

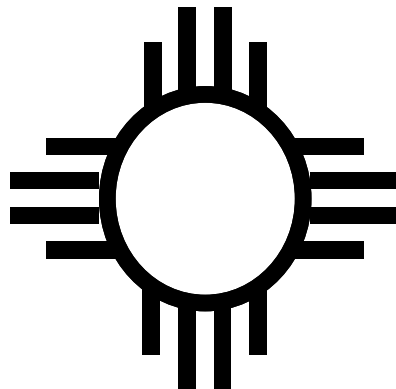
**NEW
MEXICO
REGISTER**



Volume XVIII
Issue Number 5
March 15, 2007

New Mexico Register

**Volume XVIII, Issue Number 5
March 15, 2007**



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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Administrative Law Division
Santa Fe, New Mexico
2007

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New Mexico Register

Volume XVIII, Number 5

March 15, 2007

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Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." Section 14-4-5 NMSA 1978.

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

PUBLIC ACCOUNTANCY BOARD NOTICE OF PROPOSED RULEMAKING

The New Mexico Public Accountancy Board ("Board") will convene a public hearing and regular Board meeting on Friday, April 20, 2007. The hearing and meeting will be held at 9:00 a.m. in the Conference Room of the Regulation and Licensing Department Building, 5200 Oakland NE, Albuquerque, New Mexico. Notice of the meeting is given in accordance with the Board's Open Meetings Policy. The hearing will be held for the purpose of affording members of the public the opportunity to offer comments on proposed amendments to existing Board rules.

The Board staff will recommend that the Board adopt amendments to the following rules:

NMAC NUMBER	RULE NAME
16.60.3 NMAC	Licensure and Continuing Professional Education Requirements

Notice of the hearing and Board meeting has been published in the New Mexico Register and in the Albuquerque Journal. Interested parties may access the proposed amendments on the Board's website at www.rld.state.nm.us/b&c/accountancy. Copies may also be obtained by contacting the Board office at (505) 222-9853. Written comments regarding the proposed amendments should be directed to Ms. Marie Aragon, Licensing Manager, Public Accountancy Board, 5200 Oakland NE, Suite D, Albuquerque, New Mexico 87113 or faxed to (505) 222-9855. Comments must be received by 5:00 p.m. on Wednesday, April 18, 2007; however, the submission of written comments as soon as possible is encouraged.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting should contact the Board office at (505) 222-9852 by 5:00 p.m. on Friday, April 13, 2007.

NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS

NM BOARD OF CHIROPRACTIC EXAMINERS RULE HEARING AND REGULAR BOARD MEETING NOTICE

The New Mexico Board of Chiropractic Examiners will hold a Rule Hearing on April 27, 2007. Following the Rule Hearing the New Mexico Board of Chiropractic Examiners Board will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Chiropractic Examiners Rule Hearing will begin at 9:00 a.m. and the Regular Meeting will convene following the Rule Hearing. Portions of the Regular Meeting may be closed to the public while the Board is in Executive Session. The meetings will be held at the Toney Anaya Building, 2nd Floor, 2550 Cerrillos Road, Santa Fe, New Mexico.

The purpose of the rule hearing is to consider adoption of proposed repeals, replacements, amendments and/or additions to the

following Board Rules in NMAC 16.4 Chiropractic Practitioners - 16.4.1 General Provisions, 16.4.2 Temporary Licensure; 16.4.3 Requirements For Licensure By Examination, 16.4.4 Licensure By Endorsement, 16.4.5 Criteria For Determination Of Equivalency To C.C.E., 16.4.6 Examinations, 16.4.7 Impaired Practitioner Programs, 16.4.9 License Renewal Procedures, 16.4.10 Continuing Education, 16.4.11 Forfeiture Of License, 16.4.12 Classification Of Chiropractic Licensure, 16.4.13 Reinstatement Of Chiropractic Licensure, 16.4.16 Parental Responsibility Act Compliance, 16.4.17 Supervision Of Interns, 16.4.18 Practice Procedures, and 16.4.19 Chiropractic Assistants.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico 87505, or call (505) 476-4604 after March 28, 2007. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board

office in writing no later than April 13, 2007. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4613 at least two weeks prior to the meeting or as soon as possible.

NEW MEXICO GAME COMMISSION

STATE GAME COMMISSION PUBLIC MEETING AND RULE MAKING NOTICE

On Wednesday, March 28, 2007, beginning at 9:00 a.m., at the Best Western-Mesilla Valley Inn/Columbus Conference Center (Santa Maria Room), 901 Avenida de Mesilla, Las Cruces, NM 88005, and the State Game Commission will meet in Public Session to consider action as appropriate on the following: Fiscal Year 2007, 2nd Quarter Depredation Report; Presentation of Fiscal Year 2006 Financial Statements and Audit Report; Commission Approval to Dispose of Fixed Assets; Mexican Wolf Public Comment/Discussion Forum; Update on the New Mexico Hunter Harvest Reporting Program; Update on Rio Costilla Restoration Project; General Public Comments (Those wishing to comment are encouraged to prepare their statement in advance-comments limited to 3 minutes); Closed Executive Session pursuant to Section 10-15-1(H)(1), NMSA, 1978, to discuss acquisition or disposal of real property or water rights; Land Conservation Appropriation Update and Action as Needed; 2007 Legislative Session Summary; Summary of the Open Gate Access Program; Management of Lesser Prairie-Chicken Habitat on Lands Owned by the Commission; and Development of Guidelines for Energy Development to Protect Fish and Wildlife.

The following rules are open for public comment and consideration for adoption by the Commission:

* Proposed Changes to Angling Regulation (19.31.4, NMAC), Removal of Closure from Selected Gila Trout Streams

and Associated Season and Regulations for 2007-2008 License Year;

* Amending a Portion of the Elk Rule, 19.31.14.15, Paragraph F, Section 6, NMAC, to Ensure Consistent Season Dates in GMU's 34 and 36 for 2007-2008 and 2008-2009 Hunting Seasons; and

* Hunting Regulation and Associated Rules Development for the 2007-2008 Upland Game Rule, 19.31.5, NMAC, and Waterfowl Rule, 19.31.6 NMAC.

A copy of the agenda or any of the affected rules can be obtained from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504 or on the Department's website. This agenda is subject to change up to 24 hours prior to the meeting. Please contact the Director's Office at (505) 476-8008, or the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Shirley Baker at (505) 476-8030. Please contact Ms. Baker at least 3 working days before the set meeting date. Public documents, including the Agenda and Minutes can be provided in various accessible forms. Please contact Shirley Baker if a summary or other type of accessible form is needed.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 10:00 a.m., on April 16, 2007, in the HSD Law Library at Pollon Plaza, 2009 S. Pacheco Street, Santa Fe, New Mexico. The subject of the hearing will be *Family Planning Medicaid*.

The New Mexico Human Services Department is proposing to add policy to the Family Planning Medicaid program under the authority of Section 1115 of the Social Security Act. This policy restricts eligibility to women who do not have other creditable health insurance coverage including Medicare.

The approval of New Mexico's Family Planning Waiver by the Centers for Medicare and Medicaid Services is contingent upon the inclusion of this requirement

in policy.

Interested persons may submit written comments no later than 5:00 p.m., April 16, 2007, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at www.state.nm.us/hsd/register.html or by sending a self-addressed stamped envelope to Medical Assistance Division, Program Oversight & Support Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

NEW MEXICO STATE PERSONNEL BOARD

State Personnel Board Public Rules Hearing

The State Personnel Board will convene a Public Rules Hearing in Ruidoso, New Mexico on Friday, April 20, 2007. The meeting will be held during the Board's regular business meeting beginning at 9:00 a.m., located in the Human Services Department, Income Support Division at 26387 Highway 70 Ruidoso Downs, Ruidoso, New Mexico 88346.

The purpose of the Rule Hearing is to consider amending SPB Rules and Regulations related to Subsection D of 1.7.6.13 Complaints; 1.7.10.13 Involuntary or Voluntary Separation; and various parts of 1.7.12 Adjudication.

A final agenda for the board meeting will be available at the board office on April 10, 2007.

Persons desiring to present their views on the proposed amendments may appear in person at said time and place or may submit written comments no later than 5:00 p.m. April 16, 2007 to the board office, PO Box 26127, 2600 Cerrillos Road, Santa Fe, New Mexico, 87505, attention, Sandra Perez. Copies of the proposed rules are

available on request from the Board office at the address listed above, by phone (505) 476-7805, or on the Internet at www.state.nm.us/spo/ beginning March 16, 2007.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service in order to attend or participate in the hearing, please contact the Director at 2600 Cerrillos Road, Santa Fe, New Mexico prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Director if a summary or other type of accessible format is needed.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

NOTICE OF REGULAR MEETING

The NM Commission of Public Records has scheduled a regular meeting for Tuesday, April 10, 2007, at 9:00 A.M. The meeting will be held at the NM State Records Center and Archives, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing, please contact William DeLaO at 476-7902 by April 2, 2007. Public documents, including the agenda and minutes, can be provided in various accessible formats. A final copy of the agenda will be available 24 hours before the hearing.

NOTICE OF RULEMAKING

The Commission of Public Records may consider the following items of rulemaking at the meeting:

Amendment

1.17.230 NMAC	JRRDS, New Mexico District Court
1.18.521 NMAC	E R R D S , Energy, Minerals and Natural Resources Department
1.18.550 NMAC	E R R D S , Office of the State Engineer
1.18.667 NMAC	E R R D S , New Mexico Environment Department
1.19.2 NMAC	L G R R D S , Office of the County Assessor

Repeal

1.18.790 NMAC	E R R D S , Department of Public Safety
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New-Replacement

1.18.790 NMAC E R R D S ,
Department of Public Safety

**NEW MEXICO
DEPARTMENT OF PUBLIC
SAFETY**

TRAINING AND RECRUITING
DIVISION
Law Enforcement Academy

**NEW MEXICO DEPARTMENT OF
PUBLIC SAFETY**

**NM LAW ENFORCEMENT ACADE-
MY**

NOTICE OF BOARD MEETING

The New Mexico Law Enforcement Academy Board will hold a Board Meeting on Thursday, March 29, 2007 beginning at 9:00 a.m., located at the Rio Rancho Department of Public Safety Facility and Municipal Court, 500 Quantum Road, Rio Rancho, New Mexico.

Copies of proposed plans, standards, requirements, or rules may be obtained by calling (505) 827-9255. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Arthur Ortiz, (505) 827-9290, as soon as possible. Public documents can be provided in various accessible formats.

Please contact Suzanne Vigil, (505) 827-9255, Arthur Ortiz (505) 827-9290 or Gil Najjar, (505) 827-9265 if additional information is needed.

**NEW MEXICO TAXATION
AND REVENUE
DEPARTMENT**

**NEW MEXICO TAXATION AND
REVENUE DEPARTMENT**

**NOTICE OF HEARING AND
PROPOSED RULES**

The New Mexico Taxation and Revenue Department proposes to amend the following regulation:

Motor Vehicle Code

18.19.5.12 NMAC Section 66-5-9 NMSA 1978

(Proof of Identification Number, Identity and Residency)

This proposal was placed on file in the Office of the Secretary on March 1, 2007. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about May 15, 2007.

A public hearing will be held on the proposals on Wednesday, April 25, 2007, at 9:30 a.m. in the 1st floor auditorium of the Harold Runnels Bldg., 1190 St. Francis Drive, Santa Fe, New Mexico. Auxiliary aids and accessible copies of the proposals are available upon request; contact (505) 827-0928. Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposals should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before April 25, 2007.

18.19.5.12 PROOF OF IDENTIFICATION NUMBER, IDENTITY AND RESIDENCY:

~~A. Applicants for a New Mexico permit, provisional or driver's license, other than a commercial driver's license, must provide documentary proof of their identification number, identity and residency.~~

~~B. Applicants must produce documentary proof of a social security number, individual tax identification number (ITIN), or an acceptable substitute for a social security number or ITIN.~~

~~(1) The applicant's social security card, or any of the following documents containing the applicant's social security number, will provide sufficient documentary proof of the applicant's social security number: a driver's license; a government issued photo identification card; a military identification card; an identification card from an educational institution; an original employment payroll receipt; tax forms such as a W 2, W 4, W 8, W 9 or other IRS official documents; a medical card; or a statement from a financial institution.~~

~~(2) The applicant's letter from the IRS issuing the ITIN, or tax forms or other IRS official documents using the applicant's ITIN, will provide sufficient documentary proof of the applicant's ITIN.~~

~~(3) The following may be accepted as a substitute for a social security number or ITIN:~~

~~(a) a valid passport issued by country of citizenship;~~

~~(b) valid documentation issued by the INS such as an I-551 "resident alien" card, I-151 "alien registration receipt" card, I-688 "temporary resident" card, or an I-797 "notice of action; or~~

~~(c) a matricula consular issued by the Mexican consulate in Albuquerque.~~

~~C. Applicants must produce one of the following documents as proof of identity: original birth certificate; certified copy of birth certificate; valid passport issued by country of citizenship; Indian census card; matricula consular issued by the Mexican consulate in Albuquerque; current driver's license from another state or country.~~

~~D. Applicants must provide two of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico: a rental agreement or purchase agreement; any original government issued document; a utility bill; an insurance bill; a bank statement; a check book; an employment pay stub; a local property tax statement; proof of a minor child enrolled in a public or private school; a voter registration card; a library card; original documents from a New Mexico community service organization; original documents from a city, county, state or federal government service organization attesting to the fact that the applicant is a New Mexico resident; a matricula consular issued by the Mexican consulate in Albuquerque.~~

~~E. The motor vehicle division may require foreign nationals applying for a driver's license to provide a certified copy of their driving record with an English language translation of the certified copy from the jurisdiction where the foreign national is currently or was previously licensed.]~~

A. Applicants for a New Mexico identification card, driving permit, provisional driver's license or driver's license, other than a commercial driver's license, must provide documentary proof of their identification number, identity and residency.

B. A person applying for a driver's license or identification card that was lost can use a New Mexico enhanced driver's license photo from the motor vehicle division (MVD) database as proof of identity and identity number, subject to MVD's ability to verify the applicant's social security number, as sufficient proof to issue a replacement driver's license or identification card.

C. Any applicant eligible for a social security number or having a social security number must produce their social security card as sufficient documentary proof of the applicant's social security number as proof of identification number. An applicant who is ineligible for a social security card or unable to obtain a social security card must provide an affidavit, acceptable to MVD, attesting to that fact. The applicant must also provide one of the

following documents:

(1) a United States, state, or local government-issued medical card through which the social security number can be verified;

(2) a statement from a federally regulated financial institution through which the social security number can be verified; or

(3) any document in Subsection F of this section, as long as the document is not used for proof of both identification number and identity.

D. In order to prove identification number, a foreign national who is unable to obtain a social security number must produce documentary proof of a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso or an individual tax identification number (ITIN). The applicant's ITIN card or the applicant's letter from the IRS issuing the ITIN is sufficient proof of the ITIN. Only foreign nationals may use an ITIN number and persons using an ITIN must sign an affidavit that they are a foreign national.

E. Applicants must produce one of the following documents as proof of identity:

(1) original birth certificate issued by a state or territory of the United States;

(2) certified copy of birth certificate issued by a state or territory of the United States;

(3) a notarized copy of a foreign birth certificate translated into English;

(4) original official copy of an FS545 or FS1350 form certifying birth abroad and translated into English;

(5) affidavit of Indian birth;

(6) N560 certificate of citizenship;

(7) N550 certificate of naturalization;

(8) a valid permanent resident card issued by the United States government;

(9) a valid I-551 resident alien card issued since 1997;

(10) as long as it includes the legal name, date of birth and court seal, a court order for name change, gender change, adoption or divorce;

(11) a marriage certificate issued by a state or a territory of the United States; or

(12) any document contained in Subsection F of this section, as long as the document is not used for proof of both identification number and identity.

F. Applicants can use the following documents to provide documentary proof of their identification number or documentary proof of their identity but the document cannot be used for proof of both their identification number and identity:

(1) a current state issued driver's license, a driver's license issued by a territory of the United States, or by jurisdiction of Canada;

(2) a state government-issued photo identification card, or a photo identification card issued by a territory of the United States, or by a jurisdiction of Canada; however, the MVD photo identification document card issued by MVD pursuant to Subsection J of this section may not be used to satisfy this proof of identification number requirement;

(3) a state government-issued photo learner's permit, or a photo learner's permit issued by a territory of the United States, or by a jurisdiction of Canada;

(4) a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso;

(5) valid passport issued by country of citizenship;

(6) American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;

(7) a photo identification card issued by the United States military, United States coast guard or New Mexico national guard;

(8) identification document issued by the United States veterans administration, so long as it is accompanied by a veterans administration medical center ID card;

(9) a valid United States active duty/retiree/reservist military identification card (DOD ID DD-2); or

(10) United States, state, or local government-issued photo ID, issued based on name, social security number and date of birth.

G. Applicants fifteen years of age or older must provide two of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico:

(1) a real property rental agreement or purchase agreement;

(2) a utility bill, such as water, gas, electric, waste, telephone, cable or satellite bill, but not a bill for a cell phone;

(3) an insurance bill;

(4) a bank statement;

(5) an employment pay stub that contains the applicant's name and address;

(6) a local property tax statement or mortgage documents;

(7) proof of a minor child enrolled in a New Mexico public, private, or tribal school;

(8) a current, valid motor vehicle registration;

(9) original documents from a New Mexico community organization attesting to the fact that the applicant is a

New Mexico resident;

(10) original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant; is a New Mexico resident;

(11) a New Mexico medical assistance card; or

(12) a New Mexico public assistance card.

H. Applicants less than fifteen years of age applying for an identification card must provide one of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico:

(1) proof that the child is enrolled in a New Mexico public, private, or tribal school;

(2) a bank statement;

(3) an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico driver's license, New Mexico identification card, or two proofs of New Mexico residency;

(4) original documents from a New Mexico community organization attesting to the fact that the applicant is a New Mexico resident;

(5) original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant is a New Mexico resident;

(6) documents from membership in a New Mexico religious organization; or

(7) documents from membership in a New Mexico sports organization.

I. The motor vehicle division may require foreign nationals, or first-time applicants from another state, to provide a certified copy of their driving record with an English language translation, if applicable, from the jurisdiction where the applicant is currently or was previously licensed.

J. Applicants who are unable to meet the requirements for a New Mexico identification card, driving permit, provisional driver's license, or driver's license, may apply for an MVD photo identification document. The MVD photo identification document card issued by MVD does not necessarily meet federal identification requirements. This card will be clearly identified on the card as a restricted card that cannot be used for certain purposes. The identification document cannot be used to apply for a New Mexico identification card, driving permit, provisional driver's license or driver's license. An applicant for the MVD photo identification document card must provide two documentary proofs of their identity and one documentary proof of residency.

(1) Applicants must produce two forms of documentation of their name and

date of birth or name and social security number. Any two of the following documents containing the name and date of birth or name and social security number are acceptable to prove identity:

(a) within one year of its expiration date, a state issued driver's license, a driver's license issued by a territory of the United States, or a license issued by a jurisdiction of Canada;

(b) within one year of its expiration date, a state issued identification card, an identification card issued by a territory of the United States, or an identification card issued by a jurisdiction of Canada;

(c) within one year of its expiration date, a state issued photo learner's permit, a photo learner's permit issued by a territory of the United States, or a photo learner's permit issued by a jurisdiction of Canada;

(d) original birth certificate issued by a United States state or territory of the United States;

(e) an affidavit of Indian birth;

(f) a current passport issued by the United States;

(g) a valid passport issued by country of citizenship;

(h) an I-94 form presented without a passport if it contains the applicant's photo;

(i) American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;

(j) N550 United States certificate of naturalization;

(k) certificate of citizenship (N560);

(l) a resident alien card (I-551, AR-3, AR3A, AR-103) that contains the applicant's photo;

(m) FS545 or FS1350 United States certificate of birth abroad;

(n) a military identification card that includes the applicant's photo;

(o) a United States veterans administration card that includes the applicant's photo, so long as it is accompanied by a veterans administrative medical center ID card;

(p) a medical card that includes the applicant's photo;

(q) a military dependent identification card that includes the applicant's photo;

(r) government-issued photo identification card;

(s) a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso;

(t) a New Mexico corrections department photo identification card with date of birth and documentation that the

card has not expired within the past year;

(u) an infant baptismal certificate;

(v) a social security card;

(w) a bank card, debit card, or credit card that contains the applicant's photo;

(x) a high school, GED, college, trade school, or university transcript, certificate, or diploma;

(y) an employee identification badge that contains the applicant's photo;

(z) a medical insurance card or documentation of medical insurance coverage or eligibility that contains an identification number;

(aa) military discharge/separation papers (DD-214);

(bb) selective service card;

(cc) proof of eligibility for and receipt of welfare benefits;

(dd) medical records;

(ee) documentation from a federal, state, or local correctional facility, or

(ff) social security administration benefits award letter containing the social security number.

(2) Applicants must provide one or more of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico:

(a) a real property rental agreement or purchase agreement;

(b) a utility bill, such as a gas, electric, waste, water, cable, satellite bill, or telephone bill but not a bill for a cell phone;

(c) an insurance bill, such as automobile, home or health;

(d) federally regulated financial institution document, such as a bank statement, excluding checks;

(e) an employment pay stub with name and address;

(f) a local property tax statement with name and address;

(g) proof of a minor child enrolled in a New Mexico public, private, or tribal school;

(h) a current, valid motor vehicle registration;

(i) original documents from a New Mexico community organization attesting to the fact that the applicant is a New Mexico resident;

(j) original documents from a city, county, state, tribal, or federal government or social service organization attesting to the fact that the applicant is a New Mexico resident;

(k) a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso;

(l) documentation of eligibility and proof that the applicant is currently receiving services from a 501(C)(3) organi-

zation; or

(m) other documents as approved by the MVD director.

[18.19.5.12 NMAC - N, 6/29/01; A, 6/14/02; A, 6/30/03; A, XXX]

End of Notices and Proposed Rules Section

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Adopted Rules

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

This is an amendment to 20.7.3 NMAC, Sections 7, 201, 202, 203, 301, 302, 401, 403, 405, 501, 601, 605, 701, 702, 703, 801, 803, 805, 807, 808, 811, 902, 904, and 907, effective 4/1/07.

20.7.3.7 DEFINITIONS: As used in 20.7.3 NMAC.

A. Terms starting with the letter 'A' are defined as follows:

(1) "absorption area" means the area in square feet of infiltrative surface in a soil disposal system designated to receive effluent from a treatment unit;

(2) "advanced treatment" means any process of wastewater treatment that removes a greater amount of contaminants than is accomplished through primary treatment; advanced treatment may include physical or chemical processes;

(3) "aggregate" means clean washed gravel (no greater than 4% fines by weight), clean crushed rock, proprietary or other media reviewed by the technical advisory committee and approved by the department; "aggregate" shall have a minimum size of 3/4 inch and a maximum size of 2 1/2 inches and provide no less than 35% void space under field conditions; the aggregate shall be durable, inert, and shall have a hardness value of 3 or more on the Mohs scale of hardness so it will maintain its integrity, not collapse or disintegrate with time, and not be detrimental to the performance of the system;

(4) "alternative disposal" means any approved on-site liquid waste disposal method used in lieu of, including modifications to, a conventional disposal method; these include but are not limited to, mounds, evapotranspiration beds, and pressure dosed systems [~~and surface irrigation systems~~];

(5) "amendment of permit" means a change that does not affect the permitability of a liquid waste system, including a change of ownership, and is not a "modification" as defined in this section;

(6) "approved" means:

(a) materials, products or procedures that have been reviewed by the technical advisory committee, if required, and accepted for use by the department;

(b) a liquid waste system that was permitted, constructed and installed in compliance with the standards and requirements of this regulation; or

(c) a person or entity authorized by the department to design, install, modify or maintain liquid waste systems or a person

authorized by the department to perform site or liquid waste system evaluations; and

(7) "arroyo" means a dry wash or draw that flows occasionally, a watercourse (as a creek or stream) in an arid region or a water carved gully or channel.

B. Terms starting with the letter 'B' are defined as follows:

(1) "bedrock" means the more or less solid, undisturbed rock in place either at the surface or beneath surficial deposits of gravel, sand or soil, or a consolidated rock formation of impervious material that may exhibit jointed, fractured or deteriorated characteristics, or the R horizon of a soil profile as defined in the USDA soil survey manuals;

(2) "bedroom" means any room or unfinished area within a building that is designated or might reasonably be used as a sleeping room pursuant to the responsible building permitting authority or manufactured housing authority;

(3) "biochemical oxygen demand" or "BOD" means the rate at which organisms use the oxygen in water or wastewater while stabilizing decomposable organic matter under aerobic conditions;

(4) "blackwater" means waste from a liquid flushing toilet, urinal, kitchen sinks, dishwashers or laundry water from the washing of material soiled with human excreta, such as diapers;

(5) "body of water" means all constrained water including water situated wholly or partly within or bordering upon New Mexico, whether surface or subsurface, public or private;

(6) "building drain" means that part of the lowest piping of a drainage system that receives the collective liquid waste discharge from soil, waste and other drainage piping inside a building and conveys it to the building sewer that begins two (2.0) feet outside the vertical plane of the building wall, residential or commercial unit; and

(7) "building sewer" means that part of the horizontal piping of a drainage system that extends from the end of the building drain located two (2.0) feet outside the building wall and that receives the liquid waste discharge from the building drain and conveys it to a liquid waste treatment unit or approved point of disposal.

C. Terms starting with the letter 'C' are defined as follows:

(1) "canal" means a man-made ditch or channel that carries water for purposes other than domestic consumption;

(2) "certificate of registration" means a permit for the continued operation of a previously unpermitted on-site liquid waste system;

(3) "cesspool" means an excavation or non-water tight unit that receives untreated water-carried liquid waste allowing direct discharge to the soil;

~~(4)~~ (4) "clay" means:

(a) a soil separate consisting of particles less than 0.002 millimeters in diameter; or

(b) the textural class name of any soil that contains 40% or more clay, less than 45% sand and less than 30% silt;

~~(5)~~ (5) "clearance" means the vertical thickness of suitable soil between the lowest point of a liquid waste disposal system and the seasonal high ground water table, bedrock or other limiting layer;

~~(6)~~ (6) "cluster system" means a wastewater system that serves more than one unit and treats 2000 gallons per day or less of wastewater;

~~(7)~~ (7) "coarse sand" means soil comprised of 25% or more of soil particles 0.5 to 2.0 mm in diameter and less than 50% of any other grade of sand;

~~(8)~~ (8) "commercial liquid waste" means wastewater, whether treated or untreated, that exceeds 300 mg/l BOD, 300 mg/l TSS, 80 mg/l total nitrogen or 105 mg/l fats, oils and grease;

~~(9)~~ (9) "commercial unit" means a structure that is not a residential unit but which has sewage producing fixtures such as sinks, baths, showers, toilets, urinals, dish- and clothes-washers or floor drains for receiving liquid waste including but not limited to uses included in Table 201.1;

~~(10)~~ (10) "conventional disposal" means a subsurface soil absorption system with gravity distribution of the effluent, with or without a lift station, constructed in accordance with the standards set forth in this regulation, including trench or bed absorption areas and seepage pits;

~~(11)~~ (11) "conventional treatment" means a septic tank where primary treatment occurs; and

~~(12)~~ (12) "conventional treatment system" means an on-site liquid waste system utilizing both conventional treatment and conventional disposal; for fee purposes only, "conventional treatment system" includes privies, holding tanks and vaults.

D. Terms starting with the letter 'D' are defined as follows:

(1) "degrade a body of water" means to reduce the physical, chemical or biological qualities of a body of water and includes, but is not limited to, the release of material that could result in the exceeding of standards established by 20.6.4 NMAC, Standards for Interstate and Intrastate Surface Waters, by 20.6.2 NMAC, Ground

and Surface Water Protection and by 20.7.10 NMAC, Drinking Water;

(2) "department" means the New Mexico environment department;

(3) "design flow" means the flow rate for which an on-site liquid waste system must be designed in order to assure acceptable system performance, assuming the use of conventional plumbing fixtures;

(4) "disinfected" or "disinfection" means the use of any process designed to effectively kill most micro-organisms contained in liquid waste effluent including essentially all pathogenic (disease causing) organisms, as indicated by the reduction of the fecal coliform concentration to a specific level; these processes include, but are not limited to, suitable oxidizing agents such as chlorine, ozone and ultraviolet light;

(5) "disposal system" means a generally recognized system for disposing of the discharge from a liquid waste treatment unit and includes, but is not limited to, seepage pits, drainfields, evapotranspiration systems, sand mounds and irrigation systems;

(6) "domestic liquid waste" means wastewater that does not exceed 300 mg/l BOD, 300 mg/l TSS, 80 mg/l total nitrogen or 105 mg/l fats, oils and grease; and

(7) "drainage ditch" means an unlined trench dug for the purpose of draining water from the land or for transporting water for use on the land.

E. Terms starting with the letter 'E' are defined as follows:

(1) "edge of a watercourse, canal or arroyo" means that point of maximum curvature at the upper edge of a definite bank or, if no definite bank exists, the highest point where signs of seasonal high water flow exist;

(2) "effluent" means the discharge from the final treatment unit;

(3) "effluent disposal well" means a prohibited method of disposal consisting of a drilled, driven or bored shaft or dug hole with depth greater than any surface dimension, used for subsurface emplacement of liquid waste, including, but not limited to, abandoned water supply wells, irrigation wells and test holes, but excluding seepage pits used as disposal systems, which conform to the standards in 20.7.3.702 NMAC;

(4) "elevated system" means a system installed either partially or completely above grade in a constructed fill area for the purpose of meeting clearance to a limiting layer.

(5) "enclosed system" means a watertight on-site liquid waste system that does not discharge to the soil, including, but not limited to, holding tanks and lined evapotranspiration systems;

(6) "established on-site liq-

uid waste system" means an on-site liquid waste system that has been in active use at any time during the ten (10) years prior to submission of a permit application and in compliance with any liquid waste disposal regulation in effect at the time of installation, excluding the permitting or registration process, but does not include cesspools installed after September 14, 1973;

(7) "evapotranspiration system" means a disposal system designed to dispose of effluent through evaporation and plant uptake and transpiration; and

(8) "experimental system" also referred to as "innovative technology" means, without limitation, any on-site liquid waste system utilizing a method of liquid waste treatment technology, processes, equipment or components that are not fully proven in the circumstances of their intended use, but, based upon documented research and demonstration, appear to offer benefits which outweigh the potential risks of failure, or a method of disposal that is not currently approved by the department; experimental systems shall be submitted for review to the wastewater technical advisory committee (WTAC) who shall recommend the system for full approval, recommend approval with conditions or reject the proposed system; final approval of experimental systems shall be at the discretion of the secretary.

F. Terms starting with the letter 'F' are defined as follows:

(1) "failed system" means, without limitation, an on-site liquid waste system that does not operate as permitted, that does not provide a level of treatment at least as effective as that provided by on-site liquid waste systems that meet the requirements of 20.7.3 NMAC or that poses a hazard to public health or degrades a body of water; and

(2) "fixture units" means a quantity of flow as defined in the UPC upon which plumbing systems are sized.

G. Terms starting with the letter 'G' are defined as follows:

(1) "gravels" means, for purposes of soils classification, a soil separate consisting of particles greater than 2 mm in diameter;

(2) "graywater" means untreated household wastewater that has not come in contact with toilet waste and includes wastewater from bathtubs, showers, washbasins, clothes washing machines and laundry tubs, but does not include wastewater from kitchen sinks, dishwashers or laundry water from the washing of material soiled with human excreta, such as diapers; and

(3) "ground water" means interstitial water that occurs in saturated earth material and is capable of entering a well in sufficient amounts to be utilized as a water supply.

H. Terms starting with the letter 'H' are defined as follows:

(1) "hazard to public health" means the indicated presence in water or soil of biological, chemical or other contaminants under such conditions that could adversely impact human health, including surfacing liquid waste, degradation to a body of water used as, or has the potential to be used as, a domestic water supply source, presence of an open cesspool or tank or exposure of liquid waste or septage in a manner that allows transmission of disease;

(2) "holding tank" means a non-discharging watertight tank designed to receive and retain liquid waste for periodic pumping and disposal off-site;

(3) "homeowner" means a person or persons who owns and occupies, or plans to occupy, a single family home; and

(4) "household hazardous waste" means a wide range of household products that have the characteristics of hazardous waste when discarded, including but not limited to, pesticides and herbicides, oil-based paints and stains, automobile fluids (antifreeze, motor oil, transmission, steering and brake fluids, gasoline), pool chemicals, hobby chemicals and darkroom chemicals.

I. Terms starting with the letter 'I' are defined as follows:

(1) "imminent hazard to public health or safety" means any situation with the potential to immediately and adversely impact or threaten public health or safety;

(2) "impervious formation" means any soil or rock formation with a hydraulic conductivity of 10^{-7} cm/sec or less;

(3) "industrial process wastewater" means non-household wastewater, excepting the following: human excreta; used water from showers, washbasins and dishwashers; and food preparation waste; any wastewater generated in a commercial activity that contains the materials prohibited by Subsection A of 20.7.3.304 NMAC is industrial process wastewater;

(4) "inspector" means a person certified by the department to be competent in the physical examination and evaluation of on-site liquid waste systems;

(5) "interstitial water" means water in spaces between solid earth particles; and

(6) "invert" means the lowest portion of the internal cross section of a pipe or fitting.

J. Terms starting with the letter 'J' are defined as follows: [RESERVED]

K. Terms starting with the letter 'K' are defined as follows: [RESERVED]

L. Terms starting with the letter 'L' are defined as follows:

(1) "lateral" means a secondary

water or wastewater pipeline branching directly from a central supply pipeline or manifold leading to an irrigation site;

(2) "limiting layer" means an impervious formation, ~~[a type Ia or type IV soil described in Table 703.L.]~~ bedrock or the seasonal high ground water table;

(3) "liner" means a manufactured or naturally occurring substance that restricts seepage to no more than 10⁻⁷ cm/sec. over the design service life of the lined unit; manufactured liners must have a minimum single-ply thickness of 20 mils and have no leaks;

(4) "liquid capacity" means the volume of liquid that is contained in a septic tank or treatment unit measured from the invert of the outlet; "liquid capacity" shall be calculated by multiplying the inside length by the inside width by the depth measured from the invert of the outlet to the unit's floor and converting the resulting sum to gallons;

(5) "liquid waste" means the discharge of wastewater from any residential or commercial unit where the total wastewater discharge on a lot is 2000 gallons per day or less; liquid waste includes without limitation human excreta and water carried waste from plumbing fixtures, including, but not limited to, wastes from toilets, sinks, showers, baths, clothes- and dish-washing machines and floor drains; liquid waste also includes non-water carried wastes discharged into holding tanks, privies and vaults; specifically excluded from the definition of liquid waste are industrial process wastewaters, roof drainage, mine or mill tailings or wastes;

(6) "liquid waste system" means all liquid waste treatment units and associated disposal systems, or parts thereof, serving a residential or commercial unit on a lot; liquid waste systems include enclosed systems, holding tanks, vaults and privies but do not include systems or facilities designed to receive or treat mine or mill tailings or wastes;

(7) "liquid waste treatment unit" means a component of the on-site liquid waste system where removal, reduction or alteration of the objectionable contaminants of wastewater is designed to occur; it may include a holding component but does not include soil;

(8) "load" or "loading" means:

(a) in the context of the biological or chemical load received by an on-site liquid waste system, the amount of material applied to an on-site system liquid waste component per unit area or unit volume;

(b) in the context of the structural load applied to an on-site liquid waste structural component, the structural force applied to a liquid waste system component per surface area; and

(9) "lot" means a unified parcel excluding roadways and roadway easements, legally recorded or validated by other means; "lot" includes any contiguous parcel subject to a legally recorded perpetual easement that dedicates the servient parcel for the disposal of liquid waste generated on the dominant parcel.

M. Terms starting with the letter 'M' are defined as follows:

(1) "maintenance contract" means a contract between the system owner and a maintenance service provider in which the maintenance service provider agrees to provide periodic inspections in regards to the operation, maintenance and repair of the system;

(2) "maintenance service provider" means a public entity, company or individual in the business of maintaining liquid waste systems according to manufacturers' specification;

(3) "manifold" means a part of a water distribution system normally located between the laterals and central supply line; the manifold splits the flow into a number of flows, either for distribution or for application to the land;

(4) "may" means discretionary, permissive or allowed; and

(5) "modify" or "modification" of a liquid waste system means:

(a) to change the method of on-site liquid waste treatment or disposal;

(b) to ~~[increase the design flow or]~~ change the design of the on-site liquid waste system;

~~[(c) to change the horizontal or vertical location of the disposal system;]~~

~~[(d)]~~ (c) to increase the ~~[amount of]~~ design flow or load received by the on-site liquid waste system above the original design flow or load; or

~~[(e)]~~ (d) replace or expand the treatment unit or disposal system.

N. Terms starting with the letter 'N' are defined as follows: [RESERVED]

O. Terms starting with the letter 'O' are defined as follows:

(1) "off-site water" means the domestic water supply for the lot is from:

(a) a private water supply source that is neither within the lot nor outside the lot within one hundred (100) feet of the property line of the lot; or

(b) a public water supply source that is not within the lot;

(2) "on-site" means located on or within a lot;

(3) "on-site liquid waste system" means a liquid waste system located on the lot where the liquid waste is generated;

(4) "on-site water" means the domestic water supply for the lot is from:

(a) a private water supply source

that is within the lot or within one hundred (100) feet of the property line of the lot; or

(b) a public water supply source that is within the boundaries of the lot; and

(5) "owner" means any person who owns an on-site liquid waste system or any component thereof, or any lot upon which any on-site liquid waste system or any component thereof is located.

P. Terms starting with the letter 'P' are defined as follows:

(1) "percolation rate" means the rate of entry of water into soil as determined by a standard soil percolation test at the depth and location of the proposed soil disposal system;

(2) "permanently displayed" means, in context of septic tank legends, embossed into the tank surface or a mechanically attached, non-corrosive plate;

(3) "permit" means a written approval from the department to install, modify, or operate an on-site liquid waste system;

(4) "permittee" means any owner of a permitted on-site liquid waste system;

(5) "person" means any individual, partnership, firm, public or private corporation, association, trust, estate, the state or any political subdivision or agency or any other legal entity or their legal representative, agents or assigns;

(6) "primary treatment" means a liquid waste treatment process that takes place in a treatment unit and allows those substances in wastewater that readily settle or float to be separated from the water being treated;

(7) "private water supply source" means a water supply source such as a well, spring, infiltration gallery or surface water withdrawal point used to provide water to a water supply system, if such system does not have a least fifteen (15) service connections and does not serve an average of twenty-five (25) individuals at least sixty (60) days out of the year;

(8) "privy" or "outhouse" means a receptacle for non-liquid-carried human excreta allowing direct discharge to the soil;

(9) "professional engineer" or "P.E." means a professional engineer licensed under the New Mexico Engineering and Survey Practice Act; "professional engineer" includes engineers licensed in any state of the United States for engineering related to a product design and manufacture of proprietary products;

(10) "proprietary system" means a system patented, trademarked or otherwise the intellectual property of manufacturers not in the public domain; and

(11) "public water supply source" means a water supply source such as a well, spring, infiltration gallery or surface water intake structure used to provide water to a

public water supply system for human consumption if the system served has at least fifteen (15) service connections or regularly services an average of twenty-five (25) individuals at least sixty (60) days out of the year.

Q. Terms starting with the letter 'Q' are defined as follows: [RESERVED]

R. Terms starting with the letter 'R' are defined as follows:

(1) "repair" means servicing or replacing, with like kind, mechanical or electrical parts of an approved liquid waste system, pumping of septage or making minor structural corrections to a tank or distribution box;

(2) "residential unit" means a structure that is primarily used for living quarters but does not include facilities listed in Table 201.1;

(3) "replacement area" means an unobstructed area within a lot designated to allow future construction of a replacement disposal area as required by Subsection H of 20.7.3.201 NMAC;

(4) "retention/detention area" means an area on a parcel of property specifically designated and designed to capture and hold water resulting from the runoff of precipitation; and

(5) "roadway" means the surface area of land dedicated by easement or use to provide vehicular passage serving more than one lot or more than five residential or commercial units on a single property.

S. Terms starting with the letter 'S' are defined as follows:

(1) "sand" means:

(a) a soil separate consisting of individual rock or mineral fragments that range in diameter from 0.05 to 2.0 millimeters; or

(b) the textural class name of any soil that contains 85% or more sand and not more than 10% clay;

(2) "seasonal high ground water table" means the highest level to which the upper surface of ground water may be expected to rise within twenty-four (24) consecutive months;

(3) "seasonal high water flow" means the highest level that perennial or intermittent surface waters may be expected to rise as a result of a 25 year, 6 hour storm event;

(4) "secondary treatment" means a wastewater treatment process used to convert dissolved or suspended materials into a form more readily separated from the water being treated; the process is commonly a biological treatment process followed by settling and clarification resulting in a reduction of the 5-day biochemical oxygen demand (BOD5) and total suspended solids (TSS) concentrations to a level specified in 20.7.3.602 NMAC;

(5) "secretary" means the secretary of environment or a designated representative;

(6) "seepage pit" means a type of absorption system that uses a vertical, cylindrical, underground receptacle so constructed as to allow the disposal of effluent by soil absorption through its walls;

(7) "septage" means the residual wastes and water periodically pumped from a liquid waste treatment unit or from a holding tank;

(8) "septic tank" means a liquid waste treatment unit designed to provide primary treatment and anaerobic treatment prior to disposal;

(9) "setback distance" means the distance measured by a straight horizontal line between the on-site liquid waste system, its designated replacement area, or portion thereof, and the object being considered;

(10) "shall" means mandatory;

(11) "silt" means:

(a) a soil separate consisting of particles between 0.05 and 0.002 millimeters in diameter; or

(b) the textural class name of any soil that contains 80% or more silt and less than 12% clay;

(12) "soil" means sediment or other unconsolidated accumulations of mineral particles that may or may not contain organic material and that have filtering properties;

(13) "suitable soil" means a soil, whether naturally occurring or introduced, that will treat the primary effluent effectively and act as an effective filter and remove organisms and suspended solids prior to the effluent reaching ground water, bedrock or a limiting layer, and that will provide adequate transmission to prevent a failed system; suitable soils are classified [as type I, II, or III soils as classified in] Table 703.1; and

(14) "surface application" means the application of disinfected effluent to the ground surface where access is restricted by artificial or natural conditions.

T. Terms starting with the letter 'T' are defined as follows:

(1) "technical advisory committee" or "TAC" means the wastewater technical advisory committee created by NMSA 1978 Section 9-7A-15;

(2) "tertiary treatment" means additional treatment beyond secondary treatment standards, specifically, the reduction in the total nitrogen concentration;

(3) "test hole" means a hole dug in the proposed disposal field area a minimum of seven (7) feet deep or four (4) feet below the bottom of disposal field, whichever is greater, and a minimum of two (2) feet wide; the test hole shall be sufficient to examine the soil visually for type, struc-

ture, mottling, impervious layers and other soil characteristics, and to determine the seasonal high water table level; a soil boring may be used to determine the soil characteristics and soil depth;

(4) "total design flow" means the sum of design flows for all on-site liquid waste systems and other wastewater discharges on a lot;

(5) "total nitrogen" or "TN" means the combined organic nitrogen, ammonia, nitrite and nitrate contained in the wastewater or effluent; and

(6) "total suspended solids" or "TSS" means the measurable component of solid matter suspended in water or wastewater.

U. Terms starting with the letter 'U' are defined as follows:

(1) "uniform plumbing code" or "UPC" means the 1997 uniform plumbing code, 14.11.3 NMAC and the 1997 state of New Mexico plumbing code and mechanical code, 14.9.2 NMAC, or the successor versions of each as adopted by the construction industries division of the New Mexico regulation and licensing department and promulgated in the New Mexico administrative code or another applicable code as adopted by the authority having jurisdiction; and

(2) [RESERVED]

V. Terms starting with the letter 'V' are defined as follows:

(1) "vault" means a non-discharging, watertight tank designed to receive and retain non-liquid carried human excreta for periodic pumping and disposal off-site; and

(2) "variance" means an administrative procedure authorizing the issuance of a permit or use of a system that does not meet the specific requirements of 20.7.3 NMAC but which meet the intent of 20.7.3 NMAC.

W. Terms starting with the letter 'W' are defined as follows:

(1) "wastewater" means blackwater and graywater;

(2) "watercourse" means any perennial, intermittent or ephemeral surface water conveyance channel including but not limited to a river, creek, arroyo, draw, canal or wash, or any other channel having definite banks and beds with visible evidence of the flow of water;

(3) "water(s) of the state" means all interstate and intrastate waters including natural ponds and lakes, playa lakes, reservoirs, perennial streams and their tributaries, intermittent streams, sloughs, prairie potholes and wetlands;

(4) "watertight" means not allowing water to pass in or out or as otherwise determined in 20.7.3 NMAC; and

(5) "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration

sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico; constructed wetlands are not included in this definition.

X. Terms starting with the letter 'X' are defined as follows: [RESERVED]

Y. Terms starting with the letter 'Y' are defined as follows: [RESERVED]

Z. Terms starting with the letter 'Z' are defined as follows: [RESERVED]
[20.7.3.7 NMAC - Rp, 20.7.3.7 NMAC, 9/1/05; A, 4/1/07]

20.7.3.201 PROCEDURES; GENERAL REQUIREMENTS:

A. Every owner shall be responsible for the storing, treating and disposing of liquid waste generated on that property.

B. No person shall discharge untreated liquid waste except into a permitted enclosed system, a permitted liquid waste treatment unit or a public sewer system, except for the discharge of graywater pursuant to 20.7.3.810 NMAC. No person shall discharge liquid waste or effluent into a cesspool or effluent disposal well.

C. No person shall discharge effluent from a liquid waste treatment unit except through a permitted liquid waste disposal system or to a permitted sewer system. No person shall discharge effluent from a liquid waste treatment unit to an effluent disposal well.

D. No person shall install, have installed, modify or have modified, own, operate or use an on-site liquid waste system that, by itself or in combination with other on-site liquid waste systems, may cause a hazard to public health or degrade any body of water.

E. All residential and commercial units utilizing an on-site liquid waste system shall connect to a public sewer if required by the local authority having jurisdiction.

F. The type of on-site liquid waste system shall be determined on the basis of location, lot size, soil and site characteristics. The system, except as otherwise approved, shall consist of a liquid waste treatment unit and associated disposal system.

G. An on-site liquid waste system shall be located wholly on the same lot, which is the site of the source or sources served by the on-site liquid waste system.

H. All disposal systems that utilize subsurface discharge and soil absorption shall be designed with an unobstructed replacement or reserve area so that

additional seepage pits, drainfields or other subsurface absorption areas equivalent to at least ~~[100%]~~ 50% of the required original disposal system may be installed if the original system cannot dispose of all the liquid waste or the system needs to be expanded. No division of a lot or construction or remodeling of a permanent structure on the lot shall be made if such division, construction or remodeling impairs the usefulness of the ~~[100%]~~ 50% replacement area.

I. A privy may be used for the disposal of human excreta and toilet paper, but not for the disposal of other liquid wastes.

J. On-site liquid waste systems, other than holding tanks, receiving waste from recreational vehicles (RVs) shall provide pretreatment of the waste to the level of domestic waste as defined in Paragraph (6), Subsection D of 20.7.3.7 NMAC. Existing permitted on-site liquid waste systems receiving waste from recreational vehicles shall continue to be authorized to operate. Upon modification of these existing systems, the system shall be required to provide pretreatment of the waste.

K. On-site liquid waste systems permitted, but not installed, prior to the effective date of 20.7.3 NMAC shall be installed in accordance with the regulations in effect at the time of the permit issuance, provided that the installation of the system shall be completed within one (1) year of the effective date of 20.7.3 NMAC.

L. On-site liquid waste systems installed prior to the effective date of 20.7.3 NMAC shall meet the requirements of the regulations in effect at the time of their initial installation, or if there has been a prior permitted modification, the regulations in effect at the time of the most recent permitted modification will apply or the current regulations, whichever is less stringent.

M. Nothing contained in 20.7.3 NMAC shall be construed to prevent the department from requiring compliance with more stringent requirements than those contained herein, where the department finds that such more stringent requirements are necessary to prevent a hazard to public health or the degradation of a body of water. The following parameters may be considered when determining if a body of water is potentially vulnerable to degradation from liquid waste effluents, and if more stringent requirements may be necessary to prevent such degradation:

(1) a water-table aquifer (includes both unconfined and semi-confined conditions) with a vadose zone thickness of 100 feet or less containing no soil or rock formation that would act as a barrier to saturated or unsaturated wastewater flow;

(2) sites within one quarter (1/4) mile of a known groundwater plume of anthropogenic anoxic or nitrate contamination caused by migration through undisturbed vadose zone, provided that the site overlies the same aquifer;

(3) an aquifer overlain by fractured bedrock;

(4) an aquifer in karst terrain; and

(5) a gaining stream impacted by nutrients from liquid waste systems.

N. Upon written request, the department shall provide a letter of determination stating whether or not more stringent requirements may be imposed on a lot or parcel of land. This determination shall be valid for one year. The department shall issue the determination letter within 10 working days. This letter of determination in no way waives or precludes an applicant's regulatory requirements under this part nor predetermines the regulatory requirements of this part when obtaining a permit.

O. The secretary, or a designated representative, upon presentation of proper credentials and with consent or with an administrative search warrant:

(1) shall have the right of entry to any property on which a permitted or unpermitted on-site liquid waste system regulated by 20.7.3 NMAC exists or is required for the limited purpose of inspecting the liquid waste system or to determine compliance with these regulations or permit conditions; failure to provide reasonable access for the purpose of inspecting a liquid waste system or to determine compliance with these regulations or permit conditions shall be cause for revocation or suspension of a permit;

(2) shall have access to and may copy any record required to be established and maintained by these regulations or permit conditions; failure to provide reasonable access to or copies of any record required to be established and maintained by these regulations or permit conditions shall be cause for revocation or suspension of a permit; and

(3) may obtain any samples required to determine compliance with 20.7.3 NMAC or permit conditions; failure to provide reasonable access to facilities for the purpose of obtaining samples shall be cause for revocation or suspension of a permit.

P. Design flows shall be calculated as follows:

(1) for residential sources, the design flow shall be calculated assuming two (2) persons per bedroom for the first two (2) bedrooms and one (1) person per additional bedroom in a single family dwelling unit and seventy-five (75) gallons per person per day; multiple family dwelling unit source design flows shall be

calculated as the sum of design flows for each single family unit included; and

(2) design flows for nonresidential sources shall be based on Table 201.1 or generally accepted references (such as the uniform plumbing code or the USEPA design manual: *on-site wastewater treatment and disposal systems*); design flows for nonresidential sources also may be based on professional engineering design calculations; total design flows may be determined by the submittal of metered water use or effluent flow data and shall be multiplied by a safety factor of 1.5 for design flow calculations.

Table 201.1: Established liquid waste design flow rates

TYPE OF OCCUPANCY	GALLONS PER DAY
1. Airport, Bus Terminal, Train Station	20 per employee 5 per passenger
2. Beauty & Barber Shop	75 per service chair
3. Bowling alleys (snack bar only)	75 per lane
4. Bed and Breakfast	150 first bedroom 100 each additional bedroom
5. Camps: campground with central comfort station with flush toilets, no showers day camps (no meals served) summer and seasonal	35 per person 25 per person 15 per person 50 per person
6. Churches (Sanctuary) with kitchen waste	2 per seat 7 per seat
7. Dance hall	5 per person
8. Doctor and Dentist Office	250 per practitioner, 15 per employee
9. Factories: per 8 -hour shift no showers with showers cafeteria, add	25 per employee 35 per employee 5 per employee
10. Food Operations: Restaurants operating 16 hours or less per day Restaurants operating more than 16 hours per day Bar, cocktail lounge add per pool table or video game Carry out only, including caterers add per 8 -hour shift Food outlets only add for deli add for bakery add for meat department add per public restroom	40 per seat 60 per seat 20 per seat 15 each 50 per 100 sq ft floor space 20 per employee 10 per 100 sq ft floor space 40 per 100 sq ft floor space 40 per 100 sq ft floor space 75 per 100 sq ft floor space 200
11. Hotels, Motels, Lodges laundries, lounges and restaurants calculated separately	60 per bed
12. Institutions (resident) Nursing homes Rest homes	75 per person 125 per person 125 per person
13. Laundries self-service (minimum 10 hours/day) commercial	50 per wash cycle per manufacturer's specifications
14. Offices	20 per employee per 8 -hour shift
15. Parks: picnic park - toilets only	20 per parking space
16. Recreation Vehicles (RV) Park without water hookup with water and sewer hookup RV dump stations	75 per space 100 per space 50 per RV
17. Schools - staff and office Elementary and Day Care Intermediate and High Boarding, total waste gym and showers, add with cafeteria, add	20 per person 15 per student 20 per student 100 per person 5 per student 3 per student
18. Service stations and convenience stores uni-sex restrooms	400 per toilet 800 per Toilet

19. Stores public restrooms	20 per employee 10 per 100 sq ft. floor
20. Swimming and bathing places, including spas and hot tubs, public	10 per person
21. Theaters, auditoriums Drive-ins	5 per seat 10 per space
22. Veterinary Clinic add add	250 per practitioner 15 per employee 20 per kennel, stall, or cage

Liquid waste generated by the occupancies above, exceeding the definition of domestic liquid waste, shall require pretreatment prior to utilizing a conventional treatment system.

Q. The minimum liquid capacity of a septic tank shall be determined as follows:

- (1) for residential units, the liquid capacity shall be based on the number of bedrooms using Table 201.2; and
- (2) for commercial units, the liquid capacity shall be based on the number of plumbing fixture units using Table 201.2; or
- (3) if based on estimated design flows pursuant to Paragraph (2) of Subsection P of 20.7.3.201 NMAC, the minimum liquid capacity shall be 2.5 times the design flow, whichever is greater.

Table 201.2: Capacity of Septic Tanks

Single family dwellings, number of bedrooms	Other uses maximum fixture units*	Minimum septic tank capacity in gallons served
1	10	750
2 - 3	12	1000
4	15	1200
5 - 6	20	1500
7 - 9	27	2000
	29	2250
	32	2500
	35	2750

* 100 fixture units or less are equal to 31.1 gallons per fixture unit.

R. Waste from a water softener unit shall comply with the following.

(1) Softener waste may be discharged to a conventional treatment unit. If the waste is not discharged to the treatment unit, the waste may be disposed in accordance with other applicable regulations.

(2) For new construction utilizing an advanced treatment ~~unit~~ system, the softener waste shall not be discharged to the advanced treatment unit. The softener waste shall bypass the advanced treatment unit and discharge directly to the drainfield or be disposed of in some manner acceptable to the department and meets all other state and local regulations.

(3) If a water softener unit is installed at an existing residential or commercial unit utilizing an advanced treatment unit:

- (a) the current liquid waste permit shall be amended to reflect the installation;
- (b) a written notice shall be submitted to the maintenance service provider of the advanced treatment unit; and
- (c) either a demand-initiated regeneration control device (DIR device) shall be installed or the softener waste shall bypass the advanced treatment unit.

(4) If an advanced treatment unit is to be installed at an existing residential or commercial unit with an existing water softener, the installation shall be done in accordance with the permit.

[20.7.3.201 NMAC - Rp, 20.7.3 NMAC, 201, 301, 302, 401, 402, 9/1/05; A, 4/1/07]

20.7.3.202 PROCEDURES; MODIFICATION OF EXISTING SYSTEMS:

A. Prior to the modification of an existing on-site liquid waste system, either permitted or unpermitted, a permit application must be submitted in accordance with 20.7.3.401-405 NMAC. The portion of the system requiring modification shall be in accordance with 20.7.3 NMAC except as noted in Subsection C of 20.7.3.202 NMAC below.

B. Replacement components for on-site liquid waste systems shall be of materials approved the department.

C. On-site liquid waste systems modified after the effective date of this regulation:

(1) shall meet the lot size requirements of the regulations in effect at the time of the initial installation or most recent permitted modification; and

(2) the total lot flow shall be increased only if all current standards and requirements are met pursuant to 20.7.3 NMAC. More stringent requirements may be required pursuant to Subsection M of 20.7.3.201 NMAC.

D. The septic tank need not be replaced as part of the modification if the tank is structurally sound, constructed of approved materials, meet the requirements of 20.7.3.501-502 NMAC, and if the existing tank has a liquid capacity within one tank size of the capacity required by Subsection Q of 20.7.3.201 NMAC. In addition, the tank shall be pumped and the inlet and outlet baffles or sanitary tees checked and repaired or replaced, if needed. An approved effluent filter shall be installed in accordance with Subsection C of 20.7.3.502 NMAC.

E. ~~[The modification of unpermitted systems shall be preceded by an inspection. If the system is found to be installed in accordance with the regulations in effect at the time of the original installation or most recent modification, a permit may be issued in accor-~~

~~dance with Subsection C of 20.7.3.202 NMAC and Subsection J of 20.7.3.401 NMAC.] Upon the issuance of the permit to modify and the subsequent inspection and approval of the modification, a previously unpermitted system shall be considered permitted and authorized to operate [20.7.3.202 NMAC - N, 9/1/05; A, 4/1/07]~~

20.7.3.203 PROCEDURES; CONSTRUCTION INSPECTIONS AND TESTING:

A. The department may perform site inspections prior to making a decision on a permit application or variance petition, during construction or modification of the system and after completion of the system. The department may require test holes to be excavated and documentation to be provided for purposes of determining soil types, depth of soil and water table depths. In areas where soil conditions are well characterized and groundwater depth is documented, test holes may be waived. The department may collect samples of soil, liquid waste and water, including water from wells, to determine compliance with 20.7.3 NMAC.

B. Upon granting the permit or variance application, if the department determines an inspection is necessary, the department shall indicate the point in the construction process where the first construction inspection is to be scheduled or in accordance with Subparagraph A of this section.

(1) The person doing the work authorized by the permit shall notify the department to schedule an inspection, orally or in writing, a minimum of 2 working days prior to the inspection. The department may assess a re-inspection fee if the work is not ready for inspection at the time of the scheduled inspection. In the event the inspection is not conducted within one hour after the appointed time of inspection, the contractor shall take photographs that accurately identify the site and features of the installation and proceed with the installation. Copies of such photographs shall be submitted to the department.

(2) All homeowner installed systems shall be inspected by the department.

(3) If an inspection results in the issuance of a notice of non-approval, a re-inspection shall be required. The person shall notify the department as indicated above.

C. System components shall be properly identified as to manufacturer and shall meet all specifications specified in 20.7.3 NMAC.

D. The department may require testing to verify watertight construction and initial functioning of any liquid waste system.

(1) Liquid waste treatment units,

pump stations or pump chambers shall be considered watertight by successfully completing one of the following testing procedures.

(a) Water pressure testing: Seal the unit, fill with water and let stand for 24 hours. Refill the unit. The unit is approved if the water level is held for 60 minutes.

(b) Vacuum testing: Seal the unit and apply a vacuum to 2 inches (50mm) of mercury. The unit is approved if the vacuum is held for 60 minutes.

(2) The department may require a flow test be performed through the system to the point of effluent disposal. All lines and components shall be watertight. Capacities, required air space, and fittings shall meet the requirements of 20.7.3 NMAC.

(3) The department may require operational testing of advanced treatment components to verify initial functioning. [20.7.3.203 NMAC - Rp, 20.7.3 NMAC, 204, 408, 9/1/05; A, 4/1/07]

20.7.3.301 STANDARDS; LOT SIZE REQUIREMENTS:

A. The requirements of this section apply to all conventional treatment systems that discharge to the soil. Compliance with the requirements of this section shall be based on the total design flow for the lot. Water conservation devices or demonstrated actual flows shall not be used to reduce the requirements of this section. For the purposes of 20.7.3 NMAC, lot sizes shall be calculated to the nearest hundredth (0.01) acre.

B. The date of record for a lot shall be considered to be either:

(1) the date of legal recording in the county clerk's office or validation by other means associated with the most recent change in lot size or boundaries; or

(2) for those lots in subdivisions having received final approval from governments having jurisdiction therein prior to February 1, 1990, such date of record shall be two and one-half (2 1/2) years from the date of final government approval or July 1, 1992, whichever occurs first.

C. A conventional treatment system shall not be installed on a lot sized smaller than 0.75 acre, where there is not an established on-site liquid waste system, except as otherwise provided in Subsection F of 20.7.3.301 NMAC. The size of a lot shall be the total area of the lot less any area that is subject to a roadway, roadway easement and liquid waste disposal easements granted to or by another lot. The design flow for a conventional treatment system shall not exceed 500 gallons per day per acre. For total design flows that exceed the allowable flow or for lots that do not meet the minimum lot size, the total nitrogen discharged to the lot shall be

reduced in accordance with Subsection B of 20.7.3.603 NMAC.

D. On-site liquid waste systems installed prior to the effective date of 20.7.3 NMAC shall meet the lot size requirements of the regulations in effect at the time of their initial installation or if there has been a permitted modification, the regulations in effect at the time of the most recent prior permitted modification.

E. Table 301.1 lists the minimum lot sizes required for typical flow rates for conventional treatment systems for lots with a date of record of February 1, 1990 or later.

Table 301.1

TOTAL DESIGN FLOW (gallons per day)	MINIMUM LOT SIZE (acres)
375 or less	0.75
450	0.90
600	1.20
750	1.50
1125	2.25
1500	3.00
1875	3.75
2000	4.00

F. On-site liquid waste systems installed after the effective date of these regulations, on lots with dates of record prior to February 1, 1990, without established on-site liquid waste systems, shall conform to the following:

(1) for lots less than 0.5 acre, no conventional systems shall be authorized;

(2) for lots 0.5 acre to 0.75 acre and 100 feet or less to groundwater or within a 200 foot radius of a public water supply well, no conventional systems shall be authorized;

(3) for lots 0.5 acre to 0.75 acre with a private well, not within a 200 foot radius of a public supply well and 101 feet to 600 feet to groundwater, the total design flow shall not exceed 450 gallons per day or the total design flow allowed in Subsection C of 20.7.3.301 NMAC, whichever is greater, for 3 years after the effective date of these regulations;

(4) for lots 0.5 acre to 0.75 acre on a public water system, not within a 200 foot radius of a public supply well and 101 feet to 600 feet to groundwater, the total design flow shall not exceed 450 gallons per day or the total design flow allowed in Subsection C of 20.7.3.301 NMAC, whichever is greater, for 5 years after the effective date of these regulations;

(5) for lots 0.5 acre or larger and greater than 600 feet to groundwater, 450 gallons per day or the total design flow allowed in Subsection C of 20.7.3.301 NMAC, whichever is greater is allowed; and

(6) once the extended time periods in Paragraphs (3) and (4) of this subsection have expired, then the lot size/flow limitation in Subsection C of 20.7.3.301. NMAC shall apply to new installations.

G. The following Table 301.2 summarizes the minimum lot size requirements, in acres, and permissible design flows in effect prior to February 1, 1990 and is for the purpose of determining the requirements existing at the time of initial installation or most recent permitted modification.

		RECORD DATE							
		01/01/60 to 11/01/73	11/01/73 to 09/07/79*	09/07/79 to 03/01/80	03/01/80 to 11/09/85	11/09/85 to 02/01/90			
		Minimum Lot Size	Soil Group **	Min. Lot Size	Total Design Flow (gpd)	Min. Lot Size	Total Design Flow (gpd)	Min. Lot Size	Total Design Flow (gpd)
OFF-SITE WATER**	0.25***	A	0.50	0-1000	0.50	0-375	0.33	0-375	0.33
		B	0.75	1000-1500	1.00	376-1000	0.50	376-750	0.50
		C	1.00	1500-2000	1.25	1000-1500	1.00	750-1125	1.00
		D	****			1501-2000	1.25	1126-1500	1.25
							1501-2000	1.75	
ON-SITE WATER**	0.50***	A	0.75	0-1000	0.75	0-1000	0.75	0-375	0.75
		B	1.00	1000-1500	1.25	1000-1500	1.25	376-750	1.50
		C	1.25	1500-2000	1.70	1501-2000	1.70	750-1125	2.00
		D	****					1126-1500	2.75
							1501-2000	3.50	

(1) * The maximum total design flow was 1,000 gpd for the lot sizes shown.

(2) ** See Subsection H of 20.7.3.301 NMAC.

(3) *** These requirements applied to lots in subdivisions that were required at the time of subdivision to obtain state health department review and approval.

(4) **** No on-site liquid waste disposal to soil allowed.

(5) NOTE: Roadways were first excluded from figuring lot sizes as of 11/09/85.

H. The following Table 301.3 lists the soil types for lot size determinations for the period November 1, 1973 to September 7, 1979: The minimum lot size required for the location of an individual liquid waste disposal system is determined by the most limiting soil group under which any soil characteristic falls.

SOIL CHARACTERISTICS	A Slight Limitations	B Slight Limitations	C Moderate Limitations	D Severe Limitations
1. SOIL DEPTH (depth to bedrock, in feet)	More than 6 and	More than 6 and	4 - 6 or	Less than 4 or
2. PERCOLATION RATE (rate of percolation of water into soil in minutes per inch)	0 - 15 and	16 - 30 and	31 - 60 or	More than 60 or
3. SEASONAL WATER TABLE (depth to shallowest water table during the year, in feet)	More than 12 and	More than 12 and	4 - 12 or	Less than 4 or
4. SLOPE (incline of the land surface, in percent)	0 - 8 and	0 - 8 and	8 - 25 or	More than 25 or
5. FLOODING POTENTIAL (overflow frequency, in years)	None	None	No more than 1 in 25	More than 1 in 25

I. If the size or boundaries of a lot with an existing on-site liquid waste system are changed so that the total design flow for the lot exceeds the total design flow limitation provided for in Subsection C of 20.7.3.301 NMAC, the permit for the system shall be void.

J. If the size or boundaries of a lot with an existing on-site liquid waste system are changed so that the total design flow for the lot does not exceed the total design flow limitation provided for in Subsection C of 20.7.3.301 NMAC, an amendment to the existing permit shall be submitted.

[20.7.3.301 NMAC - Rp, 20.7.3.302 NMAC, 9/1/05; A, 4/1/07]

20.7.3.302 STANDARDS; SETBACK REQUIREMENTS:

A. On-site liquid waste systems shall be located to meet setback distances, in feet, specified in the following Table 302.1. Setback distances apply to any part of the on-site liquid waste system and its designated replacement area.

Table 302.1: Minimum setback and clearance requirements

From:	To:	Building Sewer	Treatment Unit*	Disposal Field	Seepage Pit
Property lines		clear	5 ft.	5 ft.	8 ft.
Building or structure		2 ft.	5 ft.	8 ft.	8 ft.
Distribution box		--	--	5 ft.	5 ft.
Disposal field		--	10 ft.*****	4 ft*****	10 ft.
Seepage pit		--	[5] 10 ft.	[5] 10 ft.	12 ft.
Drinking water line*****:					
- private		1 ft.	10 ft.	10 ft.	10 ft.
- public		10 ft.	10 ft.	10 ft.	10 ft.
Drinking Water Source/Well:					
- Private		50 ft.	50 ft.	100 ft.	100 ft.
- Public		50 ft.	100 ft.	200 ft.	200 ft.
Irrigation well		50 ft.	50 ft.	100 ft.	100 ft.
Lined canals		--	10 ft.**	10 ft.**	10 ft.**
Unlined canals, drainage ditches		--	15 ft.**	25 ft.**	25 ft.**
Arroyos		--	15 ft.**	25 ft.**	25 ft.**
Other watercourses,					
Waters of the State		--	50 ft.	100 ft.	100 ft.
Retention/detention area		--	15 ft.	15 ft.	15 ft.
Seasonal high water table, bedrock and other impervious layers***		--	--	4 ft. to bottom of system	4 ft. to bottom of system

- (1) * Applies to privy pits, enclosed systems, other liquid waste treatment units.
- (2) ** Plus depth of channel.
- (3) *** Unlined privy pits shall provide clearance of at least 4 feet.
- (4) **** Plus 2 feet for each additional foot of depth in excess of 1 foot below perforated pipe.
- (5) ***** May be 5 feet when Schedule 40 PVC/DWV pipe is used.
- (6) *****Or applicable plumbing code.

B. Setback distances to watercourses, canals and arroyos shall be measured from the edge of the seasonal high water flow to the on-site liquid waste system component. Setback distances to artificially controlled lakes or reservoirs shall be measured from the closest projected shoreline at the maximum controlled water level.

[20.7.3.302 NMAC - Rp, 20.7.3.303 NMAC, 9/1/05; A, 4/1/07]

20.7.3.401 PERMITTING; GENERAL REQUIREMENTS:

A. No person shall install or have installed a new on-site liquid waste system or modify or have modified an existing on-site liquid waste system, unless that person obtains a permit issued by the department prior to construction of such installation or modification. Failure to obtain the required permit may result in the initiation of enforcement actions by the department.

B. No person shall construct or modify a residential or commercial unit on, or transport a residential or commercial unit onto, a lot for which an on-site liquid waste system is required unless the department has issued an on-site liquid waste system permit prior to such construction, modification or transportation.

C. No person shall construct, install or modify an on-site liquid waste system unless that person holds a valid and appropriate classification of contractor's license issued by the New Mexico construction industries division, except that a homeowner may install or modify permitted septic tanks and conventional trench or bed disposal fields. Once the department has developed a certification program pursuant to 20.7.3.904 NMAC, the contractor shall comply with the certification requirements of that section prior to constructing, installing or modifying any on-site liquid waste system. Once the department has developed a homeowner certification program pursuant to 20.7.3.904 NMAC, a homeowner shall comply with the homeowner certification requirements prior to constructing, installing or modifying an on-site liquid waste system. A homeowner who self-installs a system shall not compensate any person to perform any phase of the system construction, unless that person holds a valid and appropriate classification of contractor's license issued by the New Mexico construction industries division and has complied with the department's certification requirements. Obtaining a permit from the department for the installation or modification of an on-site liquid waste system does not relieve any person from the responsibility of obtaining any other approval, license or permit required by state, city or county regulations or ordinances or other requirements of state or federal laws. [A]

~~construction defined as "self installed" will be required to be inspected by the department.]~~

D. A permit is not required for graywater discharges or for systems designed for the discharge of graywater that meet the requirements of 20.7.3.810 NMAC.

E. Any person seeking a permit shall do so by submitting an application to the field office of the department having jurisdiction for the area where the system is to be installed or modified. The application shall be:

(1) made on a form provided by the department;

(2) accompanied by the recorded deed or other recorded description and such other relevant information as the department may reasonably require to establish lot size, boundaries, date of record and ownership; and

(3) signed by the applicant or their authorized representative.

F. The department shall require complete and accurate information before a permit is issued for an on-site liquid waste system.

G. The department shall deny the application if the proposed system will not meet the requirements of 20.7.3 NMAC.

H. The department shall maintain a file of all permits issued and applications denied. The file shall be open for public inspection.

I. All systems shall be installed, operated and maintained in accordance with the permit and applicable regulations.

J. Unpermitted conventional systems installed prior to February 1, 2002 may be issued a certificate of registration for continued operation if:

(1) the treatment unit is pumped and inspected utilizing a department approved form and meets the requirements in effect at the time of the initial installation;

(2) the disposal system appears to be functioning properly; and

(3) the appropriate permit fee is paid for the system installed.

K. Unpermitted conventional systems installed on or after February 1, 2002 may be permitted if:

(1) the ~~entire~~ treatment unit is adequately exposed to allow full inspection and the disposal system is ~~fully~~ sufficiently exposed ~~[and inspected]~~ to determine all relevant aspects of construction and materials, including, but not limited to: soil type; pipe size, type and material; proper placement of aggregate and cover; and proper trench size, slope and spacing;

(2) the on-site liquid waste sys-

tem is determined, upon inspection by the department, to meet all requirements of 20.7.3 NMAC; and

(3) the appropriate permit fee is paid; and

~~(4) at the discretion of the department, an administrative penalty is paid in accordance with Environmental Improvement Act, Chapter 74, Article 1 NMSA 1978 ~~[are paid].~~~~

[20.7.3.401 NMAC - Rp, 20.7.3.201 NMAC, 9/1/05; A, 4/1/07]

20.7.3.403 PERMITTING ; ADVANCED TREATMENT OR ALTERNATIVE DISPOSAL:

A. An application for a permit proposing advanced treatment (with conventional or alternative disposal) or alternative disposal (with conventional treatment) may be submitted.

B. Applications shall include the information required for a conventional treatment or disposal system, and:

(1) for applications proposing advanced treatment with either conventional or alternative disposal:

(a) the applicant shall demonstrate that the system has been approved by the department and shall include operation and maintenance information, monitoring plans and maintenance agreements;

(b) the applicant must demonstrate the applicability and effectiveness of the technology on the site where it is to be used;

(c) a copy of all signed maintenance contracts between the property owner and a certified maintenance service provider shall be attached to the application;

(d) the property owner shall have all maintenance contracts in effect for the duration of the permit; and

(e) the property owner shall provide to the department copies of all maintenance contracts within 30 days of contract issuance or renewal; and

(2) for applications proposing alternative disposal with conventional treatment, the applicant shall include details of design, sizing, construction and operation. Such disposal systems include, but are not limited to, mounds, evapotranspiration, seepage pits, pressure dosed systems, alternating leach fields, non-discharging constructed wetlands, non-gravity systems and approved surface applications.

C. For applications proposing advanced treatment or alternative disposal, the department shall, within twenty (20) working days after receipt of the completed application, grant the permit, grant the permit subject to conditions or deny the permit and shall notify the applicant of the action taken.

D. When the permit is

granted subject to conditions or the application denied, the reason for the action shall refer to the appropriate regulation and be given in writing.

E. For advanced treatment systems, the authorization to operate the system shall be valid until a change of ownership of the system occurs. At the time of transfer of ownership, the new owner shall submit an amendment of permit updating the ownership change and also provide the department a copy of the valid maintenance contract in the name of the new owner.

[20.7.3.403 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.405 PERMITTING ; VARIANCES:

A. Any person seeking a variance from the requirements contained in 20.7.3 NMAC shall do so by filing a written petition with the field office of the department having jurisdiction for the area where the system is to be installed.

B. The petition shall be made on a form provided by the department, signed by the petitioner or an authorized representative and accompanied by relevant documents or materials that supports the petitioner's request for a variance. The petitioner shall give notice to all landowners ~~[within 1000 feet of the proposed on-site liquid waste system for which the variance is proposed]~~ sharing a common boundary and within 100 feet when sharing a common right-of-way. If no property boundary is within 1000 feet of the system, notification is not required, except as otherwise provided in this part. In addition, all parties sharing a private domestic well located on the lot where the variance is proposed shall be notified. Said notice shall include the nature of the variance petition, the date of submission of the petition to the department, the address of the department field office to which the petition is being submitted and the time frame for department action as provided in Subsection D of 20.7.3.405 NMAC below.

C. Upon review of the petition, the department may require the submittal of other relevant information to provide reasonable assurance that the conditions set forth in Paragraphs (1) and (2) of Subsection E of 20.7.3.405 NMAC are met.

D. The department shall, after a minimum of ten (10) but not more than twenty (20) working days following receipt of the completed petition, grant the variance, grant the variance subject to conditions or deny the variance and shall so notify the applicant and any other person making a written submission concerning the petition. The reason for the department's action shall be provided in writing and the appropriate regulations cited.

E. The department shall

deny the variance petition unless the petitioner establishes by clear and convincing evidence that:

(1) the proposed on-site liquid waste system will, by itself or in combination with other on-site liquid waste systems or other discharges subject to 20.6.2.3000 through 20.6.2.3114 NMAC, neither cause a hazard to public health or degrade any body of water; and

(2) granting the variance will result in public health and environmental protection equal to or greater than the minimum protection provided by the varied requirement.

F. The department shall maintain a file of all variances granted and denied. The file shall be open for public inspection.

[20.7.3.405 NMAC - Rp, 20.7.3.202 NMAC, 9/1/05; A, 4/1/07]

20.7.3.501 DESIGN; LIQUID WASTE TREATMENT UNITS; GENERAL:

A. Plans for septic tanks shall be submitted to the department for approval and certification. Such plans shall show all dimensions, reinforcement, structural calculations and such other pertinent data as may be required by the department. Plans for advanced treatment units shall be submitted to the department for review by the technical advisory committee pursuant to 20.7.3.905 NMAC. Plans for advanced treatment units shall meet the requirements set forth by the technical advisory committee.

B. All treatment units and tanks, regardless of material or method of construction and unless otherwise specified in 20.7.3 NMAC, shall:

(1) be designed and constructed to withstand all reasonable lateral earth pressures under saturated soil conditions with the tank empty;

(2) have a minimum live load at the surface of 300 pounds per square foot with twelve (12) inches of cover unless heavier loads are expected;

(3) not be subject to excessive corrosion or decay;

(4) have the manufacturer's name, New Mexico registration number, year of construction and tank capacity in gallons permanently displayed on the tank above the outlet pipe;

(5) be watertight;

(6) not be constructed or manufactured on site, in the ground, when saturated soil conditions during construction are closer than three (3) inches to the bottom of the excavation;

(7) be protected against flotation under high ground water conditions and for units installed in floodplains;

(8) be installed so that they are

easily locatable and accessible; and

(9) be approved by the international association of plumbing and mechanical officials (IAPMO); or meet IAPMO minimum standards as demonstrated to the department by approved laboratory testing; or meet all requirements of Sections 20.7.3.501 and 502 NMAC; or be recommended by the technical advisory committee and approved by the department.

C. Treatment units may be constructed of the following materials:

(1) precast reinforced concrete;

(2) poured-in-place concrete;

(3) fiberglass;

(4) polyethylene; or

(5) other materials as approved in writing by the department.

D. Metal, wooden, concrete block and homeowner built tanks are prohibited.

E. A secure lid shall consist of one or more of the following:

(1) a padlock;

(2) a twist lock cover requiring special tools for removal;

(3) covers weighing 58 pounds or more, net weight;

(4) a hinge and hasp mechanism that uses stainless steel or other corrosion resistant fasteners to fasten the hinge and hasp to the lid and tank for fiberglass, metal or plastic lids; or

(5) other mechanisms approved by the department.

F. Wherever vehicular traffic is anticipated to cross over the liquid waste treatment unit, pump station or pump chamber, the unit shall be designed by a professional engineer to withstand the anticipated traffic loading.

G. All solid wall pipe connections, fittings and penetrations shall be watertight.

H. Each tank shall be structurally designed to withstand all anticipated earth or other loads. All septic tank covers shall be capable of supporting an earth load of not less than three hundred (300) pounds per square foot when the maximum fill coverage does not exceed three (3) feet.

I. Fiberglass or reinforced plastic treatment units shall be certified to IAPMO standards. Fiberglass or plastic tanks shall be installed according to the manufacturer's instructions. A copy of the manufacturer's installation instructions shall be available for inspection by the department at the installation site.

J. Concrete liquid waste treatment units.

(1) Minimum concrete thickness.

(a) Walls: Two and one-half (2 1/2) inches in thickness.

(b) Floors: Three (3) inches in thickness.

(c) Covers: Three (3) inches in thickness.

(2) Floors shall be an integral part of the tank.

(3) Where sections are used, tongue and groove joints or keyways shall be used and shall be sealed with an approved sealer and shall be watertight.

(4) Poured-in-place tanks shall be designed and certified by a professional engineer.

(5) All concrete liquid waste treatment units, except those approved for use utilizing concrete meeting type V specifications, shall be protected from corrosion by coating internally with an approved bituminous coating or by other acceptable means. The coating shall cover all exposed concrete and shall extend to at least 6 inches below the waterline.

(6) Treatment unit construction materials shall meet the following minimum specifications:

(a) concrete strength - 3500 psi @ 28 days, density 140 PCF;

(b) cement Portland type II or V per ASTM C150-04ae1;

(c) admixtures per ASTM C233-04; and

(d) reinforcing per ASTM A615 for wire fabric, grade 40/60 R'd or equivalent.

(7) Be installed level on undisturbed or compacted soil.

[20.7.3.501 NMAC - Rp, 20.7.3.402 NMAC, 9/1/05; A, 4/1/07]

20.7.3.601 DESIGN; ADVANCED TREATMENT [UNITS] SYSTEMS; GENERAL:

A. The level of treatment required and the type of disposal allowed shall be determined by the site evaluation and the character of the waste to be treated and disposed using 20.3.7.605 NMAC. A liquid waste system with an approved non-discharging disposal design may be installed in lieu of the required advanced treatment system.

B. All proprietary treatment systems proposed for secondary or tertiary treatment must meet the performance standards of 20.7.3.602-604 NMAC, and must be certified by the technical advisory committee for that level of treatment.

C. Any design of a conventional or advanced treatment system with site or other limiting conditions that cannot be addressed by following a standard design from alternative resources recognized by the department shall be designed and sealed by a professional engineer.

D. Ventilation of [advanced] treatment units providing advanced treatment shall be in accordance with the manufacturer's recommendation.

E. If an adequate sampling

port or sampling point is not provided in the design of an advanced treatment system, the installer shall provide an acceptable sampling port in the effluent line for the treatment unit. The installer may propose a sampling port configuration.

(1) An acceptable sampling port for a residential unit may be manufactured from an 8-inch diameter pipe. The sample port shall be watertight. The water depth in the pipe shall be at least 4 inches. The outlet will be 1 inch lower than the inlet.

(2) If there are significant settled solids in the sampling well, the sampler shall clean out the sampling port. The sample can be collected either from the influent overflow or from the water collected in the sample port after cleaning.
[20.7.3.601 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.605 DESIGN; MINIMUM REQUIRED TREATMENT LEVELS FOR SITE CONDITIONS:

A. The required level of treatment shall be based on the most restrictive combination of siting conditions.

B. The following treatment levels are required for the soil types as described in Table 703.1:

(1) type Ia - secondary treatment and disinfection;

(2) type Ib, II, and III - primary treatment; and

(3) type IV - ~~[secondary]~~ primary treatment with ~~[a low pressure dosed disposal system]~~ an appropriate disposal method as approved by the department.

C. The following treatment levels are required for the depth of suitable soil:

(1) greater than or equal to 4 feet of suitable soil - primary treatment;

(2) ~~[from 2]~~ 1 to less than 4 feet of suitable soil - secondary treatment and disinfection; and

(3) ~~[less than or equal to 2 feet of suitable soil - tertiary treatment and disinfection]~~ no discharge with less than 1 foot of suitable soil to groundwater, karst or fractured bedrock.

D. The following treatment levels are required for ~~[the]~~ hydraulic loading rates and lot size:

(1) less than or equal to 500 gallons per day per acre with a minimum lot size of 0.75 acre - primary treatment; and

(2) greater than 500 gallons per day per acre or less than 0.75 acre - tertiary treatment.

(3) For lots less than 3/4 acre overlaying naturally occurring anoxic groundwater, secondary treatment shall be required and tertiary treatment may be required. To be exempt from tertiary treatment requirements, the permit applicant shall show by clear and convincing evi-

dence that the discharge of liquid waste shall not degrade a body of water.

E. A non-discharging system may be used in lieu of advanced treatment.

F. A mound system in accordance with 20.7.3.807 NMAC may be used to meet clearance requirements or to overcome soil type limitations in lieu of advanced treatment.

G. If the existing level of nitrate in the groundwater exceeds 5 mg/l, a more advanced level of nitrogen reduction as set forth in Subsection B of 20.7.3.603 NMAC may be required.
[20.7.3.605 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.701 DESIGN; CONVENTIONAL DISPOSAL FIELD; DESIGN AND CONSTRUCTION:

A. For conventional systems, the distribution lines shall have an inside diameter of no less than four (4) inches. Perforated pipe shall have two rows of holes and a minimum perforated area of one and one-half (1 ½) square inches per linear foot. Perforations shall be located not less than 30 degrees or more than 60 degrees from the vertical on either side of the center line of the bottom of the pipe. All plastic pipe and fittings shall conform to the current and appropriate ASTM standards. End caps shall be installed on all distribution lines.

B. Before placing aggregate or drain lines in a prepared excavation, all smeared or compacted surfaces shall be removed from trenches by raking to a depth of one (1) inch and the loose material removed. Aggregate shall be placed in the trench to the depth and grade required. Drain lines shall be placed on the aggregate in an approved manner. The drain lines shall then be covered with aggregate to a minimum depth of two (2) inches and then covered with untreated building paper, straw or similar porous material to prevent closure of voids with earth backfill. When geotextile fabric is utilized, no aggregate cover of the drainlines is required. No earth backfill shall be placed over the aggregate cover until authorized or approved by the department.

C. The department shall allow drainfields for proprietary systems to be sized in accordance with recommendations by the technical advisory committee that have been approved by the secretary. The technical advisory committee shall make its recommendations upon standardized, objective evaluations in accordance with Section 9-7A-15 NMSA 1978. Drainfields for proprietary systems shall not be reduced in size by more than 30% in comparison to a conventional system.

D. Capped inspection

ports shall be constructed, at a minimum, of 4 inch diameter, SDR 35 or better pipe installed at the end of each trench, provide inspection access to the bottom of the trench and terminate at finished ground level. Inspection ports may be installed below grade if located in a protective enclosure and locatable with GPS coordinates or a metal detector.

E. If seepage pits [~~authorized by variance only,~~] are used in combination with disposal fields, the aggregate in the trenches shall terminate at least ~~[five (5)]~~ 10 feet from the pit excavation and the line extending from such points to the seepage pit shall be constructed of approved pipe with watertight joints.

F. Where two (2) or more drain lines are installed, an approved distribution box of sufficient size to receive lateral lines shall be installed at the head of each disposal field. The inverts of all outlets shall be level and the invert of the inlet shall be at least one (1) inch above the outlets. Distribution boxes shall be designed to insure equal flow and shall be installed on a level base in natural undisturbed or compacted soil or on a concrete footing. However, the installer, after approval by the department, may install in lieu of a distribution box a tee fitting and a distribution header to multiple trenches provided that the tee and header pipe are level.

(1) Concrete distribution boxes shall be coated on the inside with bituminous coating or other approved method acceptable to the department.

(2) All laterals from a distribution box to the disposal field shall be approved pipe with watertight joints. Multiple disposal field laterals, wherever practicable, shall be of uniform length.

(3) Connections between a septic tank and distribution box shall be laid with approved pipe with watertight joints on natural ground or compacted fill. Such approved pipe shall be SDR 35 or better.

~~[(4) When two (2) or more drain lines are installed, the installer, after approval by the department, may install in lieu of a distribution box a tee fitting and a distribution header to multiple trenches provided that the tee and header pipe is level.]~~

G. When more than five-hundred (500) lineal feet of leach line is required, a low-pressure dosed system shall be used.

H. Disposal fields shall be constructed as follows:

	MINIMUM	MAXIMUM
Number of drain lines	1 per field	
Length of each line	--	[150] 155 ft.
Bottom width of trench	12 in.	36 in.
Depth of earth cover of lines	9 in.	--
Depth of Trench	--	6 ft.
Grade of lines	level	3 inch/100 ft.
Aggregate under drain lines	[42] 6 in.	--
Aggregate over drain lines with:		
geotextile fabric	0 in.	--
other material	2 in.	--

I. Minimum spacing between trenches or leaching beds shall be four (4) feet plus (2) feet for each additional foot of depth in excess of one (1) foot below the bottom of the drain line. Distribution drain lines in leaching beds shall not be more than six (6) feet apart on centers and no part of the perimeter of the leaching bed shall be more than three (3) feet from a distribution drain line.

J. When necessary to prevent line slope in excess of 3 inches per 100 feet, absorption trenches or beds shall be stepped. The lines between each horizontal section shall be made with watertight joints and shall be designed so each horizontal trench or bed shall be utilized to the maximum capacity before the effluent shall pass to the next lower trench or bed. The lines between each horizontal absorption section shall be made with approved watertight joints and installed on natural or unfilled ground.

[20.7.3.701 NMAC - Rp, 20.7.3.405 NMAC, 9/1/05; A, 4/1/07]

[For specifications for drainfield pipes, see the following standards: D3034-04a, ASTM F405-97, Standard Specification for Corrugated Polyethylene (PE) Tubing and Fittings, or ASTM F810-01]

20.7.3.702 DESIGN; SEEPAGE PIT; DESIGN AND CONSTRUCTION: [~~Installation of seepage pits shall be by variance only.~~] Seepage pits should only be installed on sites where conventional disposal systems cannot be installed due to site restrictions.

A. The minimum capacity of seepage pits shall conform to the requirements of 20.7.3.703 NMAC.

B. Multiple seepage pit installations shall be served through an approved distribution box or be connected in series by means of a watertight connection laid on undisturbed or compacted soil. The outlet from each seepage pit shall have an approved vented leg fitting extending at least twelve (12) inches below the inlet fitting.

C. Each seepage pit shall have an excavated horizontal dimension of not less than four (4) feet. Each such pit shall be lined with approved type whole, new, hard-burned clay brick, concrete brick, concrete circular type cesspool blocks or other approved materials.

D. The lining in each seepage pit shall be circular and laid on a firm foundation. Lining materials shall be placed tight together and laid with joints staggered. Except in the case of approved type pre-cast concrete circular sections, no brick or block shall be greater in height than its width and shall be laid flat to form at least a four (4) inch wall. Brick or block greater than twelve (12) inches in length shall have chamfered matching ends and be scored to provide for seepage. Excavation voids behind the brick, block or concrete liner shall have a minimum of six (6) inches of clean three fourths (3/4) inch gravel or rock.

E. All brick or block used in seepage pit construction shall have a minimum compressive strength of twenty-five hundred (2500) pounds per square inch.

F. Each seepage pit shall have a minimum sidewall (not including the arch) of ten (10) feet below the inlet pipe.

G. The arch, cover or dome of any seepage pit shall be constructed in one of the following three ways.

(1) Approved type hard-burned clay brick, solid concrete brick or block laid in cement mortar.

(2) Approved brick or block laid dry. In both of the above methods, an approved cement mortar covering of at least two (2) inches in thickness shall be applied, said covering to extend at least six (6) inches beyond the sidewalls of the pit.

(3) Approved type one or two piece reinforced concrete slab of three thousand (3000) pounds per square inch minimum compressive strength, not less than five (5) inches thick and designed to support an earth load of not less than four hundred (400) pounds per square foot.

H. Each such arch, dome or cover shall be provided with a nine (9) inch minimum inspection hole with plug or cover and shall be coated on the underside with an approved bituminous or other nonpermeable protective compound.

I. The top of the arch, dome or cover must be a minimum of twelve (12) inches but not more than four (4) feet below the surface of the ground. Risers must be provided to extend the arch, dome or cover to within twelve (12) inches of the surface.

J. An approved vented inlet fitting shall be provided in every seepage pit so arranged as to prevent the inflow from damaging the sidewall. When using a one or two piece concrete slab cover inlet, the inlet fitting may be an approved one fourth (1/4) bend fitting discharging through an opening in the top of the slab cover. On multiple seepage pit installations, the outlet fittings shall meet the requirements of Subsection B of 20.7.3.702 NMAC.

[20.7.3.702 NMAC - Rp, 20.7.3.406 NMAC, 9/1/05; A, 4/1/07]

20.7.3.703 DESIGN; AREA OF DISPOSAL FIELD AND SEEPAGE PITS:

A. The minimum required absorption area in a disposal field in square feet, and in seepage pits in square feet of side wall, shall be predicated on the liquid waste design flow rate and shall be determined by utilizing the following Table 703.1 based on the soil classification found in the proposed location of the disposal field.

B. [~~The soil classification shall be determined by~~] Two test holes, located at opposite ends of the proposed disposal area, may be required for obtaining the soil profile and as provided in Subsection A of 20.7.3.203 NMAC.

C. A detailed soil profile, in accordance with USDA soil classification methodology, shall be submitted with the liquid waste application for each hole, indicating soil horizons, horizon thickness as a function of depth, and soil texture.

- D. USDA soil surveys may be used where available to help assess typical soils in the area of the proposed installation.
- E. The required absorption area shall be sized on the most restrictive soil horizon located below and within 4 feet of the bottom the absorption area.
- F. Conventional treatment systems shall not be constructed in type Ia soils where the depth to groundwater is less than 30 feet [~~type IV soils,~~] or gravel. For these soils, refer to 20.7.3.605 NMAC.
- G. Effluent distribution to type IV soils shall be accomplished [~~by means of~~] with an appropriate disposal method as approved by the department such as timed low pressure dosed distribution or alternating drianfields.
- H. The required absorption area shall be calculated by the following formula: ABSORPTION AREA = Q X AR, where: Q = the design flow rate in gallons per day; AR = application rate (from Table 703.1)

Table 703.1: Application Rates by Soil Types for Conventional Treatment Systems

Soil Type	Soil Texture	Application Rate (AR) (sq. ft./gal/day)
Ia	Coarse Sand	1.25 (See Subsection F of 20.7.3.703 NMAC)
Ib	Medium Sand, Loamy Sand	2.00
II	Sandy Loam, Fine Sand , Loam	2.00
III	Silt, Silt Loam, Clay Loam, Silty Clay Loam, Sandy Clay Loam	2.00
IV	Sandy Clay, Silty Clay, Clay	5.00 (See Subsection G of 20.7.3.703 NMAC)

- I. The gravel content of in-place natural soil shall not exceed 30%.
- J. Disposal trenches shall conform to the following.
 - (1) The trench width shall be no less than one foot or no more than three feet.
 - (2) A minimum of six inches of aggregate shall be placed below the invert of the distribution pipe to provide surge storage. This area of trench sidewall shall not be used in calculating the absorption area.
 - (3) Up to an additional three feet of aggregate may be placed below the distribution pipe.
 - (4) The total absorption area shall be calculated utilizing the total trench bottom and sidewall area, excluding the six inches of trench sidewall required in Paragraph (2) of this subsection.
 - (5) The total absorption area shall not exceed seven square feet per linear foot of trench.
 - (6) A minimum of [~~one hundred and fifty (150) square feet of bottom area~~] 300 square feet of absorption area shall be provided for each system exclusive of any hard pan, caliche, rock, clay or other impervious formations.
- K. Leaching (absorption) beds are allowed. The absorption area of the bed shall be at least fifty (50) percent greater than the minimum required absorption area for trenches with a minimum of two hundred and twenty-five (225) square feet of bottom area. In addition, leaching beds shall conform to the following.
 - (1) A minimum of twelve inches of aggregate shall be placed below the invert of the distribution pipes.
 - (2) Up to an additional one foot of aggregate may be placed below the distribution pipes.
 - (3) The total absorption area shall be calculated utilizing the total bed bottom and sidewall area.
- L. The minimum effective absorption area in any seepage pit shall be calculated as the excavated side wall area below the inlet pipe exclusive of any hardpan, caliche, rock, clay or other impervious formations and may be provided in one or more seepage pits.
- M. For secondary and tertiary treated effluent, the minimum calculated absorption area required for conventional treatment may be reduced 30% and the maximum trench depth may be no greater than 10 feet. In no case shall the maximum reduction for the drain-field absorption area exceed 30%.
[20.7.3.703 NMAC - Rp, 20.7.3.403 NMAC, 9/1/05; A, 4/1/07]

20.7.3.801 DESIGN; ALTERNATIVE DISPOSAL: Alternative disposal systems include, but are not limited to, privies, cluster systems, composting/incinerating toilets, evapotranspiration systems, mounds, subsurface irrigation, [~~surface application,~~] holding tanks, graywater systems and others as approved by the department.
[20.7.3.801 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.803 CLUSTER SYSTEMS:

A. Use of a cluster system may be considered when lot sizes, location or site conditions make conventional disposal unacceptable.

B. Cluster systems shall be designed and constructed in accordance with the requirements of this regulation. In addition, cluster systems shall be maintained in accordance with 20.7.3.902 NMAC.

C. Each user and successors and assignees in interest connected to the system shall be a permittee and shall be indicated on the permit.

D. After the effective date of the regulation, [E] each permittee and successors and assignees in interest on a cluster system shall be a party to a legally binding, written agreement that provides for the [mutual ownership,] service and maintenance for the life of the system. The agreement shall be recorded in the county in which the property is located. A copy of the agreement shall be provided to the department.

E. The parties to the written agreement shall obtain all necessary rights-of-way, easements or ownership of properties necessary for the operation of the system. All parties that use the cluster system shall be a party to the agreement.

F. The combined area of the lots served by the cluster system plus the area of the parcel where the system is located, if separated from the lots served, shall be used to determine the allowable lot size. [20.7.3.803 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.805 IRRIGATION/REUSE SYSTEMS:

A. Effluent [~~may be~~] used for irrigation [~~provided that, at a minimum, it shall meet secondary treatment standards [prior to use].~~]

B. The effluent may only be utilized subsurface.

C. Application of the effluent resulting in standing or ponding of the effluent, whether liquid or frozen, shall be prohibited. The application of effluent shall not result in the effluent leaving the application area.

D. Irrigation systems shall have no cross connections, direct or indirect, with potable water systems.

E. All irrigation systems shall be pressure dosed to assure an even distribution and loading of effluent throughout the application area.

F. All parts of the reuse system shall be protected from freezing.

G. Effluent shall be contained on the permitted property.

H. The effluent shall be applied to a suitable landscaped area.

I. Secondary treated and disinfected effluent may be used for toilet flushing or fire suppression with department approval.

J. Setback requirements for irrigation systems shall meet the requirements of 20.7.3.302 NMAC except for the following:

(1) property lines, 2 feet for disposal area; and

(2) building or structure, 2 feet for disposal area.

[20.7.3.805 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.807 MOUND AND ELEVATED SYSTEMS:

A. Mound systems shall meet the requirements of 20.7.3.302 NMAC.

B. Mounds are generally constructed entirely above the surrounding ground surface, however, the mound may be partially buried.

C. The design of the mound system shall be in accordance with the most current design standards of the Wisconsin mound system, or other system designs as approved by the department.

D. Pressure distribution to the mound shall be required.

E. [~~For type III and IV soils, mounds shall not be installed on slopes greater than six percent (6%). For type Ia through II soils, mounds shall not be installed on slopes greater than twelve percent (12%).~~] An elevated system shall meet the requirements of 20.7.3.302 NMAC.

F. [~~The finished side slope of the mound shall be at a maximum 1:4 vertical to horizontal slope.~~] Elevated systems may be constructed entirely above the surrounding grade or partially buried, as site conditions require.

G. An elevated system must be installed in accordance with proven design criteria and approved by the department.

[20.7.3.807 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.808 LOW PRESSURE DOSED DISPOSAL SYSTEMS:

A. Low pressure dosed (LPD) disposal systems may be used to achieve uniform distribution of wastewater over the entire infiltrative surface. Effluent from this type of system is pumped under low pressure through solid pipe into perforated lateral lines installed within a disposal system.

B. Low pressure dosed disposal systems may be used with any on site liquid waste system including conventional treatment systems, gray water systems and advanced treatment systems.

C. Low pressure dosed disposal systems may be used with any disposal system including trenches, beds,

mounds, gravelless systems, evapotranspiration systems and drip irrigation.

D. Lift stations are not classified as low pressure dosed disposal systems.

E. Low pressure dosed disposal systems may use a timer to equalize the flow over a 24-hour period. LPD disposal systems may also be designed to rotate between separate disposal areas by using rotator valves.

F. Low pressure dosed disposal systems may use dosing siphons or pumps.

G. All pumps shall be rated by the manufacturer for pumping sewage or effluent.

H. A single pump may be used for design flows equal to or less than 1,000 gpd. Dual pumps are required for design flows over 1,000 gpd.

I. Design of the system shall include:

(1) design flow;

(2) except for mound systems, soil absorption area sized according to the effluent loading rates found in 20.7.3.703 NMAC;

(3) spacing between lines with a minimum of 2 feet of separation;

(4) length of pipe;

(5) diameter of perforated lateral lines used;

(6) size and spacing of holes or emitters; and

(7) pump performance sizing with allowances for head and friction losses at rated flows in gallons per minute.

J. A ball valve shall be located vertically at the end of each lateral line for inspection and flushing except for proprietary drip irrigation systems.

K. Approved proprietary drip irrigation systems shall be designed and installed according to manufacturer's specifications.

L. Lateral lines shall be placed parallel to the natural contours of the site.

M. The distribution holes in the lateral lines shall be shielded or protected in some manner to prevent the infiltration of soil into the pipe.

[20.7.3.808 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.811 GRAYWATER SYSTEMS: Graywater systems not meeting the requirements of 20.7.3.810 NMAC shall meet the following requirements:

A. The installation of separate graywater systems shall be authorized for [~~single family~~] residential units and shall be located on the lot served. The capacity of the on-site liquid waste system, including required replacement area, shall not be decreased or otherwise affected by the existence or proposed installation of a

graywater system servicing the lot.

B. All information required in 20.7.3.402 NMAC for the issuance of a permit shall be required.

C. Design flows for graywater systems shall be calculated by the following:

(1) Twenty percent (20%) of the total design flow for the segregation of laundry waste; and

(2) Thirty-three percent (33%) of the total design flow for the segregation of the bathroom (showers, tubs and wash basin) waste.

D. For graywater systems on lots where the residential unit is served by a sewerage system, the minimum lot size set forth in 20.7.3.301 NMAC shall not be required.

E. Clearance requirements for graywater systems shall meet the requirements of 20.7.3.303 NMAC.

F. Setback requirements for graywater systems shall meet the requirements of 20.7.3.302 NMAC except for the following:

(1) property lines, two (2) feet for disposal area;

(2) building or structure, two (2) feet for disposal area; and

(3) building or structure, zero (0) feet for above ground tanks.

G. A treatment unit shall be required for all graywater systems. If a tank is utilized as the treatment unit:

(1) the tank may be a single compartment;

(2) the tank shall be sized to accommodate one day design flow; and

(3) access to the tank shall be provided by a tamper resistant lid installed at grade.

Graywater should be utilized within twenty-four (24) hours of collection unless additional treatment is provided.

H. Tanks installed below ground shall meet the requirements of 20.7.3.501-502 NMAC except for the requirements stated in Paragraph G of this section. Tanks shall be protected against possible floatation.

I. Above ground tanks shall be constructed of solid durable materials, not subject to corrosion or decay and shall be approved by the department. Above ground tanks shall be set on a three inch (3") minimum concrete pad. Metal tanks shall not be authorized.

J. All tanks shall have an overflow drain with a permanent connection to the building drain or building sewer. The tank shall be protected against sewer line backflow by a backwater valve.

K. Each tank shall be vented as required by chapter 9 of the uniform plumbing code.

L. Each tank shall have its rated liquid capacity permanently marked on the unit. In addition, a sign "GRAYWATER SYSTEM, DANGER - UNSAFE WATER" shall be permanently marked on the tank.

M. The disposal system shall be constructed in accordance with 20.7.3.805 NMAC.

N. The graywater system shall have no direct or indirect cross connections with potable water systems.

O. Graywater use for purposes other than irrigation or toilet flushing is prohibited. Irrigation of edible food crops is prohibited.

[20.7.3.811 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.902 OPERATION AND MAINTENANCE REQUIREMENTS AND INSPECTION REQUIREMENTS AT TIME OF TRANSFER:

A. The owner of an on-site liquid waste system, including systems existing prior to the effective date of this regulation, shall be responsible for properly operating and maintaining the system in accordance with the recommendations of the manufacturer or designer of the system.

B. The owner of an advanced treatment system installed after the effective date of this regulation shall enter into a department approved maintenance contract with a maintenance service provider that will assure maintenance of the system in accordance with the recommendations of the manufacturer or designer of the system. A maintenance contract shall be in effect at all times.

C. Household hazardous waste and high strength waste shall not be introduced into the system.

D. Any spillage that may occur during tank pumpout shall be cleaned up immediately and the spill area disinfected with a sodium or calcium hypochloride solution.

E. Prior to the transfer of a property with an existing on-site liquid waste system, the current system owner shall have the system inspected and evaluated by an inspector utilizing a department approved form.

[~~(1) For conventional systems:~~

~~(a) the sludge and scum levels shall be determined and the septic tank pumped as needed;~~

~~(b) the effluent filters shall be cleaned and replaced if damaged or not found in place; and~~

~~(c) the disposal area shall be visually evaluated for proper operation.~~

~~(2) In addition, for advanced treatment systems:~~

~~(a) the sludge and scum levels in the primary tank shall be determined and~~

~~the tank pumped as needed;~~

~~(b) the effluent filters shall be cleaned and replaced if damaged or not found in place if a filter is applicable to the system;~~

~~(c) the disposal area shall be visually evaluated for proper operation; and]~~

(1) the system shall be sampled in accordance with permit conditions for compliance with 20.7.3.602-604 NMAC if a regularly scheduled sampling event has not occurred within 180 days of the inspection; the sampling results shall be included with the system report; if a regularly scheduled sampling event has occurred within 180 days of the inspection, the results of the sampling shall be included in the inspection report; and

[~~(2)~~ (2) an amendment of permit reflecting ownership change is required pursuant to Subsection E of 20.7.3.403 NMAC.

[~~(3)~~ (3) E. Inspections shall be recorded on forms approved by the department. Inspection reports shall be kept on file by the inspector of the on-site liquid waste system. Inspectors shall submit to the department copies of all inspection reports, whether completed or not, within 15 days of the inspection. ~~Corrective actions required pursuant to the inspection report shall be completed within 15 additional days.~~ A permit or variance application shall be submitted within 15 days of the inspection to correct any deficiencies or permit violations identified by the inspection. In addition, all inspection reports shall include the global positioning system (GPS) coordinates of the tank. Once an inspection is requested, all results, whether complete or not, shall be submitted to the department.

[~~F.~~ F. In the event of a failed system, that includes, but is not limited to disposal fields, the owner shall remedy the failed system with department approval. [20.7.3.902 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.904 REQUIREMENTS FOR CERTIFICATION:

A. The department will develop a certification program by July 1, 2007 that addresses the specifications below and as provided by law. After July 1, ~~2007~~ 2009:

(1) any person offering services pertaining to an on-site liquid waste system, including site evaluator, system designer, installer, wastewater reuse irrigator, inspector, maintenance service provider or septage pumper, shall be certified after completing a program and passing an exam approved by the department;

(2) employees of the department reviewing, approving or inspecting on-site liquid waste systems shall be certified as department liquid waste specialist after

completing a program and passing an exam approved by the department; and

(3) a homeowner shall complete a program and pass an exam approved by the department prior to the issuance of a permit for a homeowner installed system.

B. General requirements for certifications of persons involved in the liquid waste program are specified below.

(1) Site evaluators shall demonstrate competence in soil evaluation to determine acceptable liquid waste disposal application rates and identify potential areas of concern, such as fractured bedrock, shallow ground water and karst terrain.

(2) Liquid waste system designers that configure conventional treatment systems and approved proprietary advanced systems shall demonstrate competence in configuration of on-site liquid waste systems, certification by the manufacturer of approved systems proposed and a basic understanding of the treatment and disposal process.

(3) Installers shall possess a valid, applicable New Mexico contractor's license and demonstrate competence in the installation of on-site liquid waste systems.

(a) An installer 1 shall demonstrate competence in the installation of conventional treatment and disposal systems and holding tanks.

(b) An installer 2 shall demonstrate competence in all forms of on-site liquid waste systems. An installer 2 must have at least 3 years of installation experience, 30 hours of approved coursework and certified by the manufacturer of approved systems they install.

(4) Wastewater reuse irrigation service providers shall possess a valid, applicable New Mexico contractor's license and demonstrate competence in the configuration, installation, operation and maintenance of wastewater irrigation systems and the protection of public health.

(5) Inspectors shall demonstrate competence in the inspection of on-site liquid waste systems. Certification by the national association of waste transporters (NAWT), NSF international or a department-approved program is demonstration of competence in the inspection of conventional treatment and disposal systems.

(6) Maintenance service providers (MSP) shall demonstrate competence in the operation and maintenance of on-site liquid waste systems. Persons providing service shall follow department procedures for MSP and shall be certified by the manufacturer of the systems they operate and maintain.

(7) Septage pumpers shall demonstrate familiarity with applicable regulations and demonstrate competence in locating and exposing septic tanks, measuring septic tank sludge and scum levels, the

complete pumping of septic tank sludge, maintenance of pumping equipment in a sanitary condition, prevention of pathogen transmission and preparation of an appropriate safety plan for normal operations.

(8) Manufacturers of approved advanced treatment systems shall provide training and certification for their systems at least once per year. Manufacturers may charge reasonable fees for their training and certification.

C. Limitations on scope of services.

(1) Liquid waste system designers may only configure conventional treatment systems, approved proprietary advanced treatment systems and conventional, proprietary and alternative disposal systems described in 20.7.3 NMAC.

(2) Installer 1 may only install conventional treatment systems and conventional disposal systems that do not involve dosing or other mechanical distribution systems.

(3) Installer 2 may install all forms of on-site liquid waste systems.

D. Expiration and renewal of certifications and establishment of fees.

(1) Certifications are valid for a period up to three (3) years and shall expire on December 31 of the third year of issuance.

(2) Renewal of certifications require completion of at least 8 hours of continuing education units per year approved by the department.

(3) The department shall establish fees for the initial application and renewal of certifications.

E. Suspension, revocation and denials.

(1) The department may suspend or revoke a certification for cause. Failure to provide service in accordance with the certification shall be grounds for revocation of the certification.

(2) The department may deny certification if it determines that an applicant does not meet all requirements of this part or has violated any provision of these regulations.

F. Education steering committee. The secretary shall appoint an education steering committee. The committee shall consist of at least one representative of each classification for which certification is required and one department appointed member. The committee shall meet monthly until sufficient classes for all categories of certification are approved. Thereafter the committee shall meet semi-annually or as required for the purpose of certification reviews of sponsors, courses and instructors and shall make recommendations to the secretary as to findings.

G. Approval of sponsors.

(1) All sponsors wishing to offer

department-approved courses for credit must be approved by the secretary prior to accepting students.

(2) Educational institutions, proprietary schools, professional organizations, internet-based training providers or businesses wishing to become department-approved sponsors must submit an application for department approval.

(3) The department shall maintain a list of approved sponsors.

(4) An approved sponsor shall comply with the following requirements.

(a) Conduct all courses in accordance with department rules and regulations and education policies.

(b) Permit the department or its representative access to classes being conducted and make available to the department, upon request, all information pertaining to the activities of the sponsor.

(c) Advertise at all times in a manner free from misrepresentation, deception or fraud.

(d) Prominently display the current certificate of sponsorship in the main office of the sponsor as registered with the department.

(e) In the event a sponsor ceases operations while students are enrolled who have not completed their program of study, submit within thirty (30) days a list of students enrolled at the time of closure, the amount of tuition paid, the status of course work in progress and all other student records.

(f) Maintain current, complete and accurate student records and instructor critiques or summaries, which shall be accessible at all times to the department or its authorized representatives. These records shall include, but not be limited to, a record of payments made, a record of attendance and a record of course work completed.

(g) Conduct all courses in accordance with course content requirements approved by the department.

(h) Certify no student as successfully completing a pre-certification course unless the student has attended at least 75% of the classroom instruction and has passed the course.

(i) Certify no certificate holder as successfully completing approved certification or continuing education course unless they have attended at least 90% of the classroom instruction.

(j) Advise the department of change of address and telephone number.

(k) Reapply for sponsorship in event of change of majority ownership.

(l) Notify the department in writing of change of directorship.

(m) Renew sponsorship approval every three (3) years.

(5) Failure to comply with this

rule may result in the loss of sponsor approval.

H. Approval of courses.

(1) All pre-certification and continuing education courses shall be approved by the secretary.

(2) All courses shall be offered in accordance with established department course content requirements.

(3) All approved courses are subject to periodic review by the department.

I. Approval of instructors.

(1) All instructors shall be approved by the secretary.

(2) All instructor candidates shall complete an application for department review.

(3) All instructor candidates must be prepared to make a minimum fifteen (15) minute presentation to the education steering committee.

(4) An approved instructor shall comply with the following requirements:

(a) conduct all classes in accordance with department rules and regulations and education policies;

(b) insure that all instruction is free from misrepresentation;

(c) instruct in accordance with department-approved course content requirements;

(d) allow access to any class to any duly appointed representative of the department;

(e) renew approval biannually as prescribed by the department; instructor approval expires on December 31 of each even numbered year;

(f) certify to the sponsor a true and correct record of student attendance; and

(g) failure to comply with this section may result in the loss of instructor approval.

[20.7.3.904 NMAC - N, 9/1/05; A, 4/1/07]

20.7.3.907 AUTHORITY TO DISCONNECT SOURCE OF WATER SUPPLY: After due process is provided,

the department may disconnect the source of water supply to a commercial or residential unit that is served by any on-site liquid waste system that has become a failed system and that presents an imminent hazard to public health. This authority includes authority to disconnect power utilities if necessary to disconnect the source of water supply. The department shall give notice of its actions to the unit owner and the tenants affected or as otherwise provided by the law.

[20.7.3.907 NMAC - Rp, 20.7.3.8 NMAC, 9/1/05; A, 4/1/07]

NEW MEXICO HUMAN SERVICES DEPARTMENT

MEDICAL ASSISTANCE DIVISION

This is an amendment to 8200.520 NMAC, Section 11, which will be effective on April 1, 2007. The Medical Assistance Division amended subsections in Section 11 by changing the poverty income guidelines dollar amounts.

8.200.520.11 FEDERAL POVERTY INCOME GUIDELINES:

A. **100% of federal poverty:** 100% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$817] \$851 per month*
2	[\$1,100] \$1,141 per month*
3	[\$1,384] \$1,431 per month
4	[\$1,667] \$1,721 per month
5	[\$1,950] \$2,011 per month
6	[\$2,234] \$2,301 per month
7	[\$2,517] \$2,591 per month
8	[\$2,800] \$2,881 per month

Add [~~\$283~~] \$290 for each additional person in the assistance unit.

* Use only these two standards for the QMB program.

B. **120% of federal poverty:** This income level is used only in the determination of the maximum income limit for specified low income medicare beneficiaries (SLIMB) applicants/recipients.

<u>Applicant/recipient</u>	<u>Amount</u>
1. Individual	At least [\$817] \$851 per month but no more than [\$980] \$1,021 per month.
2. Couple	At least [\$1,100] \$1,141 per month but no more than [\$1,320] \$1,369 per month.

For purposes of this eligibility calculation, couple means an applicant couple or an applicant with an ineligible spouse when income is deemed.

C. **133% of federal poverty:** 133% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$1,087] \$1,132 per month
2	[\$1,463] \$1,518 per month
3	[\$1,840] \$1,904 per month
4	[\$2,217] \$2,289 per month
5	[\$2,594] \$2,675 per month
6	[\$2,971] \$3,061 per month
7	[\$3,348] \$3,446 per month
8	[\$3,724] \$3,832 per month

Add [~~\$376~~] \$386 for each additional person in the assistance unit.

D. **135% of federal poverty:** This income level is used only in the determination of the maximum income limit for qualified individuals 1 (QI-1) applicants/recipients. The following income levels apply:

<u>Applicant/recipient</u>	<u>Amount</u>
1. Individual	At least [\$980] \$1,021 per month but no more than [\$1,103] \$1,149 per month.
2. Couple	At least [\$1,320] \$1,369 per month but no more than [\$1,485] \$1,541 per month.

For purposes of this eligibility calculation, couple means an applicant couple or an applicant with an ineligible spouse when income is deemed.

E. **150% of federal poverty:** This income level is used only in the determination of the maximum income limit for state coverage insurance (SCI) (category 062) applicants/recipients. The following income levels apply:

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$1,225] \$1,277 per month
2	[\$1,650] \$1,712 per month
3	[\$2,075] \$2,147 per month
4	[\$2,500] \$2,582 per month
5	[\$2,925] \$3,017 per month
6	[\$3,350] \$3,452 per month
7	[\$3,775] \$3,887 per month
8	[\$4,200] \$4,322 per month

Add [~~\$425~~] \$435 for each additional person in the assistance unit.

F. **185% of federal poverty:**

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$1,511] \$1,575 per month
2	[\$2,035] \$2,111 per month
3	[\$2,560] \$2,648 per month
4	[\$3,084] \$3,184 per month
5	[\$3,608] \$3,721 per month
6	[\$4,132] \$4,257 per month
7	[\$4,656] \$4,794 per month
8	[\$5,180] \$5,330 per month

Add ~~[\$524]~~ \$536 for each additional person in the assistance unit.

G. **200% of federal poverty:** 200% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$1,634] \$1,702 per month
2	[\$2,200] \$2,282 per month
3	[\$2,767] \$2,862 per month
4	[\$3,334] \$3,442 per month
5	[\$3,900] \$4,022 per month
6	[\$4,467] \$4,602 per month
7	[\$5,034] \$5,182 per month
8	[\$5,600] \$5,762 per month

Add ~~[\$566]~~ \$580 for each additional person in the assistance unit.

H. **235% of federal poverty:** 235% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$1,920] \$2,000 per month
2	[\$2,585] \$2,682 per month
3	[\$3,253] \$3,363 per month
4	[\$3,918] \$4,045 per month
5	[\$4,583] \$4,726 per month
6	[\$5,250] \$5,408 per month
7	[\$5,915] \$6,089 per month
8	[\$6,580] \$6,771 per month

Add ~~[\$665]~~ \$682 for each additional person in the assistance unit.

I. **250% of federal poverty:** 250% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$2,042] \$2,128 per month
2	[\$2,750] \$2,853 per month
3	[\$3,459] \$3,578 per month
4	[\$4,167] \$4,303 per month
5	[\$4,875] \$5,028 per month
6	[\$5,584] \$5,753 per month
7	[\$6,292] \$6,478 per month
8	[\$7,000] \$7,203 per month

Add ~~[\$708]~~ \$725 for each additional person in the assistance unit.

[1-1-95, 4-1-95, 4-15-96, 4-1-97, 3-31-98, 3-1-99, 4-1-99, 4-1-00; 8.200.520.11 NMAC - Rn, 8 NMAC 4.MAD.520.1-5, & 14, & A, 1-1-01; A, 4-1-01; A, 4-1-02; A, 4-1-03; A, 4-1-04; A, 4-1-05; A, 4-1-06; A, 4-1-07]

\$75.00; one to two months \$100.00; two to three months \$200.00; three months and later \$500.00.

B. All operations receiving certification from the commission must also remit annually by March 15 an assessment based on gross sales of organic products for the calendar year just ended. The commission shall send out a reminder notification of the assessment obligation in January. "Organic products" are defined as all products certified by the New Mexico organic commodity commission as "100 percent organic", "organic" or "made with organic (ingredients or food groups)".

(1) Producers, processors and handlers shall be assessed at a rate of one-half of one percent (1/2 percent) of total annual gross sales of organically produced agricultural products, except:

(2) As provided for in the Organic Commodity Act, at 76.22.16 (d), the commission may, following notice and comment, adjust the assessment rate up or down by no more than one hundred percent.

(3) Assessments shall be limited based on gross annual organic income as follows: sales under \$1 million, \$3500.00; from \$1million to \$2 million, \$5000.00; over \$2 million, \$10,00.00.

~~(3)~~ (4) As provided for in the Organic Commodity Act, at 76.22.17, the commission may authorize a supplemental assessment, which shall not exceed one-fourth of one percent (1/4 percent) of total annual gross sales of organically produced agricultural products.

C. Collection of assessments: all assessment shall be collected directly by the commission and shall be deposited into the organic market development fund.

[21.15.1.11 NMAC - Rp 21 NMAC 15.1.14, 8/30/2001; A, 8/15/2003; A, 3/15/2007]

21.15.1.12 EXEMPTED AND EXCLUDED CATEGORIES

A. A production or handling/processing operation that sells agricultural products as "organic" but whose gross agricultural income from organic sales total \$5,000.00 or less annually is exempt from certification and from submitting an organic system plan, but must comply with the applicable organic production and handling requirements, record keeping requirements, and must annually register with the commission.

(1) Registration of exempt business will require the annual filing of a registration application and a fee of \$50.00.

(2) Registered exempt businesses must be available for inspection and audit by the commission during regular business hours.

(3) Annual registration update

NEW MEXICO ORGANIC COMMODITY COMMISSION

This is an amendment to 21.15.1 NMAC, Sections 11 and 12, effective March 15, 2007.

21.15.1.11 FEES AND ASSESSMENTS

A. Application fee: all applicants, regardless of category, must remit a ~~[\$150.00]~~ \$175.00 application fee with the completed application. First time applicants shall also remit a \$25.00 set-up fee. Applications without accompanying fees shall be deemed incomplete and the applicant shall be notified that the application will not be further processed without

the fee. Applicants applying for dual categories (crop and processor, animal and processor, but not crop and animal) must pay two fees, except where total annual gross sales of organic product are less than \$50,000.00 and all handling/processing is performed by the certified producer; in such cases only one fee will be required. Handling/processing applicants that provide a process or service to organic producers but do not take ownership of the organic product or do not sell an organic product shall remit a \$225.00 application fee. Annual update applications must also be accompanied by a ~~[\$150.00]~~ \$175.00 fee payment. Annual update applications sent in after the announced due date will be subject to a ~~[\$75.00 late fee, in addition to the regular application fee of \$150.00]~~ late fees on the following scale: up to one month late

applications sent in after the announced due date will be subject to a ~~[\$25.00]~~ \$75.00 late fee, in addition to the regular registration fee of ~~[\$50.00]~~ \$75.00. First time applicants shall also remit a \$25.00 set-up fee.

B. A handling operation that is a retail food establishment or portion thereof and that handles organically produced agricultural products but does not process them is exempt from certification as provided for by the USDA's national organic program.

C. A handling operation or portion thereof that only handles agricultural products that contain less than 70 percent organic ingredients by total finished-product weight (excluding water and salt) is exempt from certification as provided for by the USDA's national organic program.

D. A handling operation or portion thereof that only identifies organic ingredients on the information panel is exempt from certification as provided for by the USDA's national organic program.

E. A handling operation that meets 25.15.1.12 A or 25.15.1.12 B above must maintain the records sufficient to:

(1) prove that ingredients identified as organic were organically produced and handled, and;

(2) verify quantities produced from such ingredients.

F. A handling operation or portion thereof is excluded from the requirements of certification, except for the requirements for the prevention of commingling and contact with prohibited substances, if such operation or portion thereof only sells organic agricultural products labeled as "100 percent organic", "organic" or "made with organic (specified ingredients or food groups)" that:

(1) are packaged or otherwise enclosed in a container prior to being received or acquired by the operation, and;

(2) remain in the same package or container and are not otherwise processed while in the control of the handling operation.

G. A handling operation that is a retail food establishment of portion thereof that processes, on the premises of the retail food establishment, raw and ready-to-eat food from agricultural products that were previously labeled as "100 percent organic", "organic" or "made with organic (ingredients or food groups)" is excluded from the certification requirements, except:

(1) requirements for the prevention of contact with prohibited substances;

(2) labeling provisions.

H. Any operation exempt under the above guidelines must maintain business records related to their organic operation and/or sales and such records

must be maintained for no less than 3 years beyond their creation and the operation must allow representatives of the commission and of USDA's national organic program access to the records for inspection and copying during normal business hours, for the purpose of determining compliance with the applicable regulations.

I. Any operation certified by the NMOCC with annual gross sales of less than \$2000 is exempt from paying assessments on ~~their~~ their sales.

[21.15.1.12 NMAC - N, 8/30/2001; A, 8/15/2003; A, 3/15/2007]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.20.3 NMAC, Sections 1, 2, 3, 6, 7, and 8, and adds a new Section 9, effective March 15, 2007.

6.20.3.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department

[01-15-99, 07-30-99; 6.20.3.1 NMAC - Rn, 6 NMAC 2.2.4.1, 12-29-00; A, 3-15-07]

6.20.3.2 SCOPE: This ~~regulation~~ rule applies to local school boards and governing bodies of charter schools.

[01-15-99; 6.20.3.2 NMAC - Rn, 6 NMAC 2.2.4.2, 12-29-00; A, 3-15-07]

6.20.3.3 STATUTORY AUTHORITY: This ~~regulation~~ rule is adopted pursuant to Sections 22-2-1, ~~and~~ 22-2-2, 22-8-11, 22-8-13, and 22-8-42 NMSA 1978.

[01-15-99; 6.20.3.3 NMAC - Rn, 6 NMAC 2.2.4.3, 12-29-00; A, 3-15-07]

6.20.3.6 OBJECTIVE: This ~~regulation~~ rule establishes procedures to be followed if a local school board ~~[local board];~~ or governing body of a charter school intends to use public funds to pay a settlement to an administrator whose contract has been terminated prior to the end of the term of the contract.

[01-15-99; 6.20.3.6 NMAC - Rn, 6 NMAC 2.2.4.6, 12-29-00; A, 3-15-07]

6.20.3.7 DEFINITIONS:

A. "Administrator" means an individual licensed in education administration and employed in an administrative capacity, including but not limited to superintendents, assistant superintendents, principals, and assistant principals.

B. "Department" means the public education department (PED).

C. "Local school board"

means the governing body of a school district or charter school.

D. "Secretary" means the secretary of public education.

E. "Superintendent" means the superintendent of schools of the local school district.

[01-15-99; 6.20.3.7 NMAC - Rn, 6 NMAC 2.2.4.7, 12-29-00; A, 3-15-07]

6.20.3.8 REQUIREMENTS:

A. The following procedures will be adhered to if a local board or charter school intends to use public funds to make payment pursuant to a settlement agreement entered into with an administrator as a result of a contract termination.

(1) As soon as it becomes apparent that ~~the~~ a local board or charter school intends to take such action, the board or the superintendent will immediately notify the ~~[state superintendent of public instruction]~~ ["state superintendent"] secretary of such an intention in writing.

(2) No amount of money from the school ~~[district's]~~ district or charter school's budget will be allowed to be paid pursuant to any settlement agreement which does not have the prior written approval of the ~~[state superintendent]~~ secretary or his/her designee. Any request for approval by the ~~[state superintendent]~~ secretary must be accompanied by a detailed statement outlining:

(a) the dispute between the local board and the administrator;

(b) a description of the negotiations leading to the settlement agreement;

(c) a detailed accounting of the damages which have been or may be incurred, including any setoff due to the administrator's mitigation of any damages; ~~and~~

(d) a copy of all pleadings to be filed with the court relative to the dispute ~~;~~ including a copy of the court approved settlement agreement; and

(e) a copy of the administrator's current employment contact.

B. In addition, the approval of a court of competent jurisdiction will be required, and a copy of the court approved settlement agreement shall be submitted to the secretary.

C. No settlement agreement may provide for, nor may any local school board permit, the payment of any funds until the secretary has issued written approval of the settlement. This prohibition does not include compensation or benefits that the administrator has earned and is otherwise entitled by applicable rule, policy or employment agreement.

[01-15-99; 6.20.3.8 NMAC - Rn, 6 NMAC 2.2.4.8, 12-29-00; A, 3-15-07]

6.20.3.9

UNAUTHORIZED

PAYMENTS TO ADMINISTRATORS:

A. A settlement with and subsequent payment to an administrator made prior to obtaining written approval of the secretary shall be considered an unauthorized payment.

B. An unauthorized payment may be considered mismanagement and may constitute grounds for suspension of the local school board from acting as a board of finance.

C. An unauthorized payment may constitute a violation of the anti-donation clause of the New Mexico constitution and may be reported to the attorney general or state auditor, or be subject to further civil or criminal referrals or other sanctions.

[6.20.3.9 NMAC - N, 3-15-07]

End of Adopted Rules Section

Other Material Related to Administrative Law

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

HISTORICAL RECORDS
ADVISORY BOARD

Commission of Public Records
New Mexico State Records Center &
Archives
1205 Camino Carlos Rey
Santa Fe, New Mexico 87505

NOTICE OF REGULAR MEETING

A special meeting of the New Mexico Historical Records Advisory Board has been scheduled for Wednesday, April 11, 2007 at 9:00 A.M. The meeting will be held in the Commission Room of the State Records Center and Archives, which is an accessible facility, located at 1205 Camino Carlos Rey, Santa Fe, NM 87507. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Gail Packard at the State Records Center and Archives at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact Gail Packard at 505-476-7956 at the State Records Center and Archives for documents. A copy of the proposed agenda may be obtained at the State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507.

**End of Other Related
Material Section**

SUBMITTAL DEADLINES AND PUBLICATION DATES

2007

Volume XVIII	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 16
Issue Number 2	January 17	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 30
Issue Number 7	April 2	April 16
Issue Number 8	April 17	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 1	June 14
Issue Number 12	June 15	June 29
Issue Number 13	July 2	July 16
Issue Number 14	July 17	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 30
Issue Number 17	August 31	September 14
Issue Number 18	September 17	September 28
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 3	December 14
Issue Number 24	December 17	December 31

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.