

New Mexico Environmental Improvement Board  
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LWDR 1

LIQUID WASTE DISPOSAL REGULATIONS

(Supersedes EIB/79-7-2, filed August 7, 1979, including Amendment No. 1, filed January 30, 1980, and Amendment No.2, filed August 26, 1981.)

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PART I

GENERAL PROVISIONS AND PROCEDURES

1-100. GENERAL PROVISIONS.

1-101. PURPOSE.--The purpose of the Liquid Waste Disposal Regulations is to protect the health and welfare of present and future citizens of New Mexico by providing for the prevention and abatement of public health hazards and surface and ground water contamination from onsite liquid waste disposal practices.

1-102. APPLICABILITY.--The Liquid Waste Disposal Regulations shall apply to liquid waste systems which are both designed to receive and which receive two thousand (2,000) gallons or less of liquid waste per day, and which are not subject to a National Pollutant Discharge Elimination System (NPDES) Permit.

1-103. DEFINITIONS.--As used in the Liquid Waste Disposal Regulations:

A. "Absorption system" means a disposal system designed to discharge treated liquid waste into the soil;

B. "Arroyo" means a dry wash or draw which flows only occasionally and in response to rainfall;

C. "Bedrock" means consolidated earth materials and includes fractured and cavernous rock;

D. "Black water" means waste from a liquid flushing toilet, urinal or garbage disposal;

E. "Body of water" means all constrained water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private;

F. "Canal" means a ditch or channel that carries water for purposes other than domestic consumption;

G. "Clearance" means the depth of suitable soil between the deepest portion of the liquid waste disposal system excavation and the seasonal high-ground water table or bedrock;

H. "Degrade a body of water" means to reduce the physical, chemical or biological qualities of a body of water and includes, but is not limited to, the release of material which could result in the exceeding of standards established by Water Quality Standards for Interstate and Intrastate Streams in New Mexico, and, in ground water that could be used as a domestic water supply source, standards established by the New Mexico Water Quality Control Commission and by the New Mexico Regulations Governing Water Supplies;

I. "Director" means the director of the division or his designated representative;

J. "Disposal system" means a generally recognized system for disposing of the discharge from a liquid waste treatment unit and includes, but is not limited to, seepage pits, absorption trenches, evapotranspiration systems, privies, sand mounds and sand filters;

K. "Division" means the New Mexico Environmental Improvement Division;

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

M. "Enclosed system" means a watertight liquid waste system which does not discharge to the soil, including, but not limited to, holding tanks and, for purposes of these regulations, privies;

N. "Evapotranspiration system" means a disposal system designed to dispose of the total design flow (See footnote, Table 1, Section 2-201) from a liquid waste treatment unit through evaporation and plant transpiration;

O. "Evapotranspiration system overflow absorption system" means an absorption system which is appended to an evapotranspiration system and which prevents excess liquid waste resulting from occasional evapotranspiration system overload from reaching the surface of the ground;

P. "Grey water" means water carried waste from kitchen (excluding garbage disposal) and bathroom sinks, showers, bathtubs and washing machines;

Q. "Ground water" means interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply;

R. "Hazard to public health" means the indicated presence in water or soil of parasite, bacterial, viral, chemical or other agents under such conditions that they may adversely impact human health;

S. "Lined" means a manufactured or naturally occurring substance which restricts seepage to no greater than 0.5 acre-feet per year per acre;

T. "Liquid waste" means treated or untreated grey water, black water and excreta;

U. "Liquid waste system" means a system which is designed to receive liquid waste and includes the disposal system, the liquid waste treatment unit and the enclosed system separately or in combination;

V. "Lot" means a legally recorded single parcel or area of land excluding roadways, alleys and other areas dedicated to public or common use, which is used as a building site or intended to be used as a building site, where liquid waste will be generated ;

W. "Modify" means: 1) to change the method of liquid waste treatment or disposal; 2) to enlarge the liquid waste system; 3) to alter the

horizontal or vertical location of the liquid waste system; or 4) to increase the amount of design flow received by the liquid waste system above the original design flow;

X. "Off-site water" means that the domestic water supply for the lot is from: 1) a private water supply source which is neither within the lot nor within one hundred (100) feet of the property line of the lot, or 2) a public water supply source which is not within the lot;

Y. "On-site water" means that the domestic water supply for the lot is from: 1) a private water supply source which is within the lot or within one hundred (100) feet of the property line of the lot, or 2) a public water supply source which is within the boundaries of the lot;

Z. "Percolation rate" means the rate of absorption of water into soil as determined by a soil test at the depth of a proposed absorption field;

AA. "Person" means any individual, partnership, firm, public or private corporation, association, trust, estate, political subdivision or agency, or any other legal entity or their legal representative, agents or assigns;

BB. "Private water supply" means a non-public domestic water supply;

CC. "Privy" means a receptacle for non-liquid-carried excreta;

DD. "Public water supply source" means a water supply source such as a well, spring or infiltration gallery used for the provision to the public of piped water for human consumption if the system served has at least fifteen (15) service connections or regularly services an average of twenty-five (25) individuals at least sixty (60) days out of the year;

EE. "Seasonal high ground water table" means the highest level to which the upper surface of ground water may be expected to rise within a one (1) year period;

FF. "Septage" means the liquid waste periodically pumped from a liquid waste treatment unit or from a holding tank for maintenance purposes;

GG. "Setback distance" means a straight line, horizontal distance measured from the liquid waste system or portion thereof to the object being considered;

HH. "Suitable soil" means a soil which will act as an effective filter in removal of organisms and suspended solids prior to the discharge reaching ground water, bedrock or any highly permeable material such as creviced bedrock, gravel, or soils with a percolation rate faster than one (1) minute per inch;

II. "Treatment unit" means a watertight unit designed, constructed and installed to retain solids and to stabilize liquid waste and includes, but is not limited to, aerobic treatment units and septic tanks; and

JJ. "Watercourse" means any river, creek, arroyo, canyon, draw, canal or wash, or any other channel having banks and beds with visible evidence of the flow of water.

1-200. PROCEDURES.

1-201. LIQUID WASTE SYSTEM PERMIT.

A. No person shall install or have installed a new liquid waste system or modify or have modified an existing liquid waste system, unless they obtain a permit issued by the division prior to such installation or modification.

B. Any person seeking a permit shall do so by filing an application with the field office of the division having jurisdiction for the area where the system is to be installed. The application shall:

1. be made on a form provided by the division;
2. be accompanied by such other relevant information as the division may reasonably require or that the applicant may consider appropriate; and
3. be signed by the applicant or his authorized representative.

C. The division shall, within ten (10) working days of receipt of the completed application, grant the permit, grant the permit subject to conditions, or deny the permit and shall so notify the applicant. When the permit is granted subject to conditions or denied, the reason for the action shall refer to the appropriate regulation(s) and be given in writing.

D. If the division finds that specific requirements in addition to or more stringent than those provided in Section 2-200 of these regulations are necessary to prevent a hazard to public health or the degradation of a body of water, the division may issue a permit conditioned on those more stringent or additional specific requirements.

E. The division shall deny the permit if the proposed system will not meet the requirements of these regulations.

F. The division shall maintain a file of all permits issued and denied. The file shall be open for public inspection.

G. The installation or modification of the liquid waste system shall be in accordance with the permit.

H. The division may cancel a permit if the installation or modification of the liquid waste system has not been completed within six (6) months of the issuance of the permit, or if the division determines that material information provided by the applicant is false or inaccurate and that the correct information would have resulted in the division denying the original application.

1-202. VARIANCES.

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

B. The petition shall:

1. be made on a form provided by the division;
2. be accompanied by relevant documents or materials which the petitioner believes would support their petition;
3. be accompanied by such other relevant information as the division may reasonably require; and
4. be signed by the petitioner or their authorized representative.

C. The division shall, within ten (10) working days following receipt of the completed petition, grant the variance, grant the variance subject to conditions, or deny the variance and shall so notify the applicant. The reason for the division's action shall be provided in writing and the appropriate regulation(s) cited.

D. The division shall deny the variance petition unless the petitioner establishes by clear and convincing evidence that:

1. the proposed liquid waste system will, by itself or in combination with other liquid waste systems, neither cause a hazard to public health nor degrade any body of water; and
2. granting the variance will result in public health and environmental protection equal to or greater than the minimum protection provided by the variances section.

E. The division shall maintain a file of all variances issued and denied. The file shall be open for public inspection.

1-203. HEARINGS.

A. If any affected person is dissatisfied with the action taken by the division on a permit or variance application, they may request a hearing before the director. The request must be made in writing to the director within fifteen (15) working days after notice of the division's action has been issued. Unless a timely request for hearing is made, the decision of the division shall be final.

B. If a timely request for hearing is made, the director shall hold a hearing within fifteen (15) working days after receipt of the request. The division shall notify the person who requested the hearing of the date, time and place of the hearing by certified mail. In the hearing, the burden of proof shall be upon the person requesting the hearing. Where the division requires standards more

stringent than those provided in these regulations, the burden of proof of the necessity for those specified standards shall be upon the division.

C. Hearings shall be held at a place designated by the director in the area where the proposed liquid waste system is to be located, unless other mutually agreed upon arrangements are made.

D. Upon request, the hearing shall be recorded. Recording and transcript costs shall be paid by those persons requesting such recordings and transcripts.

E. In hearings, the rules of civil procedure and the technical rules of evidence shall not apply, but hearings shall be conducted so that all relevant views, arguments and testimony are amply and fairly presented without undue repetition. The director shall allow the division and the person who requested the hearing to call and examine witnesses, to submit written and oral evidence and arguments, to introduce exhibits, and to cross-examine persons who testify.

F. Based upon the evidence presented at the hearing, the director shall sustain, modify or reverse the action of the division. The action taken shall be by written order within five (5) working days following the hearing. The order shall state the decision and the reasons therefor and shall be sent by certified mail to the person requesting the hearing.

1-204. INSPECTIONS. --The division may perform site inspections prior to making a decision on the permit application, during construction of the system, and after completion of the system. The division may require inspection holes to be excavated and/or documentation provided for purposes of determining soil types, percolation rates and soil and water table depths.

## PART 2

### STANDARDS

#### 2-100. GENERAL REQUIREMENTS.

A. No person shall discharge untreated liquid waste except into an enclosed system, privy or into a liquid waste treatment system.

B. No person shall discharge treated liquid waste except through a liquid waste disposal system.

C. No person shall install, have installed, modify or have modified, own or use a liquid waste system which, by itself or in combination with other liquid waste systems, may cause a hazard to public health or degrade any body of water. Compliance with the requirements contained in Section 2-200 of these regulations does not preclude the imposition of additional or more stringent requirements necessary to prevent a hazard to public health or the degradation of a body of water.

D. Liquid waste systems installed prior to the effective date of these regulations shall meet the requirements of the regulations in effect at the

time of their initial installation or the requirements of Part 2 of these regulations, whichever are less stringent.

E. Liquid waste systems installed after the effective date of these regulations shall meet the requirements of Part 2 of these regulations.

## 2-200. SPECIFIC REQUIREMENTS.

2-201. LOT SIZE REQUIREMENTS.--The requirements of subsections A through E of this section apply to all liquid waste systems which discharge to the soil, and to evapotranspiration systems. Water conservation devices cannot be used to reduce the requirements of this section.

A. Liquid waste systems on lots platted after the effective date of these regulations shall meet the requirements of Table 1.

B. Liquid waste systems initially installed after the effective date of these regulations on lots platted between November 1, 1973 and the effective date of these regulations shall meet the requirements of Table 1 or the requirements in effect at the time the lot was platted, whichever are less stringent.

C. Liquid waste systems initially installed before the effective date of these regulations on lots platted between November 1, 1973 and the effective date of these regulations, shall not be modified to accept a design flow greater than that allowed by Table 1 or the initial design flow, whichever is greater.

D. Liquid waste systems initially installed before the effective date of these regulations on lots platted before November 1, 1973 need not meet the requirements of Table 1 unless they are modified to exceed a design flow of three hundred seventy-five (375) gallons per day or the initial design flow, whichever is greater.

E. Liquid waste systems initially installed after the effective date of these regulations on lots platted before November 1, 1973 and which do not meet the requirements of Table 1, shall not exceed a design flow of three hundred seventy-five (375) gallons per day.

**TABLE 1. REQUIRED MINIMUM LOT SIZES**

	TOTAL DESIGN FLOW* (gallons/day)	MINIMUM LOT SIZE (acres)
OFF-SITE WATER	0 - 375	0.33
	376 - 750	0.50
	751 - 1125	1.00
	1126 - 1500	1.25
	1501 - 2000	1.75
ON-SITE WATER	0 - 375	0.75
	376 - 750	1.50
	751 - 1125	2.00
	1126 - 1500	2.75
	1501 - 2000	3.50

\*Design flow is the flow rate for which a liquid waste system must be designed in order to assure acceptable system performance, and is based on two (2) persons per bedroom for the first two (2) bedrooms and one (1) person per additional bedroom in a single family residential unit, and seventy-five (75) gallons per person per day. Nonresidential design flows are based on generally accepted references.

2-202. SETBACK REQUIREMENTS.--Liquid waste systems shall be located to meet setback distances specified in Table 2. Setback distances to watercourses, canals and arroyos shall be measured to the edge of the channel closest to a liquid waste system component.

**TABLE 2. REQUIRED MINIMUM SETBACK DISTANCES (feet)**

	PRIVIES ENCLOSED SYSTEMS AND LIQUID WASTE TREATMENT UNITS	ABSORPTION SYSTEMS
PRIVATE WATER SUPPLY SOURCE	50	100
PUBLIC WATER SUPPLY SOURCE	100	200
WATERCOURSES EXCEPT CANALS AND ARROYOS	50	100
UNLINED CANALS AND ARROYOS	15 + depth of channel	25 + depth of channel
LINED CANALS	10 + depth of channel	10 + depth of channel
PUBLIC LAKES	50	100

**2-203. CLEARANCE REQUIREMENTS.**

A. No liquid waste system shall discharge liquid waste into the soil where clearance to bedrock is less than four (4) feet. Unlined privy pits and evapotranspiration overflow absorption systems shall provide a clearance of no less than two (2) feet.

B. No liquid waste system shall discharge liquid waste into the soil where clearance to the seasonal high ground water table is less than four (4) feet. Unlined privy pits and evapotranspiration overflow absorption systems shall provide a clearance of no less than two (2) feet. Seasonal high ground water levels shall be determined by a professional trained in the practice of geohydrological assessment or by the division.

2-300. NEW TECHNOLOGY.--The division may approve, on a limited scale, liquid waste systems employing significant new technology if it determines that they will not cause a hazard to public health, and that they will not degrade a body of water.

2-400. SEPTAGE.-- Septage shall be disposed of so that it will not cause a hazard to public health and so that it will not degrade a body of water.

### PART 3

#### MISCELLANEOUS

3-100. CONSTRUCTION.--The Liquid Waste Disposal Regulations shall be liberally construed to carry out their purpose.

3-200. TEMPORARY PROVISIONS.--All registration certificates, permits, orders, rulings, and variances issued pursuant to the Regulations Governing Water Supplies and Sewage Disposal--Sewage Disposal Regulations, June 28, 1937; the Environmental Improvement Board's Liquid Waste Disposal Regulations of September 14, 1973, or of September 7, 1979, as amended, shall remain in full force and effect after the effective date of these regulations until repealed, replaced, superseded, or amended pursuant to these regulations.

3-300. SEVERABILITY.--If any part or application of the Liquid Waste Disposal Regulations is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

3-400. REPEAL.--The Environmental Improvement Board's Liquid Waste Disposal Regulations, September 7, 1979, and any amendments thereto, are hereby repealed.

3-500. SAVINGS CLAUSE.--The repeal of the Environmental Improvement Board's Liquid Waste Disposal Regulations, September 7, 1979, as amended, shall not abate any violations of those regulations or any action for the enforcement thereof.

3-600. COLLATERAL REQUIREMENTS.--Compliance with these regulations does not relieve any person from the responsibility of meeting more stringent city or county regulations or ordinances or other requirements of state or federal laws governing the disposal or treatment of liquid waste.