

STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD



IN THE MATTER OF PROPOSED
REPEAL AND REPLACEMENT OF
20.7.11 NMAC
Liquid Waste Treatment and Disposal Fees

No. 19 - 42

Environmental Health Bureau,
Environmental Protection Division of the
New Mexico Environment Department,

Petitioner.

**PETITION TO REPEAL AND REPLACE 20.7.11 NMAC, LIQUID WASTE
TREATMENT AND DISPOSAL FEES AND REQUEST FOR HEARING**

The Environmental Health Bureau (“Bureau”) of the Environmental Protection Division (“Division”) of the New Mexico Environment Department (“Department”) requests the repeal and replacement of 20.7.11 NMAC, *Liquid Waste Treatment and Disposal Fees*, changing the liquid waste treatment and disposal fees and associated definitions. Pursuant to 1.24.10.18(B)(1) NMAC (2015), these regulations would retain their current title, chapter, and part numbers, “20.7.11 NMAC.” The Department also requests a hearing on this matter before the Environmental Improvement Board (“EIB”) for February 2020 in conjunction with its regular meeting. The Bureau expects the public hearing to last approximately four (4) hours, depending on the level and extent of public involvement and participation.

As support for this Petition, a Statement of Reasons is attached hereto as Attachment 1. A red-line of the proposed replacement rules is attached hereto as Attachment 2. A clean copy of the proposed replacement rules is attached hereto as Attachment 3.

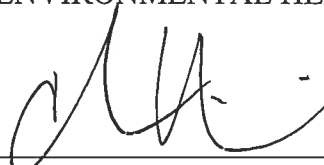
JURISDICTION

The EIB has the authority to repeal and replace the Wastewater and Water Supply Regulations pursuant to the Environmental Improvement Act, NMSA 1978, §§ 74-1-5 74-1-8(A)(3), and 74-1-9 (1971 as amended through 2000).

WHEREFORE, the Bureau requests that the EIB set this Petition for hearing during the February 2020 regular meeting and appoint a Hearing Officer in this matter.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
ENVIRONMENTAL HEALTH BUREAU



Chris Vigil
Assistant General Counsel
New Mexico Environment Department
121 Tijeras Ave. NE, Ste. 1000
Albuquerque, NM 87102-3400
Phone: (505) 383-2060
Fax: (505) 383-2064
Email: christopherj.vigil@state.nm.us

CERTIFICATE OF SERVICE

I hereby certify on October 7, 2019 that a true and correct copy of the foregoing Petition to Repeal and Replace 20.7.11 NMAC, *Liquid Waste Treatment and Disposal Fees* and Request for Hearing was served by hand delivery on the following:

Cody Barnes
Board Administrator
Room S-2104, Runnels Building
1190 St. Francis Dr.
Santa Fe, New Mexico 87505

And by email and First-Class mail on the following:

Marah DeMeule
Board Counsel
PO Box 1508
Santa Fe, NM 87504



Chris Vigil
Assistant General Counsel
New Mexico Environment Department
121 Tijeras Ave. NE, Ste. 1000
Albuquerque, NM 87102-3400
Phone: (505) 383-2060
Fax: (505) 383-2064
Email: christopherj.vigil@state.nm.us

**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED
REPEAL AND REPLACEMENT OF
20.7.11 NMAC**

No. 19 - 42

Liquid Waste Treatment and Disposal Fees

STATEMENT OF REASONS

The Environmental Health Bureau (“Bureau”) of the Environmental Protection Division (“Division”) of the New Mexico Environment Department (“Department”) requests the repeal and replacement of 20.7.11 NMAC, *Liquid Waste Treatment and Disposal Fees*, for the following reasons:

BACKGROUND

1. The Bureau’s Liquid Waste Program (“LWP”) has the responsibility to protect the health and welfare of present and future citizens of New Mexico by providing for the prevention and abatement of public health hazards and surface and ground water contamination from on-site liquid waste disposal practices.
2. The LWP regulates approximately two hundred twenty-five thousand (225,000) permitted liquid waste systems that handle up to five thousand gallons per day (“gpd”). These responsibilities require significant human and material resources.
3. The LWP also has regulatory responsibility for an additional estimated one hundred thousand (100,000) unpermitted liquid waste systems statewide.
4. The residential liquid waste systems regulated by the LWP include single-family homes, mobile home and RV parks, apartment complexes, and campsites. There are

approximately ten thousand lots statewide that can only be serviced through alternative liquid waste systems, which require more tracking than conventional systems in order to protect the environment and New Mexico residents.

5. Commercial liquid waste systems regulated by the LWP include restaurants and light industry up to 5,000 gpd. The LWP regulates twenty-two (22) different types of alternative treatment and storage systems.
6. In addition to residential and commercial systems, the LWP has regulatory responsibility for liquid waste systems in schools, churches, rest homes, medical facilities, parks, retail outlets, hotels, and other entities.
7. The LWP ensures that septage haulers are properly licensed and disposing at approved facilities.
8. The LWP spends significant time tracking treatment systems and ensuring compliance with statutes and regulations for the hundreds of thousands of systems statewide. Bringing liquid waste systems into compliance is a time-intensive endeavor, and the LWP administers compliance assistance programs to help users come into compliance as a less coercive alternative to fines and permit termination.
9. The LWP administers a comprehensive application process that is detailed to ensure the safety of State residents and protection of the environment.
10. The LWP has a statutory duty to provide technical assistance to the Wastewater Advisory Committee (“WTAC”), helping the WTAC to “provide standardized objective evaluation of wastewater treatment and disposal technologies for both large- and small-flow domestic, commercial and agricultural wastewater systems.” The LWP

maintains for the public, lists of approved liquid waste treatment technologies. NMSA 1978, § 9-7A-15(D), (E) (2003).

11. New Mexico's Permian Basin oilfields are currently producing approximately 885,000 barrels of oil per day, and are the busiest, most-productive oilfields in the United States. Oil production in this area has caused a population boom and a housing shortage in southeastern New Mexico, resulting in ad hoc worker camps with improvised and dangerous liquid waste storage systems. These systems are often leaking and overflowing, putting the area's groundwater in danger of contamination. It is the LWP that is charged with the task of identifying, locating, inspecting, and enforcing compliance in these camps. It is straining the Bureaus resources and is unsustainable in the long term.¹
12. In order to develop an effective strategy to deal with the threat of groundwater contamination by the camps, the LWP is currently developing a comprehensive database and mapping system to help identify and track the ad hoc, unpermitted wastewater storage systems.
13. The LWP provides free water testing for nitrate, iron, and fluoride, and many other unpaid services and administrative functions in fulfillment of its responsibility to ensure that liquid waste produced in New Mexico is adequately treated for the health and safety of the State and its residents.

¹ Adrienne Hedden, "Oil Companies Grow Permian Basin New Mexico Presence as Prices Dip Amid Global Conflicts," *Carlsbad Current Argus* (9/4/2019) (<https://www.currentargus.com/story/news/local/2019/09/04/oil-companies-grow-permian-basin-new-mexico-presence/2200225001/>); April Reese, "New Mexico's Oil Boom has Made Rural Roads Deadly," *High Country News* (April 2, 2019) (<https://www.hcn.org/articles/energy-and-industry-new-mexico-oil-boom-has-made-rural-roads-deadly-permian-basin/>); Justin Worland, "How a West Texas Oil Boom is Reshaping the World," *Time* (1/3/2019) (<https://time.com/5492648/permian-oil-boom-west-texas/>).

CHANGING THE LIQUID WASTE FEE STRUCTURE

14. The Legislature has capped the liquid waste system fee amounts collectible by the Bureau at “no more than the average charged by the contiguous states to New Mexico for similar permits and services and to implement and administer an inspection and permitting program for on-site liquid waste systems.” NMSA 1978, § 74-1-8(A)(3).
15. In November 2018, the Bureau conducted a survey on the liquid waste fees charged by contiguous states and, in general, the fees charges by New Mexico were significantly lower than the fees charged by contiguous states. For example, the average fee charged in contiguous states for a liquid waste holding tank permit was five hundred fifty-five dollars (\$555.00), whereas New Mexico currently charges one hundred dollars (\$100.00). The average fee for a variance in contiguous states is two hundred eighty dollars (\$280.00), whereas New Mexico charges fifty dollars (\$50.00) for a variance.
16. The LWP’s inability to collect adequate fees has necessarily resulted in understaffing and slower response times. In 2018 alone, the LWP received four thousand eight hundred sixty-six (4,866) applications for liquid waste permits statewide. These permits were processed start to finish by the LWP’s sixty-five (65) employees spread among twenty-two (22) field offices across the State. The Albuquerque LWP field office had one employee that processed two hundred forty-five (245) permit applications in 2018. This problem is not unique to urban centers: The Raton field office has a single employee who processed one hundred sixty-five (165) applications in 2018.
17. The sixty-five LWP employees conducted over four thousand (4,000) on-site inspections of liquid waste systems across New Mexico; an enormous undertaking

given that many of the liquid waste inspections take place in rural areas, requiring extended travel time for LWP inspectors.

18. In addition to their work for the LWP, the same sixty-five employees also have the responsibility to inspect swimming pools and food facilities for approximately seven thousand (7,000) restaurants, churches, public pools, hotels, and schools.
19. The LWP's current fee structure generates four hundred thirty-five thousand dollars (\$435,000.00) annually. The LWP's remaining budgetary needs are met by the General Fund. Repealing and replacing 20.7.11 NMAC would allow the LWP to generate much needed revenue independent of the General Fund.
20. Prior to 2002, New Mexico did not charge fees for liquid waste permits, inspections, and administration. In 2002, the EIB promulgated the first set of fees, which have not been raised since the rule was adopted - a period of over seventeen (17) years.
21. Repealing and replacing 20.7.11 NMAC is preferable to amending the current rules because the changes and additions are extensive. Repealing and replacing 20.7.11 NMAC would provide a streamlined process for changing fees under this part.
22. Pursuant to 1.24.10.18(B)(1) NMAC (2015), the replacement regulations would retain the current part name, title, chapter, and part numbers, "20.7.11 NMAC."
23. Repealing and replacing 20.7.11 NMAC would allow the Bureau to bring New Mexico's liquid waste fees to a level comparable with contiguous states, while still charging fees below the average, as required by the Environmental Improvement Act.
24. Repealing and replacing 20.7.11 NMAC would allow the Department to more fully staff the Bureau's LWP, speeding up permit processing times and allowing for more timely inspections, to better protect the health of New Mexico residents.

25. Repealing and replacing 20.7.11 NMAC would provide for a more precise description of persons required to pay liquid waste treatment and disposal fees and would provide greater clarity and ease of use of the rules.
26. Repealing and replacing the definitions in 20.7.11 NMAC would more precisely describe the methods and technologies used to treat liquid waste, and better reflect national standards of terminology.

1 TITLE 20 ENVIRONMENTAL PROTECTION
2 CHAPTER 7 LIQUID WASTE
3 PART 11 LIQUID WASTE TREATMENT AND DISPOSAL FEES
4

5 20.7.11.1 ISSUING AGENCY: Environmental Improvement Board.
6 [20.7.11.1 NMAC - Rp, 20.7.11.1 NMAC, XX/XX/2020N, 2/1/2002]
7

8 20.7.11.2 SCOPE: All persons required under 20.7.3 NMAC to obtain a: ~~permit, modification to a permit,~~
9 ~~tank certification or re-inspection under 20.7.3 NMAC.~~

- 10 ~~A. Permit;~~
- 11 ~~B. Modification to a permit;~~
- 12 ~~C. Registration;~~
- 13 ~~D. Septage pump truck registration;~~
- 14 ~~E. Certificate of qualification for:~~
 - 15 ~~(1) Homeowner certification,~~
 - 16 ~~(2) Third-party evaluator certification,~~
 - 17 ~~(3) Maintenance service provider certification,~~
 - 18 ~~(4) Septage pumper certification, or~~
 - 19 ~~(5) Installer specialist certification~~
- 20 ~~F. Septic Tank Certification; or~~
- 21 ~~G. Re-inspection.~~

22 [20.7.11.2 NMAC - Rp, 20.7.11.2 NMAC, XX/XX/2020N, 2/1/2002]
23

24 20.7.11.3 STATUTORY AUTHORITY: Environmental Improvement Act, Section 74-1-1 through 74 -1-
25 10 NMSA 1978.

26 [20.7.11.3 NMAC - Rp, 20.7.11.3 NMAC, XX/XX/2020N, 2/1/2002]
27

28 20.7.11.4 DURATION: Permanent.

29 [20.7.11.4 NMAC - Rp, 20.7.11.4 NMAC, XX/XX/2020N, 2/1/2002]
30

31 20.7.11.5 EFFECTIVE DATE: ~~February XXXXXXXX XX1, 20022020~~, unless a later date is cited at the
32 end of a section.

33 [20.7.11.5 NMAC - Rp, 20.7.11.5 NMAC, XX/XX/2020N, 2/1/2002]
34

35 20.7.11.6 OBJECTIVE: The objective of this rule is to provide for liquid waste treatment and disposal fees
36 for the administration of the state liquid waste regulations. The purpose of the state liquid waste treatment and
37 disposal program is to protect the health and welfare of present and future citizens of New Mexico by providing for
38 the prevention and abatement of public health hazards and surface and ground water contamination from on-site
39 liquid waste disposal practices.

40 [20.7.11.6 NMAC - Rp, 20.7.11.6 NMAC, XX/XX/2020N, 2/1/2002; A, 12/15/2011]
41

42 20.7.11.7 DEFINITIONS:

43 A. Unless otherwise defined in this part, the words and phrases used in this part have the same
44 meanings as in 20.7.3.7 NMAC, Liquid Waste Disposal.

45 B. As used in this part:

46 (1) "advanced treatment" means any process of wastewater treatment that removes a
47 greater amount of contaminants than in accomplished through primary treatment. Advanced treatment may include
48 physical or chemical processes; water renovation that upgrades liquid waste to meet specific reuse requirements;
49 advanced treatment may include general cleanup of wastewater or removal of specific types of wastes, such as
50 nitrates or other nitrogen compounds, insufficiently removed by primary or secondary treatment processes;
51 advanced treatment may include physical or chemical treatments;

52 (2) "advanced treatment system" means a method or technology implemented to achieve
53 advanced treatment;

54 (3) "alternative disposal" means any approved, on-site liquid waste disposal method used in
55 lieu of, including modifications to, a conventional disposal method;

1 (4) "alternative disposal system" means a method or technology implemented to achieve
2 alternative disposal;

3 (52) "alternative system" means any on-site liquid waste system utilizing a method of liquid
4 waste treatment and disposal used in lieu of a conventional system, including modifications that is recognized and
5 allowed by Liquid Waste Disposal and Treatment, 20.7.3 NMAC (9/1/13 as amended through 9/15/14), or by the
6 New Mexico Design Standards, 20.7.3.501-703 NMAC;

7 (63) "commercial unit" means a structure that is not a residential unit but which has sewage
8 producing fixtures such as sinks, baths, showers, toilets, urinals, dish- and clothes-washers or floor drains for
9 receiving liquid waste including but not limited to uses included in 20.7.3 NMAC, Table 201.1 means a structure
10 without bedrooms but which has sewage producing fixtures such as sinks, baths, showers, toilets, urinals, dish- and
11 clothes-washers, or floor drains for receiving liquid waste;

12 (74) "conventional system" means an on-site liquid waste system consisting of a septic tank
13 and a subsurface soil absorption system with gravity distribution of the effluent constructed in accordance with the
14 standards set forth in 20.7.3 NMAC;

15 (8) "gpd" means gallons-per-day;

16 (95) "hazard to public health" means the indicated presence in water or soil of biological,
17 chemical or other contaminants under such conditions that could adversely impact human health, including without
18 limitation surfacing liquid waste, damage to a domestic water supply source, presence of a cesspool or an open tank,
19 or exposure of liquid waste or seepage in a manner that allows possible transmission of disease;

20 (10) "large system" means any liquid waste treatment or disposal system that receives, or is
21 designed to receive, more than 2,000 gpd but not more than 5,000 gpd;

22 (116) "notice of non-approval" means notification that inspection of a permitted liquid waste
23 system is not in compliance with 20.7.3 NMAC;

24 (127) "on-site liquid waste system" means a liquid waste system, or part thereof, serving a
25 dwelling, establishment or group, and using a liquid waste treatment unit designed to receive liquid waste followed
26 by either a soil treatment or other type of disposal system; on-site liquid waste systems include enclosed systems and
27 privies but do not include systems or facilities designed to receive or treat mine or mill tailings or wastes;

28 (138) "septic tank" means liquid waste treatment units designed to provide primary treatment
29 and anaerobic treatment prior to disposal;

30 (14) "small system" means any liquid waste treatment and disposal system that receives, or is
31 designed to receive, no more than 2,000 gpd.

32 [20.7.11.7 NMAC - Rp. 20.7.11.7 NMAC, XX/XX/2020N, 2/1/2002; A, 12/15/2011]

33
34 **20.7.11.8 PERMIT FEES:** Payment of the permit fees areis due prior to the issuance of a permit meeting
35 all the requirements of 20.7.3 NMAC.

36 A. The permit fee for a conventional system is \$100.00.

37 B. The permit fee for modification of a conventional system is \$50.00.

38 C. The permit fee for construction or modification of a commercial unit is \$150.00.

39 D. The permit fee for construction of an advanced treatment or alternative system is \$150.00.

40 E. The permit fee for modification of an advanced treatment or alternative system is \$75.00.

41 A. Fees for permits to register, construct, or modify a conventional system of a specified design

42 flow:

43 (1) The fee for a system designed for zero gpd up to 500 gpd is \$225.00

44 (2) The fee for a system designed for 501 gpd up to 1,000 gpd is \$275.00;

45 (3) The fee for a system designed for 1,001 gpd up to 1,500 gpd is \$325.00;

46 (4) The fee for a system designed for 1,501 gpd up to 2,000 gpd is \$375.00;

47 (5) The fee for a system designed for 2,001 gpd up to 2,500 gpd is \$425.00;

48 (6) The fee for a system designed for 2,501 gpd up to 3,000 gpd is \$475.00;

49 (7) The fee for a system designed for 3,001 gpd up to 3,500 gpd is \$525.00;

50 (8) The fee for a system designed for 3,501 gpd up to 4,000 gpd is \$575.00;

51 (9) The fee for a system designed for 4,001 gpd up to 4,500 gpd is \$625.00;

52 (10) The fee for a system designed for 4,501 gpd up to 5,000 gpd is \$375.00;

53 B. Fees for permits to register, construct, or modify an alternative system, advanced treatment
54 system, or a commercial system of a specified design flow:

55 (1) The fee for a system designed for zero gpd up to 500 gpd is \$450.00

56 (2) The fee for a system designed for 501 gpd up to 1,000 gpd is \$500.00;

- ~~(3)~~ The fee for a system designed for 1,001 gpd up to 1,500 gpd is \$550.00;
- ~~(4)~~ The fee for a system designed for 1,501 gpd up to 2,000 gpd is \$600.00;
- ~~(5)~~ The fee for a system designed for 2,001 gpd up to 2,500 gpd is \$650.00;
- ~~(6)~~ The fee for a system designed for 2,501 gpd up to 3,000 gpd is \$700.00;
- ~~(7)~~ The fee for a system designed for 3,001 gpd up to 3,500 gpd is \$750.00;
- ~~(8)~~ The fee for a system designed for 3,501 gpd up to 4,000 gpd is \$800.00;
- ~~(9)~~ The fee for a system designed for 4,001 gpd up to 4,500 gpd is \$850.00;
- ~~(10)~~ The fee for a system designed for 4,501 gpd up to 5,000 gpd is \$900.00.

C. Annual operating permit fees for an alternative system, advanced treatment system, or a commercial system:

- ~~(1)~~ The fee for an alternative system, advanced treatment system, or a commercial system is \$50.00;
- ~~(2)~~ The fee for a commercial large system is \$200.00;
- ~~(3)~~ The fee for a holding tank system or a split flow system with a holding tank, excluding commercial systems is \$30.00.

[20.7.11.8 NMAC - ~~Rp. 20.7.11.8 NMAC, XX/XX/2020N, 2/1/2002~~]

20.7.11.9 QUALIFICATION CERTIFICATE FEES: If a qualification certificate is requested as provided for in 20.7.3.904 NMAC, a fee as indicated in subsections A through F of this section shall be submitted upon issuance of the qualification certificate in addition to any associated permit fee required in 20.7.11 NMAC.

- ~~A.~~ The fee for a qualification certificate for a qualified homeowner is \$100.00;
- ~~B.~~ The fee for a qualification certificate for a third-party evaluator is \$50.00;
- ~~C.~~ The fee for a qualification certificate for a maintenance service provider is \$50.00;
- ~~D.~~ The fee for a qualification certificate for a septage pumper is \$30.00;
- ~~E.~~ The fee for a qualification certificate for an installer specialist is \$150.00;
- ~~F.~~ The fee for a qualification certificate of renewal for an installer specialist is \$75.00

[20.7.11.9 NMAC - ~~Rp. 20.7.11.9 NMAC, XX/XX/2020~~]

20.7.11.10 SEPTAGE PUMPING TRUCK ANNUAL REGISTRATION FEE: The annual fee for registration of a septage pumping truck is \$30.00.

[20.7.11.10 NMAC - ~~Rp. 20.7.11.10 NMAC, XX/XX/2020~~]

20.7.11.11 PROPERTY TRANSFER REPORT FILING FEE: The fee for filing a property transfer report is \$50.00.

[20.7.11.11 NMAC - ~~Rp. 20.7.11.11 NMAC, XX/XX/2020~~]

20.7.11.129 SEPTIC TANK MANUFACTURER CERTIFICATION FEE: The annual fee for the certification/re-certification of septic tank designs as required in 20.7.3 NMAC is ~~\$100.00~~ \$150.00.

[20.7.11.9-12 NMAC - ~~Rp. 20.7.11.12 NMAC, XX/XX/2020N, 2/1/2002~~]

20.7.1311. RE-INSPECTION FEE: If a site inspection results in an issuance of a notice of non-approval, a fee of \$150.00 shall be assessed for the re-inspection of the system. The re-inspection fee shall be remitted to the department prior to a subsequent inspection being conducted.

[20.7.11.10-13 NMAC - ~~Rp. 20.7.11.13 NMAC, XX/XX/2020N, 2/1/2002~~]

20.7.11.1411 VARIANCE FEE: If a variance is requested as provided for in 20.7.3 NMAC, a fee of ~~\$50.00~~ \$100.00 for small systems and \$400.00 for large systems shall be submitted upon issuance of the variance in addition to the permit fee required in 20.7.11.8 above.

[20.7.11.11-14 NMAC - ~~Rp. 20.7.11.14 NMAC, XX/XX/2020N, 2/1/2002~~]

20.7.11.1512 PAYMENT OF FEES:

- A. The department shall not issue a permit, variance or tank design certification until payment is received by the department. The fees required in this part are non-refundable.

1 B. All fees shall be remitted to the department ~~in the form of a check or money order made~~ payable to
2 the environment department liquid waste fund. All fees collected pursuant to this part shall be transmitted to the
3 state treasurer for deposit in the liquid waste fund.

4 C. Beginning on February 1, 2021, all fees shall be adjusted each year on February 1 to reflect the
5 increase, if any, by which the consumer price index for the most recent year exceeds the consumer price index for
6 the previous year. The amount of the change in the fee shall be determined by multiplying the existing fee by the
7 change in the consumer price index and rounding the result to the nearest dollar. The consumer price index for any
8 year is the average of the consumer price index for all-urban consumers published by the United States department
9 of labor, as of the close of the twelve-month period ending on August 31 of the previous year. No fee can exceed the
10 average fee for the surrounding jurisdictions as determined by the latest report on contiguous state fees published by
11 the department on January 15th of the current year.

12 [20.7.11.~~12-15~~ NMAC - Rp. 20.7.11.15 NMAC, XX/XX/2020N, 2/1/2002]

13
14 **20.7.11.~~1613~~ APPLICABILITY:**

15 A. The requirement for payment of the permit application fee shall apply only to those applications
16 received on or after the effective date of this part.

17 B. The annual tank certification fee shall apply on or after the effective date of this part. The annual
18 fee shall be received by the department no later than ~~January~~ March 1 of each year.

19 C. The requirements concerning payment of a re-inspection fee shall apply only to those re-
20 inspections occurring on or after the effective date of this part.

21 [20.7.11.~~13-16~~ NMAC - Rp. 20.7.11.16 NMAC, XX/XX/2020N, 2/1/2002]

22
23 **20.7.11.~~1744~~ PERIODIC REVIEW:** In order for the environmental improvement board to fulfill its obligation
24 to establish onsite liquid system fees in accordance with Section 74-1-8(A)(3), NMSA 1978, the department shall
25 provide information by January 15th of each year to the environmental improvement board as follows:

26 A. liquid waste fund revenues for the previous fiscal year;

27 B. liquid waste fund expenditures for the previous fiscal year:

28 (1) personal services and benefits;

29 (2) contracts;

30 (3) other costs;

31 (4) indirect;

32 C. external audit report for the previous fiscal year;

33 D. current fiscal year budget for field operations bureau approved by the department of finance and
34 administration and the legislative finance committee;

35 E. report on contiguous states' fees:

36 (1) for Arizona, Oklahoma and Texas: report of state program fee schedules (although some
37 Texas counties have their own fee schedules);

38 (2) Colorado and Utah: report of fee schedule for each county or health district;

39 F. performance measures report for previous fiscal year;

40 G. copy of liquid waste annual strategic plan;

41 H. copy of training plan, if any, for the upcoming year.

42 [20.7.11.~~1744~~ NMAC - Rp. 20.7.11.17 NMAC, XX/XX/2020N, 2/1/2002; A, 12/15/2011]

43
44 **20.7.11.~~1815~~ COMPLIANCE WITH OTHER REGULATIONS:** Compliance with this part does not relieve
45 a person of the obligation to comply with other applicable state and federal regulations.

46 [20.7.11.~~15-18~~ NMAC - N. XX/XX/2020N, 2/1/2002]

47
48 **20.7.11.~~1916~~ CONSTRUCTION:** This part shall be liberally construed to implement the purpose of the act.

49 [20.7.11.~~16-19~~ NMAC - N. XX/XX/2020N, 2/1/2002]

50
51 **20.7.11.~~2017~~ SEVERABILITY:** If any provision or application of this part is held invalid, the remainder shall
52 not be affected.

53 [20.7.11.~~17-20~~ NMAC - N. XX/XX/2020N, 2/1/2002]

54
55 **HISTORY of 20.7.11 NMAC: [RESERVED]**

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 7 LIQUID WASTE
PART 11 LIQUID WASTE TREATMENT AND DISPOSAL FEES

20.7.11.1 ISSUING AGENCY: Environmental Improvement Board.
[20.7.11.1 NMAC - Rp, 20.7.11.1 NMAC, XX/XX/2020]

20.7.11.2 SCOPE: All persons required under 20.7.3 NMAC to obtain a:

- A. Permit;
- B. Modification to a permit;
- C. Registration;
- D. Septage pump truck registration;
- E. Certificate of qualification for:
 - (1) Homeowner certification,
 - (2) Third-party evaluator certification,
 - (3) Maintenance service provider certification,
 - (4) Septage pumper certification, or
 - (5) Installer specialist certification
- F. Septic Tank Certification; or
- G. Re-inspection.

[20.7.11.2 NMAC - Rp, 20.7.11.2 NMAC, XX/XX/2020]

20.7.11.3 STATUTORY AUTHORITY: Environmental Improvement Act, Section 74-1-1 through 74 -1-10 NMSA 1978.

[20.7.11.3 NMAC - Rp, 20.7.11.3 NMAC, XX/XX/2020]

20.7.11.4 DURATION: Permanent.

[20.7.11.4 NMAC - Rp, 20.7.11.4 NMAC, XX/XX/2020]

20.7.11.5 EFFECTIVE DATE: XXXXXXXX XX, 2020, unless a later date is cited at the end of a section.

[20.7.11.5 NMAC - Rp, 20.7.11.5 NMAC, XX/XX/2020]

20.7.11.6 OBJECTIVE: The objective of this rule is to provide for liquid waste treatment and disposal fees for the administration of the state liquid waste regulations. The purpose of the state liquid waste treatment and disposal program is to protect the health and welfare of present and future citizens of New Mexico by providing for the prevention and abatement of public health hazards and surface and ground water contamination from on-site liquid waste disposal practices.

[20.7.11.6 NMAC - Rp, 20.7.11.6 NMAC, XX/XX/2020]

20.7.11.7 DEFINITIONS:

A. Unless otherwise defined in this part, the words and phrases used in this part have the same meanings as in 20.7.3.7 NMAC, Liquid Waste Disposal.

B. As used in this part:

(1) **"advanced treatment"** means any process of wastewater treatment that removes a greater amount of contaminants than is accomplished through primary treatment. Advanced treatment may include physical or chemical processes;

(2) **"advanced treatment system"** means a method or technology implemented to achieve advanced treatment;

(3) **"alternative disposal"** means any approved, on-site liquid waste disposal method used in lieu of, including modifications to, a conventional disposal method;

(4) **"alternative disposal system"** means a method or technology implemented to achieve alternative disposal;

(5) **"alternative system"** means any on-site liquid waste system utilizing a method of liquid waste treatment and disposal used in lieu of a conventional system, including modifications that is recognized and allowed by Liquid Waste Disposal and Treatment, 20.7.3 NMAC (9/1/13 as amended through 9/15/14), or by the New Mexico Design Standards, 20.7.3.501-703 NMAC;

(6) "commercial unit" means a structure that is not a residential unit but which has sewage producing fixtures such as sinks, baths, showers, toilets, urinals, dish- and clothes-washers or floor drains for receiving liquid waste including but not limited to uses included in 20.7.3 NMAC, Table 201.1;

(7) "conventional system" means an on-site liquid waste system consisting of a septic tank and a subsurface soil absorption system with gravity distribution of the effluent constructed in accordance with the standards set forth in 20.7.3 NMAC;

(8) "gpd" means gallons-per-day;

(9) "hazard to public health" means the indicated presence in water or soil of biological, chemical or other contaminants under such conditions that could adversely impact human health, including without limitation surfacing liquid waste, damage to a domestic water supply source, presence of a cesspool or an open tank, or exposure of liquid waste or seepage in a manner that allows possible transmission of disease;

(10) "large system" means any liquid waste treatment or disposal system that receives, or is designed to receive, more than 2,000 gpd but not more than 5,000 gpd;

(11) "notice of non-approval" means notification that inspection of a permitted liquid waste system is not in compliance with 20.7.3 NMAC;

(12) "on-site liquid waste system" means a liquid waste system, or part thereof, serving a dwelling, establishment or group, and using a liquid waste treatment unit designed to receive liquid waste followed by either a soil treatment or other type of disposal system; on-site liquid waste systems include enclosed systems and privies but do not include systems or facilities designed to receive or treat mine or mill tailings or wastes;

(13) "septic tank" means liquid waste treatment units designed to provide primary treatment and anaerobic treatment prior to disposal;

(14) "small system" means any liquid waste treatment and disposal system that receives, or is designed to receive, no more than 2,000 gpd.

[20.7.11.7 NMAC - Rp, 20.7.11.7 NMAC, XX/XX/2020]

20.7.11.8 PERMIT FEES: Payment of permit fees are due prior to the issuance of a permit meeting all the requirements of 20.7.3 NMAC.

A. Fees for permits to register, construct, or modify a conventional system of a specified design flow:

- (1) The fee for a system designed for zero gpd up to 500 gpd is \$225.00
- (2) The fee for a system designed for 501 gpd up to 1,000 gpd is \$275.00;
- (3) The fee for a system designed for 1,001 gpd up to 1,500 gpd is \$325.00;
- (4) The fee for a system designed for 1,501 gpd up to 2,000 gpd is \$375.00;
- (5) The fee for a system designed for 2,001 gpd up to 2,500 gpd is \$425.00;
- (6) The fee for a system designed for 2,501 gpd up to 3,000 gpd is \$475.00;
- (7) The fee for a system designed for 3,001 gpd up to 3,500 gpd is \$525.00;
- (8) The fee for a system designed for 3,501 gpd up to 4,000 gpd is \$575.00;
- (9) The fee for a system designed for 4,001 gpd up to 4,500 gpd is \$625.00;
- (10) The fee for a system designed for 4,501 gpd up to 5,000 gpd is \$375.00;

B. Fees for permits to register, construct, or modify an alternative system, advanced treatment system, or a commercial system of a specified design flow:

- (1) The fee for a system designed for zero gpd up to 500 gpd is \$450.00
- (2) The fee for a system designed for 501 gpd up to 1,000 gpd is \$500.00;
- (3) The fee for a system designed for 1,001 gpd up to 1,500 gpd is \$550.00;
- (4) The fee for a system designed for 1,501 gpd up to 2,000 gpd is \$600.00;
- (5) The fee for a system designed for 2,001 gpd up to 2,500 gpd is \$650.00;
- (6) The fee for a system designed for 2,501 gpd up to 3,000 gpd is \$700.00;
- (7) The fee for a system designed for 3,001 gpd up to 3,500 gpd is \$750.00;
- (8) The fee for a system designed for 3,501 gpd up to 4,000 gpd is \$800.00;
- (9) The fee for a system designed for 4,001 gpd up to 4,500 gpd is \$850.00;
- (10) The fee for a system designed for 4,501 gpd up to 5,000 gpd is \$900.00.

C. Annual operating permit fees for an alternative system, advanced treatment system, or a commercial system:

- (1) The fee for an alternative system, advanced treatment system, or a commercial system is \$50.00;
- (2) The fee for a commercial large system is \$200.00;

(3) The fee for a holding tank system or a split flow system with a holding tank, excluding commercial systems is \$30.00.
[20.7.11.8 NMAC - Rp, 20.7.11.8 NMAC, XX/XX/2020]

20.7.11.9 QUALIFICATION CERTIFICATE FEES: If a qualification certificate is requested as provided for in 20.7.3.904 NMAC, a fee as indicated in subsections A through F of this section shall be submitted upon issuance of the qualification certificate in addition to any associated permit fee required in 20.7.11 NMAC.

- A. The fee for a qualification certificate for a qualified homeowner is \$100.00;
 - B. The fee for a qualification certificate for a third-party evaluator is \$50.00;
 - C. The fee for a qualification certificate for a maintenance service provider is \$50.00;
 - D. The fee for a qualification certificate for a septage pumper is \$30.00;
 - E. The fee for a qualification certificate for an installer specialist is \$150.00;
 - F. The fee for a qualification certificate of renewal for an installer specialist is \$75.00.
- [20.7.11.9 NMAC - Rp, 20.7.11.9 NMAC, XX/XX/2020]

20.7.11.10 SEPTAGE PUMPING TRUCK ANNUAL REGISTRATION FEE: The annual fee for registration of a septage pumping truck is \$30.00.
[20.7.11.10 NMAC - Rp, 20.7.11.10 NMAC, XX/XX/2020]

20.7.11.11 PROPERTY TRANSFER REPORT FILING FEE: The fee for filing a property transfer report is \$50.00.
[20.7.11.11 NMAC - Rp, 20.7.11.11 NMAC, XX/XX/2020]

20.7.11.12 SEPTIC TANK MANUFACTURER CERTIFICATION FEE: The annual fee for the certification/re-certification of septic tank designs as required in 20.7.3 NMAC is \$150.00.
[20.7.11.12 NMAC - Rp, 20.7.11.12 NMAC, XX/XX/2020]

20.7.11.13 RE-INSPECTION FEE: If a site inspection results in an issuance of a notice of non-approval, a fee of \$150.00 shall be assessed for the re-inspection of the system. The re-inspection fee shall be remitted to the department prior to a subsequent inspection being conducted.
[20.7.11.13 NMAC - Rp, 20.7.11.13 NMAC, XX/XX/2020]

20.7.11.14 VARIANCE FEE: If a variance is requested as provided for in 20.7.3 NMAC, a fee of \$100.00 for small systems and \$400.00 for large systems shall be submitted upon issuance of the variance in addition to the permit fee required in 20.7.11.8 above.
[20.7.11.14 NMAC - Rp, 20.7.11.14 NMAC, XX/XX/2020]

20.7.11.15 PAYMENT OF FEES:

- A. The department shall not issue a permit, variance or tank design certification until payment is received by the department. The fees required in this part are non-refundable.
 - B. All fees shall be remitted to the department payable to the environment department liquid waste fund. All fees collected pursuant to this part shall be transmitted to the state treasurer for deposit in the liquid waste fund.
 - C. Beginning on February 1, 2021, all fees shall be adjusted each year on February 1 to reflect the increase, if any, by which the consumer price index for the most recent year exceeds the consumer price index for the previous year. The amount of the change in the fee shall be determined by multiplying the existing fee by the change in the consumer price index and rounding the result to the nearest dollar. The consumer price index for any year is the average of the consumer price index for all-urban consumers published by the United States department of labor, as of the close of the twelve-month period ending on August 31 of the previous year. No fee can exceed the average fee for the surrounding jurisdictions as determined by the latest report on contiguous state fees published by the department on January 15th of the current year.
- [20.7.11.15 NMAC - Rp, 20.7.11.15 NMAC, XX/XX/2020]

20.7.11.16 APPLICABILITY:

- A. The requirement for payment of the permit application fee shall apply only to those applications received on or after the effective date of this part.

B. The annual tank certification fee shall apply on or after the effective date of this part. The annual fee shall be received by the department no later than January 1 of each year.

C. The requirements concerning payment of a re-inspection fee shall apply only to those re-inspections occurring on or after the effective date of this part.
[20.7.11.16 NMAC - Rp, 20.7.11.16 NMAC, XX/XX/2020]

20.7.11.17 PERIODIC REVIEW: In order for the environmental improvement board to fulfill its obligation to establish onsite liquid system fees in accordance with Section 74-1-8(A)(3), NMSA 1978, the department shall provide information by January 15th of each year to the environmental improvement board as follows:

- A.** liquid waste fund revenues for the previous fiscal year;
- B.** liquid waste fund expenditures for the previous fiscal year:
 - (1)** personal services and benefits;
 - (2)** contracts;
 - (3)** other costs;
 - (4)** indirect;
- C.** external audit report for the previous fiscal year;
- D.** current fiscal year budget for field operations bureau approved by the department of finance and administration and the legislative finance committee;
- E.** report on contiguous states' fees:
 - (1)** for Arizona, Oklahoma and Texas: report of state program fee schedules (although some Texas counties have their own fee schedules);
 - (2)** Colorado and Utah: report of fee schedule for each county or health district;
- F.** performance measures report for previous fiscal year;
- G.** copy of liquid waste annual strategic plan;
- H.** copy of training plan, if any, for the upcoming year.

[20.7.11.17 NMAC - Rp, 20.7.11.17 NMAC, XX/XX/2020]

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

[20.7.11.18 NMAC - N, XX/XX/2020]

20.7.11.19 CONSTRUCTION: This part shall be liberally construed to implement the purpose of the act.

[20.7.11.19 NMAC - N, XX/XX/2020]

20.7.11.20 SEVERABILITY: If any provision or application of this part is held invalid, the remainder shall not be affected.

[20.7.11.20 NMAC - N, XX/XX/2020]

HISTORY of 20.7.11 NMAC: [RESERVED]