

**NEW MEXICO WATER QUALITY CONTROL COMMISSION
OPEN MEETINGS ACT ANNUAL RESOLUTION
RESOLUTION NO. 2021-01**

WHEREAS, the New Mexico Water Quality Control Commission (“Commission”) met in regular session on April 13, 2021, commencing at 9:00 AM, using a WebEx virtual meeting platform;

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;

WHEREAS, on March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 (“COVID-19”), Governor Michelle Lujan Grisham (“Governor”) issued Executive Order 2020-004 declaring a public health emergency in New Mexico;

WHEREAS, the Governor has continued to renew the declaration of a public health emergency due to the ongoing COVID-19 pandemic;

WHEREAS, due to the COVID-19 public health emergency, the Governor and the Department of Health have issued numerous statewide executive and public health orders restricting, among other things, in-person contact and public access to State buildings, to mitigate the spread of transmission of COVID-19; and

WHEREAS, the New Mexico Office of the Attorney General has issued its Open Government Division Advisory During COVID-19 State of Public Health Emergency to guide public bodies regarding their ongoing obligations to comply with the Open Meetings Act during the public health emergency in New Mexico.

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

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 AM, unless stated otherwise in the meeting notice. A regular meeting of the Commission may be canceled if there is no business to be discussed or transacted.

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 at the Office of Public Facilitation, located at the Harold Runnels Building, Suite S-2102, 1190 S. Saint Francis Drive, Santa Fe, New Mexico (“Office of Public Facilitation”), and shall be posted on the Commission’s website at <https://www.env.nm.gov/water-quality-control-commission/wqcc/>, and in a public location 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 or causes to be posted notice of the date, time and place for the reconvened meeting on the Commission’s website at <https://www.env.nm.gov/water-quality-control-commission/wqcc/>, and in a public location at the Office of Public Facilitation, or such other place where the original meeting was held, 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. Notice shall be posted in a public location at the Office of Public Facilitation and on the Commission’s website at <https://www.env.nm.gov/water-quality-control-commission/wqcc/>. Copies of the written notice shall also be provided 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. 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/>, and copies provided to individuals or business entities that have requested them from the Commission or its administrator.

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. Telephone notice of the meeting 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 notice of public meetings.

6. For the purpose of regular meetings of the Commission specified in paragraph 1 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 public location at the Office of Public Facilitation, and on the Commission's website at <https://www.env.nm.gov/water-quality-control-commission/wqcc/>. Copies of the meeting notice and the agenda for the meeting shall also be mailed 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, respectively, 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 public location at the Office of Public Facilitation, and on the Commission's website at <https://www.env.nm.gov/water-quality-control-commission/wqcc/>. Telephone notice of such meetings shall be given to those newspapers of general circulation and broadcast stations licensed by the Federal Communications Commission 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 by telephone at (505) 827-2428 or by email at 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's administrative staff 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 if otherwise allowed by law or rule of the Commission, as provided in Section 10-15-1(C) NMSA 1978 of the Open Meetings Act; provided that each member of the Commission participating by conference telephone or other similar communications device 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 the public health emergency declaration by the Governor due to the COVID-19 pandemic, and the ensuing statewide executive and public health orders restricting, among other things, in-person contact and public access to State buildings, the Commission may hold public meetings using virtual meeting applications/platforms to discuss or transact time-sensitive business of the Commission, provided that the meeting notice contains specific information (remote access website, password, call-in telephone number, and the like) about how interested parties or persons and the general public may attend and listen to, and where appropriate, participate in, the proceedings and public deliberations of the Commission by telephone, live streaming or other similar communication technologies, and the meeting is conducted in accordance with any written 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 one or more 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 to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting; the vote shall be taken in an open meeting; and the vote of each individual member of the Commission 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 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(J) 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 13th day of April, 2021.

Jennifer J. Pruett, Commission Chair