

New Mexico Environmental Improvement Division  
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Liquid Waste Disposal Regulations

Section 101. DEFINITIONS.--As used in the Liquid Waste Disposal Regulations:

- A. "person" means any individual, partnership, firm, public or private corporation, association, trust, estate, political subdivision or agency, or any other legal entity or their legal representatives, agents or assigns;
- B. "division" means the New Mexico Environmental Improvement Division;
- C. "body of water" means all water including water situated wholly or partly within or bordering upon the State, whether surface or sub-surface, public or private;
- D. "director" means the director of the division or his delegated representative;
- E. "absorption field" means an area in which open joint or perforated piping is laid in gravel-packed trenches or excavations for the purpose of distributing the effluent discharged from a tank used as a part of an individual liquid waste disposal system for absorption into the soil;
- F. "tank" means a watertight receptacle which receives liquid waste from the sanitary drainage system of a building and in which bacterial assimilation of organic matter takes place;
- G. "septic tank system" means a tank which is designed and constructed to separate solids from the liquid waste and digest organic matter through a period of detention, together with an absorption field;
- H. "aerobic disposal system" means a tank where air is introduced to the liquid waste by mechanical means, together with an absorption field. There must be satisfactory evidence, such as a National Sanitation

Foundation Certification of Performance, that the tank will operate efficiently and reliably;

I. "evapotranspiration system" means:

1. a tank which is designed and constructed to separate solids from the liquid waste and digest organic matter through a period of detention and which may have air introduced to the liquid waste by mechanical means; and

2. gravel-packed trenches or an excavation designed for the purpose of disposing of the entire flow of liquid waste from the tank by evaporation into the atmosphere or by transpiration by plants, or both;

J. "nutrient" means a substance, such as nitrate and phosphate, which is necessary for plant growth;

K. "high nutrient level" means an excessive level of nutrients which can potentially lead to algae blooms and plant overgrowth;

L. "liquid waste" means domestic or commercial wastewater containing human excreta or other water-carried waste;

M. "individual liquid waste disposal system" means a disposal system which receives 2,000 gallons or less of liquid waste per day and includes but is not limited to, septic tank systems, aerobic disposal systems, evapotranspiration systems and spray irrigation treatment systems;

N. "privy" means a privy or other non-water-carried disposal facility for human excreta;

O. "modify" means to change the method of liquid waste disposal; to enlarge the liquid waste disposal system; to alter the location of the absorption field or other major component; to substantially increase the amount of liquid waste received by the liquid waste disposal system; or to increase the amount of liquid waste received by the liquid waste disposal system to over 2,000 gallons per day; and

P. "watercourse" means any river, creek, arroyo, canyon, draw or wash, or any other channel having definite banks and bed with visible evidence of the occasional flow of water.

#### Section 102. REGISTRATION.--

A. Any person intending to install an individual liquid waste disposal system or to modify an existing individual liquid waste disposal system or privy must obtain a registration certificate for the system from the Division prior to the installation or modification;

B. Any person seeking a registration certificate shall do so by filing a written application with a Division field office. Application

forms may be obtained from the Division. Applicants shall:

1. state the applicant's name and mailing address;
2. state the date of the application;
3. describe the location of the property where the individual liquid waste disposal system is to be installed;
4. describe the characteristics of the soil where the system is to be installed, including soil depth, percolation rate, depth to seasonal high water table, slope and flooding potential;
5. describe the direction of expected ground water flow;
6. state the lot size of the parcel where the system will be installed;
7. state the kind and quantity of liquid waste the system will be receiving;
8. state the type of individual liquid waste disposal system to be used and its location on the parcel where it will be installed;
9. state the location of any bodies of water, watercourses and existing or proposed water wells and liquid waste disposal systems located on or within two hundred feet of the parcel where the system will be installed; and
10. contain such other relevant information as the Division may reasonably require.

C. Upon the receipt of the information required to be submitted by Subsection B of this section, the Division shall issue a registration certificate within five days of the date the application is completed. If the Division has reviewed the application and it appears that the applicant will not meet the requirements of Section 103 of the Liquid Waste Disposal Regulations, the Division shall so note on the certificate. The issuing of a registration certificate does not:

1. relieve the applicant from the responsibility of complying with all applicable provisions of the Liquid Waste Disposal Regulations; or
2. indicate approval by the Division of the method or location of liquid waste disposal.

D. Division field office shall maintain a file of all certificates issued. The file shall be open for public inspection.

Section 103. REQUIREMENTS FOR THE INSTALLATION AND USE OF INDIVIDUAL LIQUID WASTE DISPOSAL SYSTEMS.--

A. No person may dispose of liquid waste except into a disposal system or facility.

B. No person may use an individual liquid waste disposal system or privy which, by itself or in combination with other sources, is contaminating any drinking water supply, polluting or causing high nutrient levels in any body of water, degrading any recreational resource, creating a nuisance, or causing a hazard to public health.

C. No person shall install or have installed an individual liquid waste disposal system or privy after November 1, 1973, or use an individual liquid waste disposal system or privy installed after November 1, 1973, unless the system is located, operated and maintained so as not, by itself or in combination with other sources, to potentially contaminate any drinking water supply, potentially pollute or cause high nutrient levels in any body of water, potentially degrade any recreational resource, create a nuisance, or cause a potential hazard to public health.

D. No person shall install or have installed an individual liquid waste disposal system after November 1, 1973, or use an individual liquid waste disposal system installed after November 1, 1973, unless:

1. The absorption field and tank used as part of the system are located at least:

(a) one hundred feet from any domestic water well;

(b) two hundred feet from any well or surface water used as a public water supply; and

(c) one hundred feet from the high water elevation of a lake, reservoir or watercourse; and

2. for systems discharging one thousand gallons per day or less of liquid waste into the soil, the parcel of land upon which it will be installed conforms to the minimum lot size requirements contained in the following table:

## SOIL GROUPS

<u>SOIL CHARACTERISTICS</u>	A	B	C	D
	SLIGHT LIMITATIONS		MODERATE LIMITATIONS	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
<u>COMBINATIONS OF WATER &amp; SEWER SYSTEMS</u>	<u>MINIMUM LOT SIZES FOR HOMESITES (ACRES)</u>			
COMMUNITY WATER  ONSITE SEWAGE DISPOSAL	.50 ACRE	.75 ACRE	1.00 ACRE	NO ONSITE SEWAGE DISPOSAL INTO SOIL
ONSITE WATER  ONSITE SEWAGE DISPOSAL	.75 ACRE	1.00 ACRE	1.25 ACRE	NO ONSITE SEWAGE DISPOSAL INTO SOIL

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.

(a) As used in the preceding table:

(1) "soil group A" means a soil which is best suited as media for an absorption field where there exists no flooding potential and which has all of the following characteristics: soil depth greater than six feet; percolation rate faster than sixteen minutes per inch; seasonal high water table more than twelve feet; and slope less than eight percent;

(2) "soil group B" means a soil which is well suited as media for an absorption field where there exists no flooding potential and which has all of the following characteristics: soil depth greater than six feet; percolation rate between sixteen and thirty minutes per inch; seasonal high water table more than twelve feet; and slope less than eight percent;

(3) "soil group C" means a soil which is marginally suited as media for absorption field use and which has any one of the following characteristics: soil depth between four and six feet; percolation rate between thirty-one and sixty minutes per inch; slope between eight and twenty-five percent; or located where a flooding potential exists no more than once in twenty-five years; and

(4) "soil group D" means a soil which is unsuited as media for absorption field use and which has any one of the following characteristics: soil depth less than four feet; percolation rate slower than sixty minutes per inch; seasonal high water table less than four feet; slope more than twenty-five percent; or located where a flooding potential exists more than once in twenty-five years; and

(b) For liquid waste disposal systems discharging more than one thousand gallons per day of liquid waste into the soil, the minimum lot size requirements contained in the preceding table shall be increased to accommodate:

(1) the area required for the location of the absorption field as specified in the New Mexico Plumbing Code and for the location of one unobstructed and uncovered replacement absorption field;

(2) the minimum distance requirement of one hundred feet from the absorption field and tank to any domestic water well; and

(3) the minimum distance requirement of two hundred feet from the absorption field and tank to any well or surface water used as a public water supply.

(c) Individual liquid waste disposal systems which discharge effluent into the soil may not be used if any soil characteristic falls in soil group D, unless a variance is obtained in accordance with Section 104 of the Liquid Waste Disposal Regulations.

(d) Septic tank systems may not be used if:

- (1) the soil depth is less than six feet;
- (2) the seasonal high water table is less than twelve feet; or
- (3) the percolation rate is faster than six minutes per inch and the seasonal high water table is less than twenty feet;

(e) Whenever possible, percolation rate shall be determined from United States Soil Conservation Service data or from other available soil classification and soil infiltration rate data.

E. No person may deviate from the requirements of this section unless a variance is obtained in accordance with Section 104 of the Liquid Waste Disposal Regulations.

Section 104. VARIANCES.--

A. Any person seeking a variance from the requirements contained in Section 103 of the Liquid Waste Disposal Regulations, shall do so by filing a written petition with the nearest field office of the Division. Petition forms may be obtained from the field offices.

B. Petitions shall:

1. state the petitioner's name and mailing address;
2. state the date of the petition;
3. describe the location of the property where the individual liquid waste disposal system is to be installed;
4. describe the characteristics of the soil where the system is to be installed, including soil depth, percolation rate, depth to seasonal water table, slope and flooding potential;
5. describe the expected direction of ground water flow;
6. state the requirement from which the variance is sought;
7. state the lot size of the parcel where the system will be installed;
8. state the kind and quantity of liquid waste the system will be receiving;
9. state the type of individual liquid waste disposal system to be used and its location on the parcel where it will be installed;

10. state the location of any bodies of water, water-courses and any existing and proposed water wells and liquid waste disposal systems located on or within two hundred feet of the parcel where the system will be installed;

11. state the period of time for which the variance is desired;

12. state why the petitioner believes the variance is justified;

13. be accompanied by any relevant documents, or material which the petitioner believes would support his petition; and

14. contain such other relevant information as the Division may reasonably require.

C. The Division shall deny the Variance petition if it appears that the individual liquid waste disposal system will be located, operated or maintained so as to potentially contaminate any drinking water supply, potentially pollute or cause high nutrient levels in any body of water, potentially degrade any recreational resource, create a nuisance, or cause a potential hazard to public health.

D. Within ten days following receipt of the variance petition, the Division field office shall either grant the variance, grant the variance subject to conditions, or deny the variance. The action taken by the field office shall be by written order, a copy of which shall be sent to the petitioner. Orders shall:

1. state the petitioner's name and address;

2. state the date the order is made;

3. describe the location of the property where the individual liquid waste disposal system was sought to be installed;

4. state the lot size of the parcel where the system was sought to be installed;

5. state the kind and quantity of liquid waste the system would be handling;

6. state the decision of the field office;

7. if a variance is granted, state the period of time for which it is granted and any conditions which may apply; and

8. state the reasons for the field office decision.

E. Division field office shall maintain a file of all orders issued. The file shall be open for public inspection. Orders shall be filed the same day they are issued.

F. If the petitioner or other interested person is dissatisfied with the action taken by the Division field office, he may request a hearing before the director of the Division. The request must be made in writing to the director within fifteen days after notice of the field office's action has been received by the petitioner. Unless a timely request for hearing is made, the decision of the field office shall be final.

G. If a timely request for hearing is made, the director shall hold a hearing within fifteen days after receipt of the request. The agency shall notify the petitioner and the person who requested the hearing by certified mail of the date, time and place of the hearing. In the hearing, the burden or proof shall be upon the person who requested the hearing.

H. Hearings shall be held at the office of the Division District environmental manager in the region where the petition was filed.

I. If the petitioner or the person requesting the hearing requests, the hearing shall be recorded at the cost of the person requesting that it be recorded. Transcript costs shall be paid by those persons requesting transcripts.

J. In hearings, the rules of civil procedure and the technical rules of evidence shall not apply, but the hearings shall be conducted so that all relevant views, arguments and testimony are amply and fairly presented without undue repetition. The director shall allow the Division, the petitioner 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.

K. Based upon the evidence presented at the hearing, the director shall sustain, modify or reverse the action of the Division field office. The action taken shall be by written order within five days following the hearing. The order shall contain the same information as that required for the Division field office in Subsection D of this section. A copy of the order shall be sent to the petitioner and the person who requested the hearing.

