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MEMORANDUM

TO: Soil and Water Conservation Commission
Soil and Water Conservation Districts

FROM: Jeff M. Witte, Secretary of Agriculture 

SUBJECT: Open Meetings Act Information in the Time of COVID-19

This memo is informational and provides additional guidance to the New Mexico Soil and Water Conservation Commission (SWCC) and the New Mexico Soil and Water Conservation Districts (SWCDs) during the time of the response to the COVID-19 pandemic.

Due to COVID-19 pandemic and requirements for “stay-at-home” orders, all citizens of the state are asked to practice “social distancing”. Governor Lujan Grisham has issued multiple orders affecting the ability of all citizens to gather in groups of more than five persons. Only essential businesses are operating. The most up to date orders issued by the Governor through the New Mexico Department of Health (NMDOH) can be found here:

<https://cv.nmhealth.org/public-health-orders-and-executive-orders/>

In addition to the information on the NMDOH website, the New Mexico Attorney General (NMAG) has also issued Open Meetings Act guidance related to conduct of public meetings during the period of social distancing, which can be found at:

<https://www.nmag.gov/>

In part the NMAG states (underline added for emphasis by NMDA):

“The Office of the Attorney General’s Open Government Division (OGD) advises all public entities subject to the OMA to first and foremost follow the guidance of the Department of Health and other health officials to ensure the health and safety of both

members of the entity and the public. Accordingly, the most prudent thing to do to ensure compliance with OMA would be to postpone/cancel a public meeting. If, however, a board or commission has a time-sensitive matter to attend to, it may proceed with a virtual meeting, provided its notice of meeting contains detailed information (password, phone number, etc.) about how members of the public may attend and listen via telephone, live streaming or other similar technologies.

More specifically, if a public body decides to proceed with a virtual meeting, it should:

- At the start of the meeting, the chair should announce the names of those members of the public body participating remotely.
- All members of the public body participating remotely must identify themselves whenever they speak and must be clearly audible to the other members of the public body and to the public.
- Members of the public should be afforded remote access, via live stream or other similar technology, if possible, or call-in number for listening by phone.
- Chair should suspend discussion if the audio or video is interrupted.
- All votes of the public body must be by roll call vote.”

NMDA has provided all of the above information to SWCDs through its monthly report to SWCDs as well as through individual contact to each district. However, since this is a rapidly evolving situation, it bears repeating.

You are advised to conduct public meetings in a manner consistent with the public health orders and in compliance with the NMAG guidelines. This means that the meeting must be conducted in a manner that the public has access to participate through a conference call line allowing many interested publics to attend at once. All members of the public must be able to attend and must be allowed to participate in the meeting no matter which technology is chosen. It is advised that no one gather for the meeting in observance of the order to stay socially distant. If meetings are conducted via teleconference or web-based conference service, there would be no need to gather.

In addition to compliance with the social distancing order, it is also important to respect that individuals with underlying health conditions (potentially members of the SWCD board, employees, or the public) may not want to gather whether the gathering complies with the not more than five individuals in a room even with the appropriate six feet of distance. Therefore, NMDA strongly urges you to conduct any meetings in strict accordance with the orders and guidelines issued by the State of New Mexico. The only current weapon the country has to curb the COVID-19 pandemic and assist the state with the response so that the medical community does not fall into a disaster is to observe the stay at home/social distancing order. Please consider this information and the guidelines as you decide to hold a public meeting. If you have questions, please contact NMDA staff at 575-646-2642 or call your specific SWCD specialist.