



# NEW MEXICO MINING SAFETY BOARD

*John Purcell, Chair*



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## OPEN MEETINGS NOTICE RESOLUTION

**WHEREAS**, the New Mexico Mining Safety Board ("MSB") met in regular session at Bernalillo, NM on April 27, 2023, at 13:00.

**WHEREAS**, Section 10-15-1(B) of the Open Meetings Act, NMSA 1978, §§ 10-15-1 to -4 (1974, as amended through 2013), 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, administrative adjudicatory body or other policymaking body of any state or local public 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 MSB to determine annually what constitutes reasonable notice of its public meetings;

**NOW, THEREFORE, BE IT RESOLVED** by the MSB that:

1. All meetings shall be held as indicated in the meeting notice.
2. Unless otherwise specified, the MSB regular meetings shall be held as necessary. Notice of any meetings will be given (10) days in advance of the regular meeting date. The agenda will be available at least seventy-two (72) hours prior to the meeting from the office of the State Mine Inspector, 101 East Road, Socorro, New Mexico, 87801, (575) 835-5460, and shall be posted on the New Mexico Bureau of Mine Safety website (<http://bmi.state.nm.us>)
3. Special meetings may be called by the Chair or a majority of the MSB members upon three (3) days' notice. The notice shall include an agenda for the meeting or information on how members of the public may obtain a copy of the agenda. The agenda shall be available to the public and shall be posted on the New Mexico Bureau of Mine Safety website (<http://bmi.state.nm.us>) at least seventy-two (72) hours before any special meeting.
4. Emergency meetings will be called only under unforeseen circumstances which demand immediate action to protect the health, safety and property of citizens or to protect the public body from substantial financial loss. The MSB will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chair or a majority of the MSB members upon twenty-four (24) hours' notice, unless threat of personal injury or property damage require

less notice. The notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda.

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 brief summary of the agenda is posted at the office of the State Mine Inspector, and/or posted on the New Mexico Bureau of Mine Safety's website (<http://bmi.state.nm.us>), and/or posted on the New Mexico Mining and Minerals Division's web site (<http://www.emnrd.state.nm.us>), and emailed to the Bureau of Mine Safety mining contacts list. Copies of the written notice shall also be provided by mail, email or fax to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of MSB public meetings.

6. For the purposes of special meetings and emergency meetings described in paragraph 3 and 4 of this resolution, notice requirements are met if notice of the date, time, place and agenda is provided by telephone, email or fax to newspapers of general circulation in the state and posted in the offices of the State Mine Inspector and the offices of the New Mexico Mining and Minerals Division located at 1220 S. St. Francis Drive, Santa Fe, New Mexico. The agenda for a special meeting shall also be posted on the Bureau of Mine Safety website (<http://bmi.state.nm.us>) seventy-two hours before the meeting. Telephone, email or fax notice also shall be given to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of MSB public meetings.

7. In addition to the information specified above, all notices shall include the following language:

*If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact (575) 835-5460 at least 24 hours prior to the meeting. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact (575) 835-5460 if a summary or other type of accessible format is needed.*

8. The MSB may close a meeting to the public only if the subject matter of such discussion or action is contained within the exceptions to the requirement for open meetings pursuant to 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 Board taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the vote of each individual member on the motion to close shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.

(b) The Board may hold a closed meeting, separate from an open meeting, provided that appropriate and timely notice is given to the public, consistent with the Open Meetings Act requirements for regular, special, or emergency meetings. The notice must include the specific provision of law authorizing the closed meeting and must list, with reasonable specificity, the subjects to be discussed.



(c) Following completion of any closed 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 whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.

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

9. Board members may participate in a meeting by conference telephone or other similar communications equipment as permitted by the OMA when it is otherwise difficult or impossible for the member to attend in person, provided that all participants are able hear and communicate clearly with one another and that the members of the public in attendance are able to hear any member who speaks during the meeting.

10. Meetings Held During Times of State Emergencies: In the event that the Governor declares a state of emergency due to the spread of an infectious disease, due to the spread of chemical, biological, or radiological hazards, or due to some other comparable disaster or emergency, and if postponing one or more items of business until the conclusion of the state of emergency would be inconsistent with the proper and efficient operation of the Board, the Board may hold a meeting designed to preserve the health and safety of the public while also adhering to the purposes of the Open Meetings Act. This shall consist, where possible, of the members of the Board appearing telephonically or by video webcast, with the public able to observe the proceedings at both a physical location and a video webcast or telephonic location. However, where such arrangements are not possible due to public health or safety concerns, and at the election of the Chair, or of the Vice Chair should the Chair be unavailable, the Board may hold a video and/or telephonic meeting, subject to all of the following conditions and limitations:

(a) Each member participating must be identified when speaking, all participants must be able to hear each other at the same time, and the public must be able to hear any member who speaks during the meeting.

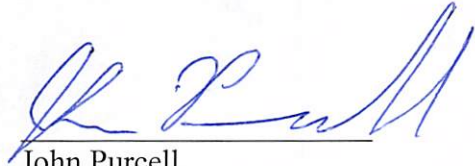
(b) A video webcast or telephonic meeting may only be held if the members of the Board are unable to meet in a physical location due to the state of emergency, including when an order is in place limiting or prohibiting public gatherings.

(c) Both the notice and the agenda of any video webcast or telephonic meeting shall provide information to the public on how the meeting may be accessed remotely, either through the video webcast, telephone, or similar technology. All meeting documents, except those which are exempt from disclosure as a public record, shall be available on the Board's website before and during the meeting for public access and review, or shall be available during the meeting for downloading through whatever video webcasting service may be used for the meeting.

(d) At any video webcast or telephonic meeting, all votes shall be cast through a roll-call vote. The Chair shall suspend all discussion in the event that the audio is interrupted or becomes unintelligible.

(e) The Board shall make an audio recording of any video or telephonic meeting and, within five business days of the meeting, post the recording on the Board's website for a period of not less than thirty days. The Board shall maintain a copy of the recording for a period of at least three years, or as may otherwise be required by state or federal records retention laws, and make the recording available as may be required by the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2019).

Passed by the New Mexico Mining Safety Board, April 27, 2023



John Purcell

Chair New Mexico Mining Safety Board