

**From:** Cobrain, Dave, NMENV  
**Sent:** Friday, February 8, 2019 2:16 PM  
**Subject:** 20.4.2 NMAC draft revision

Please find attached a redline-strikeout version of the proposed revisions to the NMED Hazardous Waste Bureau (HWB) fee regulations (20.4.2 NMAC). HWB plans to hold a meeting in Santa Fe to discuss the changes and provide supporting information for the changes during the week of March 25<sup>th</sup>. We will notify you of the date as soon as possible so that you can make arrangements to attend. The link below provides web access to the proposed revised regulations.

<https://www.env.nm.gov/wp-content/uploads/2018/02/DRAFT-20.4.2-NMAC-redline-2-7-2019.pdf>

The link below connects to the HWB website where any updates or other information will be posted as we move through the rule change process.

<https://www.env.nm.gov/hazardous-waste/proposed-hazardous-waste-regulations/>

If you have comments or suggestions related to the proposed revisions, please send them to me at [dave.cobrain@state.nm.us](mailto:dave.cobrain@state.nm.us) so that we can ensure that the issues are discussed in the meeting next month.

For those who participated on the call yesterday (February 7<sup>th</sup>), thank you for your participation.

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**TITLE 20 ENVIRONMENTAL PROTECTION**  
**CHAPTER 4 HAZARDOUS WASTE**  
**PART 2 HAZARDOUS WASTE PERMIT AND CORRECTIVE ACTION FEES**

**20.4.2.1 ISSUING AGENCY:** Environmental Improvement Board.  
[12/31/98; 20.4.2.1 NMAC - Rn, 20 NMAC 4.2.I.101, 8/18/06; [xx/xx/xx](#)]

**20.4.2.2 SCOPE:** This part applies to all persons who own or operate a permitted facility at which the treatment, storage or disposal of hazardous waste is occurring or has occurred, all persons seeking or required to obtain a permit for the treatment, storage or disposal of hazardous waste [or corrective action, all persons subject to an enforceable document under the New Mexico Hazardous Waste Act](#), and all persons engaging in or required to engage in closure, post closure care and corrective action under the New Mexico Hazardous Waste Act, Sections 74-4-1 through 74-4-14 NMSA 1978.  
[12/31/98; 20.4.2.2 NMAC - Rn, 20 NMAC 4.2.I.102, 8/18/06; [xx/xx/xx](#)]

**20.4.2.3 STATUTORY AUTHORITY:** Sections 74-1-8, 74-4-4, 74-4-4.2 and 74-4-4.5 NMSA 1978.  
[12/31/98; 20.4.2.3 NMAC - Rn, 20 NMAC 4.2.I.103 & A, 8/18/06; [xx/xx/xx](#)]

**20.4.2.4 DURATION:** Permanent.  
[12/31/98; 20.4.2.4 NMAC - Rn, 20 NMAC 4.2.I.104, 8/18/06; [xx/xx/xx](#)]

**20.4.2.5 EFFECTIVE DATE:** December 31, 1998, unless a later date is cited at the end of a section.  
[12/31/98; 20.4.2.5 NMAC - Rn, 20 NMAC 4.2.I.105 & A, 8/18/06; [xx/xx/xx](#)]

**20.4.2.6 OBJECTIVE:** The objective of this part is to provide a schedule of fees for facilities seeking permits, currently permitted, or undergoing corrective action for past or present hazardous waste management activities. Fees paid are for deposit in the hazardous waste fund to meet necessary expenses in the administration and operation of the state hazardous waste program.  
[12/31/98; 20.4.2.6 NMAC - Rn, 20 NMAC 4.2.I.106, 8/18/06; [xx/xx/xx](#)]

**20.4.2.7 DEFINITIONS:** Unless otherwise defined in this part, the words and phrases used in this part have the same meanings as in 20.4.1 NMAC, Hazardous Waste Management regulations. As used in this part:

- A.** "accelerated corrective action completion report" or "accelerated corrective measures completion report" means a report on implementation of presumptive remedies at small and relatively simple units where groundwater contamination is not a component of the accelerated cleanup, where the remedy is considered to be the final remedy for the unit, and where the field work will be accomplished within 180 days of commencement;
- B.** "accelerated corrective action work plan" or "accelerated corrective measures work plan" means a work plan to implement presumptive remedies at small and relatively simple units where groundwater contamination is not a component of the accelerated cleanup, where the remedy is considered to be the final remedy for the unit, and where the field work will be accomplished within 180 days of commencement;
- C.** "act" means the New Mexico Hazardous Waste Act, Sections 74-4-1 through 74-4-14 NMSA 1978;
- D.** "administrative authority" means the secretary of the New Mexico environment department, or the secretary's designee, or, in the case of provisions for which the state is not authorized, the United States environmental protection agency (EPA);
- E.** "administratively complete" means a determination made by the secretary that an application contains all the general information required in 40 CFR 270.13, applicable specific information in sections 40 CFR 270.14 through 270.28 and is complete as defined by the regulations of 20.4.1.900 NMAC incorporating 40 CFR 270.10 (c) and (d);
- F.** "area of concern" or "AOC" means any area having a known or suspected release of hazardous waste or hazardous constituents that is not from a solid waste management unit and that the secretary has determined may pose a current or potential threat to human health or the environment, pursuant to 20.4.1.500 NMAC (incorporating 40 CFR 270.32 (b) (2)). An area of concern may include buildings, and structures at which releases of hazardous waste or constituents were not remediated, including one-time and accidental events;
- G.** "~~certification of completion~~[background study report](#)" means a report documenting [the results of a study to determine background concentrations of naturally occurring inorganic compounds](#)~~completion of corrective~~

~~action required at a unit, submitted to the NMED to demonstrate that corrective action requirements for the unit, have been satisfied;~~

H. "background study work plan" means a plan proposing the methods to evaluate naturally occurring concentrations of inorganic compounds in environmental media.

I. "certification of completion" means completion of corrective action required at a unit, submitted to the NMED to demonstrate that corrective action requirements for the unit, specified an order, have been satisfied

HJ. "closure certification document" means all documentation certified by a New Mexico registered professional engineer in a certification of closure that is submitted by an owner or operator;

IK. "corrective action" means any activity related to site assessment, investigation, remediation, characterization or monitoring including reporting and document submittals at SWMUs or AOCs, including activities related to off-site migration;

IL. "corrective action complete with controls" means that NMED has determined that no additional remedial activity is required at a unit, but the unit requires continued performance of operation and maintenance, or monitoring actions for engineering controls, or institutional controls;

KM. "corrective action complete without controls" means that NMED has determined that no additional remedial activity is required at a unit;

LN. "corrective measures evaluation" or "CME" or "corrective measures study report" or "CMS report" means a report or study that evaluates remedial alternatives for the purpose of remedy selection and includes specifications to implement a proposed remedy;

MO. "corrective measures evaluation work plan" or "CME work plan" or "corrective measures study work plan" or "CMS work plan" means a plan to identify, develop and evaluate potential corrective measures (remedy) alternatives;

NP. "corrective measures implementation work plan" or "CMI work plan" means plans and specifications to implement the approved remedy at a facility;

OQ. "corrective measures implementation report" or "CMI report" means a report signifying completion of the remedy approved by NMED for termination of corrective action;

R. "emergency permit" means an emergency permit as defined at 40 CFR 270.61

PS. "enforceable document" means an order, a plan, or other document issued by EPA or the state under an authority that meets the requirements of 40 CFR 271.16 (e);

T. "FFCO" means federal facility compliance order;

U. "frequent monitoring plan" means a plan that describes proposed periodic monitoring activities for detection, compliance or corrective action monitoring, monitoring of a remediation system, or other corrective measure monitoring for a single site or contiguous sites with shared boundaries;

V. "frequent monitoring report" or "frequent progress report" means a report that describes periodic monitoring activities for detection, compliance or corrective action monitoring, monitoring of a remediation system, or other corrective measure monitoring or progress related to a corrective measure for a single site or contiguous sites with shared boundaries;

~~Q.~~ "FFCO" means federal facility compliance order;

RW. "hazardous waste management activity" means the treatment, storage, or disposal of hazardous waste within a hazardous waste management unit at a facility subject to a hazardous waste permit or operated under interim status and subject to permit authorization, or any closure or post-closure care activity required at a hazardous waste management unit;

SX. "HWMR" means the New Mexico Hazardous Waste Management regulations, Title 20, Chapter 4, Part 1 of the New Mexico administrative code;

FY. "interim measure monitoring report" means a report which describes results of the monitoring activities conducted during implementation of measures to abate, minimize, stabilize, mitigate, or eliminate a release or threat of release, implemented prior to implementation of a final remedy;

UZ. "interim measures report" means a report that describes the results of interim corrective measures conducted to abate, minimize, stabilize, mitigate, or eliminate a release or threat of release, implemented prior to implementation of a final remedy;

VAA. "interim measures work plan" means a work plan to implement proposed interim corrective measures conducted to abate, minimize, stabilize, mitigate, or eliminate a release or threat of release, implemented prior to implementation of a final remedy;

WBB. "investigation report" or "RFI report" or "RCRA facility investigation report" or "phase report" means a report that summarizes the results of investigation of the nature, rate, movement and extent of contamination at a unit or facility;

**XCC.** "investigation work plan" or "RFI work plan" or "RCRA facility investigation work plan" means a work plan that describes proposed investigation activities to evaluate the nature, rate, movement and extent of contamination at a unit or facility;

**DD.** "letter report," or "supplemental report" or "report addendum" means a report summarizing the results on the implementation of a work plan of limited scope where the field work was completed in seven working days or less and that did not constitute the initial field investigation at a site. Must be submitted as a separate document.

**EE.** "letter work plan," or "supplemental work plan" or "work plan addendum" means a work plan of limited scope that describes proposed corrective action activities where the field work can be completed in seven working days or less and does not constitute the initial field investigation at a site. Must be submitted as a separate document.

**YFF.** "monitoring plan" means a plan that describes proposed periodic monitoring activities for detection, compliance or corrective action ~~ground-water~~ monitoring, monitoring of a remediation system, or other corrective measure monitoring;

**ZGG.** "notice of land transfer" means a notice that initiates NMED evaluation of the results of investigation activities conducted to evaluate the nature, rate, movement and extent of contamination and corrective measures at a property that is anticipated to be transferred to an owner other than the owner regulated by a permit or enforceable document;

**AAHH.** "NMED" means the New Mexico environment department;

**IL.** "notice of disapproval" or "disapproval" means NMED-issued correspondence requiring revision and resubmittal of a deficient document.

**BBJJ.** "operation and maintenance plan" means a plan that describes operation, maintenance and monitoring of a remediation system or other corrective measure or monitoring activity that requires continued monitoring or upkeep during implementation;

**CEKK.** "periodic monitoring report" means a report that summarizes periodic detection, compliance or corrective action ground water monitoring, monitoring of a remediation system, or other corrective measure monitoring;

**DDL.** "person" means any individual, trust, firm, joint stock company, federal agency, corporation including a government corporation, partnership, association, state, municipality, commission, political subdivision of a state or any interstate body; and shall include each department, agency and instrumentality of the United States;

**EEMM.** "petition for NFA review" or "petition for corrective action complete review" means a petition to change the status of a unit from "subject to corrective action" to a different status (e.g., corrective action complete or no further action required) based on the results of corrective action activities or other relevant information

**FFNN.** "pilot/aquifer test report" means a report summarizing the results of pilot or aquifer tests conducted to evaluate hydrologic or other conditions for the purpose of site ~~investigation-characterization~~ or remedy selection;

**GGOO.** "pilot/aquifer test work plan" means a work plan for conducting pilot or aquifer tests to evaluate hydrologic or other conditions for the purpose of site ~~investigation-characterization~~ or remedy selection;

**HHPP.** "RCRA facility assessment" or "RFA" means the first stage in the corrective action process in which information is compiled on conditions at the site, including releases, potential releases, exposure pathways, solid waste management units, and areas of concern;

**HQQ.** "release assessment" or "SWMU assessment report" means an assessment of a solid waste management unit or area of concern performed after the RCRA facility assessment but before the initiation of any field investigation or full site characterization to obtain information for use in focusing subsequent investigations or eliminating certain units or areas from further consideration;

**JRR.** "remedial action plan" or "RAP" means a special form of a RCRA permit as defined in 20.4.1.900 NMAC, incorporating 40 CFR 270.80;

**KKSS.** "remedy completion report" means a report summarizing the results of completion of the implementation of corrective measures;

**TT.** "revision" or "document revision" means revised document submitted by a facility in response to a notice of disapproval or disapproval.

**LUU.** "risk evaluation/risk assessment report" means a report summarizing the results of a risk evaluation or assessment for the purpose of evaluating the human health and ecological risks of exposure to contaminants and determining appropriate cleanup levels at a site;

**MMVV.** "secretary" means the secretary of the New Mexico environment department;

~~ANWW.~~ "solid waste management unit" or "SWMU" means any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste; such units include any area at a facility at which solid wastes have been routinely and systematically released;

~~OOXX.~~ "submittal" means all applications, permit modification requests, plans, reports, studies, and other documents listed in tables 2 through 7 in 20.4.2.205 NMAC through 20.4.2.210 NMAC;

~~PPYY.~~ "status report" means a report summarizing the progress of implementation of corrective actions or corrective measures;

~~QQZZ.~~ "unit" means "hazardous waste management unit" as defined in 20.4.1.101 NMAC, incorporating 40 CFR 260.10, or solid waste management unit, or area of concern;

~~RRAAA.~~ "well completion report" means a report summarizing the activities related to the drilling and installation of wells.

~~BBB~~ "well abandonment report" or "well replacement report" means a report summarizing the activities related to abandonment or replacement of a well.

~~CCC~~ "well abandonment work plan" or "well replacement work plan" means a work plan that describes the proposed activities to abandon or replace a well.

[12/31/98; 20.4.2.7 NMAC - Rn, 20 NMAC 4.2.I.107 & A, 8/18/06; ~~xx/xx/xx~~]

#### **20.4.2.8 - 20.4.2.107 [RESERVED]**

**20.4.2.108 GENERAL PROVISIONS:** Saving clause: Repeal and replacement of hazardous waste fees, New Mexico environmental improvement board, 20.4.2 NMAC, shall not affect any administrative or judicial enforcement action pending on the effective date of this part.

[12/31/98; 20.4.2.108 NMAC - Rn, 20 NMAC 4.2.I.108, 8/18/06; ~~xx/xx/xx~~]

#### **20.4.2.109 - 20.4.199 [RESERVED]**

#### **20.4.2.200 PERMIT APPLICATION, INTERIM STATUS, REMEDIAL ACTION PLAN, AND CORRECTIVE ACTION FEES:**

[12/31/98; 20.4.2.200 NMAC - Rn, 20 NMAC 4.2.II.200 & A, 8/18/06; ~~xx/xx/xx~~]

**20.4.2.201 TYPES OF FEES:** Every owner or operator engaged in hazardous waste management activities or engaged in corrective action shall pay to NMED fees in the amounts specified in Subsections A through L of 20.4.2.201 NMAC. However, if an owner or operator has paid a fee for any type of permit application, or for the review of a submittal, prior to the effective date of these regulations, the owner or operator shall not be required to pay the fee provided for by these regulations. An owner or operator who has paid a fee provided for in table 2 or table 4 for permit applications or permit modification requests shall be required to pay the applicable fee again if the application or document is resubmitted by the owner or operator after being denied under NMSA 1978, Section 74-4-4.2, and 20.4.1.901 NMAC by NMED. The secretary may in his discretion, based on good cause shown, determine that the fee on resubmission should be reduced or waived.

**A. Annual Fees:** Every owner or operator engaged in hazardous waste management activities or engaged in corrective action shall pay to NMED an annual in an amount equal to the sum of the annual unit fees set forth in table 1 of 20.4.2.204 NMAC for each unit as identified in the facility permit, part A application, or enforceable document, or any combination thereof as applicable.

**B. Submittal review process:**

(1) For each submittal, the owner or operator shall pay the associated review fee as listed in the tables in 20.4.2.205 NMAC through 20.4.2.210 NMAC. NMED will conduct the review within the time specified in the tables in 20.4.2.205 NMAC through 20.4.2.210 NMAC. The secretary may grant an extension of time for good cause shown. NMED shall provide notice to the owner or operator of any requested time extension.

(2) NMED will invoice the owner or operator for the applicable review fee.  
(a) Within 60 days of receipt of submittal, in the case of interim status fees, corrective action submittal fees, and other fees assessed under tables 3, 5, 6, and 7 of 20.4.2.206 NMAC and 20.4.2.208 NMAC through 20.4.2.210 NMAC.

(b) After an application is deemed administratively complete, in the case of application and permit modification fees under table 2 of 20.4.2.205 NMAC and table 4 of 20.4.207 NMAC. For

class 2 permit modification requests the invoice shall be issued within 30 days of receipt and the procedures of 40 CFR 270.42, as incorporated by 20.4.1.900 NMAC, shall apply. Unless extended by the secretary, administrative completeness determination shall be made within ~~180-270~~ days of receipt of the submittal. If the application is incomplete, NMED shall provide the owner or operator with written notice that shall list those parts of the application that are missing and describe the specific information needed to process the permit application.

(3) The timeframe for NMED review begins after receipt of payment, except for class 2 permit modification requests, in which case the time frame for NMED's review begins upon receipt of the request.

(4) NMED will provide the owner or operator written notice of approval, approval with modifications, disapproval, denial, or rejection of the submittal. If the submittal is disapproved, denied or rejected, NMED shall provide the owner or operator with written notice providing the reasons for such action.

(5) The review times specified in the tables in 20.4.2.205 NMAC through 20.4.2.210 NMAC shall be tolled during all periods in which NMED is awaiting a response by the owner or operator to a notice under Paragraph (1) of Subsection B of 20.4.2.201 NMAC and during all time periods in which further action cannot be taken due to public comment and hearing requirements, except for class 2 permit modification requests, in which case the time frame for NMED's review begins upon receipt of the request.

(6) If NMED fails to meet a notice date pursuant to 20.4.2.205 NMAC through 20.4.2.210 NMAC, including an administrative completeness notice date, the NMED shall, within 10 business days after the deadline, notify the secretary and the owner or operator that the deadline was not met. The written notice shall state the reasons that the deadline was not met and propose a new deadline by which the NMED will act. The owner or operator may submit a written response to the secretary regarding its proposed remedy within 10 business days of its receipt of the notification. The secretary, at his discretion, shall establish a new notice date and remedy within 30 days after the secretary receives notice that the deadline was not met.

(7) In the event of a conflict, between review time and notice dates in these regulations and in an enforceable document the time-periods and review process in the enforceable documents shall control.

**C. Permit application, remedial action plan, and corrective action section fees:** Every owner or operator seeking a permit for the treatment, storage or disposal of hazardous waste or for post closure care shall pay an application review and permit preparation fee set forth in table 2 of 20.4.2.205 NMAC. The fee for application review and permit preparation shall be in an amount equal to the sum of the fees for each unit included in the permit application. If a corrective action section is required, the owner or operator shall also pay the basic fee for corrective action preparation set forth in table 2 of 20.4.2.205 NMAC plus the additional unit fee for each corrective action unit in excess of one which is addressed by the corrective action section. NMED ~~shall~~ will perform the review of the application and prepare the draft permit within the time specified in table 2 of 20.4.2.205 NMAC after receipt of the fees.

**D. Permit renewals:** Every owner or operator seeking to renew a previously issued permit for the treatment, storage or disposal of hazardous waste or for post-closure care shall pay an application review and permit preparation fee, and if required, a corrective action section fee, in the amounts and in the manner set forth in table 2 in 20.4.2.205 NMAC.

**E. Interim status closure plan review fees:** Every owner or operator submitting an interim status closure plan for review and approval shall pay a fee set forth in table 3 of 20.4.2.206 NMAC. The fee shall be in an amount equal to the sum of the fees set forth in table 3 of 20.4.2.206 NMAC for each unit included in the closure plan. An application to modify an approved interim status closure plan is subject to the following fees:

(1) Amendments of plans that are identified as equivalent to a class 1 or a class 2 permit modifications are subject to the corresponding fee in table 4 in 20.4.2.207 NMAC;

(2) Amendments of plans identified as equivalent to class 3 permit modifications are subject to the corresponding fee in table 3 in 20.4.2.206 NMAC.

**F. Permit modification fees:** Every owner or operator who requests a class 1, 2, or 3 modification to a permit, and every owner or operator whose permit is to be modified as a result of a five (5) year land disposal review shall pay the applicable class modification fee for each modification as set forth in table 4 of 20.4.2.207 NMAC. If the permit modification request is to add a new unit to the permit the applicable fee in table 2 of 20.4.2.205 NMAC ~~will~~ shall apply.

**G. Closure report review fees:** Every owner or operator who submits a closure report for review shall pay a closure report review fee as set forth in table 3 of 20.4.2.206 NMAC.

**H. Corrective action submittal review fees:** Every owner or operator who submits a corrective action submittal for review shall pay a corrective action submittal review fee as set forth in table 5 of 20.4.2.208 NMAC. An additional unit fee shall be paid for each additional unit for submittals that address multiple units.

Documents that contain attached documents or attached sections of other documents within the submittal will be

assessed a separate document review fee for the attached document or document section corresponding to the document type listed in table 5 of 20.4.2.208 NMAC. Draft documents shall be considered initial submittals subject to the corrective action submittal review fees as set forth in table 5 of 20.4.2.208 NMAC. Rejected documents shall be subject to the corrective action submittal review fees as set forth in table 5 of 20.4.2.208 NMAC upon resubmittal.

**I. Land disposal review fee:** Every owner or operator subject to a review under 20.4.1.900 NMAC (incorporating 40 CFR 270.50 (d)) shall pay a review fee as set forth in table 6 of 20.4.2.209 NMAC. At the time of invoicing, NMED shall notify the owner or operator in writing of any additional information required to process the review.

**J. Audit review fee:** Every owner or operator subject to an audit review required under a facility permit or enforceable document shall pay an audit fee for each audit as set forth in table 6 of 20.4.2.209 NMAC.

**K. FFCO fee:** Every owner or operator subject to a review of amendments, annual reports, and revisions under an FFCO shall pay a fee as set forth in table 6 of 20.4.2.209 NMAC. In the event of a conflict between the review times specified in table 6 and the FFCO, the FFCO shall control.

**L. Change during interim status fee:** Every owner or operator who requests a change during interim status pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.72) shall pay the following fees:

(1) Modifications that are identified as being equivalent to class 1 or class 2 permit modifications are subject to the corresponding fee in table 7 in 20.4.2.210 NMAC;

(2) Modifications identified as equivalent to class 3 permit modifications are subject to the corresponding fee in table 7 in 20.4.2.210 NMAC.

**M. Emergency permit fee:** Every facility that requests an emergency permit as required by 40 CFR 270.61 shall pay a fee as set forth in table 6 of 20.4.2.209 NMAC.

[12/31/98; 20.4.2.201 NMAC - Rn, 20 NMAC 4.2.II.201 & A, 8/18/06; xx/xx/xx]

**20.4.2.202 ANNUAL FEE REPORT:** On or before September 30 of every year, NMED shall review the amount of fees collected and the amount of money expended administering the hazardous waste management program for the prior state fiscal year and submit a report on its review to the board. The report shall include for each facility the amount of fees collected, the number and types of permitting actions taken, submittals reviewed, a summary of the time required to conduct each review or permitting action, and an analysis of the cost of regulatory oversight. The report shall include a summary of funds received and expenses required to administer the state hazardous waste program.

[12/31/98; 20.4.2.202 NMAC - Rn, 20 NMAC 4.2.II.202 & A, 8/18/06; xx/xx/xx]

#### **20.4.2.203 HEARING FEES:**

**A.** An applicant for issuance, renewal, or modification of a permit, or remedy selection shall be required to pay the following hearing fees if the secretary determines that a public hearing shall be held on the application.

(1) **Hearing fee:** The applicant shall be invoiced a hearing fee of twenty~~five~~ thousand dollars (~~\$2025~~,000) within thirty (30) days of notification by the secretary that a hearing will be scheduled.

(2) **Administrative record preparation fee:** The applicant shall pay an administrative record preparation fee equal to the actual cost of copying the administrative record for the public hearing process.

(3) **Facility fee:** The applicant shall pay a facility fee equal to the actual cost of providing the public facility, including security and other ancillary costs, necessary to conduct the public hearing.

(4) **Recording and Transcription service fee:** The applicant shall pay a recording and transcription service fee equal to the actual cost of providing recording and transcription services for the public hearing and providing three copies of the hearing transcript to NMED.

(5) **Translation service fee:** If the secretary determines that translation services are required for the public hearing, the applicant shall pay a translation service fee equal to the actual cost of providing translation services necessary to conduct the public hearing.

(6) The applicant shall be invoiced for the total cost of the hearing within 90 days after the secretary's final decision under Subsection A of 20.4.2.203 NMAC. The hearing fee required under Paragraph (1) of Subsection A of 20.4.2.203 NMAC will be credited against the total cost of the hearing, or if the fee is more than the total cost of the hearing it shall be credited for future actions.

[12/31/98; 20.4.2.203 NMAC - Rn, 20 NMAC 4.2.II.201.8 & 203 & A, 8/18/06; xx/xx/xx]

**20.4.2.204 TABLE 1 - ANNUAL FEES:**

Unit Type	Fee
Disposal	<del>\$4,000</del> \$5,500
Treatment	<del>\$3,000</del> \$4,000
Storage	<del>\$2,000</del> \$3,000
Post Closure	<del>\$4,000</del> \$5,500
Corrective Action Management (CAMU)	<del>\$4,000</del> \$5,500
Temporary (TU)	<del>\$3,000</del> \$4,000
Remedial Action Plan Unit	<del>\$3,000</del> \$4,000
<del>Corrective Action Only</del>	
SWMU/AOC per Unit:	<del>\$1,000</del>
— for the first 150 units (1 to 150)	<del>\$750</del>
— for the second 350 units (151 to 500)	<del>\$350</del>
— for each unit over 500 (501+)	<del>\$200</del>
Corrective Action Complete with Controls per Unit	<del>\$2350</del>

[12/31/98; 20.4.2.204 NMAC - Rn, 20 NMAC 4.2.II.204 & A, 8/18/06; ~~xx/xx/xx~~]

**20.4.2.205 TABLE 2 - APPLICATION AND CORRECTIVE ACTION SECTION FEES:**

Unit Type	Fee	Fee for Renewal or Modification to add a unit	Review Time
Land Disposal	<del>\$90,000</del> \$270,000	<del>\$60,000</del> \$180,000	<del>360-1080</del> days
Post Closure	<del>\$90,000</del> \$120,000	<del>\$60,000</del> \$80,000	<del>360-720</del> days
Land Treatment	<del>\$90,000</del> \$120,000	<del>\$60,000</del> \$80,000	360 days
Surface Impoundment	<del>\$75,000</del> \$100,000	<del>\$50,000</del> \$65,000	360 days
Incinerator	<del>\$75,000</del> \$100,000	<del>\$50,000</del> \$65,000	<del>360-720</del> days
Boiler or Industrial Furnace	<del>\$75,000</del> \$100,000	<del>\$50,000</del> \$65,000	360 days
Subpart X	<del>\$90,000</del> \$120,000	<del>\$60,000</del> \$80,000	<del>360-720</del> days
Waste Pile	<del>\$36,000</del> \$144,000	<del>\$96,000</del> \$24,000	360 days
Treatment in Tanks	<del>\$36,000</del> \$144,000	<del>\$96,000</del> \$24,000	<del>360-720</del> days
Treatment in Containers	<del>\$36,000</del> \$144,000	<del>\$96,000</del> \$24,000	<del>360-720</del> days
Storage in Tanks	<del>\$36,000</del> \$144,000	<del>\$96,000</del> \$24,000	<del>360-720</del> days
Storage in Containers	<del>\$36,000</del> \$144,000	<del>\$24,000</del> \$96,000	<del>360-720</del> days
Research Demonstration and Development	<del>\$24,000</del> \$32,000	<del>\$16,000</del> \$21,500	360 days
Remedial Action Plan	<del>\$24,000</del> \$32,000	<del>\$16,000</del> \$21,500	360 days
Permit for Corrective Action Only	<del>\$16,000</del> \$80,000	<del>\$10,000</del> \$65,000	360 days
Corrective Action Section	\$10,000	\$7,000	N/A
Additional SWMU/AOC Unit Fee	\$1,000 <del>\$1,300</del> for each additional unit	N/A	N/A

[12/31/98; 20.4.2.205 NMAC - Rn, 20 NMAC 4.2.II.205 & A, 8/18/06; ~~xx/xx/xx~~]

**20.4.2.206 TABLE 3 - INTERIM STATUS CLOSURE PLAN AND INTERIM STATUS AND PERMITTED UNIT CLOSURE REPORT REVIEW FEES:**

Unit Type	Fee	Amendment Fee (equivalent to Class 3 permit modification)	Review Time
Land Disposal or Land Treatment	\$20,000	\$10,000	<del>360-540</del> days
Surface Impoundment	<del>\$10,000</del> \$25,000	<del>\$5,000</del> \$10,000	<del>360-540</del> days
Incinerator	\$8,000	\$4,000	270 days
Boiler or Industrial Furnace	\$8,000	\$4,000	270 days
Subpart X	<del>\$10,000</del> \$30,000	<del>\$5,000</del> \$15,000	<del>360-540</del> days
Waste Pile	\$8,000	\$4,000	270 days
Storage	<del>\$6,000</del> \$12,000	<del>\$3,000</del> \$6,000	<del>180-270</del> days



Treatment	<del>\$8,000</del> <u>\$10,000</u>	<del>\$4,000</del> <u>\$5,000</u>	<del>270-360</del> days
Closure Report	<del>\$6,000</del> <u>\$13,000</u>	NA	180 days

[12/31/98; 20.4.2.206 NMAC - Rn, 20 NMAC 4.2.II.206 & A, 8/18/06] ; ~~xx/xx/xx~~

**20.4.2.207 TABLE 4 - PERMIT MODIFICATION FEES:**

Modification	Fee	Review Time
Class 1 (without prior approval)	<del>\$500</del> <u>\$1,800</u>	N/A
Class 1 (with prior approval)	<del>\$2,500</del> <u>\$6,500</u>	<del>120-150</del> days
Class 2	<del>\$6,000</del> <u>\$30,000</u>	Refer to 20.4.1.900 NMAC (incorporating 40 CFR 270.42 (b))
Class 3	<del>\$40,000</del> <u>\$100,000</u>	<del>360-540</del> days
Class 3 - Petition for Corrective Action Complete Review/Petition for No Further Action Review	<del>\$7,000</del> <u>\$30,000</u> plus <del>\$250-500</del> for each additional unit <u>up to 20 units</u> and plus <u>\$750</u> for every unit <u>over 20 units.</u>	<del>270-360</del> days (plus 30 days for every <del>10-3</del> units over 20)

[12/31/98; 20.4.2.207 NMAC - Rn, 20 NMAC 4.2.II.207 & A, 8/18/06; ~~xx/xx/xx~~]

**20.4.2.208 TABLE 5 - CORRECTIVE ACTION SUBMITTAL REVIEW FEES:**

Submittal Type	Basic Review Fee	Additional Unit Fee	Review Time
Accelerated Corrective Action Completion Report/Accelerated Corrective Measures Completion Report	<del>\$5,000</del> <u>\$11,000</u>	\$1,000	120 days
Accelerated Corrective Action Work Plan/Accelerated Corrective Measures Work Plan	<del>\$5,000</del> <u>\$9,000</u>	\$1,000	120 days
<del>Background Study Report</del>	<del>\$5,000</del>	<del>\$1,000</del>	<del>210 days</del>
<del>Background Study Work Plan</del>	<del>\$4,000</del>	<del>\$1,000</del>	<del>210 days</del>
Certification of Completion per unit	<del>\$500</del> <u>\$3,000</u>	NA	90 days
Corrective Measures Implementation Report	<del>\$12,000</del> <u>\$10,000</u>	\$1,000	360 days
Corrective Measures Implementation Work Plan	<del>\$6,500</del> <u>\$18,000</u>	\$1,000	270 days
Corrective Measures Study Report/Corrective Measures Evaluation	<del>\$15,000</del> <u>\$30,000</u>	\$1,000	480 days
Corrective Measures Study Report/Corrective Measures Evaluation with Risk Assessment	<del>\$20,000</del> <u>\$35,000</u>	\$1,000	480 days
Corrective Measures Study Workplan/Corrective Measures Evaluation Workplan	<del>\$7,500</del> <u>\$8,500</u>	\$1,000	360 days
<del>Frequent Monitoring Plan</del>	<del>\$3,500</del>	<del>\$1,000</del>	<del>120 days</del>
<del>Frequent Monitoring Report/Frequent Progress Report</del>	<del>\$4,000</del>	<del>\$1,000</del>	<del>N/A</del>
<del>Interim Measures Monitoring Report</del>	<del>\$500</del>	<del>\$1,000</del>	<del>N/A</del>
Interim Measures Report	<del>\$3,500</del> <u>\$10,000</u>	\$1,000	120 days
Interim Measures Work Plan	<del>\$5,000</del> <u>\$17,000</u>	\$1,000	90 days
Investigation Report (RFI Report)/Phase Report	<del>\$7,500</del> <u>\$18,000</u>	\$1,000	270 days
Investigation Report with Risk Assessment	<del>\$10,000</del> <u>\$20,000</u>	\$1,000	360 days
Investigation Work Plan (RFI Work Plan)	<del>\$10,000</del> <u>\$15,000</u>	\$1,000	270 days

<u>Letter Report/Supplemental Report/Report Addendum</u>	<u>\$6,000</u>	<u>\$1,000</u>	<u>180 days</u>
<u>Letter Work Plan/Supplemental Work Plan/Work Plan Addendum</u>	<u>\$5,000</u>	<u>\$1,000</u>	<u>180 days</u>
Monitoring Plan	<u>\$2,500- \$10,000</u>	\$1,000	120 days
Notice of Land Transfer	<u>\$5,000- \$2,000</u>	\$1,000	120 days
Operation and Maintenance Plan	<u>\$2,500 \$9,000</u>	\$1,000	150 days
Periodic Monitoring Report	<u>\$2,000 \$5,000</u>	\$1,000	N/A
Pilot/Aquifer Test Report	<u>\$1,500 \$10,000</u>	\$1,000	<u>120-180</u> days
Pilot/Aquifer Test Work Plan	<u>\$1,000 \$7,000</u>	\$1,000	<u>90-150</u> days
RCRA Facility Assessment (RFA) Report	<u>\$2,500 \$14,500</u>	\$1,000	180 days
Release Assessment/SWMU Assessment Report	<u>\$3,500 \$8,500</u>	\$1,000	<u>90-180</u> days
Remedy Completion Report	<u>\$4,500 \$8,500</u>	\$1,000	180 days
<u>Third Revision/ Third Document Revision</u>	<u>50% Review Fee</u>	<u>NA</u>	<u>NA</u>
Risk Evaluation/Risk Assessment Report	<u>\$6,000 \$14,000</u>	\$1,000	180 days
Status Report	<u>\$2,000 \$8,000</u>	\$1,000	N/A
Well Completion Report <u>per well</u>	<u>\$500 \$3,000</u>	NA	90 days
<u>Well Abandonment Report/Well Replacement Report per well</u>	<u>\$2,000</u>	<u>NA</u>	<u>90 days</u>
<u>Well Abandonment Work Plan/Well Replacement Work Plan per well</u>	<u>\$2,000</u>	<u>NA</u>	<u>90 days</u>

[20.4.2.208 NMAC - N, 8/18/06; xx/xx/xx]

**20.4.2.209 TABLE 6 - LAND DISPOSAL, AUDIT REVIEW AND OTHER FEES:**

Activity	Fee	Review Time
Land Disposal Permit Review	\$10,000	360 days
Audit Review	<u>\$20,000 \$30,000</u>	45 days
FFCO Administration	<u>\$500 \$2,000</u>	90 days
<u>Emergency Permit</u>	<u>\$1,000</u>	<u>30 days</u>

[20.4.2.209 NMAC - N, 8/18/06; xx/xx/xx]

**20.4.2.210 TABLE 7 - CHANGE DURING INTERIM STATUS FEES:**

Submittal Type	Fee	Review Time
Change without prior approval	<u>\$500 \$1,800</u>	<u>30-45</u> days
Change with prior approval (equivalent to Class 1 permit modification)	<u>\$2,500 \$6,500</u>	<u>120-150</u> days
Change with prior approval (equivalent to Class 2 permit modification)	<u>\$6,000 \$30,000</u>	120 days
Change with prior approval (equivalent to Class 3 permit modification)	<u>\$10,000 \$100,000</u>	<u>360-540</u> days

[20.4.2.210 NMAC - N, 8/18/06; xx/xx/xx]

**20.4.2.211 FEE CALCULATION:**

**A.** The annual fee shall be assessed for each unit identified in the facility permit, Part A application, and enforceable document on January 1 of the assessed year. The annual fee shall be waived for hazardous waste management units for which the owner or operator provides documentation to NMED that hazardous waste management activities did not occur at the unit during the previous calendar year. To be considered for the waiver the owner or operator shall submit the documentation to NMED on or before July 1 of each year.

**B.** The owner or operator of the facility is liable for payment of the undisputed part of the assessed fee on the date the annual fee is due. Payments will not be refunded because of a transfer of ownership or operations to a new owner or operator.

[20.4.2.211 NMAC - Rn, 20 NMAC 4.2.II.208 & A, 8/18/06; xx/xx/xx]

**20.4.2.212 - 20.4.2.299 [RESERVED]**

**20.4.2.300 PAYMENT, DUE DATES, AND APPEALS:**

[12/31/98; 20.4.2.300 NMAC - Rn, 20 NMAC 4.2.III.300 & A, 8/18/06; xx/xx/xx]

**20.4.2.301 MANNER OF PAYMENT AND DUE DATES:**

**A. Annual Fee Invoices:** NMED shall invoice every owner or operator for the annual fee by October 1 of every year.

**B. Review Fees:** Any submittals listed in tables 2 through 7 of 20.4.2.205 NMAC through 20.4.2.210 NMAC submitted by an owner or operator for review shall be invoiced for the corresponding fee by NMED.

**C. Due Date:** Payment of any fee shall be due within sixty (60) days of receipt of the invoice unless the owner or operator submits to NMED a written request seven (7) days prior to the end of the sixty (60) day period and receives written approval to extend the time for payment before the date payment is due. Failure to submit payment within the sixty (60) days, or approved extension, may result in the document being denied, and further enforcement action.

**D.** All fees shall be paid to NMED by certified check or money order payable to the New Mexico hazardous waste fund, by electronic funds transfer (with prior notice to NMED), or by other methods deemed acceptable by NMED. Cash payments are not an acceptable method of payment. All payments must include the invoice number and be addressed to the New Mexico environment department - hazardous waste bureau.

[12/31/98; 20.4.2.301 NMAC - Rn, 20 NMAC 4.2.III.301 & A, 8/18/06; xx/xx/xx]

**20.4.2.302 APPEAL OF FEE ASSESSMENT:**

**A. Mandatory Settlement Conference:**

Any owner or operator seeking to appeal an invoice for fees under this part must first notify the NMED in writing of the intent to appeal the invoice within thirty (30) calendar days of receipt of the invoice. The notice shall set forth the specific matters in dispute, the basis for the dispute, and any matters considered necessary for NMED's consideration. The parties shall have thirty (30) calendar days from NMED's receipt of notification to meet or confer with NMED to attempt to resolve the matters in the dispute. The secretary may extend deadlines under this section upon a determination that good cause exists. If an agreement is reached resolving the dispute, NMED may issue a revised invoice and the owner and operator shall comply with the terms of such agreement and revised invoice. If an agreement is not reached, NMED shall issue a notification to all parties that an agreement has not been reached. Failure to notify NMED of an appeal in the required timeframe shall prohibit the owner and operator from appeal of the invoice.

**B. Administrative appeal:**

(1) An invoice for fees may be appealed by filing a written request for hearing with the hearing clerk designated by the secretary of environment within thirty (30) days of the date of the notification that an agreement has not been reached. The written request shall be accompanied by a copy of the invoice being contested and shall set forth the grounds upon which the appellant disagrees with the assessment.

(2) Except as otherwise provided, the appeal shall be governed by 20.1.5 NMAC, Adjudicatory Procedures - Environment Department. The hearing officer shall schedule the hearing for no later than ninety (90) days after service of the notice of docketing.

(3) NMED shall not seek collection of an appealed fee or take enforcement action on an appealed of the fee assessment until the secretary has issued a decision on the appeal. Late charges on the amount assessed shall continue to accrue and shall be payable if the assessment is upheld or upheld with modification. If the assessment is modified on appeal, late charges shall be calculated based on the assessment as modified.

(4) If an appeal is not timely filed pursuant to this subsection, the invoice shall constitute a final action of the secretary of environment.

[12/31/98; 20.4.2.302 NMAC - Rn, 20 NMAC 4.2.III.302 & A, 8/18/06; xx/xx/xx]

**20.4.2.303 - 20.4.2.399 [RESERVED]**

**20.4.2.400 LATE CHARGES AND ENFORCEMENT:**

[12/31/98; 20.4.2.400 NMAC - Rn, 20 NMAC 4.2.IV.400, 8/18/06; xx/xx/xx]

**20.4.2.401 LATE CHARGES:** If any fee required by this part is not paid in full on the date due, which shall be either sixty (60) days after receipt of the invoice or the end of an approved extension of the time for payment, the person owing the fee shall pay a billing charge of \$100, plus late charges in the amount of an additional one percent (1%) of all fees owed for every month or part of a month in which the fees remain unpaid beyond the due date. Billing and late charges shall be credited to the Hazardous Waste Fund and are independent of any penalties assessed under the act.

[12/31/98; 20.4.2.401 NMAC - Rn, 20 NMAC 4.2.IV.401, 8/18/06; [xx/xx/xx](#)]

**20.4.2.402 FAILURE TO PAY FEES:**

**A.** Failure to pay any fee required by this part may result in enforcement proceedings under the act including but not limited to the revocation or suspension of any permit issued by NMED pursuant to the act to the person failing to pay the fees as required.

**B.** Fees are not refundable and do not guarantee that a permit will be issued or a submittal or action will be approved by the NMED.

[12/31/98; 20.4.2.402 NMAC - Rn, 20 NMAC 4.2.IV.402 & A, 8/18/06; [xx/xx/xx](#)]

**20.4.2.403 - 20.4.2.499 [RESERVED]**

**20.4.2.500 MISCELLANEOUS PROVISIONS:**

[12/31/98; 20.4.2.500 NMAC - Rn, 20 NMAC 4.2.V.500, 8/18/06; [xx/xx/xx](#)]

**20.4.2.501 DEPOSIT IN THE HAZARDOUS WASTE FUND:** All fees collected pursuant to this part shall be transmitted to the state treasurer for credit to the hazardous waste fund and used for the sole purpose of meeting necessary expenses in the administration and operation of the hazardous waste program.

[12/31/98; 20.4.2.501 NMAC - Rn, 20 NMAC 4.2.V.501, 8/18/06; [xx/xx/xx](#)]

**20.4.2.502 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with this part does not relieve a person of the obligation to comply with other applicable local, state and federal regulations.

[12/31/98; 20.4.2.502 NMAC - Rn, 20 NMAC 4.2.V.502, 8/18/06; [xx/xx/xx](#)]

**20.4.2.503 CONSTRUCTION:** This part shall be liberally construed to effectuate the purpose of the act.

[12/31/98; 20.4.2.503 NMAC - Rn, 20 NMAC 4.2.V.503, 8/18/06; [xx/xx/xx](#)]

**20.4.2.504 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.

[12/31/98; 20.4.2.504 NMAC - Rn, 20 NMAC 4.2.V.504, 8/18/06; [xx/xx/xx](#)]

**20.4.2.505 - 20.4.2.599 [RESERVED]**

**HISTORY OF 20.4.2 NMAC:**

**Pre-NMAC History:** The provisions of this part were derived in part from material previously filed with the commission of public records, state records center and archives under:

EIB/HWFR-1, Hazardous Waste Fee Regulations, filed October 28, 1988; and

EIB/HWFR-1, Annual Hazardous Waste Fee Regulations, filed January 19, 1994.

**History of Repealed Material:**

20 NMAC 4.2, Hazardous Waste Fees (filed 10/27/1995), repealed 12/31/1998.

**Other History:**

EIB/HWFR-1, Annual Hazardous Waste Fee Regulations (filed 01/19/1994) was renumbered, reformatted, amended, and replaced by 20 NMAC 4.2, Hazardous Waste Fees, effective 11/30/1995.

20 NMAC 4.2, Hazardous Waste Fees (filed 10/27/1995) was replaced by 20 NMAC 4.2, Hazardous Waste Fees, effective 12/31/1998.

20 NMAC 4.2, Hazardous Waste Fees (filed 11/30/1998) was renumbered, reformatted, amended, and replaced by 20.4.2 NMAC, Hazardous Waste Permit and Corrective Action Fees, effective 08/18/2006 [was reformatted](#).

amended, and replaced by 20.4.2 NMAC, Hazardous Waste Permit and Corrective Action Fees, effective 12/18/2019.  
20.4.2 NMAC, Hazardous Waste Permit and Corrective Action Fees, effective 12/18/2019.