligible Failed or Likely to Fail system.
- 2) In order to be eligible for reimbursement, the cost incurred needs to be reasonable and necessary for work done to an Eligible Failed or Likely to Fail system. The Owner 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. Administrative work done by the engineer shall not be eligible.
  - c) Both design and construction of any rehabilitation or replacement must have been approved by NYCDEP.
  - d) CWC may deem ineligible costs incurred for oversized systems or work that CWC determines to be outside the requirements 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.
- 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) An Owner 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 determined by CWC to be needed for the repair or replacement of an adequate septic system. Such costs must be pre-approved by CWC in writing.
  - b) Legal costs required solely for the repair or replacement of the septic system. Such costs must be pre-approved by CWC in writing. Legal costs associated with an owner's applicant for reimbursement are not eligible for reimbursement.
  - 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.

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- 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 Owner desires fixtures that are above the approved standard they shall pay the additional cost of such fixtures. If the Owner 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. CWC will offer a water saving kit that converts faucets and showerheads to low flow standards as part of this program. The Small Business owner 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 repair or replace a failed or likely to fail septic system will be eligible.

**13:01:03 Eligible Costs for Qualifying Alteration or Modification Systems**

Eligible Costs for Eligible Qualifying Alteration or Modification Systems include the following:

A. Evaluation of existing septic system or proposed location and use for a replacement septic system by a design professional. Evaluation shall include:

- 1. Calculation of design flow of current use
- 2. Location of septic system and components
- 3. Condition of septic system components
- 4. Calculation of design flow for proposed use of the property
- 5. Recommended or necessary changes to existing septic system to accommodate additional flow from proposed use and/or to upgrade system to comply to the extent possible to the requirements of the WRR and/or to design and install a replacement septic system to comply with WRR.
- 6. Both design and construction of any Qualifying Alteration or Modification must have been approved by NYCDEP.

B. Design and permitting costs, limited only to work needed to complete an approved design and obtain regulatory approval, including needed site investigation.

C. Construction costs for approved design

D. The other incidental costs but only to the extent allowed by CWC in its sole discretion. Potential necessary incidental costs shall include but not be limited to the following:

- 1. Purchase of land/easements: The cost of land purchase or easements may be considered eligible on a case by case basis if such land is reasonably proximate to the applicant's property and if determined by CWC to be needed for the alteration/modification of the septic system. Such costs must be pre-approved by CWC in writing.
- 2. Legal costs required solely for the construction, repair or replacement of the septic system. Such costs must be pre-approved by CWC in writing. Legal costs associated with an owner's applicant for reimbursement are not eligible for reimbursement.
- 3. Survey costs used for topography studies needed for the design of the septic system. Such costs must be pre-approved by CWC in writing.

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4. 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 Owner desires fixtures that are above the approved standard they shall pay the additional cost of such fixtures. If the Owner 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. CWC will offer a water saving kit that converts faucets and showerheads to low flow standards as part of this program. The Small Business owner is urged to install these items.

5. 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.

2) In all cases, the least expensive, technologically appropriate alternative needed to upgrade for Eligible Alteration or Modification for a septic system will be eligible.

**13:01:04. Disallowed Costs for All Eligible Applicants**

- 1) Any expenses that are not appropriately documented shall be disallowed.
- 2) Expenditures that do not follow the prior approval and notification procedures, as required by CWC, are disallowed.
- 3) Costs associated with or resulting from project delays are disallowed.
- 4) Interest and late fees are disallowed.
- 5) Fines and penalties are disallowed.
- 6) Reimbursement for payment of sales tax is disallowed.
- 7) Eligible construction services shall not include non-essential site beautification or interior plumbing changes (other than replacement of existing fixtures with low flow fixtures, where appropriate and approved by CWC).
- 8) Administrative work conducted by the engineer is disallowed.
- 9) Legal costs associated with an owner's application to CWC for reimbursement is disallowed.
- 10) A Government Entity shall not use Septic V Program Funds to fund any repairs, replacements, or Qualifying Alterations/Modifications of a community septic system implemented pursuant to Paragraph 122 of the Watershed MOA's Community Wastewater Management Program.
- 11) For eligible Alteration or Modification, pretreatment units for industrial wastes or other wastes as defined in Article 17 of the New York State Environmental Conservation Law is disallowed.
- 12) Costs otherwise eligible for reimbursement from or covered by another public program or program funded by the City of New York, including the CWC Septic Rehabilitation and Replacement Program, are disallowed.

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**13:01:05. CWC Duplication of Payment Prohibited**

- 1) Except as provided for herein, CWC will pay only once for the rehabilitation and replacement of a component of an Eligible Failed or Likely to Fail System. Any component of a septic system that has previously received funding for completed repair or replacement under any part of the Expanded Septic Program for an Eligible Failed or Likely to Fail System will not be eligible for reimbursement from the Expanded 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, or that a provisional repair was installed.
- 2) Septic systems that are eligible for or were previously repaired under the CWC Septic Program are similarly not eligible for the Expanded Septic Program.
- 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 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.

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 payments to prevent duplicate payments.

**13:01:06. Limited Eligibility Areas**

- 1) Some properties within the West of Hudson Watershed shall not be eligible to be included in the Expanded Septic Program because another MOA program will potentially alleviate the need for a functioning septic system at the applicant.
- 2) Properties located in the following areas are excluded from this program:
  1. Properties scheduled to be included in the sewer extension programs in the vicinity of NYC owned wastewater treatment facilities:
    - a. Village of Tannersville/Town of Hunter
    - b. Hamlet of Grand Gorge
    - c. Village of Margaretville/ Town of Middletown
    - d. Hamlet of Grahamsville
    - e. Hamlet of Pine Hill
  2. The portions of the following communities that are participating in the New Sewage Treatment Infrastructure Program. [Listed as community, town (County)]
    - a. Village of Hunter, Town of Hunter (Greene Co.)
    - b. Village of Fleischmanns, Town of Middletown (Delaware Co.)
    - c. Windham/Hensonville, Town of Windham (Greene Co.)
    - d. Village of Andes, Town of Andes (Delaware Co.)
    - e. Hamlet of Roxbury, Town of Roxbury (Delaware Co.)
    - f. Phoenicia, Town of Shandaken (Ulster Co.)
    - g. Prattsville, Town of Prattsville (Greene Co.)
    - h. Hamlet of Bloomville, Town of Kortright / Stamford (Delaware Co.)
    - i. Hamlet of Boiceville, Town of Olive (Ulster Co.)

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- j. Hamlet of Hamden, Town of Hamden (Delaware Co.)
  - k. Hamlet of Delancey, Town of Hamden (Delaware Co.)
  - l. Hamlet of Bovina Center, Town of Bovina (Delaware Co.)
  - m. Hamlet of Ashland, Town of Ashland (Greene Co.)
  - n. Hamlet of Trout Creek, Town of Tompkins (Delaware Co.)
  - o. Haines Falls, Town of Hunter (Greene Co.)
  - p. Hamlet of Lexington, Town of Lexington (Greene Co.)
  - q. Hamlet of S. Kortright, Towns of Kortright / Stamford (Delaware Co.)
  - r. Hamlet of Shandaken, Town of Shandaken (Ulster Co.)
  - s. Hamlet of West Conesville, Town of Conesville (Schoharie Co.)
  - t. Hamlet of Claryville, Towns of Denning / Neversink (Ulster Co. & Sullivan Co.)
  - u. Hamlet of Halcottsville, Town of Middletown (Delaware Co.)
  - v. Hamlet of New Kingston, Town of Middletown (Delaware Co.)
  - w. Hamlet of Shokan, Town of Olive (Ulster Co.)
- 3) The portions of the following communities that are participating in the CWC Septic Program for Cluster Systems have limited eligibility. [Listed as community, town (County)]
- i) Kelly Corners, Town of Middletown (Delaware Co.)
  - ii) Clovesville – Kissimmee Road, Town of Middletown (Delaware Co.)
  - iii) Stratton Falls Trailer Court, Town of Roxbury (Delaware Co.)
  - iv) Delhi Trailer/Mobile Home, Town of Delhi (Delaware Co.)
  - v) Lanesville, Town of Hunter (Greene Co.)
  - vi) Westkill, Town of Lexington (Greene Co.)
  - vii) Jewett Center, Town of Jewett (Greene Co.)
  - viii) Woodland Valley Road, Town of Shandaken (Ulster Co.)
  - ix) Traver Hollow Road, Town of Olive (Ulster Co.)
  - x) Sundown, Town of Denning (Ulster Co.)
  - xi) Denning, Town of Denning (Ulster Co.)
  - xii) Neversink, Town of Neversink (Sullivan Co.)
- 4) Except as provided in this paragraph, properties located in areas listed in 1 and 2 above will be excluded from participating in the Expanded Septic Program.
- a. 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 13:00:02:01, requires a temporary repair to manage failure, the property may be eligible for Expanded 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.
  - b. 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 owner is responsible for procuring a design professional to obtain an approved design. The owner will also obtain a quote for the work. The quote for the work will be submitted to CWC for funding approval. The owner 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.

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- 5) Properties located in areas listed in 1 and 2 above will be excluded from participating in the Expanded Septic Program. Properties in areas listed in 3 above may be excluded from the CWC Expanded Septic Program for eligible failing or likely to fail septic systems if the CWC Cluster System Septic Program will provide a permanent wastewater solution for that eligible septic system. If during pendency of determining eligibility for CWC Cluster System Septic Program, the failure requires a temporary repair to manage the system, 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.
- 6) Upon approval by the Executive Director to proceed with a managed repair, the CWC staff shall consult with NYCDEP staff to determine the extent of a design the needed repair. The Small Business Owner shall hire a design professional for work other than an in-kind replacement, to design the extent of work approved by the Executive Director. The quote for the work will be submitted to CWC for funding approval. The Owner 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 of any upgrade needed.
- 6) The property owner of an Eligible Failing or Likely to Fail System, within excluded area pursuant to this Section and where no wastewater project is pending for such area, can be reimbursed under applicable program rules for eligible costs for repairs/replacement completed on or after February 14, 2017 and before October 1, 2019 and as provided below. For reimbursements under this section only, CWC staff need not determine if the system was in failure or likely to fail prior to the repair/replacement.
  - a. To be eligible for reimbursement, all property owners 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 repairs made to such eligible septic system.

**13:01:07. Coordination With NYCDEP**

- 1) Pursuant to section 2.05 of the Septic V Program Contract between CWC and NYCDEP, septic waste generated under this program shall be accepted at NYCDEP owned wastewater treatment plants provided that such plants are capable of handling the waste, and such acceptance is consistent with the MOA and the Septic V Program Contract

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- 2) CWC will notify the NYCDEP on a regular basis of approved reimbursement request in a manner that is consistent with the MOA and the Septic V Program Contract.

**13:01:08. Application for Reimbursement**

- 1) To apply for reimbursement, an Owner shall fill out an application form supplied by CWC. In filling out the form, the Owner 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),
    - iii) Contractor / design professional receipt(s)
- 2) The availability of funds for individual reimbursement of owners is not intended to establish an entitlement for any person and the CWC reserves the right to limit the ultimate reimbursement in order to avoid excessive charges and to preserve the fiscal integrity of the Expanded Septic Program.

**13:01:08:01**

1. Every property owner requesting reimbursement under the Expanded 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 for public works, the owner agrees to maintain records evidencing compliance with Section 220 of the New York State Labor Law;
  - e. That CWC only provides reimbursement only for work required to achieve appropriate sewage treatment;
  - f. That CWC is not responsible for any federal or state taxes or tax consequences due to CWC funding;
  - g. 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;
  - h. That the repair, replacement, or alteration 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, replacement, or alteration within two (2) years of date of execution of the program participation agreement or by the last day of any extension shall not be eligible to reapply for the CWC Expanded Septic Program for a period of 6 months following termination of the program participation agreement.

**13:01:09. Review of Applications**

- 1) Where the total amount requested for reimbursement is less than or equal to \$25,000, the CWC Executive Director shall be authorized to approve, modify or deny the reimbursement request. Where



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the total amount requested for reimbursement 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.

- 2) Where the total amount requested for reimbursement exceeds \$30,000, the applicant shall solicit and provide copies to CWC of proposals from at least three (3) unrelated prospective contractors selected by such applicant to perform the proposed work, prior to commencement of construction for CWC Board of Directors review and approval, modification, or denial of the reimbursement request; provided the following:
  - a) The CWC Board of Directors, in its sole discretion, may waive the requirement for three (3) unrelated prospective contractors based upon unique circumstances.

The requirement of this subsection shall not apply to reimbursement requests for additional construction costs arising from unforeseen conditions. CWC Board must still approve such additional costs.

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 CWC. Any such pump-out will be paid for by CWC.

**13:01:10. Appeals Process**

- 1) An Owner who believes that his or her application for reimbursement under the 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 Owner shall submit such request for appeal in writing to the President of the CWC, by certified mail return receipt requested. In the request for appeal, the Owner 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 that is at least fifteen (15) days after CWC's receipt of the completed written request for appeal.
- 2) The CWC Board may reverse the decision to deny reimbursement, in whole or in part, in four instances.
  - a) The Owner was wrongly deemed ineligible.
  - b) The Owner 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 Owner 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.

**13:01:11. Method of Payment**

- 1) The CWC shall pay the approved amount to the Owner within 30 days of receipt of a completed application.
- 2) Reimbursements shall be paid as discussed in Chapter 13:00 and 13:01.
  - a) When the Owner has paid the contractor in full, a check will be issued directly to the Owner.

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- b) In the case of an estate seeking reimbursement, a check will be issued to the estate.
- c) If the Owner cannot or does not wish to pay the contractor, the CWC will issue a two- party check payable to the Owner and the contractor for the approved cost.

**13:01:012 Business Integrity**

- 1) Any contractor of applicant(s) who has received in excess of \$250,000 from Septic V Program funds, when aggregated with the value of all other contracts funded with Septic V Program Funds paid, directly, by two-party check, or otherwise, during any calendar year, shall not be reimbursed with Septic V Program Funds if DEP determines that the contractor does not have a satisfactory record of business integrity as described in the Septic V Program Agreement.
- 2) Each identified contractor shall complete a Program Participant Project Contractor Approval form supplied by CWC. Once completed, the form will be provided to NYCDEP staff who shall have thirty (30) days to deny additional reimbursement in excess of \$250,000 to such contractor.
- 3) CWC staff shall endeavor to complete such process on an annual basis upon review of prior year's reimbursements, including reimbursements from Septic III or Septic IV Program Agreement funds for the first year of the Expanded Septic Program.
- 4) Any applicant who retains a contractor who is not approved by NYCDEP as required by this section or a contractor who declines to complete the Program Participant Project Contractor Approval form shall not be eligible for reimbursement of work of such contractor from Septic V funds.

**CHAPTER 13:02 – CWC INSPECTION AND REPAIR PROTOCOLS for Failing or Reasonably Likely to Fail Septic Systems**

**13:02:01. System Standards**

- 1) The Expanded Septic Program includes standards for determining whether a failed or likely to fail septic system will be rehabilitated or replaced, and for determining the appropriate rehabilitation, alteration, modification, 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 septic systems that do not meet the applicable State requirements or the Watershed Regulations - but are not failing - be upgraded or replaced – it is a voluntary program.
- 3) The Standards for the Expanded Septic Program are consistent with New York City Watershed Rules and Regulations governing existing subsurface sewage treatment systems. The governing provisions are from Section 18-38 of the Watershed Regulations. If required by the Watershed Regulations, the design and construction of the septic system repairs must be approved by NYCDEP.
- 4) For failed or likely to fail systems, wherever feasible, such system shall be brought into full compliance with the Watershed Regulations, as applicable. When full compliance with the standards of the Watershed Regulations, Appendix 75-A or the applicable State requirements are not feasible or practicable, the system should be repaired or replaced (upgraded) based upon best professional judgment to the extent feasible to maximize protection of public health and safety. Departure from

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the parameters of the Watershed Regulations, Appendix 75-A, or the applicable State requirements shall be minimized to allow for the best feasible upgrade within the borders of the lot, while preserving public health, safety and the environment.

- 5) CWC shall notify DEP within five (5) business days upon identifying a failed or likely to fail septic system at a participating owner.

**13:02:02. Inspection Protocols for Failing or Likely to Fail Systems**

- 1) The inspection should begin with an initial discussion with the Owner(s) to describe the overall program. Inspectors should highlight that the work consists of the following primary parts:
  - a) an Owner interview to obtain voluntary participation into the Expanded Septic Program. During the owner interview, the CWC inspector shall inform the Owner 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;
  - e) implementation of such repairs (design and construction).
  - f) NYCDEP permit approval.
- 2) During the initial contact, inspectors 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;
- 3) Failure is defined as evidence of dye on the ground surface or in a watercourse, or evidence of sewage effluent on the ground surface or in a watercourse, or other obvious failure of system component (e.g. collapse of a septic tank) in the sole judgment of CWC. 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, appropriate staff from NYCDEP, in accordance with the Watershed Regulations, will have the opportunity to review and approve proposed changes to the system.
- 4) If the initial inspection identifies failure, the CWC inspector will proceed with detailed inspection of identified problems, which may include inspection of the septic tank (including pump-out if needed for inspection) and deep test pits in the leach area.
- 5) The pump-out will be conducted separately by a private contractor(s), who will be responsible to uncover the septic tank and D-box, provide the pump-out and restore the property. A CWC qualified inspector 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.