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TITLE 20 ENVIRONMENTAL PROTECTION  
CHAPTER 7 WASTEWATER AND WATER SUPPLY FACILITIES  
PART 3 LIQUID WASTE DISPOSAL

SUBPART I  
GENERAL PROVISIONS

100. ISSUING AGENCY. Environmental Improvement Board.

101. DURATION. Permanent.

102. EFFECTIVE DATE. November 30, 1995.

103. STATUTORY AUTHORITY. NMSA 1978, § 74-1-8.

104. OBJECTIVE. 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 on-site liquid waste disposal practices.

105. SCOPE.

A. This Part applies to liquid waste systems that are designed to receive and do receive two thousand (2,000) gallons or less of liquid waste per day, and that are not subject to a National Pollutant Discharge Elimination System (NPDES) Permit.

B. Section 307 applies to the disposal of septage and holding tank wastes.

106. DEFINITIONS. As used in this Part:

A. "arroyo" means a dry wash or draw which flows only occasionally;

B. "bedrock" means consolidated earth materials and includes fractured and cavernous rock;

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

D. "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;

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

F. "cesspool" means an excavation or non-water tight unit which receives water-carried liquid waste allowing direct discharge to the soil;

G. "clearance" means the thickness of suitable soil between any portion of a liquid waste disposal system and the seasonal high ground water table, bedrock, or other limiting layer;

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 20 NMAC 6.1, Standards for Interstate and Intrastate Streams, and by 20 NMAC 7.1, Drinking Water;

I. "Department" means the New Mexico Environment Department;

J. "design flow" means the flow rate for which a liquid waste system must be designed in order to assure acceptable system performance, assuming the use of conventional plumbing fixtures. For residential sources, the design flow shall be calculated assuming two (2) persons per bedroom for the first two (2) bedrooms and one (1) person per additional bedroom in a single family residential unit, and seventy-five (75) gallons per person per day. Multiple family residential source design flows shall be calculated as the sum of design flows for each single family unit included. Design flows for nonresidential sources shall be based on generally accepted references (such as the New Mexico Uniform Plumbing Code

or the USEPA Design Manual: Onsite Wastewater Treatment and Disposal Systems) or based on professional engineering calculations, if more restrictive, and must include safety factors to account for peak flows;

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

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. "effluent disposal well" means a drilled, driven, or bored shaft or dug hole with depth greater than any surface dimension, used for subsurface emplacement of liquid waste, including, but not limited to, abandoned water supply wells, irrigation wells, and test holes, but excluding seepage pits used as disposal systems, which conform to the standards in the New Mexico Uniform Plumbing Code;

N. "enclosed system" means a watertight liquid waste system which does not discharge to the soil, including, but not limited to, holding tanks;

O. "established liquid waste system" means a liquid waste system on the property in question which has been in use in the ten (10) years prior to the date of consideration;

P. "evapotranspiration system" means a disposal system designed to dispose of all the design flow from a liquid waste treatment unit through evaporation and plant transpiration;

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

R. "ground water" means intersitial 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;

S. "hazard to public health" means the indicated presence in water or soil of biological, chemical or other agents under such conditions that they may adversely impact human health and includes, but is not limited to, cases of surfacing liquid waste, contamination of a domestic water supply source, presence of an open cesspool or tank, or exposure of liquid waste or septage in a manner that allows transmission of disease;

T. "holding tank" means a watertight tank designed to receive and retain liquid waste for periodic pumping and disposal off-site;

U. "intersitial water" means water in spaces between solid earth particles;

V. "limiting layer" means a layer of soil which is unsuitable for filtration or transmission of liquid waste, and includes but is not limited to soil with a percolation rate faster than 1 minute per inch or soils with a percolation rate slower than 120 minutes per inch;

W. "liner" means a manufactured or naturally occurring substance which restricts seepage to no greater than 0.5 acre-foot per year per acre over the design service life of the lined unit;

X. "liquid waste" means human excreta and water carried wastes from typical residential plumbing fixtures and activities, including, but not limited to, wastes from toilets, sinks, bath fixtures, clothes-and dish-washing machines, and floor drains. Water carried wastes from non-residential sources shall be considered liquid waste if the composition and concentrations of waste do not differ from typical domestic wastewaters. Specifically excluded from the definition of liquid waste are commercial process wastewaters, roof drainage, and wastes containing high concentrations of stabilizing or deodorizing agents;

Y. "liquid waste system" means a system which is designed to receive liquid waste and includes a liquid waste treatment unit and associated disposal system, or an enclosed system;

Z. "lot" means a single parcel or area of land excluding roadways, legally recorded or validated by other means, where liquid waste will be generated or disposed;

AA. "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;

4. to increase the amount of design flow received by the liquid waste system above the original design flow; or

5. to remove or replace component materials in a disposal system;

AB. "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;

AC. "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;

**AD.** "percolation rate" means the rate of entry of water into soil as determined by a standard soil test at the depth of a proposed soil disposal system;

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

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

**AG.** "privy" means a receptacle for non-liquid-carried excreta allowing direct discharge to the soil;

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

**AI.** "roadway" means any area of land dedicated by easement or use to provide vehicular passage serving more than one lot or more than five residential or commercial units on a single property;

**AJ.** "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;

**AK.** "Secretary" means the Secretary of Environment or a designated representative;

**AL.** "septage" means the residual wastes and water periodically pumped from a liquid waste treatment unit or from a holding tank for maintenance purposes;

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

**AN.** "suitable soil" means a soil, whether naturally occurring or introduced, which will act as an effective filter in removal of organisms and suspended solids prior to the discharge reaching ground water, bedrock or a limiting layer, and which will provide adequate transmission to prevent surfacing of the discharge. Suitable soils are minimally characterized by percolation rates between one (1) and one hundred twenty (120) minutes per inch;

**AO.** "total design flow" means the sum of design flows for all liquid waste systems and other wastewater discharges on a lot;

**AP.** "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

**AQ.** "watercourse" means any river, creek, arroyo, draw, canal or wash, or any other channel having definite banks and beds with visible evidence of the flow of water.

**107. INTERPRETATION.** The definitions in Section 106 shall be construed so as to achieve the purpose of this Part.

**106. - 199. [RESERVED]**

## **SUBPART II PROCEDURES**

**200. [RESERVED]**

## 201. LIQUID WASTE SYSTEM PERMITS.

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

B. Obtaining a permit from the Department for installation or modification of a liquid waste system does not relieve any person from the responsibility of obtaining any other permit required by state, city or county regulations or ordinances or other requirements of state or federal laws.

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

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

D. 1. Except as otherwise provided in Section 201.D.2, the Department shall, within ten (10) working days after receipt of the completed application, grant the permit, grant the permit subject to conditions, or deny the permit and shall notify the applicant of the action taken.

2. If the Department's initial review of the application indicates that the imposition of more stringent requirements may be necessary pursuant to Section 201.E or Section 301.C, the Department may extend the time for the review of the application

until twenty (20) working days after receipt of the completed application; provided, the Department shall notify the applicant of such extension within ten (10) working days after receipt of the completed application.

3. 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.

E. If the Department finds that specific requirements in addition to or more stringent than those provided in Subpart III of this Part are necessary to prevent a hazard to public health or the degradation of a body of water, the Department may issue a permit conditions on those more stringent or additional specific requirements. Such additional or more stringent requirements may apply to system design, siting, construction, inspection, operation and monitoring.

F. The Department shall deny the permit if the proposed system will not meet the requirements of this Part.

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

H. The installation or modification of the liquid waste system shall be in accordance with the permit. Any change from the permitted installation or modification plans must receive written Department approval prior to implementation.

I. The Department may cancel a permit if the installation or modification of the liquid waste system has not been completed within one (1) year of the issuance of the permit, or if the Department determines that material information in the application was false, incomplete, or inaccurate and that the correct information would have resulted in the Department denying the original application. If a permit is cancelled, the Department shall notify the permittee of the decision and the reason for cancellation.

**202. VARIANCES.**

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

B. The petition shall be:

1. made on a form provided by the Department;
2. accompanied by relevant documents or materials which the petitioner believes would support the petition;
3. accompanied by documentation demonstrating that all owners of adjacent property sharing a common border with the lot for which the variance is sought have been notified of the nature of the variance petition, the date of submission of the petition to the Department, the address of the Department field office to which the petition is being submitted, and the time frame for Department action as provided in Subsection C. of this Section, unless all adjacent properties are more than one thousand (1,000) feet from the liquid waste system for which the variance is sought;
4. accompanied by such other relevant information as the Department may reasonably require; and
5. signed by the petitioner or an authorized representative.

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

D. The Department 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 varianced requirement.

**E.** The Department shall maintain a file of all variances granted and denied. The file shall be open for public inspection.

**F.** The factors listed in this subsection, as applicable, shall be considered in evaluating petitions for variances from the principal requirements of Subpart III. This list is not exhaustive and should not be considered as limiting for either the petitioner or the Department. Similarly, some of the factors listed within a category may not be important in specific cases.

**1. Lot size requirements (Section 302).**

**a. Proposed system discharge.**

(1) Design flow--projected average flows, basis for projection.

(2) Discharge quality--degree of treatment, separation of black water, etc.

(3) Type of system--trenches, bed, pit, pressure distribution, etc.

(4) Location and arrangement of discharge in relation to property boundaries.

**b. Geological factors.**

(1) Depth to seasonal high ground water.

(2) Intervening stratigraphy--geological layer composition (sand, clay, rock) and thickness, information from well logs.

(3) Presence of any barriers to pollutant movement.

**c. Hydrological factors.**

(1) Ground water flow direction and gradient.

(2) Transmissivity of the aquifer.

(3) Background quality of the ground water.

(4) Thickness of the saturated aquifer.

(5) Projected mixing depth.

(6) Artificial influences in ground water flow direction and gradient, such as pumping wells, irrigation, and agricultural drains.

**d. Additional factors.**

(1) Current and future housing density in the area--notably legal limitation.

(2) Potential for future community sewer.

(3) Current and future use of the ground water.

**2. Setback requirements (Section 303).**

**a. Proposed system discharge.**

(1) Design flow--projected average and peak flows, basis for projection.

(2) Discharge quality--degree of treatment, separation of black water, etc.

(3) Type of system--trenches, bed, pit, pressure distribution, etc.

(4) Location and arrangement of discharge in relation to all objects in listed in Section 303.A.

**b. Geological factors.**

(1) Depth to seasonal high ground water.

(2) Intervening stratigraphy--geological layer composition (sand, clay, rock) and thickness, information from well logs.

(3) Presence of any barriers to pollutant movement.

**c. Hydrological factors.**

(1) Ground water flow direction and gradient.

(2) Transmissivity of the aquifer.

(3) Background quality of the ground water.

(4) Thickness of the saturated aquifer.

(5) Projected mixing depth.

(6) Artificial influences in ground water flow direction and gradient, such as pumping wells, irrigation, and agricultural drains.

**d. Factors relating to the setback objects.**

(1) Well construction and protection--sanitary surface seal, casing sealed past first aquifer, depth of solid casing, location of water inlets.

(2) Well pumping rates and projected drawdown.

(3) Whether the watercourse is losing or gaining with respect to local ground water.

(4) Potential for future construction of well, canals, etc. in area.

(5) Potential for future change in watercourse or public lake shore.

(6) Potential flooding effects.

**e. Additional factors.**

(1) Current and future housing density in the area--notably legal limitation.

(2) Current and future use of the water that could be affected by the proposed system.

**3. Clearance requirements (Section 303).**

**a. Proposed system discharge.**

(1) Design flow--projected average and peak flows, basis for projection.

(2) Discharge quality--degree of treatment, separation of black water, sand filtration, etc.

(3) Type of system--trenches, bed, pit, pressure distribution, etc.

(4) Location and arrangement of discharge in relation to all objects in listed in Section 303.A.

**b. Geological factors.**

(1) Depth to seasonal high ground water.

(2) Type of limiting layer and depth to limiting layer.

(3) Intervening stratigraphy--geological layer composition (sand, clay, rock) and thickness, information from well logs.

(4) Percolation rates of soils involved.

(5) Soil chemistry parameters--pH, cation exchange, capacity, etc.

(6) Presence of any barriers to pollutant movement.

(7) Possibility of discharge to the surface at terrain breaks, embankments, road cuts, etc.

**c. Hydrological factors.**

(1) Ground water flow direction and gradient.

(2) Transmissivities of the various soils and geological layers involved.

(3) Projected ground water mounding effects--basis for projection,

(4) Background quality of the ground water.

(5) Thickness of the saturated aquifer.

(6) Projected mixing depth.

(7) Artificial influences in ground water flow direction and gradient, such as pumping wells, irrigation, and agricultural drains.

**d. Additional factors.**

(1) Current and future housing density in the area--notably legal limitation.

(2) Current and future use of the water that could be affected by the proposed system.

### 203. HEARINGS.

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

B. If a request for hearing is made within the fifteen (15) working day time limit, the Secretary shall hold a hearing within fifteen (15) working days after receipt of the request. The Department shall notify the person who requested the hearing of the date, time, and place of the hearing by certified mail. If the hearing is in regard to a variance petition, the Secretary shall also notify all persons involved under Section 202.B(3) of the hearing date, time and place, by certified mail.

C. In the hearing, the burden of proof shall be upon the person requesting the hearing. Where the Department requires standards more stringent than those provided in this Part, the burden of proof of the necessity for those specified standards shall be upon the Department.

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

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

F. 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 Secretary shall allow the Department 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. At the end of the hearing, the Secretary shall decide and announce if the hearing record will remain open, how long it will be left open, and for what reason it will be left open.

G. Based upon the evidence presented at the hearing, the Secretary shall sustain, modify or reverse the action of the Department. The action taken shall be by written order within fifteen (15) working days following the close of the hearing record. The order shall state the decision and the reasons therefor and shall be sent by certified mail to the person requesting the hearing.

**204. INSPECTIONS AND SAMPLING.** The Department 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 Department 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. The Department may collect samples of soils, liquid waste, or water, including water from wells, to determine compliance with this Part.

**205. - 299. [RESERVED]**

### **SUBPART III STANDARDS**

**300. [RESERVED]**

**301. GENERAL REQUIREMENTS.**

A. No person shall discharge untreated liquid waste except into an enclosed system, a liquid waste treatment unit, or a public sewer system. No person shall discharge liquid waste into a cesspool or effluent disposal well. A privy may be used for the disposal of human excreta and toilet paper, and not for the disposal of other liquid wastes.

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

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 Subpart III of this Part 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 February 1, 1990, shall meet the requirements of the regulations in effect at the time of their initial installation or the corresponding requirements of Subpart III of this Part, whichever are less stringent, until such time as system design flow is increased. When the design flow for a system is increased above that existing as of February 1, 1990, that system shall meet the requirements of Subpart III of this Part.

E. Liquid waste systems installed after February 1, 1990, shall meet the requirements of Subpart III of this Part.

**302. LOT SIZE REQUIREMENTS.** The requirements of Subsections A through F of this section apply to all liquid waste systems which discharge to the soil, and to evapotranspiration systems. Compliance with the requirements of this section shall be based on the total design flow for the lot. Water conservation devices or demonstrated actual flows cannot be used to reduce the requirements of this section. For the purposes of this Part, lot sizes shall be calculated to the nearest hundredth (0.01) acre.

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

1. the date of legal recording or validation by other means associated with the most recent change in lot size or boundaries; or

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

B. A liquid waste system shall be located wholly on the same lot which is the site of the source or sources served by the liquid waste system.

C. 1. Liquid waste systems on lots with record dates after February 1, 1990, shall not exceed the total design flow limitation given by the following formula:

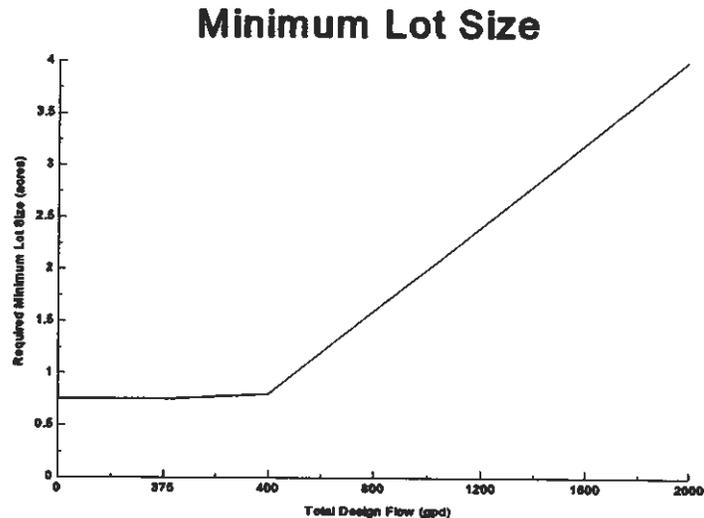
$$\text{Total Design Flow (gallons per day)} = \text{Lot Size (acres)} \times 500.$$

2. The minimum lot size required for a liquid waste system on a lot with record date after February 1, 1990, is 0.75 acres.

3. a. The following table lists the minimum lot sizes required for typical flow rates:

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

b. The following graph illustrates the minimum lot sizes required for any flow rate from zero (0) to two thousand (2,000) gallons per day:



D. Liquid waste systems initially installed after February 1, 1990, on lots with records dates prior to February 1, 1990, without established liquid waste systems shall not exceed:

1. a total design flow greater than that allowed by Subsection C above or three hundred seventy-five (375) gallons per day, whichever is greater, if the lot is smaller than 0.50 acres;

2. a total design flow greater than that allowed by Subsection C above or four hundred fifty (450) gallons per day, whichever is greater, if the lot is equal to or larger than 0.50 acres; and

3. the total design flow limitations of the minimum lot size requirements of the regulations in effect at the time of recording.

E. Liquid waste systems on lots with record dates prior to February 1, 1990, having any established liquid waste system shall not:

1. be modified to increase the total design flow if the resulting total design flow would exceed three hundred seventy-five (375) gallons per day or that allowed in Subsection C above, whichever is greater, if the lot is smaller than 0.50 acres;

2. be modified to increase the total design flow if the resulting total design flow would exceed four hundred fifty (450) gallons per day or that allowed in Subsection C above, whichever is greater, if the lot is equal to or larger than 0.50 acres; and

3. exceed the total design flow limitations of the minimum lot size requirements in effect at the time of their initial installation.

F. 1. The following table summarizes the minimum lot sizes, in acres, in effect prior to February 1, 1990:

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

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

\*\*See Section 302.F.2.

\*\*\*These requirements applied to lots in subdivisions which were required at the time of subdivision to obtain State Health Department review and approval.

\*\*\*\*No on-site disposal to soil allowed.

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

2. a. The following table lists the soil types for lot size determinations for the period November 1, 1973 to September 7, 1979:

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

The minimum lot size required for the location of an individual liquid waste disposal system is determined by the most limiting soil group under which any soil characteristic falls.

b. The distinction between "off-site" and "on-site" water, as used in the table in Section 302.F.2.a, has changed with different versions of the regulations.

(1) Prior to September 7, 1979, the distinction was between a public community water supply (off-site) and a private, on-site well.

(2) From September 7, 1979 to November 9, 1985, a "public water supply" (i.e., "off-site") was defined as "a water supply for the provision to the public of piped water for human consumption if such system 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." A "private water supply" (i.e., "on-site") was defined as "a non-public water supply."

(3) Between November 9, 1985 and February 1, 1990, the following definitions were in place:

(a) "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.

(b) "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.

**303. SETBACK REQUIREMENTS.**

A. Liquid waste systems shall be located to meet setback distances, in feet, specified in the following table:

OBJECT	PRIVATE WATER SYSTEMS AND LIQUID WASTE TREATMENT UNITS	DISPOSAL SYSTEMS DISCHARGING TO SOIL
Private water supply source	50	100
Public water supply source	100	200
Public lakes	50	100
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
Potable water lines	10	10

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

**304. CLEARANCE REQUIREMENTS.** Seasonal high ground water levels shall be determined by the Department either by direct observation or by another source such as the findings of a geohydrologist, the U. S. Soil Conservation Service, the U. S. Bureau of Reclamation, etc. Compliance with seasonal high ground water table clearances in this section shall be based on the best documented evidence

available to the Department at the time of installation or modification.

A. No liquid waste system shall discharge liquid waste into the soil where clearance to seasonal high ground water table, bedrock, or other limiting layer is less than four (4) feet.

B. Unlined privy pits shall provide a clearance of no less than two (2) feet to seasonal high ground water table, bedrock, or other limiting layer.

### 305. HOLDING TANK REQUIREMENTS.

A. Holding tanks shall not be installed after February 1, 1990, to serve any design flow greater than three hundred-seventy-five (375) gallons per day, except to replace an existing holding tank. Total design flow on any property served by holding tank installed after February 1, 1990, shall not exceed 375 gallons per day.

B. Owners of holding tanks shall maintain records demonstrating sufficient pumping and proper disposal of liquid waste (septage) from those units to prevent discharge. Copies of these records shall be retained by the owner for at least one year, and shall be made available to the Department for inspection on request. The records shall be:

1. kept on a form provided by the Department;
  2. accompanied by such other documentation as the Department may reasonably require;
  3. signed by the owner or an authorized representative;
- and
4. mailed on a semi-annual basis to the Department field office having jurisdiction.

C. No person shall install, operate, or maintain a holding tank to allow discharge to enter the soil.

D. The Department may perform site inspections periodically to ensure that a holding tank does not discharge.

306. **NEW TECHNOLOGY.** The Department may approve, on an individual basis, the installation of a liquid waste system employing significant new technology if the Department determines that the system will neither cause a hazard to public health nor degrade a body of water.

307. **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. Disposal of septage may also be subject to the New Mexico Water Quality Control Commission Regulations and other federal, state and local requirements.

**308. OPERATION REQUIREMENTS.**

A. No person shall introduce motor oil, gasoline, paint, varnish, solvents, pesticides, fertilizer, or other materials of a composition or concentration not generally associated with toilet flushing, food preparation, laundry and personal hygiene to a liquid waste system.

B. No person shall introduce any chemical defined by the New Mexico Water Quality Control Commission as a toxic pollutant into a liquid waste system.

309. - 399. **[RESERVED]**

**SUBPART IV  
MISCELLANEOUS**

400. **[RESERVED]**

401. **CONSTRUCTION.** This Part shall be liberally construed to carry out their purpose.

402. **TEMPORARY PROVISIONS.** All registration certificates, permits, orders, rulings, and variances issued pursuant to the regulations in effect at the time such registration certificates,

permits orders, rulings, or variances were issued shall remain in full force and effect until repealed, replaced, or superseded, or amended pursuant to this Part.

**403. SEVERABILITY.** If any provision or application of this Part is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

**404. AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS; REFERENCES IN OTHER REGULATIONS.** This Part shall be construed as amending and superseding the Liquid Waste Disposal Regulations, EIB/LWDR 2, filed December 19, 1989. Any reference to the Liquid Waste Disposal Regulations in any other rule shall be construed as a reference to this Part.

**405. SAVINGS CLAUSE.** Supersession of the Liquid Waste Disposal Regulations shall not affect any administrative or judicial action for the enforcement thereof.

**406. COLLATERAL REQUIREMENTS.** Compliance with this Part 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.

**407. LIMITATION OF DEFENSE.** The existence of a valid permit for installation or modification of a liquid waste system shall not constitute a defense to a violation of any section of this Part except the requirement for obtaining a permit (Section 201).

**408. - 499. [RESERVED]**

