

SUBPART 646-3

WASTEWATER MANAGEMENT

Statutory Authority: Environmental Conservation Law Sections 43-0107(8), 43-0107(12), 43-0107(32), 43-0110, 43-0125(3)

646-3.1 General Purpose

The purpose of this Subpart is to preserve and protect the water quality and ecology of Lake George and protect the health, safety and welfare of residents and visitors to the Lake George basin by ensuring compliance with design and maintenance standards for wastewater treatment systems, providing consistent review of such systems, and optimizing the efficacy of these systems to prevent degradation of the Lake from wastewater pollution.

646-3.2 Applicability

- a) This Subpart shall apply to the discharge of sewage and the design, construction, operation, and maintenance of Wastewater Treatment Systems located in the Lake George basin;
- b) The requirements of this Subpart are in addition to, and not in lieu of, the requirements for wastewater treatment systems set forth in local codes, New York State Public Health Law, the Environmental Conservation Law (ECL), and implementing regulations. Wherever a conflict exists between this Subpart and any local or State laws or regulations, the more restrictive provision shall apply;

646-3.3 Definitions

Terms used in this Subpart shall have the meaning as defined in Commission regulations at 6 NYCRR Parts 645 and 646, 10 NYCRR Part 75, Appendix A (NYS DOH 75-A), and the Department of Environmental Conservation's Design Standards for Wastewater Treatment Systems in the Lake George Basin, as applicable, except the following terms as used in this Subpart shall mean the following:

- a) DEC Design Standards means the Design Standards for Wastewater Treatment Works in the Lake George Basin published in March 2015 by the Department of Environmental Conservation (Department) and available on the Department's website.
- b) DOH 75-A means the Wastewater Treatment Standards—Residential Onsite Systems adopted by the New York State Department of Health at 10 NYCRR Appendix 75-A.
- c) Failing Wastewater Treatment System shall mean a wastewater treatment system that is characterized by any of the following:
 - 1) Discharge of untreated or partially treated wastewater directly or indirectly to surface waters or the ground surface including overflow outlets, broken system elements, surface breakouts, ponding or saturated soil areas;
 - 2) The presence of a metal septic tank;
 - 3) Lack of a pre-treatment vessel (e.g. septic tank) prior to effluent discharge to any subsurface treatment area (e.g. soil absorption field), such as with a cesspool;
 - 4) Lack of a subsurface treatment area in instances where holding tanks are not used;
 - 5) A backup of sewage into the dwelling, building, septic tank, or distribution box, including

- effluent flowing back into the septic tank from a soil treatment area during pump out;
- 6) A septic tank that requires pumping more than four times per year; or
 - 7) A septic tank that has less than 50% of the required capacity per DOH 75-A and DEC Design Standards, as applicable.
- d) Qualified Wastewater Inspector means Commission staff or a person who is expressly authorized by the Commission, and is:
 - 1) a professional engineer licensed in the State of New York, or
 - 2) certified, trained, or licensed in the discipline(s) of septic system design, installation and/or inspection.
 - e) Redevelopment Project means the demolition or abandonment of an existing structure and the construction of a new structure.
 - f) Responsible Management Entity (RME) means a legal entity with the requisite managerial, financial, and technical capacity to ensure long-term management of wastewater treatment systems. RMEs may include sewer districts, utilities, municipal authorities, or other entities with the authority to enforce and the capacity to finance the long-term operation and maintenance requirements necessary to ensure wastewater treatment systems are functioning properly.
 - g) Review Authority means the municipal, county, and/or State office(s) with wastewater jurisdiction responsible for implementing local standards, regional standards, DOH 75-A and/or the DEC Design Standards. For purposes of section 646-3.8 of this Subpart, Review Authority does not include the Department.
 - h) Substandard Wastewater Treatment System means a wastewater treatment system that is found to be designed, constructed, or functioning in non-conformance with the applicable standards of this Subpart, DOH 75-A, or the DEC Design Standards. A Substandard Wastewater Treatment System shall include a wastewater treatment system characterized by any of the following conditions, unless construction of the system has been expressly permitted pursuant to DOH 75-A or DEC Design Standards, with variances or waivers as applicable, by the appropriate Review Authority:
 - 1) a septic tank that has less than 100% of the required capacity per DOH 75-A and DEC Design Standards, as applicable;
 - 2) an absorption area located less than 50 feet to the mean high water mark of Lake George or less than 50 feet to the high water mark of a AA-S stream designated or mapped by the Department pursuant to ECL section 17-0301; or
 - 3) an absorption area that has less than 75% of the required capacity (e.g. absorption trench or seepage pit dimension).
 - i) Wastewater Inspection means a professional assessment of a wastewater treatment system conducted by a Qualified Wastewater Inspector for the purposes of determining the adequacy of a wastewater treatment system's performance and compliance with the applicable standards.
 - j) Wastewater Inspection Program Area means the area located within 500 feet of the mean high water mark of Lake George and the area located within 100' of high water mark of a AA-S stream designated or mapped by the Department pursuant to ECL section 17-0301.
 - k) Wastewater Treatment System means the complete system of conduit, tanks, absorption area, or other facilities for the collection, treatment, or disposal of household, commercial, or

industrial wastewater, and excludes any State or municipal Publicly Owned Treatment Works (POTW).

646-3.4 Prohibitions

- a) No person shall own, operate, or maintain a Wastewater Treatment System that is Failing.
- b) No person shall own, operate, or maintain a Wastewater Treatment System that is Substandard except as authorized by the Commission within the terms of this Subpart.
- c) No person shall inhibit or prohibit a Wastewater Inspection as directed by the Commission in accordance with this Subpart.

646-3.5 Systems Exempt from the Wastewater Treatment System Inspection Program and Fees

- a) The following properties and wastewater treatment systems are exempt from the Wastewater Treatment System Inspection Program and fees in this Subpart:
 - 1) Any property located inside the Wastewater Inspection Program Area, but which is serviced by a tank and any absorption area located entirely outside the Wastewater Inspection Program Area.
 - 2) A Wastewater Treatment System located inside the Wastewater Inspection Program Area that is managed and maintained by a RME that conducts the following activities: (i) a regular pump out at intervals no greater than every five years, (ii) an inspection consistent with the standards of this Subpart by a Qualified Wastewater Inspector, and (iii) compliance with the maintenance and reporting standards in section 646-3.9 of this Subpart.
 - 3) Any Wastewater Treatment System located inside the Wastewater Inspection Program Area that has received a Wastewater Inspection that is consistent with the standards of this Subpart and which is undertaken in accordance with laws or regulations of an applicable Review Authority, such as a required inspection upon property transfer, shall be exempt from the inspection and fee requirements of this Subpart for the subsequent five years following that inspection, provided sufficient and timely documentation is submitted to the Commission in accordance with the maintenance and reporting standards in section 646-3.9 of this Subpart.
 - 4) Persons claiming exemption under this section shall bear the burden of demonstrating that all the requirements for an exemption are met.

646-3.6 Wastewater Treatment System Inspection Program

- a) All Wastewater Treatment Systems in the Wastewater Inspection Program Area shall be subject to a Wastewater Inspection every five years unless otherwise directed by the Commission or exempted by section 646-3.5 of this Subpart.
- b) Any Wastewater Treatment System in the Lake George basin may be subject to a Wastewater

Inspection to ensure the system is not a source of pollution and confirm that the system is compliant with the terms of this Subpart.

- c) Wastewater Inspections shall be conducted by Commission staff or by a Qualified Wastewater Inspector, as directed or authorized by the Commission.
- d) Wastewater Inspections shall be undertaken in accordance with forms provided by the Commission containing the information required by subdivision (g) of this section. Completed forms shall be filed with the Commission within 30 days of a wastewater inspection by the Qualified Wastewater Inspector.
- e) Prior to inspection, all septic tanks, seepage pits and drain field distribution boxes accepting effluent from a septic tank must be uncovered and opened by the landowner or their agent.
- f) The Wastewater Inspection shall include a septic tank pump out by a septic hauler registered with the Department pursuant to 6 NYCRR Part 364.
- g) Wastewater Inspections shall include, at a minimum, a review and diagram of the septic tank, distribution box, leaching components, and fixtures discharging to the system, and may include review of the number of bedrooms or applicable commercial units associated with the system as well as accepted methods for evaluation of system performance (e.g. dye testing).
- h) If a Wastewater Treatment System in the Lake George basin is found to be Failing, the Commission shall afford the landowner a reasonable time period to bring the system into compliance with applicable design standards. The time period afforded for compliance shall be commensurate with the hazard the system poses to public health, the water quality of Lake George, and the natural resources of the basin, but shall not exceed six (6) months from the date of documented Failure. In instances of ongoing or imminent hazard, such as wastewater collecting on the ground surface or a direct discharge to a surface water, the Commission may require immediate action including repair, replacement, and/or remediation as necessary.
- i) If a Wastewater Treatment System in the Lake George basin is found to be Substandard, the Commission shall afford the landowner a reasonable time commensurate with the hazard the system poses to public health, the water quality of Lake George, and the natural resources of the basin to bring the system into compliance with applicable design standards. The time period afforded for compliance shall not exceed five years from the date of the documented Substandard condition.
- j) No modification, repair, or construction of a Wastewater Treatment System shall be undertaken until all necessary permits and approvals are obtained from the Review Authorities having jurisdiction. All such permits and associated design plans shall be retained by the landowner, and provided to the Commission upon request in such format as may be directed (e.g. electronic pdf).
- k) The Commission may grant extensions to the time periods afforded to landowners for Wastewater Treatment System compliance for good cause.

646-3.7 Annual Program Fees for the Wastewater Treatment Inspection Program

- a) Each property served by a Wastewater Treatment System for which the tank, absorption area, or other treatment component is located in whole or in part within the Wastewater Inspection Program Area shall be subject to annual fees to be paid by the landowner in accordance with the following schedule:
 - 1) Residential Wastewater Treatment System: \$50
 - 2) Commercial Wastewater Treatment System: \$100.
- b) Each property served by a Wastewater Treatment System located in whole or in part within the Wastewater Inspection Program Area that discharges solely to holding tanks that does not have a wastewater leaching component (e.g. absorption area) is subject to an annual inspection fee as follows:
 - 1) Residential Holding Tank System: \$25
 - 2) Commercial Holding Tank System: \$50.
- c) Fees required pursuant to this section shall be due and payable April 1st of each calendar year and shall be deemed timely paid if paid on or before that date.
- d) Fees shall be paid to the “Lake George Park Commission” at the following address: PO Box 749, Fort George Road, Lake George, NY 12845, or through online payment system as provided by the Commission.
- e) Penalties for non-payment shall be processed in accordance with Commission regulations at 6 NYCRR 645-7.4.

646-3.8 Wastewater Treatment System Design in the Lake George Basin

All new and replacement Wastewater Treatment Systems constructed in the Lake George basin shall comply with the standards of DOH 75-A or the DEC Design Standards, as applicable, with additional standards noted herein:

- a) The reduction in absorption area and trench length allowed by DOH 75-A or the DEC Design Standards for Enhanced Treatment Units (10 NYCRR Appendix 75A.6(b)(6)(ii)(d)) as well as Open-Bottom Gravelless Chambers (10 NYCRR Appendix 75-A.8(c)(3)(i)) shall not apply to Wastewater Treatment Systems in the Lake George basin;
- b) The soil absorption area for Wastewater Treatment Systems constructed in the Lake George basin shall be located a minimum of 36 inches above seasonal high groundwater and bedrock;
- c) The soil absorption area for Wastewater Treatment Systems constructed in the Lake George basin shall be located a minimum of 100 feet from any stream, lake, or wetland;
- d) Redevelopment projects shall not utilize existing Wastewater Treatment Systems that are non-compliant with the design standards at the time of construction. Upon redevelopment, the Wastewater Treatment System servicing that structure shall be brought into compliance with the applicable design standards;
- e) A variance or waiver, as applicable, shall be required from the Review Authority when standards for wastewater treatment system design at subdivisions (a), (b), or (c) of this section cannot be met. Waivers and variances shall be processed in accordance with the administrative standards of the Review Authority.

- f) Any Wastewater Treatment System that requires a variance, waiver, or deviation from the design standards at subdivisions (a), (b), or (c) of this section, or from DOH 75-A or DEC Design Standards for the sizing of an absorption area or septic tank shall employ additional methods, measures, and/or practices determined to be the most practical and effective for reducing the introduction of phosphorus to the environment. Such measures shall be appropriate for the site and commensurate with the variance, waiver, or deviation requested, and may include but shall not be limited to enhanced treatment units, absorption area dosing, phosphorus filters, filtration media, enhanced absorption area characteristics (e.g. soil depth), and holding tanks. Any such measure must be consistent with generally accepted engineering practices, and shall be supported by certified third party testing and/or research published in professional, peer reviewed journals.

646-3.9 Wastewater Treatment System Maintenance and Reporting Requirements

The following shall apply to all Wastewater Treatment Systems in the Lake George basin:

- a) All Wastewater Treatment Systems in the Lake George basin shall be pumped out by a department-registered septic hauler in accordance with Department and Department of Health guidance, as applicable, but no less than once every ten years, or once every five years for systems subject to the Wastewater Treatment System Inspection Program.
- b) Records of all Wastewater Treatment System pump outs, inspections, repairs, and related construction permits and design plans shall be retained by the landowner for the life of the system and made available to the Commission upon request and in such format as may be directed (e.g. electronic pdf).
- c) All enhanced treatment units shall have an Operation and Maintenance agreement with the manufacturer, the manufacturer's representative, or an equivalent alternative authorized by the Commission. Inspection and maintenance records shall be retained by the landowner for the life of the system and made available to the Commission upon request.
- d) Within the Wastewater Inspection Program Area, when a Wastewater Inspection is conducted by a Qualified Inspector other than Commission staff, such as an inspector associated with a RME, maintenance and inspection records for the Wastewater Treatment System shall be provided to the Commission at least once every five years on such forms containing the information required by subdivision (g) of section 646-3.6 of this Subpart, or in such manner as provided by the Commission to demonstrate compliance with the standards of this subpart.

646-3.10 Administration of Regulatory Programs

- a) The Commission shall administer and enforce the Wastewater Inspection Program. The Commission may enter into agreements with Review Authorities for cooperative administration of the provisions of this Subpart, or may delegate administrative authority to Review Authorities, provided that any such agreement and administration is consistent with the intent, purpose and standards of this Subpart. Such agreements shall not limit the Commission from taking enforcement action if it determines that a violation of this Subpart endangers the health, safety and welfare of the public or results in damage to the natural resources of the Park.

- b) When a Wastewater Inspection results in the finding of a Failing or Substandard system, the Commission shall, as necessary, recommend the owner retain a NYS licensed professional engineer experienced in subsurface treatment systems and refer the landowner to the appropriate Review Authority for Wastewater Treatment System design and construction review and approval.
- c) To avoid duplicative jurisdiction and administration of Wastewater Treatment System permit programs, the terms of this Subpart do not convey permit jurisdiction to the Commission. Permit jurisdiction associated with the design and construction of Wastewater Treatment Systems, and all powers associated therewith, shall remain with the Review Authorities for Wastewater Treatment Systems in the Lake George basin. At the time of promulgation, the Review Authorities include the Town of Queensbury, Village of Lake George, Town of Lake George, Town of Bolton, Town of Hague, Town of Ticonderoga, Washington County, the Department, and the Department of Health.