

STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT
FIELD OPERATIONS DIVISION

LIQUID WASTE PROGRAM

GUIDANCE NUMBER 9: Modifications of Existing Unpermitted Systems

I. PURPOSE:

This guidance is provided to clarify the administrative procedures for NMED to follow upon receiving a request to modify an unpermitted on-site liquid waste system.

II. APPLICABILITY:

This guidance applies to all unpermitted on-site liquid waste systems that require a modification be done on the system.

III. GENERAL:

The liquid waste regulations allow for registering or permitting unpermitted on-site liquid waste systems. The regulations do not state what administrative procedures are required when an unpermitted system must be modified to qualify for registration or permitting.

IV. GUIDANCE STATEMENT:

Section 20.7.3.201L NMAC, **PROCEDURES; GENERAL REQUIREMENTS** states:

On-site liquid waste systems installed prior to the effective date of 20.7.3 NMAC shall meet the requirements of the regulations in effect at the time of their initial installation, or if there has been a permitted modification, the regulations in effect at the time of the most recent permitted modification will apply.

This section does not differentiate between permitted or unpermitted systems.

Section 20.7.3.202 NMAC, **PROCEDURES; Modification of Existing Systems** states:

A. Prior to the modification of an existing on-site liquid waste system, a permit application must be submitted in accordance with 20.7.3.401-405 NMAC. The modification shall be in accordance with 20.7.3 NMAC except as noted in Subsection C of 20.7.3.202 NMAC below.

B. Replacement components for on-site liquid waste systems shall be of materials approved the department.

C. On-site liquid waste systems modified after the effective date of this regulation:

(1) shall meet the lot size requirements of the regulations in effect at the time of the initial installation or most recent permitted modification; and

(2) the total lot flow shall be increased only if all current standards and requirements are met pursuant to 20.7.3 NMAC. More stringent requirements may be required pursuant to Subsection M of 20.7.3.201 NMAC.

D. The septic tank need not be replaced as part of the modification if the tank is structurally sound, constructed of approved materials, meet the requirements of 20.7.3.501-502 NMAC, and if the existing tank has a liquid capacity within one tank size of the capacity required by Subsection Q of 20.7.3.201 NMAC. In addition, the tank shall be pumped and the inlet and outlet baffles or sanitary tees checked and repaired or replaced, if needed. An approved effluent filter shall be installed in accordance with Subsection C of 20.7.3.502 NMAC.

E. The modification of unpermitted systems shall be preceded by an inspection. If the system is found to be installed in accordance with the regulations in effect at the time of the original installation or most recent modification, a permit may be issued in accordance with Subsection C of 20.7.3.202 NMAC and Subsection J of 20.7.3.401 NMAC.

The language in Section 20.7.3.202.E references that an inspection of an unpermitted system must be conducted prior to the modification of that system. The remaining language in Section 20.7.3.202.E is confusing in that this section does not indicate what type of inspection is required or who is to perform this inspection. If the system is found to be installed in accordance with the regulations in effect at the time of the original installation, and appears to be functioning properly, then a 'permit' may be issued in accordance with Section 401.J. However, Section 401.J deals with the inspection requirements for the issuance of a certificate of registration for systems originally installed prior to February 1, 2002. (See Guidance Number 8). The clarification that is needed is when an existing unpermitted system is not functioning properly and/or needs to be modified. If the existing unpermitted system in question needs to be modified because it is not meeting regulatory standards, i.e. failed drain field, improper treatment unit, increased design flow, etc., then a certificate of registration cannot be issued because the system is not operating correctly. (See Guidance Number 8)

A permit for the modification of the system may be issued after the review of an application in accordance with Sections 401-403, Guidance 7 and the payment of the fee for the modification permit. Upon issuance of the permit to modify and subsequent inspection and approval of the modification, the existing unpermitted system will be permitted and authorized to operate.

In summary, a certificate of registration cannot be issued for an unpermitted system that does not meet the regulatory standards in effect at the time of its construction, or that does not appear to be functioning properly. A permit to modify the existing unpermitted system may be issued to bring the system into compliance upon payment of the of modification fee in accordance with 20.7.11.8 NMAC. Upon achieving compliance, the system, through the modification permit, is considered fully permitted and authorized to be operated.

V. **APPROVAL:**

Approved by FOD Director



VI. **EFFECTIVE DATE:** January 9, 2006