

**PROFESSIONAL ON-SITE WASTEWATER RE-USE ASSOCIATION OF NEW
MEXICO, INC.
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AND

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May 4, 2010

Joyce Medina, Administrator
New Mexico Environmental Improvement Board
Harold Runnels Building, Rm N2150
1190 St. Francis Drive
Santa Fe, New Mexico 87505

Re: Amended Petition for Public Hearing to Consider Proposed Amendments to the Liquid Waste Disposal and Treatment Regulations in Title 20, Chapter 7, Part 3 of the New Mexico Administrative Code except for Section 20.7.3.904 NMAC which was the subject of a separate hearing already held.

Dear Ms. Medina:

The Professional On- Site Wastewater Re-Use Association of New Mexico (“POWRA”) and Link Summers, Pro Se, respectfully request that the Environment Improvement Board accept this amended petition for proposed amendments to the Liquid Waste Disposal and Treatment Regulations, 20.7.3 NMAC except for Section 20.7.3.904 NMAC which was heard in a previous hearing held in November, 2009. The purpose of the proposed amendments is to make corrections and adjustments to the current regulations, to clarify various provisions and to assure that the Liquid Waste Program performs its functions according to law.

POWRA and Mr. Summers seek to clarify and supplement several issues with the existing rules that need to be addressed for the public health and safety of the citizens of New Mexico. One example is the documented high strength wastewater discharged by RV parks and the absence of suitable language in the current regulation to properly address the problem. Another issue is recognizing 20.7.3 as the official code of the state of New Mexico with regard to Liquid Waste Disposal and Treatment. Proposed language addresses what the department describes as a lack of clarity concerning the responsibility for inspecting unpermitted systems. Other proposed language places limits on department use of discretion with regard to enforcement and requires cooperation

between NMED and other agencies with regard to illegal and unlicensed activity. Additional proposed language addresses failure to properly preserve and protect liquid waste permits and other related documents that are State property and subject to the state archive law. In addition these proposed changes allow more extensive use of photographic documentation of installations for inspection purposes as well as electronic(email) filings of permits. It also authorizes other methods for payment. These examples serve to illustrate some, but not all, issues that POWRA and Mr. Summers have addressed with this proposed rule change,

POWRA and Mr. Summers respectfully request that the Board consider this Amended Petition at the scheduled hearing in August, 2010. POWRA and Summers expect that the hearing will take approximately 3 days. Filing this amended petition for the hearing in August of 2010 will allow for 60 days notice to the public pursuant to NMSA 1978, §74-1-9D (1985).

The proposed amendments include:

Section 20.7.3.2 SCOPE:

Subsection A -

Add the sentence "This part, 20.7.3 NMAC, constitutes the New Mexico Liquid Waste Disposal and Treatment code for on-site liquid waste systems that are designed to receive and do receive two thousand gallons or less of liquid waste per day as authorized by 74-1-8.A(3) NMSA 1978."

Section 20.7.3.6 OBJECTIVE:

After the phrase "liquid waste disposal practices and" Add the phrase "to accurately document official actions taken by the department pursuant to the Public Records Act 14-3-1 - 23 NMSA 1978 and the Executive Records Retention and Disposition Schedule New Mexico Environment Department 1.18.667 NMAC;"

Section 20.7.3.7: DEFINITIONS:

Subsection A –

(1) Definition of “absorption area” amended to insert the words “below the invert of the pipe” after the words “infiltrative surface”.

(2) Definition of “advanced treatment” amended to insert the phrase "Advanced treatment systems include systems that provide secondary treatment, tertiary treatment, and disinfection. Approved advanced treatment units appear on the approved product list on the new mexico environment department website www.nmenv.state.nm.us." after the words " advanced treatment may include physical or chemical processes; "

(3) Definition of "aggregate" amended to insert the phrase "except for approved proprietary aggregate and tire chips" after the words "35% void space under field conditions;"

(4) Definition of “alternative disposal” amended to insert the phrase "elevated systems, alternating drainfields and alternating beds, split flow systems, subsurface drip disposal, low pressure pipe, and timed and untimed" after the words "evapotranspiration beds," and before the words " pressure dosed systems;"

(6) Definition of “approved”

(c) amended to insert the phrase "offer on site liquid waste consulting services," after the words " authorized by the department to"; and insert the word "repair," after the word "design".

Subsection C -

(2) Definition of "certificate of registration"

Amended to insert the phrase "A " certificate of registration " is an official record and property of the State of New Mexico which is subject to the Public Records Act 14-3-1 - 23 NMSA 1978 and the Executive Records Retention and Disposition Schedule New Mexico Environment Department 1.18.667 NMAC;" after the words " unpermitted on-site liquid waste system;"

(5) Definition of "clearance" amended to insert the phrase, "flood plain" after the words " seasonal high groundwater table" and before the word "bedrock".

(11) Definition of "contractor"

Amended to insert "contractor" for the purposes of 20.7.3 NMAC is anyone holding a current, valid MM98, MM1, MS1, or MS3 license issued by the construction industries division of the Regulation and licensing department of the State of New Mexico.

(11), and (12) amended to be renumbered (12) and (13) respectively.

Subsection D -

(2) Definition of "department"

Amended to insert "Secretary of the New Mexico" after the words " means the"; and add the phrase "or his lawful designee pursuant to 9-7A-6 B.1,2,9,10, and 11;" after the words " environment department".

(3) Definition of "design flow"

Amended to strike the following words "assuming the use of conventional plumbing fixtures"

(4) Insert new number

(4) Definition of "discretion"

Add the following definition for the word "discretion" - "discretion" means the limited power of designated department personnel to make various decisions based on his/her opinion within general legal guidelines. Discretion regarding any part of 20.7.3 must be signed and in writing and may only be exercised by District Managers with signed, written concurrence of the Bureau Chief. Discretionary decisions that are clearly unreasonable, erroneous, or arbitrary and not justified by the facts or the law are prohibited."

(4), (5), (6), and (7) amended to be renumbered (5), (6), (7), and (8) respectively.

Subsection E -

(8) Definition of "experimental system"

Amended to delete the phrase " at the discretion" and Insert the phrase "based on the recommendation of the WTAC and shall be signed" after the words " shall be"; delete the word "of" and insert the word "by" after the new word "signed" and before the word "secretary".

Subsection H

(1) Definition of "hazard to public health"

Amended to insert the phrase "or for recreational purposes" after the words "domestic water source" and before the words "presence of an open cesspool".

Subsection I -

(4) Definition of "inspector"

Add the phrase "after completing an nationally recognized, approved course of instruction and passing an approved qualifying;" after the words " on-site liquid waste systems".

Subsection K -

(1) Insert new number (1)

(1) Definition of "kennel"

Add the following definition for the word) "kennel" means a facility where more than four (4) dogs and cats or other non-livestock domesticated animals are bred, trained, or boarded.

Subsection L -

(2) Definition of "limiting layer"

Amended to add the words "flood plain" after the words "seasonal high ground water table".

(5) Definition of "liquid waste"

Amended to insert the phrase "liquid waste includes nonhuman animal excreta and other animal waste but shall be treated in a separate, properly - designed liquid waste treatment unit dedicated to the treatment of that waste only;" after the words " dish-washing machines and floor drains;" and before the words " liquid waste also includes non-water carried wastes" and amended to insert the phrase "funeral home process discharges" after the words " roof drainage," and before the words " mine or mill tailings or wastes".

Subsection M -

(1) Definition of "maintenance contract"

Amended to add the word "notarized" after the words " means a" and before the words " contract between the system owner".

(4) Definition of "may"

Amended to insert the phrase "with conditions as listed in 20.7.3.7.D4" after the word " allowed".

(5) Definition of "modify"

Amended to add items

"(e) to change the name of the person or contractor who performs the site evaluation, system design, or installation of an on-site liquid waste system."

"(f) to change the size or boundaries of a lot with an existing on-site liquid waste system so that the total design flow for the lot exceeds the total design flow limitation provided by the formula in Subsection 111.C.1 of 20.7.3 NMAC.

Subsection N -

(1) Definition of "nondischarging"

Amended to add

(1) "nondischarging system" means a watertight system that allows no discharge of wastewater except through evaporation or pumping. Nondischarging systems include lined evaporation, lined evapotranspiration, and holding tanks. None of the total flow nondischarging systems receive discharges into the soil to percolate into groundwater.

Systems may also be nondischarging with regard to specific contaminants of concern such as nitrogen. Split flow systems that separate all blackwater from graywater may be regarded as nondischarging with regard to nitrogen and do not require laboratory testing. Split flow systems that do not separate all blackwater from graywater are discharging systems with regard to nitrogen and do require laboratory testing.

Subsection P -

(3) Definition of "permit"

Amended to add the phrase "A "permit" is an official record and property of the State of New Mexico which is subject to the Public Records Act 14-3-1 - 23 NMSA 1978 and the Executive Records Retention and Disposition Schedule New Mexico Environment Department 1.18.667 NMAC." after the word "system".

(6) Amended to insert and add a new number (6) Definition of "policy statement"

Add the following definition for the words "policy statement" - "policy statement" means any reasonable and procedural rules and regulations not authorized by 20.7.3 NMAC which the department deems necessary to carry out the duties of the liquid waste program of the Environmental Health Division. " Policy statements must be included in the next proposed rule change to 20.7.3 subsequent to the issuance of the policy statement or they become null and void as of the date of adoption of the subsequent rule change. Policy statements may be appealed as provided in 20.7.3.406 NMAC.

(6), (7), (8), (9), (10), and (11) amended to be renumbered (7), (8), (9), (10), (11), and (12) respectively.

New (7) Definition of "primary treatment".

Amended to add the phrase "Primary treated wastewater does not exceed 150 mg/l BOD, 75 mg/l TSS, 60 mg/l total nitrogen or 60 mg/l fats, oils and grease." After the words "being treated;"

New (10) Definition of "professional engineer"

Amended to insert the phrase "and in compliance with Section 16.39.3.8. F 1-5 : On-site wastewater engineering;" after the words " Survey Practice Act" and before the words "'professional engineer" includes".

Subsection R -

(1) Definition of "repair"

Amended to add the phrase "repair" does not include installing risers or external effluent filters." After the words " distribution box;"

Subsection S -

(2) Definition of "seasonal high ground water table"

Amended to add the words "as evidenced by actual presence of ground water or mottling of the soil in an exposed soil profile" after the words "consecutive months".

(5) Definition of "secretary"

Amended to insert the word "legally" after the words "or a " and before the word "designated".

Amended to insert and add a new number (13) Definition of "split flow system"

Add the following definition for the words "split flow system" -

(13) "split flow system" means a system that is a combination discharging/non-discharging system that separates the toilet and kitchen waste (black

water) from the rest of the waste stream (gray water). The toilet waste and kitchen waste, containing approximately 100% of the total nitrogen load, is directed to a holding vault that must be removed by a septage pumping service or treated and sent to a nondischarging disposal system. The remaining waste is discharged to a conventional septic system, evaporation system, or gray water system as described in 20.7.3.810 NMAC or 20.7.3.811 NMAC. These systems are non - discharging systems with regard to nitrogen and do not require laboratory testing when used for lot size reduction. Split flow systems that separate toilet water, but not kitchen water, from the rest of the waste stream are discharging systems with regard to nitrogen and do require laboratory testing when used for lot size reduction.

(13), and (14) amended to be renumbered (14 and (15) respectively

Subsection U -

(1) Definition of "uniform plumbing code"

Amended to delete "1997" and add "2006 or currently adopted" in both places where it appears

Subsection V -

(1) Definition of "vault"

Amended to add the phrase "a holding tank" after the words "off-site" and before the word "and"

(2) Definition of "variance"

Amended to add the phrase "A "variance" is an official record and property of the State of New Mexico which is subject to the Public Records Act 14-3-1 - 23 NMSA 1978 and the Executive Records Retention and Disposition Schedule New Mexico Environment Department 1.18.667 NMAC;" after the phrase " the intent of 20.7.3 NMAC."

Subsection W

(1) Definition of wastewater

Amended to add the words "and includes domestic wastewater, commercial wastewater and industrial process waters;" after the word "graywater"

Section 20.7.3.8 GENERAL PROVISIONS:

B. Alternative Resources

Amended to add new numbers (9), (10), and (11)

(9) The 2006 or most recently adopted version of the uniform plumbing code, 14.11.3 NMAC and the 2006 or most recently adopted state of New Mexico plumbing code and mechanical code, 14.9.2 NMAC, or the successor versions of each as adopted by the construction industries division of the New Mexico regulation and licensing department and promulgated in the New Mexico administrative code or another applicable code as adopted by the authority having jurisdiction;

(10) "Wastewater Engineering Treatment, Disposal, and Reuse" by Metcalf & Eddy, Inc. ISBN 0-07-041690-7

(11) "Operation of Wastewater Treatment Plants Volumes 1 & 2" by EPA and the University of California ISBN 1-884701-00-0 and 1-884701-02-7

C. Amended to insert the phrase ", including printed copies of 20.7.3 NMAC and a brochure on the maintenance requirements of effluent filters," after the words " educational materials regarding on-site liquid waste systems" and before the words " available to the public and to permit applicants".

Section 20.7.3.201 PROCEDURES; GENERAL REQUIREMENTS:

B. Amend to insert the words "and approved" after the word "permitted" and before the word "enclosed"; insert the words "and approved" after the word "permitted" and before the words "liquid waste treatment unit".

C. Amend to insert the words "and approved" after the word "permitted" and before the words "liquid waste disposal system".

E. Amend to insert the phrase "except advanced treatment units that are operating in compliance with permit requirements." after the words "having jurisdiction"

F. Amend to insert the phrase "type of facility" after the words "determined on the basis" and before the words "location, lot size,"

J. Amend to delete the prefix "pre" from the word pretreatment leaving the word "treatment"; replace the phrase "the level of domestic waste" with the phrase "primary treatment levels": Replace the letter "D" with the letter "P"; insert the phrase "prior to discharging to a conventional disposal system. Monitoring of the effluent is required." after the letters "NMAC" and before the words "Existing permitted"; replace the word "receiving" with the words "permitted to receive"; replace the word "pretreatment" with the words "the level of treatment"; add the words "identified above" after the word "waste".

L. Amend to delete the word "permitted" after the words "has been a prior" and before the word "modification"; delete the word "permitted" after the words "most recent" and before the word "modification".

M. Amend to delete:

Delete (1) a water-table aquifer (includes both unconfined and semi-confined conditions) with a vadose zone thickness of 100 feet or less containing no soil or rock formation that would act as a barrier to saturated or unsaturated wastewater flow;

(2) Amended to insert the word ",documented," after the word "known"

Delete (3) an aquifer overlain by fractured bedrock;

Amended to renumber existing (2) to be new (1) - renumber existing (4) and (5) to be new (2) and (3) respectively

Amended to insert the phrase "or other body of water" after the words "gaining stream" and before the words "impacted by".

O.

(1) Amend to add the phrase "or other penalties as provided in Section 20.7.3.906 for unpermitted systems;" after the words "suspension of a permit".

P.

Chart labelled **Table 201.1: Established liquid waste design flow rates**

22. Amend to add the word "kennels**" after the word "Veterinary clinic"

Amend to add the word "or owner" after the word "practitioner"

Amend to change the number 20 to 200 before the word "kennel"

Amend to add the words "or 20" before the words "per stall"

(2) After the chart 201.1 amend to delete the prefix "pre" from the word pretreatment leaving the word "treatment"; add the phrase "to primary treatment levels as defined in Paragraph (6), Subsection P of 20.7.3.7 NMAC prior to discharging to" after the word "treatment"; delete the words "to utilizing" after the words "discharging to" and before the words "a conventional"; replace the word "treatment" with the word "disposal" after the word "conventional" and before the word "system".

Amend to add

* RV dumpstation waste shall be discharged into a separate holding tank or correctly designed advanced treatment unit.

** Non human animal waste shall not be combined with human liquid waste in the same liquid waste treatment units. It shall be treated in a separate liquid waste treatment unit.

Section 20.7.3.202 PROCEDURES; MODIFICATION OF EXISTING SYSTEMS:

B. Amend to insert the word "by" after the word " approved" and before the words "the department"; Amend to insert the words "utilizing ASTM, ANSI or other recognized standards."

C.

(1) Amend to delete the phrase "permitted" after the words " most recent" and before the word " modification"; Add the phrase "systems installed prior to November 1, 1973, shall meet the lot size requirements adopted in 1973 except as provided in Table 20.7.3.301.2 NMAC;" after the word "modification"

D. Amend to add the word "watertight," after the words 'structurally sound" and to add the phrase "Concrete septic tanks with effluent baffles shall not be altered in any way and shall use an external effluent filter." After the words " Subsection C of 20.7.3.502 NMAC"

New E.

Add "E. Upon modification of any part of the system, an approved effluent filter, and risers over the inlet and outlets to grade, shall be installed in accordance with Subsection H of 20.7.3.502 NMAC."

~~E. F.~~ Renumber existing E to become F.

G. Amend to add "changing the name on a permit of the person or contractor who performs the site evaluation, system design, or installation of an on-site liquid waste system is a modification and requires a new permit and payment of the appropriate fee"

Section 20.7.3.203 PROCEDURES; CONSTRUCTION INSPECTIONS AND TESTING:

A. Amend to replace the words "test holes may " with the words "the department may, in compliance with conditions as listed in 20.7.3.7.D4, NMAC, waive the requirement for test holes."; delete the words " be waived".

B. Amend to strike the words " if the department determines an inspection is necessary,"

(1) Amend to insert the words "installer or other" after the word "The" and before the words "person doing the work"; insert the phrase "orally or in writing" after the words words "the department" and before the words "to schedule an inspection"; add the phrase "All physical or photo inspections shall meet the minimum standards adopted by the Department appropriate for the type of inspection conducted. The Department shall publish the minimum standards on its web site. Photographic inspections without an on-site physical inspection shall not be classified by the department as 'inspections' for official reports within the department or to any agency or branch of government outside the department" after the words "submitted to the department".

(2) Amend to insert the word "physically" after the words "shall be" and before the words " inspected "; insert the word "on-site" after the word "inspected" and before the

words "by the department"; add the phrase "and a department - approved homeowner installation inspection form, including pictures , shall be completed." After the words "by the department".

D. Amend to add the phrase ". The department shall keep a record of every test for water tightness and post the results of each test on its internet page of approved products under the manufacturer's name and type of product." After the words "liquid waste system".

Amend to create new Section 20.7.3.204

Section 20.7.3.204 PROCEDURES; PROHIBITIONS

Amend to add new A. and B.

A. No owner shall allow dogs or other potentially dangerous animals to be kept caged or penned in the same area where any on-site wastewater system that requires a maintenance contract is located.

B. No utility lines including electric, water, gas, telephone, or any type of cable shall be buried in any portion of an on site liquid waste system except that clearly marked utilities may intersect a service line only within five (5) feet of the building.

Section 20.7.3.301 STANDARDS; LOT SIZE REQUIREMENTS:

J. Amend to add the phrase "All changes in the boundaries of a lot with an existing on-site liquid waste system permit shall be submitted to the department at the time of change." after the words " shall be submitted.

Section 20.7.3.302 STANDARDS; SETBACK REQUIREMENTS:

A. Amend to add the words "except as provided in 20.7.3.605.E (1) - (3) NMAC." After the words "Table 302.1" and before the words "Setback distances".

B. Amend by replacing the phrase " seasonal high water flow" with the words "defined bank".

C. Amend to replace the words "as otherwise provided in" with the words "those systems installed in compliance with

F.(4) Amend to replace the words " for 3 years after the effective date of these regulations " with the words "for systems permitted, installed and issued a final inspection by September 1, 2008."

(5) Amend to replace the words " for 5 years after the effective date of these regulations" with the words "for systems permitted, installed and issued a final inspection by September 1, 2010."

G. Amend to replace the word "permitted" with the word "prior"

Section 20.7.3.303 STANDARDS; CLEARANCE REQUIREMENTS

A. Amend to insert the words "documented by photographs" after the words "by direct observation" and to insert the word "engineer" after the words "findings of a qualified professional" and insert the words "directly related to the site" after the words "scientific material"

And amend to replace the word "may" with the word "shall"

And amend to remove the hyphen between the words "best" and "documented"

B. Amend to insert the words "as provided in 20.7.3.605 NMAC" after the words "appropriate advanced treatment" and to add the words "as provided in 20.7.3.806 and 20.7.3.807 NMAC"

Section 20.7.3.304 STANDARDS; PROHIBITIONS:

A. Amend by inserting the words "animal or" after the word " fertilizers," and before the words " livestock wastes" and insert the word "volume," after the words "materials of a ";

B. Amend by inserting the phrase ", other than those approved, in writing, by advanced treatment unit manufacturers," after the word "additives" and before the words "shall not be used".

And amend to add the sentence "Liquid waste additives shall not be used to prevent or remediate clogged or failed disposal systems without the written approval of the Department." after the words "from a treatment unit".

C. Amend to add "C. No RV tank waste, RV dumpstation waste, drains or floor drains from animal washdown facilities, livestock , kennel waste, or other non-human generated waste shall be introduced into a residential liquid waste treatment and disposal unit."

Section 20.7.3.305 STANDARDS; WASTE INTERCEPTORS:

B. Amend to add the phrase ""and design" after the word "Installation" and before the words "of such interceptors".; insert the words "or the manufacturer's recommendations." after the words "plumbing code"

E. Amend to add "E. Waste interceptors located more than 2 feet outside the building and past the clean outs are considered to be components of the liquid waste system."

F. Amend to add "Waste interceptors with effluent filters are required for all mop basins"

Section 20.7.3.307 BANDONED SEWERS AND ON-SITE LIQUID WASTE SYSTEMS:

A. Amend to replace the word "The" with the words "; or the" after the words "retaining water" and before the words "unit shall be".

C. Amend to delete the word "or" after the word "removed" and before the word "collapsed"; amend to insert the phrase "or openings created for complete filling" after the word "collapsed" and before the words "before filling".

Section 20.7.3.401 PERMITTING; GENERAL REQUIREMENTS:

A. Amend to replace the sentence " Failure to obtain the required permit may result in the initiation of enforcement actions by the department. " with the sentence "The department shall initiate an enforcement action against both the owner and the contractor in all cases of failure to obtain the required permit."

B. Amend to insert "and the appropriate permit fee is paid," after the words "liquid waste system permit".

C. Amend to insert the words "repair, except for pumping" after the word "install" and before the words "or modify"

and Amend to insert the phrase "including the installation of an external effluent filter or access risers" after the words "liquid waste system" and before the word "unless"

And Amend to replace the words "Once the department has developed a homeowner certification program pursuant to 20.7.3.904 NMAC, a " with the word "A"; Amend to add the phrase "The department shall not knowingly issue a permit that violates"

a city or county regulation issued in compliance with 74-1-14 NMSA 1978." After the words "state or federal laws".

D. Amend to insert the phrase "in person or electronically," after the word "application" and before the words "to the field office".

E. (1) Amend to replace the words "applicant or their" homeowner or the contractor acting as the owner's"; Amend to add the phrase "Permits signed by the contractor are deemed to be the non-transferable work product and property of the contractor until the signed final inspection is completed." after the word "representative".

J.

(1) Amend to insert the words "by the owner" after the words "is pumped" and before the words "and inspected"; insert the words "by the department" after the words "and inspected" and before "utilizing a department approved"; and amend to add the phrase "or most recent modification;" after the words "time of installation and".

(2) Amend to insert the phrase "is sized, as determined by probing and determination of soil type and structure, according to the regulations in effect at the time of installation or most recent modification, drawn and dimensioned on the inspection form" after the words "disposal system" and before the words "appears to be functioning".

K. Amend to insert the words "or modified" after the word "installed" and before the word "prior"

(1) Amend by inserting the words "by an approved department inspector utilizing a department approved inspection form" after the words "full inspection" and before the words "and the disposal"; insert the words "probed and dimensions accurately recorded" after the words "is sufficiently" and before the words "exposed to determine"; add the phrase "All relevant aspects of construction and materials listed above shall be accurately noted on the department approved inspection form. Appropriate pictures shall be taken and included with the inspection report." after the word "spacing".

(2) Amend to insert the words "upon physical and photographic" after the word "determined" and before the word "inspection"

(3) Amend to add the phrase "in person or electronically or by other means acceptable to the department;" after the word "paid"

(4) Amend to insert the words "bureau chief of the environmental health division of the" after the words "discretion of the" and before the word "department".

Amend to add

(5) "the department shall use its best efforts to determine the identities of the parties who sold and/or installed the units and the system and shall forward the names of the parties involved in the violation to the New Mexico Construction Industries Division and the Office of the General Counsel of the New Mexico Environment Department and/or the New Mexico Attorney General's Office for legal action"

Amend to add:

L. If the department finds that specific requirements in addition to or more stringent than those specifically provided in 20.7.3 NMAC are necessary to prevent a hazard to public health or the degradation of a body of water, the department shall issue permit conditions with more stringent requirements or additional specific requirements. Such additional or more stringent requirements may apply to system design, siting,

construction, inspection, operation and monitoring and shall be in accordance with 20.7.3.402.D.

M. The installation or modification of an on-site liquid waste system shall be in accordance with the permit and all regulatory requirements of 20.7.3 NMAC. Any change from the permitted installation or modification, must receive department approval prior to implementation. An amendment to the permit shall be submitted within 7 days of the completion of the installation.

N. No person shall operate or use an on-site liquid waste system until the department has granted final approval of the system after installation or modification of the system is completed. No person shall occupy a newly constructed or transported dwelling for which an on-site liquid waste system is required until the department has granted such final approval and, if applicable, until the governmental body with authority to regulate construction has granted an occupancy permit. The department shall not grant final approval if the system as installed or modified does not meet the requirements of 20.7.3 NMAC No permit is complete and final approval shall not be granted until a final inspection is conducted by the department, either in person or photographically. When final approval is granted, the department shall execute and sign the final inspection and final approval form and shall notify the applicant and installer of its action and shall provide a signed copy to each of them..

O. The department may cancel a permit if the installation or modification of the on-site liquid waste system has not been completed within one (1) year after issuance subject to 20.7.3.402. E. NMAC. The department, using the contact information provided on the permit application, shall attempt to contact the applicant and installer, and shall attempt to perform a final inspection prior to canceling any permit. If a permit is cancelled, the department shall notify the permittee and installer of the decision in writing and the reason for cancellation and appropriate regulations cited. The notice to the permittee shall also inform the permittee of his right of appeal pursuant to 20.7.3.406 NMAC.

P. The Department shall void any permit, variance, or certificate of registration if the department determines that material information in the application is false, incomplete or inaccurate and that the correct information would have resulted in the department denying the original application. The department shall notify the permittee of the decision in writing and the reason for cancellation and appropriate regulations cited.

Q. All permits, variances, exhibits, attachments, approvals, rejections, are official documents and property of the State of New Mexico and shall be received, handled, stored, treated, preserved, and archived in accordance with the Public Records Act 14-3-1 - 23 NMSA 1978 and the Executive Records Retention and Disposition Schedule New Mexico Environment Department 1.18.667 NMAC.

R. The Department or any of its representatives shall not destroy, deface, alter or modify, in any way, any permit, certificate of registration, variance, exhibit, or attachment.

S. . Department decisions involving discretion on any permit or certificate of registration regarding any requirement of 20.7.3 must be in writing and may only be exercised by District Managers with written concurrence of the Bureau Chief. The written decision shall be signed by the District Manager and Bureau Chief and becomes an attachment to the permit, variance, or certificate of registration.

Section 20.7.3.402 PERMITTING; CONVENTIONAL TREATMENT AND DISPOSAL SYSTEMS:

A

(1) Amend to replace the word "completely" with the word "reasonably"; insert the phrase "only if the slope exceed 15%" after the phrase " direction and approximate slope of surface;" Delete the phrase " the location of all present or proposed retaining walls" before the word "arroyos"; delete the words " water supply lines," after the word "channels" and before the word "wells"; Insert the word "private" after the words "sources of water supply"; replace the words "two hundred " with the words "one hundred"; replace the number "200" with the number "100"; add the words "and public sources of water supply within two hundred (200) feet" after the word "feet"

(3) Amend to replace the phrase "detailed log of soil formations" with the phrase "determination of soil type and structure".

Amend to add neww (67), (7), and (8)

(6) prior to final inspection, a copy of the delivery ticket for gravel delivered to the site for pipe and gravel disposal systems.

(7) A copy of the installers appropriate, current, and valid contractor's license issued by the Construction Industries division of the Regulation and Licensing Bureau of the State of New Mexico which is limited to the following designations: MM98, MM1, MS1,

(8) prior to final inspection a copy of all photographic inspection photos in lieu of in - person inspections conducted pursuant to 20.7.3.203.B.(1)

(9) With prior approval of the department and using standards developed by the department, the installer may digitally record the entire installation with sufficient detail to verify that all components and materials were properly installed to meet all the requirements 20.7.3 NMAC in lieu of a physical inspection by the department

Amend to delete existing Sections B - E

~~———— B. ——— If the department finds that specific requirements in addition to or more stringent than those specifically provided in 20.7.3 NMAC are necessary to prevent a hazard to public health or the degradation of a body of water, the department shall issue permit conditions with more stringent requirements or additional specific requirements. Such additional or more stringent requirements may apply to system design, siting, construction, inspection, operation and monitoring.~~

~~———— C. ——— The installation or modification of an on-site liquid waste system shall be in accordance with the permit and all regulatory requirements of 20.7.3 NMAC. Any change from the permitted installation or modification, including a change of contractor, must receive department approval prior to implementation. An amendment to the permit shall be submitted within 7 days of the completion of the installation.~~

~~———— D. ——— No person shall operate or use an on-site liquid waste system until the department has granted final approval of the system after installation or modification of the system is completed. No person shall occupy a newly constructed or transported dwelling for which an on-site liquid waste system is required until the department has granted such final approval and, if applicable, until the governmental body with authority to regulate construction has granted an occupancy permit. The department shall not grant final approval if the system as installed or modified does not meet the requirements of 20.7.3 NMAC.~~

~~_____ E. _____ The department may cancel a permit if the installation or modification of the on-site liquid waste system has not been completed within one (1) year after issuance or if the department determines that material information in the application is false, incomplete or inaccurate and that the correct information would have resulted in the department denying the original application. If a permit is canceled, the department shall notify the permittee of the decision in writing and the reason for cancellation and appropriate regulations cited.~~

Amend to re number existing Section

F. B Further amend new section B to add the phrase "verbally and in writing within the 5 working day time frame." after the words " administratively incomplete".

Amend to re number existing Section

G. C.

Amend to re number existing Section

H. D. Further amend new section D to insert the phrase "shall notify the permittee, cite the" after the words " stringent conditions applied, the" and before the words " reason for the action"; insert the words "provide evidence of the facts supporting the reason, and" after the word "action" and before the word "shall".

Amend to add the new letter E.

"E. The department shall provide owners of conventional liquid waste treatment systems, with effluent filters, a brochure explaining the proper care and maintenance of effluent filters. "

Section 20.7.3.403 PERMITTING; ADVANCED TREATMENT OR ALTERNATIVE DISPOSAL:

B.

(1) (a) Amend to replace the phrase "has been approved by the department" with the phrase "is on the approved list of products maintained by the department and is approved for the required treatment level"

(b) Amend to replace the phrase " the applicant must demonstrate the applicability and effectiveness of the technology on the site where it is to be used;" with the phrase "with the phrase the proposed system shall meet the appropriate treatment and disposal requirements of 20.7.3.605 NMAC"

(e) Amend to add the words"at the time of permit application, property transfer" after the words "maintenance contracts" and before the words "or within 30 days; replace the word "issuance" with the word "replacement"

(2) Amend to replace the words "seepage pits" with the words "elevated system"

Section 20.7.3.405 PERMITTING; VARIANCES:

E. Amend by replacing the words "clear and convincing" with the words "a preponderance of".

Amend by adding

G. A " variance " is an official record and property of the State of New Mexico which is subject to the Public Records Act 14-3-1 - 23 NMSA 1978 and the Executive Records Retention and Disposition Schedule New Mexico Environment Department 1.18.667 NMAC;

Section 20.7.3.406 PERMITTING; APPEALS:

A. Amend by inserting the word "any" after the words "dissatisfied with" and before the words "action taken by the department"; insert the phrase "a certificate of registration" after the words "permit application" and before the words "or variance petition"; insert the phrase "or any other action taken by the department" after the words "or variance petition" and before the words "may appeal to the secretary."; insert the words "and delivered" after the words "in writing" and before the words "to the secretary"; insert the words "by registered letter return receipt requested, delivery service with written acceptance, or in person with the secretary or his agent signing upon receipt" after the words "to the secretary" and before the words "within 15"; replace the word "issued" with the word "received"; replace the word "received" with the word "delivered"; insert the words "has been received" after the words "of the department's action" and before the words "the decision of and before the words "to the secretary"; insert the words "the department shall be final."

D Amend to replace the word "person" with the words "qualified hearing officer" after the words "designate a "; delete the phrase "make a final decision"

F. Amend to insert the sentence However prior to the hearing, the hearing officer shall inform the parties which rules of procedure and evidence will be in effect. " after the word "apply"; insert the words "and findings" after the word "decision" and before the words "shall be".

Section 20.7.3.501 DESIGN; LIQUID WASTE TREATMENT UNITS; GENERAL:

A. Amend to insert the words "and the items included in 20.7.3.J.7.(a) and (b) NMAC listed below," after the words "structural calculations"

And amend to insert the following: "Prior to certification or recertification, the department engineer shall conduct a scheduled on-site inspection of in - state septic tank manufacturing facilities at least once a year and such unannounced inspections as are needed to assure product quality and provide consumer protection. The department shall not recertify septic tanks manufactured within the state nor collect the fees for recertification unless the inspection has been performed within one year of the recertification date. The engineer performing the inspection for certification or recertification shall prepare, date and sign a written report documenting compliance with each individual requirement of 20.7.3.501." after the words "by the department" and before the words "Plans for".

B (4) Amend to insert the phrase "and individual unit identification number" after the words "in gallons" and insert the word "immediately" after the words "on the tank".

And (7) Amend to insert the words "and flooding" after the word "flotation"

J. (6)(a) Amend to replace the number "3500" with the number "4000"
Amend to add new (7):

(7) Amend to add "Manufacturers of concrete septic tanks shall meet minimum requirements for concrete septic tank construction, as promulgated by the department, for effective regulation, such as:

(a) shall have in place a standardized quality assurance/quality control (QA/QC) plan.

(b) shall document in - house testing of materials and tracking of materials used in individual units manufactured"

~~(7)~~(8) Amend by adding the phrase "3/8 inch pea gravel or sand." after the words "compacted soil".

**Section 20.7.3.502 DESIGN; CONVENTIONAL TREATMENT UNITS;
CONSTRUCTION STANDARDS:**

E. Amend to add the phrase "which shall meet the ASTM standard C 1644 - 06 or comparable" after the words " watertight seal" and before the words " approved by the department".

H. Amend to replace the word "on" with the word "in" and insert the word "tee" after the word "outlet"; insert the words "or external to the tank" after the word "tank" Add the phrase ". Effluent filters shall have a handle or other mechanism to remove the filter that extends to within six inches (6") of the top of the access riser. Concrete tanks manufactured with effluent baffles shall not be modified to remove those baffles; external effluent filters shall be used for concrete tanks with effluent baffles." After the word "grade."

**Section 20.7.3.601 DESIGN; ADVANCED TREATMENT SYSTEMS;
GENERAL:**

B. Amend to add the phrase "Limitations on the performance of these units due to the effects of cold weather or altitude shall be disclosed to the WTAC by the proprietary treatment system applicant." After the words " level of treatment".

**Section 20.7.3.605 DESIGN; MINIMUM REQUIRED TREATMENT LEVELS
FOR SITE CONDITIONS:**

B.

(1) Amend to add the phrase "except as noted in Subsection F or 20.7.3.703 NMAC;" after the word "disinfection".

(3) Amend to replace the words " primary treatment with an appropriate disposal method as approved by the department." With the words "secondary treatment with a timed low-pressure dosed disposal system is required. In sizing the disposal system for Type IV, the loading rate of 5.0 sf/gpd is based on primary treated effluent. Because secondary treatment is required, Section 20.7.3. 703M NMAC allows for up to a 30% reduction in the required absorption area. "

E. Amend to add the following: "The following treatment levels are required for setbacks as described in Table 20.7.3.302.1 NMAC:

(1) For liquid waste treatment and disposal systems that meet the requirements of Table 20.7.3.302.1 NMAC - primary treatment

(2) For systems with disposal less than 100 feet but more than 50 feet from a private or irrigation well, waters of the state, or less than 200 feet but more than 100 feet from a public well - secondary treatment and disinfection

(3) For systems with disposal less than 50 feet but more than 25 feet from a private or irrigation well, waters of the state, or less than 100 feet but more than 50 feet from a public well - tertiary treatment and disinfection with monthly testing."

E. F. Amend to insert the words "except for holding tanks," after the word "system"; Add the words "Holding tanks can only be used if no other alternative can be used and requires a variance."

F. G. Amend to insert the word "elevated system" after the word "system"

G. H. Amend to add the phrase ". If the existing level of nitrate in the groundwater exceeds 7 mg/l, a more advanced level of nitrogen reduction as set forth in Subsection B of 20.7.3.603 NMAC shall be required." after the word "required".

(3) Amend to replace the words "clear and convincing" with the words "a preponderance of the" after the words "shall show by" and before the word "evidence".

Amend by inserting a new letter E.

E. The following treatment levels are required for setbacks as described in Table 302.1:

(1) For liquid waste treatment and disposal systems that meet the requirements of Table 302.1 - primary treatment

(2) For systems with disposal less than 100 feet but more than 50 feet from a private or irrigation well, waters of the state, or less than 200 feet but more than 100 feet from a public well - secondary treatment and disinfection

(3)) For systems with disposal less than 50 feet but more than 25 feet from a private or irrigation well, waters of the state, or less than 100 feet but more than 50 feet from a public well - secondary treatment and disinfection with monthly testing.

Amend by relettering existing letters E., F., and G., to new letters F., G., and H. respectively.

H. Amend new letter H to add the phrase ". If the existing level of nitrate in the groundwater exceeds 7 mg/l, a more advanced level of nitrogen reduction as set forth in Subsection B of 20.7.3.603 NMAC shall be required." after the words " may be required".

Section 20.7.3.701 DESIGN; CONVENTIONAL DISPOSAL FIELD; DESIGN AND CONSTRUCTION:

B. Amend to add the words "or photographed in compliance with 20.7.3.203.B.(1) NMAC." After the word "department".

F. Amend to insert the phrase "or according to manufacturer's recommendations. Access to the distribution box shall be provided at the ground level." After the words " concrete footing" and before the word "However"; delete the words " after approval by the department" after the words ", the installer" and before the words " may install in lieu".

(3) Amend to add the words "or appropriate bedding material" after the words " compacted fill" and before the words " Such approved pipe".

H. Amend to replace the number "155" with "160" for maximum length of each line; add an asterisk (*) after the dimension "6 ft." for the maximum Depth of Trench; add the phrase "* May be up to 3 feet deeper than the frost line" immediately below the table whose last line is : " other material 2 in." and immediately before the words " I. Minimum spacing between trenches". Amend to add a new letter K.

K. Disposal fields, trenches and leaching beds shall not be paved over or covered by concrete or any material that can reduce or inhibit any possible evaporation of effluent.

Section 20.7.3.702 DESIGN; SEEPAGE PIT; DESIGN AND CONSTRUCTION:

Amend to add a new letter K.

K. Prefabricated reinforced 4000 psi concrete seepage pits may be substituted for the designs listed above.

Section 20.7.3.703 DESIGN; AREA OF DISPOSAL FIELD AND SEEPAGE PITS:

G. Amend to insert the words "treatment and" after the word "appropriate" And delete the words " as approved by the department" And Amend to replace the word " drianfields." with the word "drainfields".

J.

(2) Amend to delete the phrase " to provide surge storage. This area of trench sidewall shall not be used in calculating the absorption area."

(3) Amend to delete the words " an additional" after the words "up to" and before the words "three feet of aggregate".

(4) Amend to delete the phrase " excluding the six inches of trench sidewall required in Paragraph (2) of this subsection."

K. Amend to replace the word "twelve" with the word "six".
Amend to add a new letter N.

N. Disposal systems located in areas of severe cold temperatures and high altitudes shall include design provisions to prevent freezing.

Section 20.7.3.801 DESIGN:ALTERNATIVE DISPOSAL

Insert the words "elevated systems, alternating drainfields, and alternating beds" after the word "mounds"; delete the words "holding tank"

Section 20.7.3.803 CLUSTER SYSTEMS:

C. Amend to replace the word "user" with the word "owner" after the word "Each" and before the word " successors".

E. Amend to replace the words "that use" with the phrase "whose names appear on title to facilities that are connected to"

Section 20.7.3.804 COMPOSTING AND INCINERATING TOILETS:

B. Amend to add the words "or lot size" after the words " design flow" and before the words "for the property".

Amend to delete C.

Delete " C. Composting/incinerating toilets shall not be used on a lot less than 0.75 acre."

Section 20.7.3.805 IRRIGATION/REUSE SYSTEMS:

D. Amend to insert the word "direct" after the words "shall have no" and before the words " cross connections" ; delete the words "direct or indirect" after the words " cross connections" and before the words "with potable water".

Amend to add a new letter K.

K. A back up redundant conventional disposal system shall be provided for times when irrigation is not able to function due to freezing. The back up system shall

have an minimum absorption area of 25% of the standard required absorption area based upon design flow. No reductions in absorption area for treated effluent or proprietary products are allowed for the back up system.

Section 20.7.3.806 Amend to insert **EVAPOTRANSPIRATION & EVAPORATION SYSTEMS:**

B. Amend to replace El with Ep; replace the word "lake" with the word "pan"; add the phrase "In addition the formula shall be adjusted to account for a climatically-averaged, monthly water balance during months of minimal evaporation. The water balance calculation is $V = \text{Inflow} - \text{Outflow}$ where inflow is the design flow + precipitation, in gallons; Outflow is the minimum monthly evaporation (in gallons)." after the words "inches per year".

C. Amend to replace the word "lake" with the word "pan"; delete the phrase "the map "Gross Annual Lake Evaporation, New Mexico", USDA, April 1972, or successor version" after the words " shall be determined from"; Add the phrases "Class A land pan evaporation data recorded for each month from the weather station which best represents climatological conditions in the study area. Measurements of monthly and annual evaporation from U.S. Weather Bureau Class A land pans from NOAA or a mutually acceptable evaporation rate." After the words " shall be determined from".

G. Amend to add the phrase "Native soil may not be used." After the words " sand is preferred".

Amend to add a new letter M.

M. All ET Beds shall be fitted with an overflow pipe that empties into a holding tank that meets all the requirements of 20.7.3.809.

Amend to add a new letter N

N. Proprietary evaporation systems shall be sized according to manufacturer's recommendations.

Section 20.7.3.807 **MOUND AND ELEVATED SYSTEMS:**

G. Amend to replace the word "installed" with the word "designed"; delete the word "proven"; Insert the phrase "incorporating sizing based on 20.7.3.H. & M., including absorption rates for the infiltrative surface based on Table 703.1." after the words "criteria and"; Delete the words "approved by the department"

Section 20.7.3.808 Amend to insert **LOW PRESSURE DOSED & LOW PRESSURE PIPE DISPOSAL SYSTEMS:**

I. (2) Amend to insert the words "H. & M. including Table 703.1" after the numbers and letters "20.7.3.703"

K. Amend to delete the words "and proprietary low pressure dosed systems" and add the words "or the proprietary low pressure dosed system designer's" after the word "manufacturer's" and before the word "specifications"; and add the phrase "and 20.7.3.805K NMAC." after the word " specifications".

Amend to insert a new letter L.

L. Low Pressure Pipe (LPP) disposal systems are approved. A LPP system is a pressurized distribution system placed in shallow, narrow trenches. LPP system trenches shall be 12 to 18 inches wide and 12 to 18 inches deep. LPP systems may use natural or proprietary aggregate as well as proprietary drainfield products. LPP systems shall be covered with geotextile material to prevent soil intrusion. A minimum of 4

inches and a maximum of 10 inches of soil cover over the LPP system trench is required. Sizing for LPP systems is 5 square feet of absorption area per linear foot of lateral pipe.

Amend to replace existing letters L and M with new letters M and N respectively.

Section 20.7.3.809 HOLDING TANK REQUIREMENTS

C. Amend to replace the words ", except to replace an existing holding tank." With the phrase "Replacement of existing holding tanks is a modification and shall meet the requirements of 20.7.3." after the words "per day"

E. (1) Amend by adding the sentence "Utility bills for electricity, telephone and natural gas or propane for each calendar year shall be provided to the department annually, no later than February 15, as a permit condition for these units." after the words "calendar year"

(2) Amend to add the phrase "Systems utilizing holding tanks that receive only toilet waste must be monitored and tested for total nitrogen in compliance with 20.7.3.603 NMAC." after the word "wastewater".

L. (1) Amend to delete the words "if requested"

(4) Amend to delete the words "~~or a schedule otherwise determined by the department~~"

Amend to add a new (5)

(5) (5) be included in any transfer inspection report or unpermitted system inspection report.

Section 20.7.3.811 GRAYWATER SYSTEMS

C. (2) Amend to replace the word "Thirty three" with the word "Fifty" and the numerals "33" with the numerals "50"

J. Amend to delete the word "or" after the words "building drain"; delete the words "or disposal system" after the word "sewer"; Amend to delete the word "The" before the word "tank"; Add the letter "s" to the word "tank"; insert the phrase "connected to the building sewer" between the word "Tanks" and the words "shall be"

Section 20.7.3.812 PUMP STATIONS AND EQUIPMENT:

B. Amend to add the phrase "Access to the union in the piping and electrical wiring to the valves, motors, pumps, and aerators shall be provided within six inches of the ground surface or top of the riser." after the words "locking removable cover".

C. Amend to add the words "or enclosure" after the words "weather proof structure"

Amend to add a new letter D.

D. Pump tanks shall be sized at a minimum of 75% of design flow for demand systems and 100% of design flow for flow equalization systems.

Section 20.7.3.813 BUILDING SEWER:

C. Amend to delete the phrase "above ground or where pressurized by a pump or ejector. Vitrified clay pipe or fittings shall be a minimum of twelve (12) inches below ground."

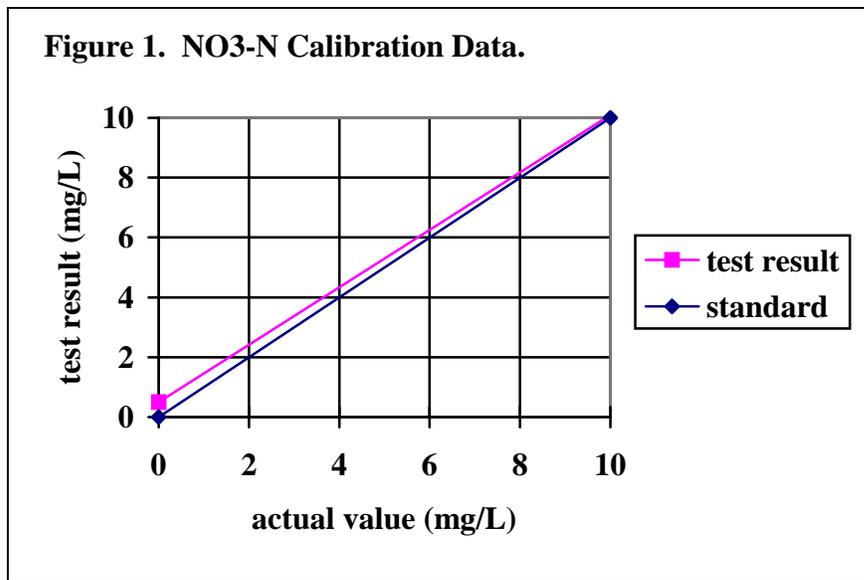
Section 20.7.3.901 MONITORING:

C. Amend to add the following after the words "requirements of the permit": "Field instruments may be used as an alternative to laboratory analyses for TN constituents in accordance with the following protocol.

1. Field instruments shall be operated in accordance with the manufacturer's instruction manual.
2. Factory prepared standards and blanks of de-ionized water shall be used to draw calibration curves with a minimum of two points (see example in Table 1 and Figure 1). At least one calibration curve shall be prepared for each lot number of chemical reagents used.
3. Field tests may include all of the TN constituents, or may be limited to nitrate and ammonia with correction factors for nitrite and organic nitrogen to calculate TN.
4. The first of each six consecutive effluent samples shall undergo both field and laboratory testing. Both sets of test results shall be reported to NMED.
5. If field tests include all TN constituents, each constituent also shall be included in the laboratory tests.
6. If field tests are limited to nitrate and ammonia, laboratory tests shall include nitrate plus nitrite, and TKN, and the following correction factors for nitrite and organic nitrogen shall be applied to calculate TN.
 - a. The nitrite correction factor shall be the laboratory value for nitrate plus nitrite, minus the field value for nitrate.
 - b. The organic nitrogen correction factor shall be the laboratory value for TKN, minus the field value for ammonia.
 - c. If a correction factor of less than zero is calculated, a correction factor of zero shall be used.
 - d. TN shall be calculated as the sum of field nitrate, field ammonia, and the correction factors for nitrate and organic nitrogen.

Table 901.1. Nitrate as Nitrogen (NO₃-N) Calibration Data (mg/L).

	DI WATER	STANDARD SOLUTION
Actual value	0.0	10.0
Test result	0.5	10.1



J. Amend to add the phrase "The system shall be resampled no later than 30 days from the evaluation and results submitted to the department as soon as they become available from the lab." after the words "into compliance"

K. Amend to replace the word "may" with the word "shall" after the words "more experienced operator"; insert the following language "If a more experienced operator or training does not bring the effluent quality into compliance, the manufacturer shall provide its own operator to bring the system into compliance. If the manufacturer's operator is unable to bring the system into compliance the permittee shall be issued a notice of violation and the system immediately referred to the WTAC for review. If the WTAC finds that the system itself is incapable of producing the required effluent quality then the system must be replaced with a system that is approved for producing the required effluent quality." after the word "implemented".

L.

(3)(b) Amend to add the phrase "except that the permit schedule may be amended to reflect periodic occupancy or prolonged vacancy;" after the words "20.7.3 NMAC".

Section 20.7.3.902 OPERATION AND MAINTENANCE REQUIREMENTS AND INSPECTION REQUIREMENTS AT TIME OF TRANSFER:

B. Amend to insert the following phrase "or any on-site liquid waste treatment and disposal system that utilizes a pump" after the words " and before the words " installed after the effective date"; insert the phrase "or required by a prior version of 20.7.3" after the words " this regulation " and before the words " shall enter into"; replace the words "department approved" with the words "legally binding, notarized" after the words " enter into a" and before the words " maintenance contract";

C. Amend to delete the words " and high strength waste" after the words " hazardous waste" and before the words " shall not be introduced"; add the phrase "Waste with contaminant levels that exceed those defined as domestic liquid waste may be treated by an appropriately designed advanced treatment system" after the words " introduced into the system."

E. Amend to add the words "permitted, conventional" after the words " with an existing" and before the words " on-site liquid waste"; replace the word "an" with the phrase "a currently certified third party" after the words " inspected and evaluated by" and before the words " inspector utilizing a department approved form"; add the following language "If the system is a permitted advanced treatment unit, the inspection shall be conducted by a currently certified third party inspector who is approved and trained by the manufacturer of the system. If the advanced treatment system is unpermitted, the inspection shall be performed by a currently certified inspector from the department and a certificate of registration or permit application shall be submitted to the department in accordance with Subsection J or K of 20.7.3.401 NMAC." after the words " department approved form."

Insert a new number (3)

(3) if a final inspection for a new system or a property transfer inspection for an existing system has been done within 180 days of the transfer of the property, the property transfer inspection need not be conducted.

G. Amend to insert the words "or illegal" after the word "failed" and before the word "system"; insert the words "or illegal" after the words " remedy the failed" and

before the word " system"; Insert the phrase "at the earliest possible time as negotiated" before the words "with department approval".

Amend to add a new H.

H. In the event no transfer inspection is performed in a property transfer subject to 20.7.3 NMAC, the department, using its best efforts, shall obtain and forward the names of all real estate licensees involved in the violation to the New Mexico Real Estate Commission.

Section 20.7.3.903 MAINTENANCE SERVICE PROVIDERS (MSP) FOR CONVENTIONAL AND ADVANCED ON-SITE LIQUID WASTE SYSTEMS:

A. (1) Amend to insert the phrase "New Mexico Utility Operator's Certification Program for wastewater operators" after the acronym (NAWT) and before the words "or equivalent".

Amend to add a new (4)

(4) Possess a valid, appropriate contractor's license issued by the construction industries division

B. Amend to insert the words "by the manufacturer and pass a proficiency test submitted to the department by the manufacturer and approved by the department" after the words " shall be certified" and before the words " for the proprietary unit being maintained."

I.

(5) Amend to insert the phrase "as required by the contractor's licensing law, including workers comp." after the word "insurance"

J. Amend to insert the word "or illegal" after the word "failed" and before the word "system".

Section 20.7.3.906 ADMINISTRATIVE ENFORCEMENT:

B. Amend to insert the words ", in writing," after the words " authorized by the secretary" and before the words " to institute".

C. Amend to add the phrase "except the department shall pursue civil and/or criminal penalties and an injunction against any contractor who receives more than two (2) compliance orders within a three (3) year period or violates any of the terms of any settlement agreement concerning a single compliance order."

D.

(1) Amend to add the phrase "Past violations must be based on the regulations in effect at the time of the infraction;" after the words " current violation or both;"

G. Amend to add the phrase "and no new permit applications shall be processed or approved for the violator until all penalties are paid in full. Payments for penalties are public records for purposes of the Inspection of Public Records Act" after the words " for each noncompliance with the order".

Amend to add a new letters L and M

L. Upon any violation of these regulations by the department the affected party may commence a civil action against the department in district court for appropriate relief, including a temporary or permanent injunction or any other relief as permitted by law.

M. The department shall report all incidents involving unlicensed or improperly licensed contractors to the construction industries division of the regulation and licensing bureau of the State of New Mexico for investigation.

Section 20.7.3.1002 TEMPORARY PROVISIONS:

Amend to insert the words "legally issued" after the word "All" and before the words "registration certificates"; insert the phrase ", except for those that violate 20.7.3.401.P," after the words "were issued shall" and before the words "remain in full force".

Section 20.7.3.1006 COLLATERAL REQUIREMENTS

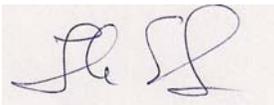
Amend to insert the word "valid" after the words "more stringent" and before the word "city"; Add the phrase "unless those city or county regulations or ordinances are in violation of 74-1-14 NMSA 1978, The department shall not knowingly issue a permit that violates a city or county regulation issued in compliance with 74-1-14 NMSA 1978." after the words "liquid waste".

The Professional On-Site Wastewater Re-Use Association of New Mexico and Link Summers have worked diligently with various installers, site evaluators, system designers, installers, pumpers, maintenance service providers, pumpers, state and local officials, regulatory authorities, manufacturers, trade associations, and educators in preparation of these proposed amendments, and will continue to do so.

Thank you for your consideration of this request.

Sincerely,

Ralph Baker Dotson
President
Professional On-Site Wastewater Re-Use
Association of New Mexico, Inc.



Link Summers, Pro Se

Certificate of Service

This will certify that an original of this Amended Petition was sent to the New Mexico Environment Improvement Board for filing this 4th day of May, 2010 by email to joyce.medina@state.nm.us and that copies of the foregoing were emailed to the following:

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