

## NOTICE OF RULEMAKING

**Public Notice:** The New Mexico Mining Safety Board (MSB) will conduct a public hearing via virtual medium on Zoom <https://zoom.us/j/95441179265?pwd=S21vUUtub25JMlVFYUQxQkl5aFJ3UT09> (The meeting ID is 954 4117 9265 and the passcode is 780336) on March 29, 2022 from 1:00 pm to 5:00 p.m. (MST). Due to the global pandemic of COVID-19, the hearing is required to be held virtually at this time.

The purpose of the hearing is to receive public comment on proposed amendments to 19.6.2 NMAC - Emergency Notification ("Part 2") and 19.6.4 NMAC - Certification of Coal Mine Officials ("Part 4").

**Purpose:** The Mining Safety Board has proposed amending the current rules concerning the emergency notification, certification and recertification of coal mine officials. The purpose of the proposed action is to clarify procedures to complete the requirements of emergency notification, certification and recertification of coal mine officials when there is a vacancy of the office of the State Mine Inspector (SMI). The MSB initiated the Part 4 rule amendments after being approached by the coal mining community when certification and recertification of coal mine officials could not be completed by the NM Bureau of Mine Safety because the position of the state mine inspector was vacant. In addition to Part 4 rules, the MSB looked at duties of the SMI as defined in 19.6.2 NMAC and proposes amendments to the Part 2 rules to allow completion of the requirements when the position of State Mine Inspector is vacant.

**Summary of full text:** In both 19.6.2.7 NMAC and 19.6.4.7 NMAC, definitions for "Deputy State Mine Inspector", "extended absence", and "vacant" were added to the definition sections. The "Deputy State Mine Inspector" definition was added to define a senior employee of the Bureau of Mine Safety who would perform the tasks relating to emergency notification, certification and recertification of coal mine officials when the position of the state mine inspector is vacant.

In 19.6.2.7 NMAC, Subsection B a spelling error was corrected; "tomage" was changed to "tonnage".

In 19.6.2.8 NMAC, Subsection A the date "by April 10, 2006" was removed. This date was inserted when the Part 4 rule was previously amended with the requirement for existing mines to submit an emergency notification plan. The date is no longer relevant.

In 19.6.2.8 NMAC, Subsection C a spelling error was corrected; "insure" was changed to "ensure".

In 19.6.2.11 NMAC, Subsection E and Subsection E (1) the word "inspector's" was removed from "the inspector's final order". The State Mine Inspector will typically write the final order, however, during times when the position of the SMI is vacant the accident investigation, report and final order may be completed by the Deputy State Mine Inspector. The final order can be written by either the State Mine Inspector or the Deputy State Mine Inspector.

Section 19.6.2.12 NMAC, Investigation to Provide Timely Notice of an Accident was added to Part 2. This section provides the process for the investigation of timely notification of an accident by a Deputy State Mine Inspector when there is a vacancy of the position of State Mine Inspector.

Section 19.6.4.14 NMAC, Certification of Coal Mine Officials in the Event the Position of State Mine Inspector is Vacant was added to Part 4. This section provides the process for the certification and recertification of coal mine officials to be completed by a Deputy State Mine Inspector when there is a vacancy of the position of State Mine Inspector.

**Authority:** Section 69-8-4, NMSA 1978, provides that the Mining Safety Board "shall, after public hearing, adopt rules for the protection of the life and safety of employees and to carry out the intent of the Mining Safety Act." Section 69-14-3, NMSA 1978 authorizes the Mining Safety Board to "enact requirements, including requirements for applications, examinations and qualifications, for certification of any mine personnel required to be qualified by state or federal law." Finally, Section 69-14-4, NMSA 1978 provides that, "The Mining Safety Board shall adopt

rules for requirements for recertification."

**Access to the Proposed Rulemaking:** A complete copy of the proposed rule changes with line-out of extracted text and underlined inserted text may be read or downloaded from the Bureau of Mine Safety (BMS) website at [bmi.state.nm.us](http://bmi.state.nm.us). A copy may be obtained by contacting Debora McVey, Administrative Specialist, at the Bureau of Mine Safety at 575-835-5460 or [debora.mcvey@nmt.edu](mailto:debora.mcvey@nmt.edu).

**Public Comment:** Interested parties may comment on the proposed rulemaking at a public hearing to be held by virtual medium via Zoom by the MSB beginning at 1:00 pm on March 29, 2022. Written comments will also be received by the Bureau of Mine Safety and the Mine Safety Board Chair until 5:00 PM Monday, March 28, 2022 by U.S. Mail or email. All written comments will be posted to the Agency website within three days of receipt.

MSB Rulemaking Comments

New Mexico Bureau of Mine Safety New Mexico Institute of Mining and Technology  
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**Accommodations:** Individuals with disabilities who require the above information in an alternative format or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debora McVey or Chris Hefner, State Mine Inspector at 575-835-5460 as soon as possible before the public hearing. The Bureau of Mine Safety will make a reasonable effort to provide necessary accommodations.

**Technical Information:** These proposed amendments did not require technical information.