

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 7 WASTEWATER AND WATER SUPPLY FACILITIES
PART 10 DRINKING WATER

20.7.10.1 ISSUING AGENCY: Environmental Improvement Board.
[20.7.10.1 NMAC - Rp 20 NMAC 7.1.I.1, 12/04/2002]

20.7.10.2 SCOPE: All persons who own or operate a public water system or for parts 200 and 201, any persons constructing a public water system project. This part shall apply to each public water system, unless the public water system meets all of the following conditions: (a) it consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (b) it obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; (c) it does not sell water to any person; and (d) it is not a carrier which conveys passengers in interstate commerce.
[20.7.10.2 NMAC - Rp 20 NMAC 7.1.I.2, 12/04/2002; A, xx/xx/2012]

20.7.10.3 STATUTORY AUTHORITY: NMSA 1978, Sections 74-1-6, 74-1-8, 74-1-10, 74-1-13 and 74-1-13.1.
[20.7.10.3 NMAC - Rp 20 NMAC 7.1.I.3, 12/04/2002; A, 04/16/2007; A, xx/xx/2012]

20.7.10.4 DURATION: Permanent.
[20.7.10.4 NMAC - Rp 20 NMAC 7.1.I.4, 12/04/2002]

20.7.10.5 EFFECTIVE DATE: December 4, 2002, except where a later effective date is indicated in the history note at the end of a section.
[20.7.10.5 NMAC - Rp 20 NMAC 7.1.I.5, 12/04/2002; A, 04/16/2007]

20.7.10.6 OBJECTIVE: The objective of Part 10 of Chapter 7 is to establish regulations for public water systems.
[20.7.10.6 NMAC - Rp 20 NMAC 7.1.I.6, 12/04/2002]

20.7.10.7 DEFINITIONS: In addition to the terms defined in 40 CFR Parts 141 and 143, the following terms, as used in this part shall have the following meanings.

~~A.~~ A. “As built drawings” means construction drawings that show details of work as originally planned plus modifications and deviations to reflect actual construction.]

~~B.~~ A. “CFR” means the code of federal regulations.

~~C.~~ B. “Cross-connection” means any unprotected actual or potential connection or structural arrangement between a public water system and any other source or system through which it is possible to introduce into any part of the public water system any contaminant or non-potable substance.

~~D.~~ C. “Department” means the New Mexico environment department.

~~E.~~ D. “Guidance document” means any manual or other document developed or adopted by the department for official use to provide general direction, instruction or advice to department employees in determinations regarding application of or compliance with regulations.

E. “Human consumption” includes drinking, bathing, showering, cooking, dishwashing, and maintaining oral hygiene. The term “bathing” means use of water for personal hygiene purposes. The term “bathing” does not refer to situations such as (1) swimming in an open canal or (2) incidental, casual contact with water from an open canal in connection with outdoor activities such as agricultural work, canal maintenance, or lawn and garden care.

F. [“Modification” means the replacing, changing, installing, adding to, or construction of a component of an existing public water system to increase or decrease the system’s capacity to draw or supply water or to improve its performance or service life. Neither routine maintenance nor the replacement of electrical or mechanical equipment is a modification for purposes of this part.] “Modification” means a change, installation, addition, rehabilitation, or construction of a component of an existing public water system to increase or decrease the system’s capacity to draw or supply water or to improve its performance or service life. For the purposes of this part, “modification” does not include routine maintenance.

G. “Non-public water system” means a system [for the provision of water for human consumption for domestic purposes, if such system does not have at least fifteen service connections and does not regularly serve an

~~average of twenty five individuals at least sixty days out of the year]~~ that does not meet the definition of a public water system as defined in 40 CFR Part 141.

H. “Public water system project” or “project” means the construction of a new public water system, modification to an existing public water system, or conversion of a non-public water system to a public water system.

I. “Record drawings” means ~~[as built]~~ construction drawings that show details or work as originally planned plus modifications and deviations to reflect actual construction, certified by a registered professional engineer on behalf of a public water system.

J. “Routine maintenance” includes activities associated with regularly scheduled and general upkeep of a building, equipment, machine, plant, or system against normal wear and tear.

K. “Sample tap” means a device where access, pressure, and volume can be controlled to the extent that the sample collected is representative of the water quality.

~~[J.]~~ **L.** “Sanitary survey” means an onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. A sanitary survey evaluates at least nine components: source; treatment; distribution system; finished water storage; pumps; pump facilities and controls; monitoring and reporting and data verification; system management and operation; and operator compliance with state requirements.

~~[K.]~~ **M.** “Secretary” means the secretary of the environment department, or an authorized representative.

~~[L.]~~ **N.** “Service connection” means, regardless of whether in use, a pipe, hose, appurtenance, constructed conveyance or any other temporary or permanent connection between a public water system and a user.

~~[M.]~~ **O.** “State act” means the ~~[Environment]~~ Environmental Improvement Act, NMSA 1978, Section 74-1-1 et seq.

~~[N.]~~ **P.** “USEPA” means the United States environmental protection agency.

Q. “Water hauler” means a person that delivers water, from a source it owns, or through a contract to purchase water from another legal entity, in batch lots to people who do not otherwise have access to water for human consumption.

[20.7.10.7 NMAC - Rp 20 NMAC 7.1.I.103, 12/04/2002; A, 04/16/2007; A, xx/xx/2012]

20.7.10.8 DOCUMENTATION REQUIRED FOR POPULATION DETERMINATION:

A. Owners or operators of community water systems shall document, and make available to the department upon request, the number of service connections (in the case of water haulers, the number of residential accounts using water for human consumption). The average household size in the county where the system is located shall be multiplied by the number of service connections (or residential accounts) to determine the population served by the water system. The most recent census conducted by the U.S. census bureau shall be the source of the average household size data.

B. In order to determine the population the water system serves, nontransient noncommunity water systems and transient noncommunity water systems shall document, and make available to the department upon request, the population served (e.g., list of employees, school roster, restaurant seating capacity, visitor center patron log, etc.).

C. Owners and operators of water systems may present compelling written documentation to the department for consideration of a population that differs from that determined in Subsections A and B of this section.

D. The department will document, in writing, the determination of a population that differs from the population outlined in Subsections A and B of this subsection.

[20.7.10.8 NMAC - N, xx/xx/2012]

20.7.10.9 - 20.7.10.99 [RESERVED]

20.7.10.100 ADOPTION OF 40 CFR PART 141:

A. Except as otherwise provided in this section, the regulations of the USEPA set forth at 40 CFR Part 141 ~~[through June 4, 2010]~~ are hereby incorporated by reference into this part.

B. The term “state” means the New Mexico environment department when used in 40 CFR Part 141, in lieu of the meaning set forth in 40 CFR section 141.2.

C. The term “service connection” has the meaning set forth in ~~[Subsection L of]~~ 20.7.10.7 NMAC, in addition to the meaning set forth in 40 CFR section 141.2.

[20.7.10.100 NMAC - N, 12/04/2002; A, 04/16/2007; A, 10/15/2008; A, 10/28/2010; A, xx/xx/2012]

20.7.10.101 ADOPTION OF 40 CFR PART 143:

A. Except as otherwise provided, the regulations of the USEPA set forth at 40 CFR Part 143 [~~through July 1, 2007~~] are hereby incorporated by reference into this part.

B. The term “state” means the New Mexico environment department when used in 40 CFR Part 143, in lieu of the meaning set forth in 40 CFR section 143.2.

[20.7.10.101 NMAC - N, 12/04/2002; A, 04/16/2007; A, 10/15/2008; A, xx/xx/2012]

20.7.10.102 GUIDANCE DOCUMENTS: The current editions of the following materials, including all future editions and amendments are used by the department as guidance documents for determining generally acceptable standards for construction and operation of public water systems.

A. *Standards for disinfecting water mains, wells, water-storage facilities, and water treatment plants*, American Water Works Association, 6666 West Quincy Avenue, Denver, Colorado 80235.

B. *Manual for the certification of laboratories analyzing drinking water for microbiological parameters*, New Mexico Environment Department, Drinking Water Bureau, 525 Camino de Los Marquez, Santa Fe, Suite 4, New Mexico 87501.

C. *Laboratory certification manual for chemistry and radiochemistry parameter, drinking water analysis*, New Mexico Environment Department, Drinking Water Bureau, 525 Camino de Los Marquez, Santa Fe, Suite 4, New Mexico 87501.

D. *Recommended standards for water works*, Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, P.O. Box 7126, Albany, New York 12224.

E. *Recommended standards for water facilities*, Construction Programs Bureau, New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, New Mexico 87503.

F. NSF listings - *drinking water treatment chemicals - health effects*, American National Standards Institute, NSF/ANSI 60, 25 West 43rd Street, New York, NY 10036.

G. NSF listings - *drinking water system components - health effects*, American National Standards Institute, NSF/ANSI 61, 25 West 43rd Street, New York, NY 10036.

H. NSF listings - *drinking water treatment units - health effects*, American National Standards Institute, NSF/ANSI 42, 44, 53, 58, 67, 177, 25 West 43rd Street, New York, NY 10036.

I. NSF listings - *plumbing system components - health effects*, American National Standards Institute, NSF/ANSI 14, 24, 25 West 43rd Street, New York, NY 10036.

J. List of approved backflow prevention assemblies, University of Southern California Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, Kaprielian Hall 200, Los Angeles, CA 90089-2531.

K. UL listings - *drinking water treatment additives*, Underwriters Laboratory, 333 Pfingston Road, Northbrook, IL 60062-2096.

L. UL listings - *drinking water treatment/filtration units*, Underwriters Laboratory, 333 Pfingston Road, Northbrook, IL 60062-2096.

M. UL listings - *drinking water system components and additives*, Underwriters Laboratory, 333 Pfingston Road, Northbrook, IL 60062-2096.

N. UL listings - *distribution and plumbing products*, Underwriters Laboratory, 333 Pfingston Road, Northbrook, IL 60062-2096.

O. *Cross connection control manual*, USEPA, Washington D.C., 20460, EPA 816-R-03-002.

[20.7.10.102 NMAC - N, 12/04/2002; A, 04/16/2007]

20.7.10.103 AVAILABILITY OF REGULATIONS AND MATERIALS INCORPORATED BY

REFERENCE: Regulations, materials incorporated by reference into this part and guidance documents are available for inspection at the New Mexico Environment Department Drinking Water Bureau, 525 Camino de Los Marquez, Suite 4, Santa Fe, New Mexico 87501.

[20.7.10.103 NMAC - R p 20 NMAC 7.1.XIII.1306, 12/04/2002; A, 04/16/2007]

20.7.10.104 - 20.7.10.199 [RESERVED]

20.7.10.200 PUBLIC WATER SYSTEM PROJECTS:

A. Except as provided in Paragraph (4) of Subsection B of this section, any person undertaking a public water system project shall use forms furnished by the department to notify the department of the project. Except as provided in Subsections B and C of this section, no person shall undertake a public water system project without first obtaining written approval of the project plan from the department.

B. The following public water system projects do not require approval from the department:

(1) a modification that involves the replacement or construction of less than 1,000 feet of distribution piping and appurtenances during any sixty calendar day period; or

(2) a modification that involves the replacement or construction of only distribution lines and appurtenances, pump stations, or pressure regulating facilities for which the public water system employs a water utility staff that includes, either by contract or direct employment, a professional engineer registered in New Mexico who is responsible for the project;

(3) installation of a hypochlorination system in a public water system under the following conditions:

(a) water is supplied by only ground water (not under the direct influence of surface water);

(b) the owner or operator of the system employs, by contract or direct employment, a water operator certified in New Mexico at the level required in the Utility Operator Certification regulations, 20.7.4 NMAC; and

(c) the certified operator is responsible for the project and certifies the inactivation level achieved by the hypochlorination system and the chemical and mechanical operating parameters at the minimum and maximum residual disinfectant levels;

~~(4)~~ (4) on-going operation and maintenance procedures; the following activities are considered to be on-going operation and maintenance procedures:

(a) pipeline leak repair;

(b) replacement of existing deteriorated pipeline where the new pipeline segment is the same size and alignment as the pipeline to be replaced;

(c) distribution pipeline additions where the pipeline size is the same as the main supplying the addition, the length is less than 500 feet and contiguous segments of new pipe total less than 1,000 feet in any sixty calendar day period;

(d) entry into a drinking water storage facility for the purposes of cleaning and maintenance;

(e) the replacement of chemical feed pumps and associated appurtenances;

(f) the replacement of electrical or mechanical equipment in an existing public water supply system; and

(g) the replacement of equipment or pipeline appurtenances with the same type, size and rated capacity (fire hydrants, valves, pressure regulators, meters, service laterals, chemical feeders and booster pumps including deep well pumps).

C. The plan approval requirement in this section ~~[may be waived for]~~ is satisfied when transmission, storage, and distribution projects proposed for implementation that are certified to be in conformance with a “master design plan” previously approved by the department. Such master design plans may be approved upon submission to the department and must at a minimum contain:

(1) identification of existing system components and service area;

(2) a complete set of standard plans, details, and specifications for any component or facility to be eligible for a waiver under this section; and

(3) written verification that the standard plans, details, and specifications have been adopted by ordinance or resolution in such a manner as to require their use in all associated projects.

D. All changes to the standard plans, details, or specifications must be approved by the department ~~[prior to being eligible for]~~ before the department will consider a waiver under this section.

E. To obtain a waiver, the owner of the system must submit, in lieu of the application materials in 20.7.10.201 NMAC, a written summary of the project and certification that the project will be installed in accordance with the approved drawings and specifications, signed by a registered professional engineer who is responsible for the design, development, or maintenance of the public water system. All waiver requests shall be properly documented prior to receiving the department’s approval.

[20.7.10.200 NMAC - Rp 20 NMAC 7.1.V.501 and 502, 12/04/2002; A, 04/16/2007; A, xx/xx/2012]

20.7.10.201 APPLICATIONS FOR PUBLIC WATER SYSTEM PROJECT APPROVAL:

A. Any person proposing to undertake a public water system project that requires the review and approval of the department shall complete, sign and submit an application to the department as described in this section.

B. The applicant shall submit an application to the department no less than thirty days prior to advertising the public water system project for bid or, if the project is not advertised for bid, not less than thirty days prior to the commencement of construction, except that the department may permit an applicant to advertise for bids or commence construction of a public water system project prior to the submission of a written application if, in the judgment of the department, exigent circumstances warrant a waiver of the thirty-day notice requirement. Permission to advertise for bids or commence construction without first submitting an application shall expire if the applicant does not submit a written application to the department that meets the requirements of this section within fifteen days of the date of permission.

C. The application shall be made on forms furnished by the department and shall include:

(1) one set of complete plans and specifications for the project; the plans and specifications must be prepared under the direct supervision of and sealed by a professional engineer registered in New Mexico;

(2) an engineering design summary which shall include engineering information that sets forth the basis of the project design;

(3) a plan to disinfect the system and sample for the presence of bacterial contamination following completion of the project and prior to providing water to the public; the criteria used by the department to review the adequacy of the plan shall include the current standards of the American water works association for disinfecting water mains, wells, water-storage facilities and water treatment plants;

(4) for ground water sources an inventory of existing and planned sources of actual and potential contamination located within one thousand (1,000) feet of a water source proposed to be utilized by the public water system; for surface water sources and ground water sources under the direct influence of surface water - an inventory of existing and planned sources of actual and potential contamination located within the water shed; and

(5) all other relevant information as needed by the department to determine compliance with this part.

D. ~~[The department shall require an applicant proposing to undertake a public water system project to]~~ An applicant proposing to undertake a public water system project shall submit, in addition to the materials set forth in Subsection C of this section:

(1) for projects involving the construction of a new community public water system, or conversion of a non-public water system to a public water system that has been classified as a community public water system, information and documents as required by the department demonstrating that the public water system has sufficient technical, managerial and financial capacity, such as a certified operator, testing equipment required to meet regulatory treatment techniques, ownership accountability, staffing and organization, revenue sufficiency, credit worthiness and fiscal management; and

(2) for projects involving the construction of a new water source:

(a) analytical results of nitrate sampling conducted during exploratory drilling or aquifer testing and prior to commencement of construction;

(b) the appropriate state engineer office permit (e.g., some ground water systems may submit an approved application for permit to appropriate underground water);

(c) analytical results for regulated and secondary contaminants sampling during exploratory drilling or aquifer testing and prior to commencement of construction; for the purpose of this section, sampling for contaminants where compliance is determined within the distribution system is not required;

(3) for projects involving the construction of distribution facilities, provision shall be made to include sufficient hydrants or blow-offs to provide for complete flushing of the newly constructed facilities; this may include reference to existing flushing appurtenances;

(4) for projects involving treatment of surface water using bag, cartridge or membrane filtration, a challenge test demonstrating performance; for projects involving membrane filtration, documentation of the log removal that can be verified by direct integrity testing shall also be submitted.

E. Projects involving treatment chemical, radiological or microbiological contaminants must utilize best available technologies identified in 40 CFR Part 141 or submit a performance demonstration conducted by a field testing organization.

(1) Field testing organizations may include engineering consulting firms, universities or other scientific organizations acceptable to the department. The field testing organization must:

(a) use a professional engineer to oversee the performance demonstration;

(b) conduct the performance demonstration using a protocol accepted by the department.

(2) Test protocols for demonstrating performance for treatment of chemical, radiological and microbiological (except *Cryptosporidium*) contaminants developed by the USEPA environmental technology verification program will be accepted by the department. The department will also consider other test protocols. Test protocols to demonstrate the performance of *Cryptosporidium* treatment shall meet the requirements of the

Long Term 2 Enhanced Surface Water Treatment Rule, 40 CFR Part 141 Section 715 (microbial toolbox options for meeting *Cryptosporidium* treatment requirements).

F. Point of use/point of entry treatment will be considered only for treatment of chemical contaminants, except nitrate, nitrite and chlorine dioxide, within systems serving not more than 100 service connections.

~~E.~~ G. Incomplete applications will not be reviewed. The department shall either approve an application, approve an application subject to conditions or deny an application, and shall notify the applicant by mail of such determination within thirty days after filing of a complete application pursuant to this section. The department shall not condition or in any manner require as part of an approval that the applicant use a specific process or type of equipment.

~~F.~~ H. The department may deny an application for a public water system project, in whole or in part, if the department determines that:

(1) any maximum contaminant level (MCL) or treatment technique set forth at 40 CFR Part 141 will not be met after completion of the project;

(2) any other requirement of 20.7.10 NMAC will not be met after completion of the project;

(3) the design of the project is inconsistent with generally acceptable standards for construction of public water systems and their components including, but not limited to, the recommended standards for water facilities, construction programs bureau, New Mexico environment department [~~1190 St. Francis Drive, Santa Fe, New Mexico 87502~~];

(4) the design of the project will not meet project goals;

(5) the public water system does not demonstrate sufficient technical, managerial or financial capacity; or

(6) an existing or planned source of actual or potential contamination may adversely impact a water source proposed to be utilized by the system; to make this determination, the department may require the applicant to submit analyses relating to hydrogeological, soil ~~or~~ and ground water conditions at the site, ~~and/or~~ and information regarding proposed technology or installation methods that may be employed to prevent or mitigate the impact of the contaminant source on the water source;

~~(7) a regulated contaminant will be injected into the source (e.g., chlorine pellet drop systems).~~

~~G.~~ I. The department's approval of an application is limited to the sanitary features of design and other features of public health significance. The department's approval of an application does not imply a guarantee of any type for the constructed project nor does it relieve the applicant from the responsibility for the overall integrity of the project, the adequacy of the project's design, or from the responsibility of complying with any of the provisions of this part or other applicable state and federal laws or regulations.

~~H.~~ J. The department is not responsible for increased costs resulting from defects in the plans, design drawings and specifications or any other contract documents.

~~I.~~ K. The applicant shall notify the department in writing when work on the public water system project is initiated. The department may inspect the project during construction and at completion to ensure compliance with the approved plans and specifications.

~~J.~~ L. If a public water system project receives approval from the department but does not commence construction within one year after the date of department approval, the supplier of water must submit a new application to the department.

~~K.~~ M. Any deviations from approved plans or specifications affecting capacity, operating units, the functioning of water treatment processes, or the quality of water to be delivered, shall be reported to the department in writing. If deemed appropriate, the department may require that revised plans and specifications be submitted for review. Revised plans or specifications shall be submitted to the department in time to permit the review and approval of such plans or specifications before any construction work, which will be affected by such changes, is begun. In the event that this requirement would result in construction delays, verbal approval by the department may be given followed by written ~~approval~~ review within 30 days. The applicant must submit a copy of the completed change order to the department as soon as possible for review, final approval and filing.

~~L.~~ N. Staff from the department, after reasonable notice and presentation of credentials, may make visits to the work site to assure compliance with these rules. In the event deficiencies are noted, the engineer will be notified in writing of any deficiency. All deficiencies must be resolved prior to the start-up of the system or component of the system.

~~M.~~ O. ~~[The department shall be informed when a public water supply system project, or well defined phase thereof, is at or near completion. The new or modified facility shall not be used to produce, store, distribute, or treat potable water for public consumption until the department has been notified in writing.]~~ The applicant shall

inform the department when a public water supply system project, or well-defined phase thereof, is at or near completion. A project is complete when the system has the treatment, storage and distribution (main) capacity required to supply water for human consumption to 15 or more service connections, regardless of whether the service connections are installed or are providing water. The new or modified facility shall not be used to produce, treat, store, or distribute water for human consumption until the department has been notified in writing. This notification shall consist of:

(1) a written statement from a registered professional engineer or representative of the water system that all conditions of project approval were accomplished; for projects that involve changes to surface water sources or ground water sources that are under the direct influence of surface water, removal efficiencies are to be determined for *E. coli* (analyzed by an enumeration method), *Cryptosporidium* (analyzed by a method specified in Section 40 CFR Part 141 Section 704 conducted by a laboratory approved for analysis of *Cryptosporidium* under the Safe Drinking Water Act), turbidity, and organisms detected in a surface water microscopic particulate analysis (MPA); plant detention time should be factored into sample collection so that raw and finished water samples are representative of the same water;

(2) evidence of proper flushing and disinfection in accordance with the appropriate ANSI/AWWA standard, including bacteriological sampling results;

(3) other water quality data where appropriate;

(4) all other documentation which may have been required during the plan review process; and

(5) confirmation that the water system owner has been provided with an operation and maintenance manual for the new facility, where appropriate;

(6) documents filed with the state engineer office: including the well log and proof of completion of well for ground water sources, and a proof of completion of works for surface water sources; these documents are required when the project includes construction of a new source or incorporation of an existing source into a public water supply system.

[N.] P. The supplier of water shall submit record or as-built plans and certification of project completion to the department within ninety days after completion of the project.

[20.7.10.201 NMAC - Rp 20 NMAC 7.1.I.109 and 20 NMAC 7.1.V.502, 12/04/2002; A, 04/16/2007; A, xx/xx/2012]

20.7.10.202 APPLICATION FOR WATER HAULING OPERATIONS:

A. Any person proposing to activate a water hauling operation shall complete, sign and submit an application to the department no later than thirty days prior to entering a service contract for delivering water for human consumption.

B. The application shall be made on forms furnished by the department and shall include:

(1) evidence that the system has an operator, certified at the highest level required for the water system under 20.7.4 NMAC, Utility Operator Certification;

(2) shop drawings and specifications from the tank manufacturer describing the water tank portion and other water delivery components of the vehicle;

(3) certification that the water tank and other water delivery components are approved for water for human consumption;

(4) verification that the water tank and other water delivery components have never come into contact with a non-potable or non-food grade product;

(5) contracts with active public water systems in New Mexico authorizing receipt of water or documentation of ownership of a public water system;

(6) a description of water hauling operation including the procedures for obtaining, storing, treatment of and delivery of water;

(7) disinfection plan for routine and seasonal disinfection.

[20.7.10.202 NMAC - N, xx/xx/2012]

20.7.10.203 - 20.7.10.299 [RESERVED]

20.7.10.300 COMPLIANCE; EMERGENCY POWERS:

A. No public water system shall supply drinking water to the public unless the system is operated and maintained in compliance with this part.

B. Powers of the secretary.

(1) The secretary may take any action necessary to protect the health of persons who are or may be served by a public water system, including but not limited to issuing orders, assessing penalties or commencing a civil action for appropriate relief:

(a) if the public water system fails to meet any requirement of this part;

(b) upon receiving information that a contaminant, whether or not listed in 40 CFR Part 141, Subparts B and G, is present in or likely to enter the public water system, that the presence of such contaminant may present an imminent and substantial endangerment to the health of persons served by the system, and that appropriate local authorities have not acted to protect the health of such persons; or

(c) in response to a civil emergency involving public drinking water; the secretary's response shall be coordinated, when appropriate, with other state emergency response and relief efforts.

(2) If the secretary determines that treatment of water is necessary for a public water system to meet the maximum contaminant levels set forth at 40 CFR Part 141, Subparts B and G, such treatment shall be continuously maintained until the public water system can demonstrate to the secretary that such treatment is no longer necessary.

[20.7.10.300 NMAC - Rp 20 NMAC 7.1.II.201, 12/04/2002; A, 04/16/2007]

20.7.10.301 - 20.7.10.399 [RESERVED]

20.7.10.400 GENERAL OPERATING REQUIREMENTS:

A. Protection of public water systems during routine maintenance or replacement of electrical or mechanical equipment. The owner or operator of a public water system shall prevent contamination of the water in the system while undergoing routine maintenance or replacement of electrical or mechanical equipment.

B. Security and protection of a public water system. All devices with lines or openings to the atmosphere without an approved backflow prevention device shall vent above the flood level and be fitted with a fine corrosion-resistant screen (24 mesh or smaller). Any part or component of a public water system including but not limited to spring junction boxes, well houses, storage reservoirs, collection devices, pump facilities, and treatment facilities shall be constructed, operated and maintained to prevent:

(1) unauthorized entry to the water supply;

(2) flooding of the water supply; and

(3) contamination of, the water supply.

C. Protection of a public water system well. A ground water supply well serving a public water system shall have a sanitary seal installed at the wellhead to protect against entry of storm water and other non-potable fluids or foreign materials and against access by insects, rodents, birds or other vermin. [Well] All vents installed in the well casing shall be protected against entrance of foreign material by installation of downturned and screened "U" bends with a fine corrosion-resistant screen (24 mesh or smaller). Well vents shall be above the flood level. If the well is completed in a subsurface vault, the casing shall extend above the flood level. All cracks, joints or other openings at the wellhead and all penetrations to the casing at or near the ground surface shall be tightly sealed with an impermeable material. The well seal will include a concrete pad with a minimum surface area of four square feet. The pad shall be centered around the well, be at least four inches thick and slope away from the well. When surface casing is used, the surface pad should seal the top of the annular space between the production casing and the surface casing.

D. Finished water storage facilities.

(1) A finished water storage facility shall be protected from flooding or infiltration of raw or non-potable water and from entry by birds, insects, rodents or other vermin. Overflow pipes and vents shall be screened with a corrosion-resistant material or be fitted with an acceptable flap valve, installed to seat properly. Access hatches or openings that are below the maximum operating water level shall be fitted with a watertight cover or appropriate seal or gasket. Roof hatches or other openings above the maximum operating water level shall be fitted with a watertight cover, appropriate seal or gasket, or framed above the surface of the tank at the opening. Framed hatches must be fitted with a solid cover that overlaps the framed opening and extends down around the frame. All framed hatches must restrict the entry of vermin or water.

(2) The tank shall be constructed, operated and maintained to provide adequate mixing. The department may require a system to demonstrate adequate mixing by measurement of water quality indicators such as temperature and disinfectant residual at the top and bottom of the tank. The department may also review records on fill rate and drawdown.

E. Notice to the department. If the safety precautions or preventive measures required to be employed under this section fail to protect the public water system from unauthorized entry or contamination, or if

the water supply is endangered for any reason, the supplier of water shall immediately notify the department and take appropriate action to protect the supply.

F. Disinfection following the completion of a public water system project requiring department approval. Any part or component of a public water system that has undergone construction or modification requiring department approval shall be flushed, disinfected and sampled for the presence of bacterial contaminants upon completion of the project and prior to providing water to the public. Disinfection and sampling shall be conducted in accordance with a plan submitted to and approved by the department pursuant to Paragraph (3) of Subsection C of 20.7.10.201 NMAC.

G. Disinfection following construction, modification or repair not requiring department approval. Any part or component of a public water system that has undergone repair, construction or modification not requiring department approval shall be flushed, disinfected and sampled in accordance with the current editions of the *standards for disinfecting water mains*, American water works association; *standards for disinfection of wells*, American water works association; *standards for disinfection of water-storage facilities*, American water works association; and *standards for disinfection of water treatment plants*, American water works association.

H. Disinfection of seasonally operated facilities. A public water system that operates on a seasonal basis shall be flushed and disinfected following the non-use period and shall conduct special sampling to demonstrate the absence of bacterial contaminants in the system prior to providing drinking water to the public. During the public water system's non-use period, the public water system shall be maintained to prevent unauthorized entry to, and contamination of, the water supply.

I. Maintenance and disinfection of storage structures. All materials used to re-coat or repair the interior of water storage structures must be suitable for potable water contact. After the interior of a storage structure has undergone maintenance or re-coating, the storage structure must be flushed and disinfected pursuant to Subsection G of this section.

J. Prohibition of iodine as a disinfectant. No public water system shall use iodine as a disinfectant.

K. ~~Direct and indirect additives. A component, material, treatment chemical or other substance that may come into contact with drinking water shall be certified by an independent, third party certifier accredited by ANSI as meeting at a minimum the most recent version of NSF/ANSI standard 60: drinking water treatment chemical health effects, or NSF/ANSI standard 61: drinking water system components health effects.~~ Standards for additives, materials and equipment. Each product added directly to water during production or treatment, including treatment in storage and distribution, shall conform to American national standards institute (ANSI) or national sanitation foundation international (NSF) Standard 60. Products covered by this subsection include but are not limited to:

- (1) coagulation and flocculation chemicals;
- (2) chemicals for corrosion and scale control;
- (3) disinfection for softening, precipitation, sequestering, and pH adjustment;
- (4) disinfection and oxidation chemicals;
- (5) chemicals for fluoridation, defluoridation, algae control, and dechlorination;
- (6) dyes and tracers;
- (7) antifreezes, antifoamers, regenerants, and separation process scale inhibitors and cleaners; and
- (8) water well drilling and rehabilitation aids.

L. Except as identified in Subsections N and O, a material or product that comes into contact with water or water treatment chemical shall conform to ANSI/NSF Standard 61. Products and materials covered by this subsection include but are not limited to:

- (1) process media, such as carbon and sand;
- (2) joining and sealing materials, such as solvents, cements, welding materials, and gaskets;
- (3) lubricants;
- (4) pipes and related products, such as tanks and fittings;
- (5) mechanical devices used in treatment, transmission, or distribution systems such as valves, chlorinators, and separation membranes; and
- (6) surface coating and paints.

M. The appearance on the project or product package seal of a certifying entity that is accredited by the ANSI to provide the certification shall be considered as evidence that a product conforms to the requirement of this section.

N. Chemicals and additives certified as conforming to the NSF are deemed to satisfy the requirements of this section. In those instances where chemicals, additives and drinking water system components that come into

contact with drinking water are essential to the design, construction or operation of the drinking water systems and have not been certified by the NSF, the operator may utilize the following alternatives:

(1) chemicals and additives composed entirely of ingredients determined by the USEPA, the food and drug administration or other federal agencies as appropriate for addition to potable water or aqueous food;

(2) chemicals and additives composed entirely of ingredients listed in the national academy of sciences water chemicals codex;

(3) chemicals, additives and drinking water system components consistent with the specifications of the American water works association;

(4) chemicals, additives and drinking water system components that are designed for use in drinking water systems and that are consistent with the specifications of the American society for testing and materials.

O. The following materials and products are exempt from the requirement to conform to ANSI/NSF Standard 61:

(1) a concrete structure, tank, or treatment basin that is constructed onsite if the structure, tank, or basin is not normally coated or sealed and the construction materials used in the concrete are consistent with Subsection N; if a coating or sealant is specified by the design engineer, the coating or sealant shall comply with ANSI/NSF Standard 61;

(2) an earthen reservoir or canal located upstream of water treatment;

(3) a water treatment plant that is comprised of components that comply with Subsections L and N;

(4) a synthetic tank constructed of material that meets food and drug administration standards for a material that comes into contact with drinking water or aqueous food, or a galvanized steel tank, provided that in either case the tank is:

(a) less than 15,000 gallons in capacity; and

(b) used in a public water system with 500 or fewer service connections; or

(5) a pipe, treatment plant component, or water distribution system component made of lead-free stainless steel.

~~[L.]~~ **P.** Cross-connections. Cross-connections to a public water system or within a public water system shall be prohibited, unless the public water system is protected by a method acceptable to the department using either a device listed by the university of southern California foundation for cross connection control and hydraulic research or a device acceptable to the department to prevent the back flow of water.

~~[M.]~~ **Q.** Operator certification. Public water systems shall comply with the utility operator certification requirements in the Utility Operator Certification Act, NMSA 1978, 61-33-1 et seq. as amended, and in regulations and program requirements adopted pursuant to the Safe Drinking Water Act.

[20.7.10.400 NMAC - Rp 20 NMAC 7.1.II.208, 12/04/2002; A, 04/16/2007; A, xx/xx/2012]

20.7.10.401 GENERAL OPERATING REQUIREMENTS FOR WATER HAULERS:

A. Water haulers shall purchase for delivery disinfected water only from public water systems that are part of the state drinking water information system (SDWIS) inventory and do not pose an acute health threat based on violation of a maximum contaminant level or treatment technique.

B. Disinfection is required when the tank has not been used for more than five consecutive days and every three months during continuous operation.

C. Trucks used to haul water will be inspected on the same schedule as sanitary surveys are conducted.

D. The water hauler must measure and record the disinfectant residual at the time and place the water is obtained from the wholesaler and when the water is delivered to the customer.

E. The water hauler must maintain a record of the date and time that the water hauling truck is disinfected.

F. Each water hauler shall comply with the sampling requirements applicable to consecutive systems in accordance with Subsection E of 20.7.10.500 NMAC.

G. The water tank(s) must be available for inspection by the department. At the time of the inspection the tank shall be clean and empty and have a hatch or other opening to facilitate internal inspection.

H. The water tank must have the following features.

(1) Hatches or openings must have watertight covers.

(2) The tank drain must allow for complete draining of the tank.

(3) All hoses and other dispensing units must be equipped with water tight caps.

[20.7.10.401 NMAC - N, xx/xx/2012]

20.7.10.402 - 20.7.10.499 [RESERVED]

20.7.10.500 SAMPLING REQUIREMENTS:

A. Pursuant to NMSA 1978, 74-1-13.1, the department shall test non-transient non-community water systems for arsenic, fluoride and radionuclides. The reporting and public notification requirements for non-community water systems for these contaminants shall be identical to those for community water systems as set forth in 40 CFR Subpart Q. This section applies when the system has the treatment, storage and distribution (main) capacity required to supply water for human consumption to 15 or more service connections, regardless of whether the service connections are complete.

B. ~~[A supplier of water shall begin routine sampling in accordance with 40 CFR Part 141 within ninety days after commencing operation of a public water system.]~~ Each supplier of water shall begin routine sampling within 90 days after activation of a public water system facility for contaminants required in 40 CFR Part 141.

C. All public water systems shall conduct sampling at the rates set forth in 40 CFR Part 141, Subpart C, except that non-transient non-community systems shall conduct coliform sampling at the same rates as like-sized community water systems in 40 CFR 141.21(a)(2) and consecutive systems (including water haulers) shall sample as required in Subsection E. The department may order a supplier of water, when necessary, to conduct more frequent sampling than is required under 40 CFR Part 141.

D. The department may order a public water system that uses two or more water sources to collect special purpose samples directly from the water sources, in addition to routine samples from sampling points as required under 40 CFR Part 141.

E. Consecutive systems shall collect samples for those contaminants for which monitoring is required in the distribution system. This includes measurement of disinfectant residuals and collection of samples for total coliform, lead and copper, and disinfection byproducts.

F. All water systems must have sampling taps to collect water representative of each applicable facility: source, treatment, storage, entry point and distribution.

G. For systems subject to triggered monitoring under the 40 CFR Part 141 ground water rule, a source water sample must be collected for each total coliform positive sample from the distribution system.

H. Community water systems that add fluoride to the drinking water system must maintain monthly operating reports on forms provided by the department. Fluoride will be measured at the entry point daily using a field test kit. If the fluoride concentration in a field test is greater than 2 mg/L, the water system is required to submit an entry point sample in accordance with 40 CFR Part 141 Section 23. If the fluoride concentration in a sample analyzed in accordance with 40 CFR Part 141 Section 23 is greater than 2 mg/L, the water system is required to notify the public as required in 40 CFR Part 141 Section 208.

[20.7.10.500 NMAC - Rp 20 NMAC 7.1.III.301, 12/04/2002; A, 04/16/2007; A, xx/xx/2012]

20.7.10.501 LABORATORIES:

A. The department may certify or decertify laboratories to conduct microbiological, chemical and radiological analyses in accordance with most recent editions of the department's [~~“Manual for the Certification of Laboratories Analyzing Drinking Water for Microbiological Parameters” and “Laboratory Certification Manual for Chemistry and Radiochemistry Parameter, Drinking Water Analysis.”~~] laboratory certification guidance manuals. Certification issued by the department under this section shall be valid for no longer than three years.

B. The department may accept any sample for purposes of determining compliance with this part if such sample has been analyzed by a laboratory certified by the USEPA or the department.

C. Laboratories shall report data from samples collected from compliance with these regulations through an electronic data interface (EDI) upload to the safe drinking water information system (SDWIS) state database within 10 days of analysis and final review.

[20.7.10.501 NMAC - Rp 20 NMAC 7.1.III.309, 12/04/2002; A, xx/xx/2012]

20.7.10.502 VALIDATION OF ANALYTICAL DATA OR CONDITIONS: The department may take any action it deems necessary to validate the results of a sample taken pursuant to this part. Data that the department determines to be invalid shall not be used to determine compliance with this part.

[20.7.10.502 NMAC - Rp 20 NMAC 7.1.III.311, 12/04/2002]

20.7.10.503 DEPARTMENT MONITORING AND SAMPLING: All public water systems are required to have sample taps where samples representative of water quality at the source, treatment, storage, entry point, and the

distribution system can be collected. Nothing in this part shall be construed to preclude the department from taking samples or from using the results from such samples to determine compliance with this part or in an enforcement proceeding for violation of this part. Sample taps shall be:

- A. located outside of confined spaces; and
- B. labeled with the sampling point number identified in the safe drinking water information system (SDWIS) database; the label shall be permanent and legible.

[20.7.10.503 NMAC - Rp 20 NMAC 7.1.III.312, 12/04/2002; A, xx/xx/2012]

20.7.10.504 INSPECTIONS, INVESTIGATIONS AND SANITARY SURVEYS:

A. The secretary may, upon the presentation of proper credentials and after receiving consent from the supplier of water, enter at reasonable times upon or through the premises of any public water system to conduct a sanitary survey, inspection or investigation and during such survey, inspection or investigation:

- (1) have access to and copy, at reasonable times, any records required to be kept pursuant to this part;
- (2) inspect or review any monitoring equipment or methods required under this part; and
- (3) sample or otherwise test the water supplied by such system;
- (4) have access to public water system facilities for visual inspection.

B. If permission to enter a public water system to conduct a sanitary survey, inspection or investigation in accordance with Subsection A of this section is denied, the secretary may apply to a court of competent jurisdiction for an order allowing for such entry.

C. To aid the secretary in conducting sanitary surveys, inspections or investigations pursuant to this part, the supplier of water or his duly authorized representative shall, prior to the commencement of such inspection or investigation, be given the opportunity to accompany the inspector upon or through the premises of the public water system.

[20.7.10.504 NMAC - Rp 20 NMAC 7.1.I.108, 12/04/2002; A, xx/xx/2012]

20.7.10.505 REPORTING: In addition to the reporting requirements in 40 CFR Part 141, operators of water systems shall submit the following reports electronically on forms furnished by the department:

A. monthly operating reports required of surface water systems and ground water systems under the direct influence of surface water systems;

B. pressure decay direct integrity testing required of surface water and ground water under the direct influence of surface water systems that use membrane filtration.

[20.7.10.505 NMAC - N, xx/xx/2012]

20.7.10.506 - 20.7.10.599 [RESERVED]

20.7.10.600 PUBLIC NOTIFICATION:

A. Non-transient non-community water systems that exceed the MCL for arsenic or radionuclides set forth at 40 CFR sections 141.11, 141.62 and 141.66 or exceed one-half the MCL for fluoride set forth at 40 CFR section 141.62 shall comply with the public notification requirements set forth at 40 CFR Subpart Q.

B. A supplier of water shall notify persons served by the public water system to boil water used for drinking or culinary purposes if routine coliform samples indicate the presence of bacterial contamination which would not otherwise trigger the public notice requirements set forth at 40 CFR Subpart Q but which, in the judgment of the department, poses a threat to public health and safety. If the supplier of water fails to provide notice on its own, or at the direction of the department, the department may directly notify the persons served by the system.

C. If the safety of a water supply is endangered for any reason, the supplier of water shall notify persons served by the public water system of appropriate action to protect themselves against any waterborne hazards. If the supplier of water fails to take such action on its own, or at the direction of the department, the department may directly notify the persons served by the system.

[20.7.10.600 NMAC - Rp 20 NMAC 7.1.IV.402, 12/04/2002; A, 04/16/2007]

20.7.10.601 - 20.7.10.699 [RESERVED]

20.7.10.700 SEVERABILITY: The provisions of this part shall be severable, and if any section, subsection, paragraph, subparagraph, sentence, clause, subclause or item of this part, or the applicability thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, and the application thereof, but shall be confined in its operation to the

section, subsection, paragraph, subparagraph, sentence, clause, subclause or item thereof, or to the person or circumstance directly involved in the controversy in which such judgment shall have been rendered.
[20.7.10.700 NMAC - Rp 20 NMAC 7.1.XIII.1301, 12/04/2002]

20.7.10.701 SAVING CLAUSE: Repeal of 20 NMAC 7.10 shall not affect any administrative or judicial enforcement action pending on the effective date of this part.
[20.7.10.701 NMAC - Rp 20 NMAC 7.1.XIII.1305, 12/04/2002]

20.7.10.702 CONSTRUCTION: This part shall be liberally construed to effectuate the purpose of the state act.
[20.7.10.702 NMAC - Rp 20 NMAC 7.1.XIII.1303, 12/04/2002]

20.7.10.703 COMPLIANCE WITH OTHER REGULATIONS: Compliance with this part does not relieve a person from the obligation to comply with other applicable state and federal regulations.
[20.7.10.703 NMAC - Rp 20 NMAC .1.XIII.1302, 12/04/2002]

20.7.10.704 EFFECT OF STAY OR INVALIDATION OF INCORPORATED FEDERAL STANDARDS: If any federal standard or regulation incorporated by reference in this part is stayed, invalidated or otherwise rendered unenforceable, in whole or in part, by action of a federal court or USEPA, such incorporated federal standard or regulation shall be enforceable by the department only to the extent it is enforceable by USEPA.
[20.7.10.704 NMAC - N, 12/04/2002]

HISTORY OF 20.7.10 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records-State Records Center and Archives:

EIB 77-1, Regulations Governing Water Supplies, filed 12-12-77;
WSR 1, Regulations Governing Water Supplies, filed 3-11-85;
EIB/WSR 1, Regulations Governing Water Supplies, filed 7-16-86;
EIB/WSR 2, Regulations Governing Water Supplies, filed 9-12-88;
EIB/WSR 3, Water Supply Regulations, filed 4-16-91.

History of Repealed Material:

20 NMAC 7.1, Wastewater and Water Supply Facilities - Drinking Water, 1-1-95.

Other History:

EIB/WSR 3, Water Supply Regulations, filed 4-16-91 was renumbered, amended, and replaced by 20 NMAC 7.1, Wastewater And Water Supply Facilities - Drinking Water, filed 12-01-94.
20 NMAC 7.1, Wastewater And Water Supply Facilities - Drinking Water, filed 12-01-94, **replaced** by 20.7.10 NMAC, Wastewater And Water Supply Facilities - Drinking Water, effective 12/04/2002.