

**NOTICE OF THE ENVIRONMENTAL IMPROVEMENT BOARD'S
DECISION TO REPEAL AND REPLACE RULE RELATED TO
LIQUID WASTE TREATMENT AND DISPOSAL FEES (20.7.11 NMAC)**

The Environmental Improvement Board (“Board”) voted unanimously to adopt the repeal and replacement of 20.7.11 NMAC as proposed by the New Mexico Environment Department (“NMED”) in Exhibit 24 of the NMED’s Notice of Intent to Present Technical Testimony filed in docketed rulemaking EIB 19-42, subject to the following amendments: proposed Paragraph F of Section 8 (20.7.11.8(F) NMAC) is struck from 20.7.11 NMAC in its entirety; and (2) proposed Section 19 (20.7.11.19) shall be replaced by 20.7.11.14 NMAC (2011). Chair Volkerding signed the Order reflecting the adoption of the above-stated repeal and replacement, with amendments, on March 4, 2020.

CONCISE EXPLANATORY STATEMENT

(1) Date the Board Adopted the Rules:

March 4, 2020

(2) Statutory Authority for Rule Promulgation:

The Environmental Improvement Act, NMSA 1978, Section 74-1-8 (A)(3) provides authority to the Board to repeal and replace the on-site liquid waste system fees regulation after proper public notice and a hearing. Under Section 74-1-8 (A)(3) the Board has exclusive authority to establish on-site liquid waste system fees that are 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).

(3) Reasons for Adopting Rule:

The purpose of the *Liquid Waste Treatment and Disposal Fees* (20.7.11 NMAC) is to support the Department’s Liquid Waste Program (“LWP”), which 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. The LWP is managed by the Department’s Environmental Health Bureau. The repeal and replacement of 20.7.11 NMAC is necessary to adjust the *Liquid Waste Treatment and Disposal Fees* to reflect current operational costs. The current fee regulation was adopted in 2002 and the subject fees have not been raised since. Repealing and replacing 20.7.11 NMAC would: (1) allow the Department to bring New Mexico’s liquid waste fees to a level comparable with contiguous states, while still charging below the average, as required by the Environmental Improvement Act; (2) allow the Department to more fully staff the LWP, speeding up permit processing times and allowing for more timely inspections, to better protect the health of New Mexico residents; (3) 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; and (4) more precisely

describe the methods and technologies used to treat liquid waste, and better reflect national standards of terminology.

The Board considered all facts and circumstances and concluded that the proposed repeal and replacement as adopted by the Board does not cause injury or interference with health, welfare, animal and plant life, property and the environment. The Board found the proposed repeal and replacement as adopted by the Board is technically practical, economically reasonable, and in the public interest.