

**OPEN MEETINGS ACT RESOLUTION  
NEW MEXICO WATER QUALITY CONTROL COMMISSION  
RESOLUTION NO. 2020-02 (Corrected 2020-06-03)**

**WHEREAS**, the New Mexico Water Quality Control Commission (“Commission”) met in regular session, in Santa Fe, New Mexico, on May 12, 2020, commencing at 9:00 a.m.;

**WHEREAS**, Section 10-15-1(B) NMSA 1978 of the Open Meetings Act, Chapter 10, Article 15 NMSA 1978 (“Open Meetings Act”), states that all meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of any state agency or any agency or authority of any county, municipality, district or political subdivision, held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or taking any action within the authority of or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the Constitution of New Mexico or the Open Meetings Act;

**WHEREAS**, Section 10-15-1(D) NMSA 1978 of the Open Meetings Act requires that any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public;

**WHEREAS**, Section 10-15-1(D) NMSA 1978 of the Open Meetings Act requires the Commission, as the affected body, to determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body; and

**WHEREAS**, on March 11, 2020, Governor Michelle Lujan Grisham (“Governor”) issued Executive Order No. 2020-004 declaring a public health emergency due to the spread of COVID-19 in New Mexico, after which time, the Governor and the Department of Health issued several additional executive orders limiting gatherings, closing state buildings, directing residents to stay at home, as well as other measures to reduce in-person contact and transmission of the coronavirus, and since then the New Mexico Office of the Attorney General has issued its “Open Government Division Advisory During COVID-19 State of Public Health Emergency” providing guidance to public entities regarding their ongoing obligations to comply with the Open Meetings Act during the state of public health emergency in New Mexico.

**NOW, THEREFORE, BE IT RESOLVED** by the Commission:

1. All regular meetings of the Commission shall be held on the second Tuesday of every month in Santa Fe, New Mexico, commencing at 9:00 a.m., unless stated otherwise in a meeting notice. A regular meeting of the Commission may be canceled if there is no business for the Commission to transact.

2. Notice of regular meetings of the Commission shall be given at least ten (10) days prior to the meeting date. The meeting notice shall include a proposed agenda containing a list of specific items of business to be discussed or transacted by the Commission at the meeting, or information on how the public may obtain a copy of such an agenda. Except in the case of an emergency, at least seventy-two (72) hours prior to the meeting, the agenda shall be available to the public from the Office of Public Facilitation, Suite S-2102, located at the Harold Runnels Building, 1190 S. Saint Francis Drive, Santa Fe, New Mexico, and the agenda shall be posted on the Commission's website at <https://www.env.nm.gov/water-quality-control-commission/wqcc/>. The agenda shall also be posted at the Office of Public Facilitation.

3. The Commission may recess and reconvene a meeting to a day subsequent to that stated in the meeting notice if, prior to recessing, the Commission specifies the date, time and place for continuation of the meeting and, immediately following the recessed meeting, posts notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held, on the Commission's website at <https://www.env.nm.gov/water-quality-control-commission/wqcc/>, and in at least one other location appropriate to provide public notice of the continuation of the meeting. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.

4. Special meetings of the Commission may be called by the Commission Chair or a majority of the Commission members upon three (3) days' prior notice. The meeting notice shall include an agenda containing a list of specific items of business to be discussed or transacted by the Commission at the meeting, or information on how the public may obtain a copy of such an agenda. If not included in the meeting notice, at least seventy-two (72) hours prior to the meeting, the agenda shall be available to the public and posted on the Commission's website at <https://www.env.nm.gov/water-quality-control-commission/wqcc/>.

5. Emergency meetings of the Commission shall only be called due to unforeseen circumstances that, if not addressed immediately by the Commission, will likely result in injury or damage to persons or property or substantial financial loss to the Commission. Emergency meetings of the Commission may be called by the Commission Chair or a majority of the Commission members upon twenty-four (24) hours' prior notice, unless imminent threat of injury or damage to persons or property or substantial financial loss to the Commission requires less notice. The meeting notice shall include an agenda containing a list of specific items of business to be discussed or transacted by the Commission at the meeting, or information on how the public may obtain a copy of such an agenda. Except for emergency matters, the Commission shall take action only on items appearing on the agenda. Within ten (10) days of taking action on an emergency matter, the Commission shall report to the New Mexico Office of the Attorney General the action taken and the circumstances creating the emergency.

6. For the purposes of regular meetings specified in Paragraph 1 of this Resolution, notice requirements under the Open Meetings Act are met if notice of the date, time, place of the meeting, and either a copy of the agenda or information on how a copy of the agenda may be obtained is sent to all persons on the Commission's electronic mailing list maintained by the Commission

Administrator. Copies of the meeting notice and the agenda shall also be posted in a visible location at the Office of Public Facilitation, Suite S-2102, located in the Harold Runnels Building, 1190 S. Saint Francis Drive, Santa Fe, New Mexico, and on the Commission's website at: <https://www.env.nm.gov/water-quality-control-commission/wqcc/>. Written notice of the meeting shall also be sent to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have provided a written request for such notice.

7. For the purpose of special meetings or emergency meetings specified in paragraphs 4 and 5 of this Resolution, notice requirements under the Open Meetings Act are met if notice of the date, time and place of the meeting, and either a copy of the agenda or information on how a copy of the agenda may be obtained is sent to all persons on the Commission's electronic mailing list maintained by the Commission Administrator. Copies of the meeting notice and the agenda shall also be posted in a visible location at the Office of Public Facilitation, Suite S-2102, located at the Harold Runnels Building, 1190 S. Saint Francis Drive, Santa Fe, New Mexico, and on the Commission's website at: <https://www.env.nm.gov/water-quality-control-commission/wqcc/>. Telephone notice of those meetings shall also be given to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have provided a written request for such notice.

8. In addition to the information required above, all meeting notices shall include the following language:

If you are an individual with a disability who needs a reader, amplifier, qualified signed language interpreter, or any other form of auxiliary aid or service to attend or participate in the meeting, or both, please contact the Commission Administrator at (505) 827-2428 or at [Public.Facilitation@state.nm.us](mailto:Public.Facilitation@state.nm.us), at least ten (10) days prior to the meeting date or as soon as possible. Public documents, including the agenda and meeting minutes, can be provided in various accessible formats. Please contact the Commission Administrator if a summary or other type of accessible format is needed.

9. When it is otherwise difficult or impossible for a member of the Commission to attend a meeting of the Commission in person, the member may participate in the meeting by means of a conference telephone or other similar communications equipment as otherwise allowed by law or rule of the Commission, provided that each member of the Commission 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.

10. During the pendency of an emergency declared by the Governor, the Commission may hold virtual meetings and hearings to conduct time-sensitive business, provided that notice of the meeting contains specific information (e.g., website address, access password, access telephone number) about how members of the public may attend and listen to the deliberations and proceedings by telephone, live streaming or other similar technologies, and the meeting is

conducted in accordance with any guidance issued by the New Mexico Office of the Attorney General.

11. The Commission may close a meeting to the public only if the subject of the discussion or action is excepted from the open meeting requirement under the exclusions enumerated in Section 10-15-1(H) NMSA 1978 of the Open Meetings Act.

(a) If any Commission meeting is closed pursuant to any of the enumerated exclusions, the closure, if made in an open meeting, shall be approved by a majority vote of a quorum of the Commission. The authority for the closure and the subject(s) to be discussed shall be stated with reasonable specificity in the motion for closure and the vote on closure shall be taken in an open meeting, and the vote of each individual member shall be recorded in the minutes. Only those subjects announced or voted upon prior to closure by the Commission may be discussed in a closed meeting.

(b) If a closure is called for when the Commission is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and stating with reasonable specificity the subject(s) to be discussed is given to the Commission members and to the general public.

(c) Following completion of any closed Commission meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the Commission under Section 10-15-1(G) NMSA 1978 of the Open Meetings Act as part of the official minutes of the meeting.

(d) Except as provided in Section 10-15-1(H) NMSA 1978 of the Open Meetings Act, any Commission action taken as a result of discussions in a closed meeting shall be made by vote of the Commission in an open public meeting.

**PASSED AND ADOPTED** by the Commission this 12<sup>th</sup> day of May, 2020.

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Jennifer J. Pruett, Commission Chair