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Notice of Adoption of Final Rule 20.5.123 NMAC

The Secretary of the New Mexico Environment Department (“NMED”) may make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of NMED and its divisions, pursuant to NMSA 1978, § 9-7A-6. One duty of NMED is to make expenditures from the Corrective Action Fund for corrective action taken by the state, owners, or operators at sites contaminated by storage tanks, in accordance with NMSA 1978, Section 74-6B-7. NMED is required to adopt rules to provide for payments from the Corrective Action Fund pursuant to NMSA 1978, Section 74-6B-13.

On October 12, 2018, a public hearing was held in Santa Fe, New Mexico to consider the proposed repeal of the emergency version of 20.5.123 NMAC, Corrective Action Fund Administration, and replace it with a new version of 20.5.123 NMAC, Corrective Action Fund Administration. The notice requirements for a public rulemaking were properly met pursuant to NMSA 1978, Sections 14-4-2(E) and 14-4-5.2, NMSA 1978, Section 9-7A-6(D), as well as 20.1.9.12.B NMAC. Public notice of the hearing was published in English and Spanish in four publications: the *Albuquerque Journal*, the *New Mexico Register*, the *Santa Fe New Mexican*, and the *Las-Cruces Sun-News* on September 10 and 11, 2018.

The Secretary of NMED adopted the proposed repeal of the emergency version of 20.5.123 NMAC, Corrective Action Fund Administration, and replaced it with a new version of 20.5.123 NMAC, Corrective Action Fund Administration, on November 19, 2018. The changes in the proposed repeal and replace of the current emergency version of 20.5.123 NMAC with a new 20.5.123 NMAC are predominately updates to ensure that the Petroleum Storage Tank Bureau memorializes its current practices and streamlines certain processes for stakeholders, such as in the introduction of a limited-scope bid process for small remediation projects and a more rapid administrative appeal process for offerors whose bids were not selected. Also, requirements that have previously caused confusion are also more thoroughly defined. The adopted rules will become effective on December 27, 2018, unless a later date is cited at the end of a section. The adopted rules are attached to this notice.