

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 5 PETROLEUM STORAGE TANKS
PART 103 ANNUAL FEE

20.5.103.1 ISSUING AGENCY: New Mexico Environmental Improvement Board.
[20.5.103.1 NMAC - N, 07/24/2018]

20.5.103.2 SCOPE: This part applies to any owner and operator of a storage tank as provided in 20.5.101 NMAC. If the owner and operator of a storage tank are separate persons, only one person is required to comply with the requirement of this part, including any notice, reporting and payment requirements; however, both parties are liable in the event of noncompliance.
[20.5.103.2 NMAC - N, 07/24/2018]

20.5.103.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the provisions of the Hazardous Waste Act, Sections 74-4-1 through 74-4-14 NMSA 1978; provisions of the Ground Water Protection Act, 74-6B-1 through 74-6B-14 NMSA 1978; and the general provisions of the Environmental Improvement Act, Sections 74-1-1 through 74-1-16 NMSA 1978.
[20.5.103.3 NMAC - N, 07/24/2018]

20.5.103.4 DURATION: Permanent.
[20.5.103.4 NMAC - N, 07/24/2018]

20.5.103.5 EFFECTIVE DATE: July 24, 2018, unless a later date is indicated in the bracketed history note at the end of a section.
[20.5.103.5 NMAC - N, 07/24/2018]

20.5.103.6 OBJECTIVE: The purpose of this part is to regulate storage tank systems in order to protect the public health, safety and welfare and the environment of the state, and to interpret, implement and enforce the provisions of the Hazardous Waste Act relating to storage tank systems.
[20.5.103.6 NMAC - N, 07/24/2018]

20.5.103.7 DEFINITIONS: The definitions in 20.5.101 NMAC apply to this part.
[20.5.103.7 NMAC - N, 07/24/2018]

20.5.103.8 -20.5.103.299 [RESERVED]

20.5.103.300 PAYMENT OF FEE:

A. The owner or operator shall pay an annual per tank fee to the department on July 1 for each current fiscal year (July 1 through June 30) or portion of a year that a tank is in use. A storage tank shall be deemed "in use" until notice is received by the department that the storage tank has been permanently closed in a manner acceptable to the department.

B. Schedule for payment.

- (1) For USTs, the owner or operator shall pay the annual fee:
- (a) for a UST in use on June 1, 1988, for calendar year 1988, the fee was due on June 1, 1988;
 - (b) for the period from January 1, 1989 through June 30, 1990, the fee was due on May 1, 1989;
 - (c) for each subsequent fiscal year (July 1 to June 30) on the July 1 that is the first day of each fiscal year;
 - (d) for a new UST, within 60 days after a regulated substance has been placed in the UST.

(2) For ASTs, the owner or operator shall pay the annual fee:

(a) for an AST in use on July 1, 2002, for fiscal year 2003, the fee was due on September 14, 2002; or within 30 days after the AST was placed in use for any AST installed after September 14, 2002;

(b) for each subsequent fiscal year (July 1 to June 30) on the July 1 that is the first day of each fiscal year;

(c) for a new AST, within 60 days after a regulated substance has been placed in the AST.

C. The department shall waive the annual tank fee for the current fiscal year for a storage tank system permanently closed in accordance with 20.5.115 NMAC on or before July 31.

D. When there is a transfer of ownership, control or possession, whether by lease, conveyance or otherwise, of a property with a registered storage tank system, the transferor shall pay the tank fees for storage tank systems on the transferred property for the fiscal year of the transfer. The transferee shall pay the tank fees for storage tank systems on the transferred property starting the first July 1 after any transfer. In addition, both parties shall comply with 20.5.102.201 NMAC.

[20.5.103.300 NMAC - N, 07/24/2018]

20.5.103.301 AMOUNT OF FEE:

A. The annual fee for all underground storage tanks shall be:

(1) \$28.00 per UST in calendar year 1988;

(2) \$75.00 per UST in calendar year 1989; and

(3) for subsequent years, \$100 per UST as established by Section 74-6B-9 NMSA 1978 and Section 74-4-4.4 NMSA 1978.

B. The annual fee for all above ground storage tanks shall be \$100 per AST as established by Section 74-6B-9 NMSA 1978 and Section 74-4-4.4 NMSA 1978, beginning July 1, 2002.

[20.5.103.301 NMAC - N, 07/24/2018]

20.5.103.302 TIMELINESS AND LATE FEES:

A. Due date. A tank owner and operator become liable for a fee as soon as the event generating the fee occurs, such as a due date. The fact that the owner has not registered a tank is not material to the owner's and operator's liability for payment of a fee.

B. Late fee. In the event the annual fee is not paid when due, the department shall impose a late fee of \$25.00 or twenty-five percent of the unpaid balance, whichever is greater, which shall accumulate on the entire unpaid balance until all annual fees and all accrued late fees are paid. The department may waive the late fees if payment is made within 15 days of the due date.

C. Determination of timeliness.

(1) Fees and late fees are timely if the postmark on the envelope made by the United States postal service bears the date on or before the date the payment is due. The date affixed on an envelope by a postage meter stamp will be considered the postmark date if it is not superseded by a postmark made by the United States postal service.

(2) Illegible postmark. If the postmark on the envelope is not legible and the department receives the contents by the second business day following the due date, the payment will be deemed timely. If the department receives the contents after the second business day following the due date, the owner or operator who is liable for the fees has the burden of proving the time when the postmark was made.

(3) If an envelope is improperly addressed and is returned to the sender by the post office, there has been no timely mailing within the meaning of these rules. The postmark date on the improperly addressed envelope will not be deemed the date of receipt by the department.

(4) If the payment is sent or delivered to the department by any means other than by mailing with the United States postal service, it must be received by the department on or before the payment due date. Received by the department means received at the department or bureau during the department's normal business hours.

D. Saturday, Sunday or holiday due date.

(1) If a payment due date falls on a Saturday, Sunday or a state of New Mexico or national holiday, the payment shall be considered timely if postmarked on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

(2) Example: The due date for payment of annual fees is July 1. If July 1 is a Saturday, the due date for payment of annual fees is Monday July 3. In this example, the department will consider any payment postmarked on July 3 to be timely.
[20.5.103.302 NMAC - N, 07/24/2018]

20.5.103.303 DESIGNATION OF FEES: All fees described in this part shall be deposited in the storage tank fund.

[20.5.103.303 NMAC - N, 07/24/2018]

HISTORY OF 20.5.103 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

EIB/USTR-3, Underground Storage Tank Regulations - Part III - Annual Fee, 3/15/88;

EIB/USTR-3, Underground Storage Tank Regulations - Part III - Annual Fee, 2/14/89.

History of Repealed Material:

20 NMAC 5.3, Underground Storage Tank Regulations, Annual Fee (filed 02/27/97) repealed 06/14/02.

20.5.3 NMAC, Petroleum Storage Tanks, Annual Fee (filed 04/30/02) repealed 4/4/08.

20.5.3 NMAC, Petroleum Storage Tanks, Payment of Fee (filed 4/4/08) repealed 7/24/18.

Other History:

EIB/USTR-3, Underground Storage Tank Regulations - Part III - Annual Fee (filed 2/14/89) renumbered, reformatted, amended and replaced by 20 NMAC 5.3, Underground Storage Tank Regulations, Annual Fee, effective 11/05/95.

20 NMAC 5.3, Underground Storage Tank Regulations, Annual Fee (filed 10/06/95) replaced by 20 NMAC 5.3, Underground Storage Tank Regulations, Annual Fee, effective 04/01/97.

20 NMAC 5.3, Underground Storage Tank Regulations, Annual Fee (filed 02/27/97) renumbered, reformatted, and replaced by 20.5.3 NMAC, Petroleum Storage Tanks, Annual Fee, effective 06/14/02.

20.5.3 NMAC, Petroleum Storage Tanks, Annual Fee (filed 04/30/02) replaced by 20.5.3 NMAC, Petroleum Storage Tanks, Annual Fee, effective 4/4/08.

20.5.3 NMAC, Petroleum Storage Tanks, Annual Fee (filed 04/4/08) was renumbered, reformatted, and replaced by 20.5.103 NMAC, Petroleum Storage Tanks, Annual Fee, effective 7/24/18.