

STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD



IN THE MATTER OF PROPOSED REVISIONS TO:
20.7.10. NMAC *Drinking Water*

No. EIB 11-18(R)

PETITION FOR REGULATORY CHANGE

The New Mexico Environment Department (“Department”), pursuant to 20.1.1 NMAC – *Rulemaking Procedures*, hereby petitions the Environmental Improvement Board (“Board”) to amend 20.7.10 NMAC. A statement of reasons explaining the purpose of each revision, and a complete copy of 20.7.10 NMAC with the proposed changes, are attached. The Environmental Improvement Board is authorized to adopt these amendments by the Environmental Improvement Act, NMSA 1978 § 74-1-8.

The Department requests that the Board, during its regular meeting on September 2, 2011, schedule a hearing on the merits of this matter in December, 2011. The Department anticipates that its testimony regarding the revisions to Part 10 will require an hour.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
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**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED REVISIONS TO:
20.7.10 NMAC *Drinking Water*
Regarding the Adoption of 40 CFR Part 141**

No. EIB 11-~~18~~ (R)

STATEMENT OF REASONS

1 The New Mexico Environment Department (Department) proposes revision of 20.7.10 NMAC in
2 order to incorporate the National Primary Drinking Water Regulations (NPDWR), 40 CFR Part
3 141, by reference. New Mexico has primary enforcement responsibility for public water
4 systems. Per 40 CFR § 142.10(a), in order to maintain this authority the state must adopt
5 drinking water regulations which are no less stringent than the NPDWR.
6

7 The Department also proposes revisions to the regulations that clarify implementation of the
8 New Mexico drinking water program. These revisions will increase standardization of the
9 drinking water program. Project development will be informed by regulations that clearly
10 enumerate expectations. Resources within the Department, the regulated community and
11 consultants representing the regulated community will be better utilized.
12

13 The philosophy behind the development of these regulations was to provide performance
14 standards rather than prescriptive requirements where possible. A draft was forwarded to
15 drinking water bureau staff for review. Then, face to face and telephone meetings were
16 conducted with staff by section (engineering, compliance, sampling, data, financial, enforcement,
17 capacity development, bureau chief). Based on input from staff, a revised draft was created and
18 published within the bureau for review. Comments on that draft were addressed in a version that
19 was published on the drinking water bureau web page. This "final draft" was presented to the
20 stakeholders named below. Comments from stakeholders have been addressed in the regulation
21 revision presented for your consideration.
22

23 The following groups of stakeholders were contacted in order to prepare this document:

- 24 • Drinking Water Advisory Group
- 25 • New Mexico Municipal League
- 26 • Albuquerque/Bernalillo County Water Authority
- 27 • Bernalillo County Office of Environmental Health
- 28 • New Mexico Rural Water Association
- 29 • Engineering Consulting Firms with Active Projects in New Mexico
- 30 • New Mexico Environment Department Drinking Water Bureau Staff
- 31 • Public Water Systems with Active Projects in New Mexico
- 32 • General Public (posting at <http://www.nmenv.state.nm.us/dwb/index.htm>)

1 This document reflects the Department’s response to input from stakeholders. Comments were
2 received from the following stakeholders:

- 3 • Albuquerque/Bernalillo County Water Authority for the New Mexico Municipal League
- 4 • Bernalillo County Office of Environmental Health
- 5 • New Mexico Rural Water Association
- 6 • New Mexico Environment Department Drinking Water Bureau Staff

7
8 The Department proposes the following changes to Part 10. The reasons for the changes
9 proposed in each section are stated in *italics* below.

10
11 **1. Section 2**

12 *The Department proposes adding language to this section specifying the scope of Part 10. The*
13 *added language is incorporated by reference at 20.7.10.100 NMAC (incorporating 40 CFR*
14 *§141.3). It is added to 20.7.10.2 NMAC so that the applicability of the document to the reader*
15 *can be determined early in the document.*

16
17 **20.7.10.2 SCOPE:** All persons who own or operate a public water system or for parts 200 and 201, any
18 persons constructing a public water system project. This part shall apply to each public water system, unless the
19 public water system meets all of the following conditions: (a) it consists only of distribution and storage facilities
20 (and does not have any collection and treatment facilities); (b) it obtains all of its water from, but is not owned or
21 operated by, a public water system to which such regulations apply; (c) it does not sell water to any person; and (d)
22 it is not a carrier which conveys passengers in interstate commerce.
23 [20.7.10.2 NMAC - Rp 20 NMAC 7.1.1.2, 12/04/2002]

24
25 **2. Section 3**

26 *The Department proposes adding language to this section to make explicit the authority to*
27 *enforce the rules, regulations and orders promulgated by the Board and environmental*
28 *management and consumer protection laws for which the Department is responsible by*
29 *appropriate action in courts of competent jurisdiction. This authority is given in NMSA 74-1-*
30 *6.F. NMSA 74-1-10 gives the Department the authority to assess penalties. A penalty imposed*
31 *for violation of drinking water regulations 20 NMAC 7.1 or permit conditions shall not exceed*
32 *one thousand dollars (\$1,000) per violation per day. In assessing the penalty, the secretary shall*
33 *take into account the seriousness of the violation and any good-faith efforts to comply with the*
34 *applicable requirements. Having this authority is a condition of the federal grants that fund the*
35 *program.*

36
37 **20.7.10.3 STATUTORY AUTHORITY:** NMSA 1978, Sections 74-1-6, 74-1-8, 74-1-10, 74-1-13 and 74-
38 1-13.1.
39 [20.7.10.3 NMAC - Rp 20 NMAC 7.1.1.3, 12/04/2002; A, 04/16/2007]

40 ...

41
42 **3. Section 7**

43 *Paragraph A, “As built drawings” was deleted because the term is outdated. Paragraphs B*
44 *through E (“CFR,” “Cross-connection,” “Department,” “Guidance document,”) were re-*
45 *lettered to reflect deletion of the term in Paragraph A. Paragraph E “Human consumption” is a*
46 *definition that has been interpreted by the U.S. Environmental Protection Agency, but is not*
47 *included in the federal regulations explicitly. Paragraph F “Modification” is revised to clarify*
48 *the definition. Paragraph G “non-public” is revised so that the New Mexico drinking water*

1 regulations are at least, but not more, stringent than the federal regulations. Paragraph I
2 "Record drawings" was revised to clarify the definition. Paragraph J, "Routine Maintenance"
3 and Paragraph K "Sample tap" were added to clarify implementation of the New Mexico
4 drinking water program. The term "Routine maintenance" is necessary to identify projects that
5 do not require approval. Paragraphs J through N ("Sanitary survey," "Secretary," "Service
6 connection," "State act," and "USEPA") were re-lettered to reflect additions of new terms.
7 Addition of a new term, "Water hauler," in Paragraph Q was necessary to support subsequent
8 sections that clarify the New Mexico drinking water program.

9
10 **20.7.10.7 DEFINITIONS:** In addition to the terms defined in 40 CFR Parts 141 and 143, the following
11 terms, as used in this part shall have the following meanings.

12 ~~A. "As-built drawings" means construction drawings that show details of work as originally planned
13 plus modifications and deviations to reflect actual construction.~~

14 **BA.** "CFR" means the code of federal regulations.

15 ~~CB.~~ **CB.** "Cross-connection" means any unprotected actual or potential connection or structural
16 arrangement between a public water system and any other source or system through which it is possible to introduce
17 into any part of the public water system any contaminant or non-potable substance.

18 ~~DC.~~ **DC.** "Department" means the New Mexico environment department.

19 ~~ED.~~ **ED.** "Guidance document" means any manual or other document developed or adopted by the
20 department for official use to provide general direction, instruction or advice to department employees in
21 determinations regarding application of or compliance with regulations.

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

27 ~~F. "Modification" means a change, installation, addition, rehabilitation, the replacing, changing,
28 installing, adding to, or construction of a component of an existing public water system to increase or decrease the
29 system's capacity to draw or supply water or to improve its performance or service life. For the purposes of this
30 part, "modification" does not include neither routine maintenance nor the replacement of electrical or mechanical
31 equipment is a modification for purposes of this part.~~

32 ~~G. "Non-public water system" means a system that does not meet the definition of a public water
33 system as defined in 40 CFR Part 141 for the provision of water for human consumption for domestic purposes, if
34 such system does not have at least fifteen service connections and does not regularly serve an average of twenty-five
35 individuals at least sixty days out of the year.~~

36 ~~H. "Public water system project" or "project" means the construction of a new public water system,
37 modification to an existing public water system, or conversion of a non-public water system to a public water
38 system.~~

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

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

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

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

52 ~~KM.~~ **KM.** "Secretary" means the secretary of the environment department, or an authorized representative.

53 ~~LN.~~ **LN.** "Service connection" means, regardless of whether in use, a pipe, hose, appurtenance, constructed
54 conveyance or any other temporary or permanent connection between a public water system and a user.

- 1 **MO.** "State act" means the Environmental Improvement Act, NMSA 1978, Section 74-1-1 et seq.
2 **NP.** "USEPA" means the United States environmental protection agency.
3 **O.** "Water hauler" means a person that delivers water, from a source it owns, or through a contract to

4 purchase water from another legal entity, in batch lots to people who do not otherwise have access to water for
5 human consumption.

6 [20.7.10.7 NMAC - Rp 20 NMAC 7.1.I.103, 12/04/2002; A, 04/16/2007]
7

8 4. Section 8 (New Section)

9 *This section was added in order to standardize population determinations by Department staff*
10 *throughout the state. Paragraph A is the method for determining the population of community*
11 *water systems. It is based on an objective metric, data collected by the U.S. census bureau.*
12 *Paragraph B is the method for determining the population of noncommunity water systems. The*
13 *water system is considered the most accurate source for the data required for the population*
14 *determination in this type of system. Paragraph C makes allowance for situations where the*
15 *methods in Paragraph A and Paragraph B are not appropriate. The onus is on the water system,*
16 *however, to demonstrate that another method more accurately captures the population served. If*
17 *the Department accepts an alternate method to determine the population, this will be*
18 *documented in writing.*

19 20.7.10.8 DOCUMENTATION REQUIRED FOR POPULATION DETERMINATION

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

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

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

32 D. The department will document, in writing, the determination that a population that differs from the
33 population outlined in subsections A and B of this subsection.
34

35 5. Section 8 through Section 99 [RESERVED]

36 *The first section was renumbered to reflect addition of a new section.*

37 20.7.10.89 - 20.7.10.99 [RESERVED]
38

39 6. Section 100

40 *Paragraph A of Section 100 was revised so that New Mexico drinking water regulations are*
41 *always at least as stringent as federal regulations. This is a drinking water program grant*
42 *condition. This approach is consistent with the New Mexico Commission of Public Records*
43 *general provisions governing rules.*
44

45 *Paragraph 3 of Subsection B of 1.24.10.22 NMAC states: "References to U.S. law shall be*
46 *deemed to be references to the current version of such law, including subsequent amendments,*
47 *unless otherwise expressly stated in the rule."*
48
49

1 *The definition of U.S. law is provided in Subsection ZZ of 1.24.1.7 NMAC: "U.S. law" means*
2 *the United States code, the code of federal regulations, the federal register, New Mexico statutes,*
3 *published portions of the NMAC and any material referenced therein."*

4
5 *Therefore, a reference to 40 CFR Part 141 within 20.7.10 NMAC that is not limited as to date,*
6 *refers to the current version of that regulation.*

7
8 *Paragraph C of Section 100 was revised so that the reference for the term "service connection"*
9 *will not need to be updated.*

10
11 **20.7.10.100 ADOPTION OF 40 CFR PART 141:**

12 **A.** Except as otherwise provided in this section, the regulations of the USEPA set forth at 40 CFR
13 Part 141 through July 1, 2007 are hereby incorporated by reference into this part. ~~Notwithstanding the incorporation~~
14 ~~of 40 CFR Part 141 through July 1, 2007, the following USEPA regulations are also incorporated by reference to the~~
15 ~~extent that they amend Part 141: Lead and Copper Rule, 72 Fed. Reg. 57782 (Oct. 10, 2007).~~

16 ...

17 **C.** The term "service connection" has the meaning set forth in ~~Subsection L of Section~~ 20.7.10.7
18 NMAC, in addition to the meaning set forth in 40 CFR section 141.2.
19 [20.7.10.100 NMAC - N, 12/04/2002; A, 04/16/2007; A, 10/15/2008]

20
21 **7. Section 101**

22 *Paragraph A of Section 101 was revised so that national secondary drinking water regulations*
23 *are incorporated into the New Mexico drinking water regulations perpetually. As explained with*
24 *respect to Section 100, above, this approach is consistent with the New Mexico Commission of*
25 *Public Records general provisions governing rules.*

26
27
28 *The reference to 40 CFR 143 within 20.7.10 NMAC that is not limited as to date will be deemed*
29 *a reference to the current version of that regulation.*

30
31 **20.7.10.101 ADOPTION OF 40 CFR PART 143:**

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

34 ...

35
36 **8. Section 200**

37 *Paragraph A was revised because the Department requires notification of all projects, but not*
38 *all projects require approval. Approval is for a specific project plan.*

39
40 *Subparagraph B.3 was added in order to allow water systems to reduce costs by installing*
41 *hypochlorination systems under the direction of a certified operator rather than a registered*
42 *engineer. The conditions are limited so that the work does not constitute design. Installations*
43 *outside the parameters listed in this subparagraph are to be completed by a professional*
44 *engineer registered in New Mexico who is responsible for the project.*

45
46 *The existing subparagraph B.3 was re-numbered to subparagraph B.4 to reflect addition of*
47 *subparagraph B.3.*

1 *The language in Paragraph C was revised to make it clear that the satisfaction of Part 200*
2 *requirements under Paragraph C (through prior approval of a master plan) is not a “waiver” of*
3 *the requirements of Part 200.*

4
5 **20.7.10.200 PUBLIC WATER SYSTEM PROJECTS:**

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

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

11 ...
12 (3) installation of a hypochlorination system in a public water system under the following conditions

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

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

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

20 (34) on-going operation and maintenance procedures; the following activities are considered to be on-
21 going operation and maintenance procedures:

22 ...
23 **C.** The plan approval requirement in this section is satisfied when~~may be waived for~~ transmission,
24 storage, and distribution projects proposed for implementation ~~that~~ are certified to be in conformance with a “master
25 design plan” previously approved by the department. Such master design plans may be approved upon submission
26 to the department and must at a minimum contain:

27 ...
28 **D.** All changes to the standard plans, details, or specifications must be approved by the department
29 ~~prior to being eligible for a waiver under this section.~~

30 ...
31 **9. Section 201**

32 *Subparagraph C.4 was revised to make it clear that the existing boundaries apply to*
33 *contaminant surveys of ground water sources. Language was added to include the boundaries*
34 *for contaminant surveys of surface water sources.*

35
36 *The introduction to Paragraph D was revised to indicate that requirements are of the applicant*
37 *rather than of the Department.*

38
39 *Subparagraph D.1 was revised to limit the capacity demonstration to community public water*
40 *systems and to require the same capacity demonstration of non-public water systems that convert*
41 *to a community public water system as required of new community public water systems.*

42
43 *Subparagraph D.2 was revised to standardize the documentation required during the project*
44 *review. All projects involving a new source or conversion of an existing source will require*
45 *documentation from the state engineer office, analytical testing, and technology performance*
46 *verification.*

47
48 *Paragraphs E through N were re-lettered to reflect addition on new paragraphs.*

1 Paragraph E specifies requirements for projects involving treatment for chemical, radiological,
2 or microbiological contaminants.

3
4 Paragraph F excludes the use of point-of-use and point-of-entry treatment systems for
5 contaminants that pose an acute health risk. It also limits the use of this technology to water
6 systems that serve no more than 100 service connections.

7
8 Language was added to Paragraph G to inform the applicant that the application will not be
9 reviewed until it is complete.

10
11 The address was removed from subparagraph H.3 so that a change in address for the bureau
12 does not necessitate a regulation revision.

13
14 Subparagraph H.7 explicitly gives the Department authority to deny an application that will
15 result in a regulated contaminant being injected into the source.

16
17 The change in Paragraph M is to clarify that deviations will be reviewed within 30 days. The
18 deviation may be approved, approved with conditions or denied.

19
20 Paragraph O covers the requirements for project completion certification. The Department's
21 use of the term "complete" is clarified. The word "treat" was inserted before the word "store"
22 so that the natural process flow sequence is reflected in this paragraph. Properly designed
23 systems produce, treat, then store (providing more contact time for disinfection), then distribute
24 water for human consumption. Standardized language is used by adding the word "human."

25
26 Subparagraph O.1 lists additional requirements for projects that involve changes to surface
27 water sources.

28
29 Subparagraph O.6 requires the documentation filed with the state engineer's office to be
30 included in the project completion certification.

31
32 Paragraph P requires record drawings to be submitted in an electronic format acceptable to the
33 Department.

34
35 **20.7.10.201 APPLICATIONS FOR PUBLIC WATER SYSTEM PROJECT APPROVAL:**

36 ...

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

38 ...

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

43 ...

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

46 (1) for projects involving the construction of a new community public water system, or conversion of
47 a non-public water system to a public water system that has been classified as a community public water system,
48 information and documents as required by the department demonstrating that the public water system has sufficient

1 technical, managerial and financial capacity, such as a certified operator, testing equipment required to meet
2 regulatory treatment techniques, ownership accountability, staffing and organization, revenue sufficiency, credit
3 worthiness and fiscal management; and

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

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

7 (b) the appropriate state engineer office permit (e.g., some ground water systems may submit an
8 approved Application for Permit to Appropriate Underground Water);

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

12 ...

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

16 **E.** Projects involving treatment for chemical, radiological or microbiological contaminants must
17 utilize best available technologies identified in 40 CFR Part 141 or submit a performance demonstration conducted
18 by a field testing organization. Field testing organizations may include engineering consulting firms, universities or
19 other scientific organizations acceptable to the department. The field testing organization must:

20 (1) use a professional engineer to oversee the performance demonstration

21 (2) conduct the performance demonstration using a protocol accepted by the department. Test
22 protocols for demonstrating performance for treatment of chemical, radiological and microbiological (except
23 *Cryptosporidium*) contaminants developed by the USEPA Environmental Technology Verification Program will be
24 accepted by the department. The department will also consider other test protocols. Test protocols to demonstrate
25 the performance of *Cryptosporidium* treatment shall meet the requirements of the Long Term 2 Enhanced Surface
26 Water Treatment Rule, 40 CFR§141.715 (Microbial toolbox options for meeting *Cryptosporidium* treatment
27 requirements).

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

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

36 **FH.** The department may deny an application for a public water system project, in whole or in part, if
37 the department determines that:

38 ...

39 (3) the design of the project is inconsistent with generally acceptable standards for construction of
40 public water systems and their components including, but not limited to, the recommended standards for water
41 facilities, Construction Programs Bureau, New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe,
42 New Mexico 87502;

43 ...

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

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

50 **HJ.** The department is not responsible for increased costs resulting from defects in the plans, design
51 drawings and specifications or any other contract documents.

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

1 | **JL.** If a public water system project receives approval from the department but does not commence
2 | construction within one year after the date of department approval, the supplier of water must submit a new
3 | application to the department.

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

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

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

23 | (1) a written statement from a registered professional engineer or representative of the water system
24 | that all conditions of project approval were accomplished; for projects that involve changes to surface water sources
25 | or ground water sources that are under the direct influence of surface water, removal efficiencies are to be
26 | determined for E. coli (analyzed by an enumeration method), Cryptosporidium (analyzed by a method specified in
27 | Section 40 CFR§141.704 conducted by a laboratory approved for analysis for Cryptosporidium under the Safe
28 | Drinking Water Act), turbidity, and organisms detected in a surface water microscopic particulate analysis (MPA).
29 | Plant detention time should be factored into sample collection so that raw and finished water samples are
30 | representative of the same water. For systems using membrane filtration, the log-removal that can be verified
31 | through direct integrity testing should also be documented.

32 | ...

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

37 | **NP.** The supplier of water shall submit record ~~or as-built~~ drawings in pdf format or other electronic
38 | format acceptable to the department plans and certification of project completion to the department within ninety
39 | days after completion of the project.

40 | [20.7.10.201 NMAC - Rp 20 NMAC 7.1.1.109 and 20 NMAC 7.1.V.502, 12/04/2002; A, 04/16/2007]

41 | 10. Section 202 (New Section)

42 | *This section was added to document current practice and standardize future activations of water*
43 | *hauling operations in the state of New Mexico.*

44 | **20.7.10.202 APPLICATION FOR WATER HAULING OPERATIONS**

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

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

49 | (1) Evidence that the system has an operator, certified at the highest level required for the water system
50 | under the Utility Operator Certification regulations, 20.7.4 NMAC.

51 | (2) Shop drawings and specifications from the tank manufacturer describing the water tank portion and
52 | other water delivery components of the vehicle;
53 |
54 |

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

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

5 (5) Contracts with active public water systems in New Mexico authorizing receipt of water or
6 documentation of ownership of a public water system.

7 (6) A description of water hauling operation including the procedures for obtaining, storing, treating
8 and delivering water;

9 (7) Disinfection plan for routine and seasonal disinfection.

10
11 **11. Sections 202 through 299 [RESERVED]**

12 *These sections were re-numbered to reflect addition of a new section.*

13
14 **20.7.10.2023 - 20.7.10.299 [RESERVED]**

15 ...

16
17 **12. Section 400**

18 *Paragraph A was changed so that the responsible entity in this regulation matched the*
19 *responsible entity in the regulation that governs certified water system operators.*

20
21 *Formatting in Paragraph B was changed to clarify the requirements and simplify citations to the*
22 *regulations. Additional language was added to state expectations for a protected water system.*

23
24 *Paragraph C was revised so that requirements were consistent with requirements in the state*
25 *engineer's office regulations, and to require screening of all vents installed in the well casing.*

26
27 *Language was added to Paragraph D to require adequate mixing in finished water storage*
28 *tanks. Adequate mixing makes disinfection more efficient. Consequently, lower disinfectant*
29 *levels can be used which means less disinfection byproducts are formed. Adequate mixing also*
30 *improves aesthetic properties of water such as taste, odor and temperature.*

31
32 *Paragraph K was revised and Paragraphs L through M were added to provide the regulated*
33 *community with specific information about direct and indirect additives. Additionally, certain*
34 *facilities are exempted from the requirement to have third party certification.*

35
36 *Paragraph P was revised to correct a capitalization error.*

37
38 **20.7.10.400 GENERAL OPERATING REQUIREMENTS:**

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

42 **B.** Security and protection of a public water system. Any part or component of a public water system
43 including but not limited to spring junction boxes, well houses, storage reservoirs, collection devices, pump
44 facilities, and treatment facilities shall be constructed, operated and maintained to prevent

45 (1) unauthorized entry to the water supply,

46 (2) flooding of the water supply, and

47 (3) contamination of, the water supply.

48 All devices with lines or openings to the atmosphere without an approved backflow prevention device shall vent
49 above the flood level and be fitted with a fine corrosion-resistant screen (24 mesh or smaller).

50 **C.** Protection of a public water system well. A ground water supply well serving a public water
51 system shall have a sanitary seal installed at the wellhead to protect against entry of storm water and other non-

1 | potable fluids or foreign materials and against access by insects, rodents, birds or other vermin. All Well vents
2 | installed in the well casing shall be protected against entrance of foreign material by installation of downturned and
3 | screened "U" bends with a fine corrosion-resistant screen (24 mesh or smaller). Well vents shall be above the flood
4 | level. If the well is completed in a subsurface vault, the casing shall extend above the flood level. All cracks, joints
5 | or other openings at the wellhead and all penetrations to the casing at or near the ground surface shall be tightly
6 | sealed with an impermeable material. The well seal will include a concrete pad with a minimum surface area of 4
7 | square feet. The pad shall be centered around the well, be at least 4 inches thick and slope away from the well.
8 | When surface casing is used, the surface pad should seal the top of the annular space between the production casing
9 | and the surface casing.

10 | **D. Finished water storage facilities.**

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

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

23 | ...

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

- 32 | (1) Coagulation and flocculation chemicals;
- 33 | (2) Chemicals for corrosion and scale control;
- 34 | (3) Disinfection for softening, precipitation, sequestering, and pH adjustment
- 35 | (4) Disinfection and oxidation chemicals;
- 36 | (5) Chemicals for fluoridation, defluoridation, algae control, and dechlorination;
- 37 | (6) Dyes and tracers;
- 38 | (7) Antifreezes, antifoamers, regenerants, and separation process scale inhibitors and cleaners; and
- 39 | (8) Water well drilling and rehabilitation aids

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

- 43 | (1) Process media, such as carbon and sand;
- 44 | (2) Joining and sealing materials, such as solvents, cements, welding materials, and gaskets;
- 45 | (3) Lubricants;
- 46 | (4) Pipes and related products, such as tanks and fittings;
- 47 | (5) Mechanical devices used in treatment, transmission, or distribution systems such as valves,
48 | chlorinators, and separation membranes; and
- 49 | (6) Surface coatings and paints.

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

53 | **N.** Chemicals and additives certified as conforming to the NSF are deemed to satisfy the requirements
54 | of this section. In those instances where chemicals, additives and drinking water system components that come into
55 | contact with drinking water are essential to the design, construction or operation of the drinking water systems and
56 | have not been certified by the NSF, the operator may utilize the following alternatives:

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

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

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

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

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

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

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

16 (3) A water treatment plant that is comprised of components that comply with subsections L and N;

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

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

21 (b) Used in a public component, or water distribution system component made of lead-free
22 stainless steel.

23 LP. Cross-connections. Cross-connections to a public water system or within a public water system
24 shall be prohibited, unless the public water system is protected by a method acceptable to the department using
25 either a device listed by the university of southern California foundation for cross connection control and hydraulic
26 research or a device acceptable to the department to prevent the back flow of water.

27 MQ. Operator certification. Public water systems shall comply with the utility operator certification
28 requirements in the Utility Operator Certification Act, NMSA 1978, 61-33-1 et seq. as amended, and in regulations
29 and program requirements adopted pursuant to the Safe Drinking Water Act.
30 [20.7.10.400 NMAC - Rp 20 NMAC 7.1.11.208, 12/04/2002; A, 04/16/2007]

33 13. Section 401 (New Section)

34 *This section was added to document current practice and standardize future operations of water*
35 *hauling operations in the state of New Mexico.*

37 20.7.10.401 GENERAL OPERATING REQUIREMENTS FOR WATER HAULERS

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

41 B. Disinfection is required when the tank has not been used for more than 5 consecutive days and
42 every three months during continuous operation.

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

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

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

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

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

53 H. The water tank must have the following features:

54 (1) Hatches or openings must have watertight covers;

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

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

2
3 | 14. Sections 401 through 499 [RESERVED]

4 | *These sections were re-numbered to reflect addition of a new section.*

5
6 | 20.7.10.401~~2~~ - 20.7.10.499 [RESERVED]

7
8 | 15. Section 500

9 | *Paragraph A was revised to clarify the schedule for complying with the regulations.*

10
11 | *Paragraph B was revised to make it clear that sampling schedules are associated with water*
12 | *system facilities rather than with water systems.*

13
14 | *Paragraph C was revised to state that sampling requirements for consecutive systems are*
15 | *different than sampling requirements for public water systems that have a source.*

16
17 | *Paragraph E was added to document the New Mexico drinking water program requirements for*
18 | *consecutive systems (systems that receive water from a source operated by another public water*
19 | *system).*

20
21 | *Paragraph F was added to explicitly require sampling taps.*

22
23 | *Paragraph G was added to document sampling requirements for triggered monitoring under the*
24 | *ground water rule in the state of New Mexico.*

25
26 | *Paragraph H was added to require process monitoring of systems that add fluoride.*

27
28
29 | **20.7.10.500 SAMPLING REQUIREMENTS:**

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

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

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

44 | ...

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

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

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

1 H. Community water system that add fluoride to the drinking water system must maintain monthly
2 operating reports on forms provided by the department. Fluoride will be measured at the entry point daily using a
3 field test kit. If the fluoride concentration in a field test is greater than 2 mg/L, the water system is required to
4 submit an entry point sample in accordance with 40 CFR§141.23. If the fluoride concentration in a sample analyzed
5 in accordance with 40 CFR§141.23 is greater than 2 mg/L, the water system is required to notify the public as
6 required in 40 CFR§141.208.

7 [20.7.10.500 NMAC - Rp 20 NMAC 7.1.III.301, 12/04/2002; A, 04/16/2007]

8
9 **16. Section 501**

10 *Subparagraph A was changed to make references to laboratory certification guidance manuals*
11 *generic rather than specific.*

12
13 *Subparagraph C was added to require laboratories to report to the Department results of*
14 *sampling required by the regulations. Currently, systems that do not pay into the water*
15 *conservation fund must report these results themselves.*

16
17 **20.7.10.501 LABORATORIES:**

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

23 ...
24 **C.** Laboratories shall report data from samples collected from compliance with these regulations
25 through an electronic data interface (EDI) upload to the safe drinking water information system (SDWIS) stat
26 database within 10 days of analysis and final review.

27 [20.7.10.501 NMAC - Rp 20 NMAC 7.1.III.309, 12/04/2002]

28 ...

29
30 **17. Section 503**

31 *Section 503 was revised to require taps for process sampling in addition to taps for compliance*
32 *sampling. Also, language was added to help identify appropriate locations and labeling for all*
33 *sampling points.*

34
35 **20.7.10.503 DEPARTMENT MONITORING AND SAMPLING:** All public water systems are required to
36 have sample taps where samples representative of water quality at the source, treatment, storage, entry point, and the
37 distribution system can be collected. Nothing in this part shall be construed to preclude the department from taking
38 samples or from using the results from such samples to determine compliance with this Part or in an enforcement
39 proceeding for violation of this part. Sample taps shall be:

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

43 [20.7.10.503 NMAC - Rp 20 NMAC 7.1.III.312, 12/04/2002]

44
45 **18. Section 504**

46 *Subparagraph A.4 was added to ensure water systems are properly prepared for inspections,*
47 *investigation and sanitary surveys.*

48
49 **20.7.10.504 INSPECTIONS, INVESTIGATIONS AND SANITARY SURVEYS:**

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

1 ...
2 | _____ (4) have access to public water system facilities for visual inspection.

3 ...
4 | [20.7.10.504 NMAC - Rp 20 NMAC 7.1.I.108, 12/04/2002]

5
6 19. Section 505 (New Section)
7 *This section was added to require systems to make monthly reports electronically.*

8
9 **20.7.10.505 REPORTING**

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

12 A. Monthly operating reports required of surface water systems and ground water under the direct influence of
13 surface water systems.

14 A-B. Pressure decay direct integrity testing required of surface water and ground water under the direct influence
15 of surface water that use membrane filtration.

16
17 20. Sections 505 through 599 [RESERVED]
18 *These sections were re-numbered to reflect addition of a new section.*

19
20 | 20.7.10.5056 - 20.7.10.599 [RESERVED]
21
22

1
2 **TITLE 20 ENVIRONMENTAL PROTECTION**
3 **CHAPTER 7 WASTEWATER AND WATER SUPPLY FACILITIES**
4 **PART 10 DRINKING WATER**
5

6 **20.7.10.1 ISSUING AGENCY:** Environmental Improvement Board.
7 [20.7.10.1 NMAC - Rp 20 NMAC 7.1.1.1, 12/04/2002]
8

9 **20.7.10.2 SCOPE:** All persons who own or operate a public water system or for parts 200 and 201, any
10 persons constructing a public water system project. This part shall apply to each public water system, unless the
11 public water system meets all of the following conditions: (a) it consists only of distribution and storage facilities
12 (and does not have any collection and treatment facilities); (b) it obtains all of its water from, but is not owned or
13 operated by, a public water system to which such regulations apply; (c) it does not sell water to any person; and (d)
14 it is not a carrier which conveys passengers in interstate commerce.
15 [20.7.10.2 NMAC - Rp 20 NMAC 7.1.1.2, 12/04/2002]
16

17 **20.7.10.3 STATUTORY AUTHORITY:** NMSA 1978, Sections 74-1-6, 74-1-8, 74-1-10, 74-1-13 and 74-
18 1-13.1.
19 [20.7.10.3 NMAC - Rp 20 NMAC 7.1.1.3, 12/04/2002; A, 04/16/2007]
20

21 **20.7.10.4 DURATION:** Permanent.
22 [20.7.10.4 NMAC - Rp 20 NMAC 7.1.1.4, 12/04/2002]
23

24 **20.7.10.5 EFFECTIVE DATE:** December 4, 2002, except where a later effective date is indicated in the
25 history note at the end of a section.
26 [20.7.10.5 NMAC - Rp 20 NMAC 7.1.1.5, 12/04/2002; A, 04/16/2007]
27

28 **20.7.10.6 OBJECTIVE:** The objective of Part 10 of Chapter 7 is to establish regulations for public water
29 systems.
30 [20.7.10.6 NMAC - Rp 20 NMAC 7.1.1.6, 12/04/2002]
31

32 **20.7.10.7 DEFINITIONS:** In addition to the terms defined in 40 CFR Parts 141 and 143, the following
33 terms, as used in this part shall have the following meanings.

34 ~~A. "As-built drawings" means construction drawings that show details of work as originally planned~~
35 ~~plus modifications and deviations to reflect actual construction.~~

36 **BA.** "CFR" means the code of federal regulations.

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

40 ~~DC.~~ "Department" means the New Mexico environment department.

41 ~~ED.~~ "Guidance document" means any manual or other document developed or adopted by the
42 department for official use to provide general direction, instruction or advice to department employees in
43 determinations regarding application of or compliance with regulations.

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

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

54 ~~G.~~ "Non-public water system" means a system that does not meet the definition of a public water
55 system as defined in 40 CFR Part 141~~for the provision of water for human consumption for domestic purposes, if~~

1 such system does not have at least fifteen service connections and does not regularly serve an average of twenty-five
2 individuals at least sixty days out of the year.

3 **H.** "Public water system project" or "project" means the construction of a new public water system,
4 modification to an existing public water system, or conversion of a non-public water system to a public water
5 system.

6 **I.** "Record drawings" means construction-as-built drawings that show details or work as originally
7 planned plus modifications and deviations to reflect actual construction, certified by a registered professional
8 engineer on behalf of a public water system.

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

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

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

19 **M.** "Secretary" means the secretary of the environment department, or an authorized representative.

20 **N.** "Service connection" means, regardless of whether in use, a pipe, hose, appurtenance, constructed
21 conveyance or any other temporary or permanent connection between a public water system and a user.

22 **O.** "State act" means the Environmental Improvement Act, NMSA 1978, Section 74-1-1 et seq.

23 **P.** "USEPA" means the United States environmental protection agency.

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

27 [20.7.10.7 NMAC - Rp 20 NMAC 7.1.1.103, 12/04/2002; A, 04/16/2007]

28 29 **20.7.10.8 DOCUMENTATION REQUIRED FOR POPULATION DETERMINATION**

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

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

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

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

44
45 **20.7.10.89 - 20.7.10.99 [RESERVED]**

46 47 **20.7.10.100 ADOPTION OF 40 CFR PART 141:**

48 **A.** Except as otherwise provided in this section, the regulations of the USEPA set forth at 40 CFR
49 Part 141 through July 1, 2007 are hereby incorporated by reference into this part. Notwithstanding the incorporation
50 of 40 CFR Part 141 through July 1, 2007, the following USEPA regulations are also incorporated by reference to the
51 extent that they amend Part 141: Lead and Copper Rule, 72 Fed. Reg. 57782 (Oct. 10, 2007).

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

54 **C.** The term "service connection" has the meaning set forth in ~~Subsection L of Section~~ Section 20.7.10.7
55 NMAC, in addition to the meaning set forth in 40 CFR section 141.2.

56 [20.7.10.100 NMAC - N, 12/04/2002; A, 04/16/2007; A, 10/15/2008]

1
2 **20.7.10.101 ADOPTION OF 40 CFR PART 143:**

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

5 B. The term "state" means the New Mexico environment department when used in 40 CFR Part 143,
6 in lieu of the meaning set forth in 40 CFR section 143.2.
7 [20.7.10.101 NMAC - N, 12/04/2002; A, 04/16/2007; A, 10/15/2008]

8
9 **20.7.10.102 GUIDANCE DOCUMENTS:** The current editions of the following materials, including all
10 future editions and amendments are used by the department as guidance documents for determining generally
11 acceptable standards for construction and operation of public water systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 O. *Cross connection control manual,* USEPA, Washington D.C., 20460, EPA 816-R-03-002.
44 [20.7.10.102 NMAC - N, 12/04/2002; A, 04/16/2007]

45
46 **20.7.10.103 AVAILABILITY OF REGULATIONS AND MATERIALS INCORPORATED BY**
47 **REFERENCE:** Regulations, materials incorporated by reference into this part and guidance documents are
48 available for inspection at the New Mexico Environment Department Drinking Water Bureau, 525 Camino de Los
49 Marquez, Suite 4, Santa Fe, New Mexico 87501.
50 [20.7.10.103 NMAC - Rp 20 NMAC 7.1.XIII.1306, 12/04/2002; A, 04/16/2007]

51
52 **20.7.10.104 - 20.7.10.199 [RESERVED]**

53
54 **20.7.10.200 PUBLIC WATER SYSTEM PROJECTS:**

55 A. Except as provided in Paragraph B.4 of this section, any person undertaking a public water system
56 project shall use forms furnished by the department to notify the department of the project. Except as provided in

1 Subsections B and C of this section, no person shall undertake a public water system project without first obtaining
2 written approval of the project plan from the department.

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

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

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

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

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

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

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

18 (34) on-going operation and maintenance procedures; the following activities are considered to be on-
19 going operation and maintenance procedures:

20 (a) pipeline leak repair;

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

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

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

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

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

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

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

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

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

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

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

44 **E.** To obtain a waiver, the owner of the system must submit, in lieu of the application materials in
45 20.7.10.201 NMAC, a written summary of the project and certification that the project will be installed in
46 accordance with the approved drawings and specifications, signed by a registered professional engineer who is
47 responsible for the design, development, or maintenance of the public water system. All waiver requests shall be
48 properly documented prior to receiving the department's approval.

49 [20.7.10.200 NMAC - Rp 20 NMAC 7.1.V.501 and 502, 12/04/2002; A, 04/16/2007]

50
51 **20.7.10.201 APPLICATIONS FOR PUBLIC WATER SYSTEM PROJECT APPROVAL:**

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

55 **B.** The applicant shall submit an application to the department no less than thirty days prior to
56 advertising the public water system project for bid or, if the project is not advertised for bid, not less than thirty days

1 prior to the commencement of construction, except that the department may permit an applicant to advertise for bids
2 or commence construction of a public water system project prior to the submission of a written application if, in the
3 judgment of the department, exigent circumstances warrant a waiver of the thirty-day notice requirement.
4 Permission to advertise for bids or commence construction without first submitting an application shall expire if the
5 applicant does not submit a written application to the department that meets the requirements of this section within
6 fifteen days of the date of permission.

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

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

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

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

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

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

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

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

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

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

32 (b) the appropriate state engineer office permit (e.g., some ground water systems may submit an
33 approved Application for Permit to Appropriate Underground Water);

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

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

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

43 E. Projects involving treatment for chemical, radiological or microbiological contaminants must
44 utilize best available technologies identified in 40 CFR Part 141 or submit a performance demonstration conducted
45 by a field testing organization. Field testing organizations may include engineering consulting firms, universities or
46 other scientific organizations acceptable to the department. The field testing organization must

47 (1) use a professional engineer to oversee the performance demonstration

48 (2) conduct the performance demonstration using a protocol accepted by the department. Test
49 protocols for demonstrating performance for treatment of chemical, radiological and microbiological (except
50 Cryptosporidium) contaminants developed by the USEPA Environmental Technology Verification Program will be
51 accepted by the department. The department will also consider other test protocols. Test protocols to demonstrate
52 the performance of Cryptosporidium treatment shall meet the requirements of the Long Term 2 Enhanced Surface
53 Water Treatment Rule, 40 CFR§141.715 (Microbial toolbox options for meeting Cryptosporidium treatment
54 requirements).

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

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

9 FH. The department may deny an application for a public water system project, in whole or in part, if
10 the department determines that:

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

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

14 (3) the design of the project is inconsistent with generally acceptable standards for construction of
15 public water systems and their components including, but not limited to, the recommended standards for water
16 facilities, Construction Programs Bureau, New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe,
17 New Mexico 87502;

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

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

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

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

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

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

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

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

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

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

52 MO. The applicant shall inform the department when a public water supply system project, or well-
53 defined phase thereof, is at or near completion. A project is complete when the system has the treatment, storage
54 and distribution (main) capacity required to supply water for human consumption to 15 or more service connections,
55 regardless of whether the service connections are installed or are providing water. The department shall be informed
56 when a public water supply system project, or well-defined phase thereof, is at or near completion.—The new or

1 modified facility shall not be used to produce, ~~treat, store, or distribute,~~ ~~or treat~~ potable water for ~~public~~ human
2 consumption until the department has been notified in writing. This notification shall consist of:

3 (1) a written statement from a registered professional engineer or representative of the water system
4 that all conditions of project approval were accomplished; for projects that involve changes to surface water sources
5 or ground water sources that are under the direct influence of surface water, removal efficiencies are to be
6 determined for E. coli (analyzed by an enumeration method), Cryptosporidium (analyzed by a method specified in
7 Section 40 CFR§141.704 conducted by a laboratory approved for analysis for Cryptosporidium under the Safe
8 Drinking Water Act), turbidity, and organisms detected in a surface water microscopic particulate analysis (MPA).
9 Plant detention time should be factored into sample collection so that raw and finished water samples are
10 representative of the same water.

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

13 (3) other water quality data where appropriate;

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

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

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

21 NP. The supplier of water shall submit record ~~or as-built~~ drawings in pdf format or other electronic
22 format acceptable to the department plans and certification of project completion to the department within ninety
23 days after completion of the project.

24 [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]

25 26 **20.7.10.202 APPLICATION FOR WATER HAULING OPERATIONS**

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

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

31 (1) Evidence that the system has an operator, certified at the highest level required for the water system
32 under the Utility Operator Certification regulations, 20.7.4 NMAC.

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

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

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

39 (5) Contracts with active public water systems in New Mexico authorizing receipt of water or
40 documentation of ownership of a public water system.

41 (6) A description of water hauling operation including the procedures for obtaining, storing, treating
42 and delivering water;

43 (7) Disinfection plan for routine and seasonal disinfection.

44
45 **20.7.10.2023 - 20.7.10.299 [RESERVED]**

46 47 **20.7.10.300 COMPLIANCE; EMERGENCY POWERS:**

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

50 B. Powers of the secretary.

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

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

55 (b) upon receiving information that a contaminant, whether or not listed in 40 CFR Part 141,
56 Subparts B and G, is present in or likely to enter the public water system, that the presence of such contaminant may

1 present an imminent and substantial endangerment to the health of persons served by the system, and that
2 appropriate local authorities have not acted to protect the health of such persons; or

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

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

9 [20.7.10.300 NMAC - Rp 20 NMAC 7.1.11.201, 12/04/2002; A, 04/16/2007]

10
11 **20.7.10.301 - 20.7.10.399 [RESERVED]**

12
13 **20.7.10.400 GENERAL OPERATING REQUIREMENTS:**

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

17 **B.** Security and protection of a public water system. Any part or component of a public water system
18 including but not limited to spring junction boxes, well houses, storage reservoirs, collection devices, pump
19 facilities, and treatment facilities shall be constructed, operated and maintained to prevent

20 (1) unauthorized entry to the water supply,

21 (2) flooding of the water supply, and

22 (3) contamination of, the water supply.

23 All devices with lines or openings to the atmosphere without an approved backflow prevention device shall vent
24 above the flood level and be fitted with a fine corrosion-resistant screen (24 mesh or smaller).

25 **C.** Protection of a public water system well. A ground water supply well serving a public water
26 system shall have a sanitary seal installed at the wellhead to protect against entry of storm water and other non-
27 potable fluids or foreign materials and against access by insects, rodents, birds or other vermin. All well vents
28 installed in the well casing shall be protected against entrance of foreign material by installation of downturned and
29 screened "U" bends with a fine corrosion-resistant screen (24 mesh or smaller). Well vents shall be above the flood
30 level. If the well is completed in a subsurface vault, the casing shall extend above the flood level. All cracks, joints
31 or other openings at the wellhead and all penetrations to the casing at or near the ground surface shall be tightly
32 sealed with an impermeable material. The well seal will include a concrete pad with a minimum surface area of 4
33 square feet. The pad shall be centered around the well, be at least 4 inches thick and slope away from the well.
34 When surface casing is used, the surface pad should seal the top of the annular space between the production casing
35 and the surface casing.

36 **D.** Finished water storage facilities.

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

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

49 **E.** Notice to the department. If the safety precautions or preventive measures required to be
50 employed under this section fail to protect the public water system from unauthorized entry or contamination, or if
51 the water supply is endangered for any reason, the supplier of water shall immediately notify the department and
52 take appropriate action to protect the supply.

53 **F.** Disinfection following the completion of a public water system project requiring department
54 approval. Any part or component of a public water system that has undergone construction or modification
55 requiring department approval shall be flushed, disinfected and sampled for the presence of bacterial contaminants
56 upon completion of the project and prior to providing water to the public. Disinfection and sampling shall be

1 conducted in accordance with a plan submitted to and approved by the department pursuant to Paragraph (3) of
2 Subsection C of 20.7.10.201 NMAC.

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

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

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

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

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

27 (9) Coagulation and flocculation chemicals;

28 (10) Chemicals for corrosion and scale control;

29 (11) Disinfection for softening, precipitation, sequestering, and pH adjustment

30 (12) Disinfection and oxidation chemicals;

31 (13) Chemicals for fluoridation, defluoridation, algae control, and dechlorination;

32 (14) Dyes and tracers;

33 (15) Antifreezes, antifoamers, regenerants, and separation process scale inhibitors and cleaners; and

34 (16) Water well drilling and rehabilitation aids

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

38 (1) Process media, such as carbon and sand;

39 (2) Joining and sealing materials, such as solvents, cements, welding materials, and gaskets;

40 (3) Lubricants;

41 (4) Pipes and related products, such as tanks and fittings;

42 (5) Mechanical devices used in treatment, transmission, or distribution systems such as valves,

43 chlorinators, and separation membranes; and

44 (6) Surface coatings and paints.

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

48 **N.** Chemicals and additives certified as conforming to the NSF are deemed to satisfy the requirements
49 of this section. In those instances where chemicals, additives and drinking water system components that come into
50 contact with drinking water are essential to the design, construction or operation of the drinking water systems and
51 have not been certified by the NSF, the operator may utilize the following alternatives:

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

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

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

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

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

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

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

12 (3) A water treatment plant that is comprised of components that comply with subsections L and N;

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

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

17 (b) Used in a public component, or water distribution system component made of lead-free
18 stainless steel.

19 LP. Cross-connections. Cross-connections to a public water system or within a public water system
20 shall be prohibited, unless the public water system is protected by a method acceptable to the department using
21 either a device listed by the university of southern California foundation for cross connection control and hydraulic
22 research or a device acceptable to the department to prevent the back flow of water.

23 MQ. Operator certification. Public water systems shall comply with the utility operator certification
24 requirements in the Utility Operator Certification Act, NMSA 1978, 61-33-1 et seq. as amended, and in regulations
25 and program requirements adopted pursuant to the Safe Drinking Water Act.
26 [20.7.10.400 NMAC - Rp 20 NMAC 7.1.II.208, 12/04/2002; A, 04/16/2007]

27 **20.7.10.401 GENERAL OPERATING REQUIREMENTS FOR WATER HAULERS**

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

31 B. Disinfection is required when the tank has not been used for more than 5 consecutive days and
32 every three months during continuous operation.

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

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

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

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

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

43 H. The water tank must have the following features:

44 (1) Hatches or openings must have watertight covers;

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

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

47 **20.7.10.401~~2~~ - 20.7.10.499 [RESERVED]**

48 **20.7.10.500 SAMPLING REQUIREMENTS:**

49 A. Pursuant to NMSA 1978, 74-1-13.1, the department shall test non-transient non-community water
50 systems for arsenic, fluoride and radionuclides. The reporting and public notification requirements for non-
51 community water systems for these contaminants shall be identical to those for community water systems as set
52 forth in 40 CFR Subpart Q. This section applies when the system has the treatment, storage and distribution (main)
53 54
54 55

1 capacity required to supply water for human consumption to 15 or more service connections, regardless of whether
2 the service connections are complete.

3 **B.** EachA supplier of water shall begin routine sampling within 90 days after activation of a public
4 water system facility for contaminants required in accordance with 40 CFR Part 141 within ninety days after
5 commencing operation of a public water system.

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

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

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

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

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

21 **H.** Community water system that add fluoride to the drinking water system must maintain monthly
22 operating reports on forms provided by the department. Fluoride will be measured at the entry point daily using a
23 field test kit. If the fluoride concentration in a field test is greater than 2 mg/L, the water system is required to
24 submit an entry point sample in accordance with 40 CFR§141.23. If the fluoride concentration in a sample analyzed
25 in accordance with 40 CFR§141.23 is greater than 2 mg/L, the water system is required to notify the public as
26 required in 40CFR141.208.

27 [20.7.10.500 NMAC - Rp 20 NMAC 7.1.III.301, 12/04/2002; A, 04/16/2007]

28 29 **20.7.10.501 LABORATORIES:**

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

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

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

40 [20.7.10.501 NMAC - Rp 20 NMAC 7.1.III.309, 12/04/2002]

41
42 **20.7.10.502 VALIDATION OF ANALYTICAL DATA OR CONDITIONS:** The department may take any
43 action it deems necessary to validate the results of a sample taken pursuant to this part. Data that the department
44 determines to be invalid shall not be used to determine compliance with this part.

45 [20.7.10.502 NMAC - Rp 20 NMAC 7.1.III.311, 12/04/2002]

46
47 **20.7.10.503 DEPARTMENT MONITORING AND SAMPLING:** All public water systems are required to
48 have sample taps where samples representative of water quality at the source, treatment, storage, entry point, and the
49 distribution system can be collected. Nothing in this part shall be construed to preclude the department from taking
50 samples or from using the results from such samples to determine compliance with this Part or in an enforcement
51 proceeding for violation of this part. Sample taps shall be:

52 **A.** located outside of confined spaces; and

53 **B.** labeled with the sampling point number identified in the safe drinking water information system
54 (SDWIS) database; the label shall be permanent and legible.

55 [20.7.10.503 NMAC - Rp 20 NMAC 7.1.III.312, 12/04/2002]

1 **20.7.10.504 INSPECTIONS, INVESTIGATIONS AND SANITARY SURVEYS:**

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

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

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

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

16 [20.7.10.504 NMAC - Rp 20 NMAC 7.1.1.108, 12/04/2002]

17
18 **20.7.10.505 REPORTING**

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

21 A. Monthly operating reports required of surface water systems and ground water under the direct
22 influence of surface water systems.

23 A-B. Pressure decay direct integrity testing required of surface water and ground water under the direct
24 influence of surface water that use membrane filtration.

25
26 **20.7.10.5056 - 20.7.10.599 [RESERVED]**

27
28 **20.7.10.600 PUBLIC NOTIFICATION:**

29 A. Non-transient non-community water systems that exceed the MCL for arsenic or radionuclides set
30 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
31 section 141.62 shall comply with the public notification requirements set forth at 40 CFR Subpart Q.

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

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

41 [20.7.10.600 NMAC - Rp 20 NMAC 7.1.IV.402, 12/04/2002; A, 04/16/2007]

42
43 **20.7.10.601 - 20.7.10.699 [RESERVED]**

44
45 **20.7.10.700 SEVERABILITY:** The provisions of this part shall be severable, and if any section, subsection,
46 paragraph, subparagraph, sentence, clause, subclause or item of this part, or the applicability thereof to any person or
47 circumstance, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect,
48 impair or invalidate the remainder thereof, and the application thereof, but shall be confined in its operation to the
49 section, subsection, paragraph, subparagraph, sentence, clause, subclause or item thereof, or to the person or
50 circumstance directly involved in the controversy in which such judgment shall have been rendered.

51 [20.7.10.700 NMAC - Rp 20 NMAC 7.1.XIII.1301, 12/04/2002]

52
53 **20.7.10.701 SAVING CLAUSE:** Repeal of 20 NMAC 7.10 shall not affect any administrative or judicial
54 enforcement action pending on the effective date of this part.

55 [20.7.10.701 NMAC - Rp 20 NMAC 7.1.XIII.1305, 12/04/2002]

1 **20.7.10.702 CONSTRUCTION:** This part shall be liberally construed to effectuate the purpose of the state
2 act.

3 [20.7.10.702 NMAC - Rp 20 NMAC 7.1.XIII.1303, 12/04/2002]
4

5 **20.7.10.703 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with this part does not relieve
6 a person from the obligation to comply with other applicable state and federal regulations.

7 [20.7.10.703 NMAC - Rp 20 NMAC .1.XIII.1302, 12/04/2002]
8

9 **20.7.10.704 EFFECT OF STAY OR INVALIDATION OF INCORPORATED FEDERAL**
10 **STANDARDS:** If any federal standard or regulation incorporated by reference in this part is stayed, invalidated or
11 otherwise rendered unenforceable, in whole or in part, by action of a federal court or USEPA, such incorporated
12 federal standard or regulation shall be enforceable by the department only to the extent it is enforceable by USEPA.
13 [20.7.10.704 NMAC - N, 12/04/2002]
14

15 **HISTORY OF 20.7.10 NMAC:**

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

18 EIB 77-1, Regulations Governing Water Supplies, filed 12-12-77;

19 WSR 1, Regulations Governing Water Supplies, filed 3-11-85;

20 EIB/WSR 1, Regulations Governing Water Supplies, filed 7-16-86;

21 EIB/WSR 2, Regulations Governing Water Supplies, filed 9-12-88;

22 EIB/WSR 3, Water Supply Regulations, filed 4-16-91.
23

24 **History of Repealed Material:**

25 20 NMAC 7.1, Wastewater and Water Supply Facilities - Drinking Water, 1-1-95.
26

27 **Other History:**

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

30 20 NMAC 7.1, Wastewater And Water Supply Facilities - Drinking Water, filed 12-01-94, **replaced** by 20.7.10
31 NMAC, Wastewater And Water Supply Facilities - Drinking Water, effective 12/04/2002.