

This is an amendment to 20.4.2.3, 20.4.2.7, 20.4.2.200, 20.4.2.201, 20.4.2.202, 20.4.2.203, 20.4.2.204, 20.4.2.205, 20.4.2.206, 20.4.2.207, 20.4.2.208, 20.4.2.209, 20.4.2.210, 20.4.2.211, 20.4.2.300, 20.4.2.301, 20.4.2.302, and 20.4.2.402 NMAC, effective 8/18/06.

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

20.4.2.3 STATUTORY AUTHORITY: Sections 74-1-8, 74-4-4, 74-4-4.2 and 74-4-4.5 NMSA 1978
[(Repl. Pamp. 1993)].
[12/31/98; 20.4.2.3 NMAC - Rn, 20 NMAC 4.2.I.103 & A, 8/18/06]

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

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 NMAC 4.1]~~ 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.** "annual unit audit" Means a tabulation of each operating unit, unit undergoing closure or scheduled for closure, post closure care unit, and corrective action unit;~~

C. "act" means the New Mexico Hazardous Waste Act, Sections 74-4-1 through 74-4-14 NMSA 1978;

~~**B]**~~ **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" means a report documenting completion of corrective action required at a unit, submitted to the NMED to demonstrate that corrective action requirements for the unit, have been satisfied;

~~**D]**~~ **H.** "closure certification document" means all documentation certified by a New Mexico registered professional engineer in a certification of closure that is submitted by [a] an owner or operator [New Mexico registered professional engineer in a certification of closure];

~~**E]**~~ **I.** "corrective action [units]" means [solid waste management units that are included, or qualify to be included, in the HSWA module of the permit or compliance/corrective action order and have not been approved by the administrative authority for no further action (NFA) status] 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;

J. "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;

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

L. "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;

M. "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;

~~[F]~~ **N.** "corrective measures implementation work plan" or "CMI work plan" means plans and specifications to implement the approved remedy at a facility;

~~[G]~~ **O.** "corrective measures implementation report" or "CMI report" means a report signifying completion of the remedy approved by NMED for termination of corrective action;

~~[H.]~~ "corrective measures study report" or "CMS report" means a report signifying completion of a corrective measure study;]

~~[I.]~~ "corrective measures study work plan" or "CMS work plan" means a plan to identify, develop and evaluate potential corrective measures (remedy) alternatives;]

~~[J.]~~ "document" means all plans, studies, reports and other documents listed in Tables 2.2 through 2.5 [now 20.4.2.204 through 20.4.2.207 NMAC];]

P. "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);

~~[K.]~~ "facility" means all land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units;]

~~[L.]~~ "facility wide document" means a document that applies to an entire facility submitted with the approval of NMED, which may not consist of one of the documents listed in Tables 2.2 through 2.5 [now 20.4.2.204 through 20.4.2.207 NMAC];]

~~[M.]~~ "facility wide work plan" means a document describing a facility, typically setting forth standard operating procedures, plans and/or schedules and is synonymous with an installation work plan (IWP) or base wide plan (BWP);]

Q. "FFCO" means federal facility compliance order;

~~[N.]~~ "HSWA module preparation" means preparation of a permit module addressing corrective action and other measures required by state law and regulations;]

R. "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;

~~[O]~~ **S.** "HWMR" means the New Mexico Hazardous Waste Management regulations, Title 20, Chapter 4, Part 1 of the New Mexico administrative code;

~~[P]~~ **T.** "interim ~~[corrective]~~ measure monitoring ~~[(ICM) plan or]~~ report" means a ~~[plan or]~~ report which describes results of the monitoring activities conducted during implementation of ~~[proposed]~~ measures to abate, minimize, stabilize, mitigate, or eliminate a release or threat of release, ~~[to be]~~ implemented prior to implementation of a final remedy;

U. "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;

V. "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;

W. "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;

X. "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;

Y. "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;

Z. "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;

[Q] AA. "NMED" means the New Mexico environment department;

BB. "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;

CC. "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;

[R.] ~~"permitted hazardous waste management activity" means:~~

~~(1) 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~~

~~(2) any closure or post closure care activity required at a hazardous waste management unit; or~~

~~(3) any corrective action required at a facility;]~~

[S] DD. "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;

[T] EE. "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 [the RCRA facility investigation and/] corrective action activities or other relevant information [; for a class III permit modification, to terminate the RFI/CMS process for one or more specific units];

[U.] ~~"phase report" means a follow up document to a report previously submitted and approved by the administrative authority;]~~

FF. "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 or remedy selection;

GG. "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 or remedy selection;

[V.] ~~"quality assurance program plan/quality management plan (QAPP/QMP)" means a document that describes a quality control system in terms of the organization structure, functional responsibilities of management and staff, lines of authority, and roles of those planning, implementing, and assessing all activities conducted;]~~

[W] HH. "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;

[X.] ~~"RCRA facility investigation report" or "RFI report" means a final report and summary of the report signifying conclusion of investigating the nature, rate, movement and extent of contamination at a site or facility;]~~

[Y.] ~~"RCRA facility investigation work plan" or "RFI work plan" means a plan designed to investigate the nature, rate, movement and extent of contamination at a site or facility;]~~

[Z.] ~~"RCRA implementation plan" or "RIP" means a plan which describes how a facility will come into compliance with applicable regulations;]~~

[AA] II. "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 full [scale] site characterization to obtain information for use in focusing subsequent investigations or eliminating certain units or areas from further consideration;

JJ. "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;

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

LL. "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;

~~[BB]~~ **MM.** "secretary" means the secretary of the New Mexico environment department;

~~[CC]~~ **NN.** "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;

OO. "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;

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

~~[DD]~~ **QQ.** "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;

~~EE.~~ "voluntary corrective action (VCA) plan or report" means a plan or report on an accelerated cleanup process that is typically applied to relatively small scale sites with obvious remedies, implemented at risk without prior approval of NMED and intended to be a final remedy;]

~~FF.~~ "voluntary corrective measure (VCM) plan or report" means a plan or report on an accelerated cleanup process that is typically applied to relatively small scale sites with obvious remedies with NMED approval and intended to be a final remedy;]

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

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

20.4.2.200 ~~[BUSINESS AND] 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]

20.4.2.201 TYPES OF FEES: Every [facility] owner or operator engaged in [a permitted] hazardous waste management [activity] activities or [seeking a permit for the management of hazardous waste] engaged in corrective action shall pay to NMED fees in the amounts specified in [Subsections 201.1 through 201.12] Subsections A through [H] L of 20.4.2.201 NMAC. [A facility which] However, if an owner or operator has paid a fee for any type of permit application, or for the review of a [document] 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 [unless the requested approval is denied by HRMB and the document is resubmitted]. [A facility] An owner or operator [which] who has paid a fee provided for [by these regulations] 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 [facility] owner or operator after being [disapproved] denied under NMSA 1978, Section 74-4-4.2, and 20.4.1.901 NMAC by NMED. [unless] The secretary may[;] in his discretion, based on good cause shown, determine that the fee on resubmission should be reduced or waived.

A. Annual [hazardous waste management business f] Fees: Every [facility] owner or operator engaged in [a permitted] hazardous waste management [activity] activities or engaged in corrective action shall pay to NMED an annual [Hazardous Waste Management Business] fee [AHWMBF] in an amount equal to the sum of the annual unit fees set forth in table [2-] 1 of 20.4.2.204 NMAC for each unit as identified [by the Annual Unit Audit (AUA). Corrective action units for which fees are assessed are only those units which are identified by the AUA. The AHWMBF shall not be assessed for units, including but not limited to, Corrective Action Management Units (CAMU) and Temporary Units (TU), for which New Mexico has not been authorized by the Environmental Protection Agency (EPA) to administer, until such time as New Mexico receives such authorization] in the facility permit, part A application, or enforceable document, or any combination thereof as applicable.

B. [Annual unit audit:] Each year HRMB shall conduct an AUA in cooperation with each facility required by these regulations to pay fees. The AUA shall be used to determine if the facility's permit accurately and appropriately lists the facility's operating, post closure care, and corrective action units. Except for the first year, the AUA shall be completed each year no later than July 1. In the first year the AUA shall be completed no later than three (3) months after these regulations go into effect. A new facility that is permitted during the year shall have its AUA completed no later than thirty (30) days after the facility begins operations.] **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 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 ~~[HSWA module preparation]~~ corrective action section fees: Every ~~[facility]~~ 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 ~~[-2]~~ of 20.4.2.20~~[0]~~ 5 NMAC. The fee for application ~~[fee]~~ review and permit preparation shall be in an amount equal to the sum of the ~~[application]~~ fees ~~[set forth in Table 2.2]~~ for each unit included in the permit application. If a ~~[HSWA module] corrective action section~~ is required, the ~~[facility]~~ owner or operator shall also pay the basic fee for ~~[HSWA module] corrective action~~ preparation set forth in table 2 ~~[-2]~~ of 20.4.2.205 NMAC plus the additional unit fee ~~[HSWA module preparation set forth in Table 2.2]~~ for each corrective action unit in excess of one which is addressed by the ~~[HSWA module] corrective action section~~.

(1) NMED shall perform ~~[an initial]~~ the review of the application ~~[to determine if all the required parts are contained in the application. If any parts are missing the application shall be returned and the facility shall be advised of the missing parts. If the application contains all required parts the facility shall be issued a notice that the application has been deemed administratively complete and shall be invoiced the applicable application fee and the HSWA module preparation fee, if required]~~ and prepare the draft permit within the time specified in table 2 of 20.4.2.205 NMAC after receipt of the fees.

(2) Upon receipt of the application fee and the HSWA module preparation fee, if required, NMED shall schedule a substantive review of the application to ascertain if the application contains all the detailed information required to determine technical adequacy. If the application does not contain the required information the facility shall be directed to make the appropriate changes. If the application contains the required information the facility shall be issued a notice that the application is ready to be reviewed for technical adequacy.]

(3) NMED shall review the application and issue a draft permit or a notice of intent to deny the permit within one year after the application is deemed administratively complete. The secretary may allow an

additional ninety (90) days for review upon a determination that good cause exists for the additional review time. The review period set by this subsection shall be tolled during all periods in which NMED is awaiting a response from the applicant to a request for supplemental information or a notice of deficiency.]

D. Permit renewals: Every [facility] 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 [Permit] an application review and permit preparation fee, and if required, [HSWA module preparation] a corrective action section fee[s], in the amounts and in the manner set forth in [Subsection 201.3] table 2 in 20.4.2.205 NMAC.

E. Interim status closure plan review fees: Every [facility] owner or operator submitting an interim status closure plan for review and approval shall pay [an application] a fee set forth in table [2.3] 3 of 20.4.2.206 NMAC. The [application] fee shall be in an amount equal to the sum of the [application] fees set forth in table [2.] 3 of 20.4.2.206 NMAC for each unit included in the closure plan. [A facility is not required to pay the fees prescribed by this subsection for a closure plan included within a permit application.] An application to modify an approved interim status closure plan is subject to the following fees:

(1) [HRMB shall perform an initial review of the closure plan to determine if all the required parts are contained in the closure plan. If any parts are missing the closure plan shall be returned and the facility shall be advised of the missing parts. If the closure plan contains all required parts the facility shall be issued a notice that the closure plan has been deemed administratively complete and shall be invoiced the applicable Application Fee.] 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) [Upon receipt of the application fee, HRMB shall schedule a substantive review of the closure plan to ascertain if the closure plan contains all the detailed information required to determine technical adequacy. If the closure plan does not contain the required information the facility shall be directed to make the appropriate changes. If the closure plan contains the required information the facility shall be issued a notice that the closure plan is ready to be reviewed for technical adequacy.] 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.

[(3) NMED shall review and approve or disapprove a closure plan that is not part of a permit application within one hundred eighty (180) days after the plan is deemed administratively complete. The secretary may allow an additional sixty (60) days upon determination that good cause exists for the additional review time. The review period set by this subsection shall be tolled during all periods in which NMED is awaiting a response by the facility to a Request for Supplemental Information or a Notice of Deficiency and during all time periods in which further action cannot be taken due to public hearing requirements.]

F. Permit [and closure plan] modification fees: Every [facility] owner or operator [which] who requests a class [H or III] 1, 2, or 3 modification [(other than a request for a No Further Action Determination, for which fees are set forth in Table 2.5)] to a permit [or closure plan], and every [facility] owner or operator [for which the secretary determines pursuant to 40 CFR 270.41 (incorporated into 20 NMAC 4.1.900) that cause exist to modify or revoke and reissue a Permit or Closure Plan, and every facility] whose permit is to be modified as a result of a five (5) year land disposal review shall pay [a Basic] the applicable class modification fee for each modification as set forth in table [2.4] 4 of 20.4.2.207 NMAC. [Every facility which requests a Class I modification for which prior written approval by NMED is required by 40 CFR 270.42 (a) (2) (incorporated into 20 NMAC 4.1.900) shall pay the basic fee for Class I modification set forth in Table 2.4.] 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 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 [document] submittal review fees: Every [facility] owner or operator [which] who submits a corrective action [document] submittal for review shall pay a corrective action [Document] submittal review fee as set forth in table [2.5 for the first corrective action unit addressed in the document and shall pay the] 5 of 20.4.2.208 NMAC. An additional unit fee [set forth in Table 2.5] shall be paid for each additional unit [addressed] for submittals that address multiple units. [in the document. Fees are not assessed for additional corrective action units that are referenced in the document and do not require review as part of the submitted document. NMED shall review and approve or disapprove a corrective action document within one hundred eighty (180) days after the document is accepted for review by NMED and the applicable fee has been assessed and paid. The secretary may allow an additional sixty (60) days for review upon a determination that good cause exists for the additional review time. The review period set by this subsection shall be tolled during all periods in which NMED is awaiting a response by the facility to a Request for Supplemental Information or a Notice of Deficiency and during all time periods in which further action cannot be taken due to public hearing requirements.]

~~H. **Hearing fees:** An applicant for issuance, renewal, or modification of a permit shall be required to pay a Hearing Fee of \$5,000.00 if the secretary determines that a public hearing shall be held on the application. The Hearing Fee shall be due thirty days after it is invoiced by NMED.]~~

~~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.~~

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

20.4.2.202 ANNUAL FEE REPORT: On or before ~~[August 31, 1999 and]~~ September 30 of every year ~~[thereafter]~~, 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 ~~[present]~~ submit a report on its review to the board. The report shall include for each facility the amount of fees collected, [and] the number and types of permitting actions taken, [and documents] 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]~~

~~[20.4.2.203 **TABLE 2.1 ANNUAL HAZARDOUS WASTE MANAGEMENT BUSINESS FEE:**]~~

Type of unit	Fee
Disposal	\$ 2,000
Post closure care	\$ 2,000
Treatment	\$ 1,500
Storage	\$ 1,000
Corrective action	\$ 250]

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 thousand dollars (\$20,000) 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]

[20.4.2.204 — TABLE 2.2 — APPLICATION AND HSWA PREPARATION FEES:]

[Type of unit	Application
Land disposal	\$ 90,000
Post-closure care w/ corrective action	\$ 90,000
Post-closure care w/o corrective action	\$ 12,000
Land treatment	\$ 90,000
Surface impoundment	\$ 72,750
Incinerator	\$ 72,750
Boiler or industrial furnace	\$ 72,750
Subpart X	\$ 90,000
Waste pile	\$ 36,000
Treatment in tanks	\$ 36,000
Treatment in containers	\$ 36,000
Storage in tanks	\$ 36,000
Storage in containers	\$ 36,000
Research demonstration and development	\$ 24,000]

	[Basic fee	Additional fee
HSWA module preparation fee	\$ 7,500	\$ — 150]

20.4.2.204 TABLE 1 - ANNUAL FEES:

<u>Unit Type</u>	<u>Fee</u>
<u>Disposal</u>	<u>\$4,000</u>
<u>Treatment</u>	<u>\$3,000</u>
<u>Storage</u>	<u>\$2,000</u>
<u>Post Closure</u>	<u>\$4,000</u>
<u>Corrective Action Management (CAMU)</u>	<u>\$4,000</u>
<u>Temporary (TU)</u>	<u>\$3,000</u>
<u>Remedial Action Plan Unit</u>	<u>\$3,000</u>
<u>SWMU/AOC per Unit:</u>	
<u>for the first 150 units (1 to 150)</u>	<u>\$750</u>
<u>for the second 350 units (151 to 500)</u>	<u>\$350</u>
<u>for each unit over 500 (501+)</u>	<u>\$200</u>
<u>Corrective Action Complete with Controls per Unit</u>	<u>\$250</u>

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

[20.4.2.205 — TABLE 2.3 — CLOSURE PLAN REVIEW FEES:]

[Unit type	Application
Land disposal or land treatment	\$ 25,500
Surface impoundment	\$ 17,500
Incinerator	\$ 17,500
Boiler or industrial furnace	\$ 17,500
Subpart X	\$ 17,500
Waste pile	\$ 12,750
Storage	\$ 12,750

Treatment	\$ 12,750]
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20.4.2.205 TABLE 2 - APPLICATION AND CORRECTIVE ACTION SECTION FEES:

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

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

[20.4.2.206 TABLE 2.4 - PERMIT AND CLOSURE PLAN MODIFICATION FEE:]

<u>Modification class</u>	<u>Basic fee</u>
<u>Class I</u>	<u>\$ 1,000</u>
<u>Class II</u>	<u>\$ 10,000</u>
<u>Class III</u>	<u>\$ 25,000]</u>

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

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

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

[20.4.2.207 TABLE 2.5 - CORRECTIVE ACTION DOCUMENT REVIEW FEES:]

<u>Document type</u>	<u>Basic review fee</u>	<u>Additional unit fee</u>
CMI report	\$ 9,300	\$ 500
CMS report	\$ 7,100	\$ 500
RFI report	\$ 7,100	\$ 500
RFI work plan	\$ 6,500	\$ 500
CMS work plan	\$ 6,500	\$ 500
CMI plan	\$ 6,500	\$ 500
Facility wide work plan	\$ 6,500	\$ 500
QAPP/QMP	\$ 6,500	\$ 500
RCRA implementation plan (RIP)	\$ 6,500	\$ 500
RFA	\$ 4,600	\$ 500
VCM/expedited plan or report	\$ 1,000	\$ 250
VCA plan or report	\$ 500	\$ 250
ICM plan or report	\$ 1,800	\$ 250
Release assessment	\$ 1,500	\$ 250
Phase report (on an approved RFI)	\$ 1,500	\$ 250
Petition for NFA review	\$ 6,000	\$ 250
Facility wide document	\$15,000	None]

20.4.2.207 TABLE 4 - PERMIT MODIFICATION FEES:

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

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

20.4.2.208 TABLE 5 - CORRECTIVE ACTION SUBMITTAL REVIEW FEES:

<u>Submittal Type</u>	<u>Basic Review Fee</u>	<u>Additional Unit Fee</u>	<u>Review Time</u>
Accelerated Corrective Action Completion Report/Accelerated Corrective Measures Completion Report	\$5,000	\$1,000	120 days
Accelerated Corrective Action Work Plan/Accelerated Corrective Measures Work Plan	\$5,000	\$1,000	120 days
Certification of Completion per unit	\$500	NA	90 days
Corrective Measures Implementation Report	\$12,000	\$1,000	360 days
Corrective Measures Implementation Work Plan	\$6,500	\$1,000	270 days
Corrective Measures Study Report/ Corrective Measures Evaluation	\$15,000	\$1,000	480 days
Corrective Measures Study Report/ Corrective Measures Evaluation with Risk Assessment	\$20,000	\$1,000	480 days
Corrective Measures Study Workplan/ Corrective Measures Evaluation	\$7,500	\$1,000	360 days

<u>Workplan</u>			
<u>Interim Measures Monitoring Report</u>	<u>\$500</u>	<u>\$1,000</u>	<u>N/A</u>
<u>Interim Measures Report</u>	<u>\$3,500</u>	<u>\$1,000</u>	<u>120 days</u>
<u>Interim Measures Work Plan</u>	<u>\$5,000</u>	<u>\$1,000</u>	<u>90 days</u>
<u>Investigation Report (RFI Report)/Phase Report</u>	<u>\$7,500</u>	<u>\$1,000</u>	<u>270 days</u>
<u>Investigation Report with Risk Assessment</u>	<u>\$10,000</u>	<u>\$1,000</u>	<u>360 days</u>
<u>Investigation Work Plan (RFI Work Plan)</u>	<u>\$10,000</u>	<u>\$1,000</u>	<u>270 days</u>
<u>Monitoring Plan</u>	<u>\$2,500</u>	<u>\$1,000</u>	<u>120 days</u>
<u>Notice of Land Transfer</u>	<u>\$5,000</u>	<u>\$1,000</u>	<u>120 days</u>
<u>Operation and Maintenance Plan</u>	<u>\$2,500</u>	<u>\$1,000</u>	<u>150 days</u>
<u>Periodic Monitoring Report</u>	<u>\$2,000</u>	<u>\$1,000</u>	<u>N/A</u>
<u>Pilot/Aquifer Test Report</u>	<u>\$1,500</u>	<u>\$1,000</u>	<u>120 days</u>
<u>Pilot/Aquifer Test Work Plan</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>90 days</u>
<u>RCRA Facility Assessment (RFA) Report</u>	<u>\$2,500</u>	<u>\$1,000</u>	<u>180 days</u>
<u>Release Assessment/SWMU Assessment Report</u>	<u>\$3,500</u>	<u>\$1,000</u>	<u>90 days</u>
<u>Remedy Completion Report</u>	<u>\$4,500</u>	<u>\$1,000</u>	<u>180 days</u>
<u>Risk Evaluation/Risk Assessment Report</u>	<u>\$6,000</u>	<u>\$1,000</u>	<u>180 days</u>
<u>Status Report</u>	<u>\$2,000</u>	<u>\$1,000</u>	<u>N/A</u>
<u>Well Completion Report</u>	<u>\$500</u>	<u>NA</u>	<u>90 days</u>

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

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

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

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

20.4.2.210 TABLE 7 - CHANGE DURING INTERIM STATUS FEES:

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

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

[20.4.2.208] 20.4.2.211 FEE CALCULATION:

[(4) The annual hazardous waste management business fee shall be paid in full if permitted hazardous waste management activities took place at the site or unit during any part of the calendar year.]

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.

~~[(2) The owner and/or operator of the facility, on the date the annual hazardous waste management business fee is due under Section 301 [Subsection A. of 20.4.2.300 NMAC], is liable for payment of that fee in full. Payments will not be refunded because of a transfer of ownership or operations to a new owner or operator.]~~

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]

~~[20.4.2.209]~~ 20.4.2.212 to 20.4.2.299 [RESERVED]

20.4.2.300 ~~[MANNER OF]~~ **PAYMENT, [AND] DUE DATES, AND APPEALS:**

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

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

A. **Annual Fee Invoices:** ~~[Within (30) days after the completion of the AUA for every facility, HRMB] NMED shall invoice every [facility] owner or operator for the [AHWMBF] annual fee by October 1 of every year. [Payment shall be due within sixty (60) days of receipt of the invoice unless the facility submits to NMED/HRMB a written request and receives written approval to extend the time for payment before the date payment is due.]~~

B. **Review Fees:** Any ~~[document(s)]~~ submittals listed in tables 2 ~~[-2 through 2.5]~~ through 7 of 20.4.2.205 NMAC through 20.4.2.210 NMAC submitted by ~~[a facility]~~ an owner or operator for review ~~[and approval]~~ shall ~~[only]~~ be invoiced ~~[after the document has passed an initial review to determine if all the required parts are contained in the document and HRMB staff, or other resources, are available to conduct the review in a timely fashion. If a document does not pass the initial review, the document shall be returned to the facility, and the facility advised of the missing parts. The facility shall then make the required corrections and resubmit the document for review. Payment shall be due within sixty (60) days of receipt of the invoice unless the facility submits to NMED/HRMB a written request, 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, will result in the document or permit being denied]~~ 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 ~~[HRMB]~~ NMED by certified check or money order payable to the New Mexico hazardous waste fund, ~~[or]~~ by electronic funds transfer (with prior notice to NMED), or by other methods deemed acceptable by ~~[HRMB]~~ 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]

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:**

~~[A.]~~ **(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 ~~[invoice]~~ 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.

~~[B.]~~ **(2)** Except as otherwise provided, the appeal shall be governed by ~~[20 NMAC 1.5]~~ 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.

~~[C.]~~ **(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.

~~[D.]~~ **(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]

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 ~~[document]~~ 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]