

New Mexico Environment Department
Rebuttal Testimony for Liquid Waste Regulation Hearing EIB 12-01(R)
October 22, 2012



Proposed Amendments to 20.7.3.703.J

The petition proposes to repeal of the provision that six inches of sidewall not be used in calculating the absorption area in a disposal trench.

NMED finds the testimony and exhibits presented by Infiltrator in opposition to the proposed amendment to 703.J to be unpersuasive. NMED recommends to the EIB that the proposed amendment be adopted for the following reasons:

1. The design flow assumption of 75 gpd/person, with two persons per bedroom for the first two bedrooms and 75 gpd/person for each additional bedroom, has existed in the Liquid Waste Regulations since October 10, 1985 (NMED Rebuttal Exhibit 1), and this practice was agency policy prior to 1985.
2. While the design flow assumption has not changed for approximately three decades, many homeowners in the state have installed low-flush toilets and other water-conserving fixtures and appliances (for example, see testimony of Don Becker, transcript pages 335-336). Although household wastewater flows are not required to be metered in New Mexico, these water-conserving devices must have had the effect of reducing the volume of liquid waste generated. The fact that design flows have remained constant, while actual flows have decreased, increases the value of design flow as a safety factor for drain field sizing.
3. The Liquid Waste Regulation amendments that became effective on September 1, 2005 resulted in an overall increase in the size of most drain fields in the state. Larger drain fields equate to more expensive drain fields.
4. Infiltrator's comparison of New Mexico's drain field sizing requirements with those of other states is of limited usefulness since most other states have different conditions of evapotranspiration, precipitation, drought, water usage and poverty. Infiltrator's comparison of the drain field sizing requirements of other states nonetheless shows that New Mexico is near the average, rather than on the small side for the configurations of drain fields most commonly installed in New Mexico.
5. Infiltrator, by its own admission (transcript, page 166), did not consult the industry in New Mexico, the small businesses who actually install drain fields on behalf of homeowners in the state, to see if they agreed with its position. In fact, there was testimony from the industry in New Mexico in support of the proposed repeal of the six inch exclusion rule (Ralph Baker 177-183-; Jace Ensor, p. 211-212; Don Becker p. 335-336).

Depth-to-Groundwater Standards

Mr. Charles Lakins testified about the various depth-to-groundwater standards that exist and that are proposed in the liquid waste regulations. The standards serve different purposes and are consistent with advancing from a one-size-fits-all set of regulations. The different standards and their purposes are illustrated in the attached diagram.

Depth to Groundwater Standards (existing and proposed) For Liquid Waste Systems

