

NEW MEXICO COAL SURFACE MINING COMMISSION

OPEN MEETINGS RESOLUTION

WHEREAS, the New Mexico Coal Surface Mining Commission met in regular session on January 12, 2022, as required by law; and

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 10-15-1 through 10-15-4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission or other policy-making body of any state agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

WHEREAS, Section 10-15-1 (D) of the Open Meetings Act requires the New Mexico Coal Surface Mining Commission to determine annually what constitutes reasonable notice of its public meetings;

NOW, THEREFORE, BE IT RESOLVED by the New Mexico Coal Surface Mining Commission that:

1. All meetings shall be held in the City of Santa Fe or as indicated on the meeting notice.
2. Regular meetings shall be held as needed at the call of the Chair or a majority of commissioners. A proposed agenda shall be available from the New Mexico Energy, Minerals and Natural Resources Department during the week before the meeting. Items on which the Commission may take action may be added to the agenda up to seventy-two (72) hours prior to the meeting. Notice of regular meetings will be given ten (10) days in advance of the meeting date.
3. Special meetings may be called by the Chairperson or a majority of the members upon three (3) days' notice.
4. Emergency meetings will be called only under circumstances which demand immediate action to protect the health, safety or property of citizens. The New Mexico Coal Surface Mining Commission will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chairperson or a majority of the members upon twenty-four (24) hours' notice, unless imminent threat of personal injury or property damage require less notice. Within ten (10) days of taking action on an emergency matter, the Commission shall report to the Attorney General's Office the action taken and the circumstances creating the emergency.
5. For the purposes of regular meetings described in paragraph 2 of this resolution, notice requirements are met if notice of the date, time, place and general subject matter to be discussed is placed in newspapers of general circulation in the state and on the New Mexico Coal Surface Mining Commission's website, <https://www.emnrd.nm.gov/mmd/coal-surface-mining-commission/meetings-and-hearings/>. The Commission shall also send via

surface or electronic mail copies of the written notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation which have made a written request for notice of public meetings. Notice shall also be sent via surface or electronic mail to those who have previously requested advance notice of such meetings and whose names and addresses are on a mailing list maintained by the Energy, Minerals and Natural Resources Department. The Department will ensure that the notice list is updated on an annual basis. The notice shall indicate where the public may obtain a copy of the proposed agenda. Except in the case of an emergency, the agenda for all Commission meetings shall be available to the public at least seventy-two (72) hours prior to the meeting and posted on the Commission's web site, <https://www.emnrd.nm.gov/mmd/coal-surface-mining-commission/meetings-and-hearings/>.

6. For the purposes of special meetings and emergency meetings described in paragraphs 3 and 4 of this resolution, notice requirements shall be met by posting notices, in the main office of the Energy, Minerals and Natural Resources Department in Santa Fe, and on the Commission's web site, <https://www.emnrd.nm.gov/mmd/coal-surface-mining-commission/meetings-and-hearings/>, and by telephonic or electronic notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.
7. Members of the New Mexico Coal Surface Mining Commission may participate in a meeting of the Commission by means of a conference telephone, videoconference, livestream or other similar technologies when it is otherwise difficult or impossible for the member to attend in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the Commission who speaks during the meeting. In addition, conditions necessitating the declaration of a public health emergency may make unrestricted in-person meetings "difficult or impossible" for purposes of the Open Meetings Act. As such, during the pendency of any public health emergency, the Commission may conduct its meetings virtually by means of a conference telephone, videoconference, livestream or other similar technologies, provided the public is afforded some form of access to the meeting to substitute for the access it would have had during any normally scheduled public meeting subject to OMA.
8. The New Mexico Coal Surface Mining Commission may close a meeting to the public only if the subject matter of such discussion or action is exempted from the open meeting requirement under Section 10-15-1(H) of the Open Meetings Act.
 - (a) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the New Mexico Surface Mining Commission taken during the open meeting. The authority for the closure and the subjects to be discussed shall be stated in the motion for closure and the vote on closure of each individual member shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in a closed meeting; and
 - (b) If the decision to hold a closed meeting is made when the New Mexico Coal Surface Mining Commission is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances and stating the specific provision of law authorizing the closed meeting and the subjects to be discussed, is

given to the members and to the general public; and

- (c) Except as provided in Section 10-15-1(H), any action taken as a result of discussions in a closed meeting shall be made by vote of the New Mexico Coal Surface Mining Commission in an open public meeting.

Passed by the New Mexico Coal Surface Mining Commission this 12th day of January 2022.

Matt Wunder, Ph.D. Digitally signed by Matt Wunder,
Ph.D.
Date: 2022.01.14 14:36:25 -07'00'

***** , Chair