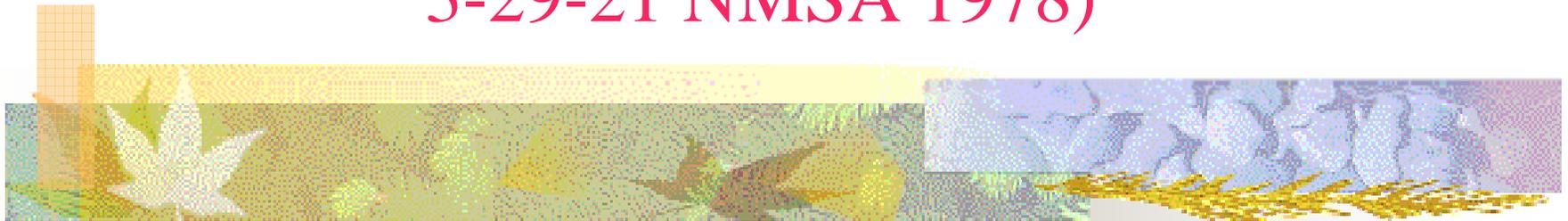


NMED WORKSHOP

SANITARY PROJECTS ACT (3-29-1 through 3-29-21 NMSA 1978)



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Why Are We Concerned with the Sanitary Projects Act (SPA)?

- Over 200 of the 600+ water systems are organized under the SPA, 1/3 of the total systems.
- The AG has determined that Mutual Domestic Associations formed under the SPA are public entities for the purpose of obtaining State grant money.
- Many systems with the greatest challenges are Mutual Domestics.



Essence of the SPA

- Form by filing incorporation papers with the PRC.
- No defined service area and therefore no protection from encroachment.
- Serves members only, but cannot deny membership without good cause.
- Oversight by NMED.
- Significant revisions in 2006 Legislature



History of the SPA

- Enacted in 1947 for the installation of sanitary domestic water facilities to “*eliminate the present hazardous practices involved in the use of ditch water.*”
- \$20,000 was appropriated for the purpose of the Act to be overseen by the predecessor of NMED.
- Act updated in 1957 and \$150,000 appropriated, but each projects limited to \$12,000.



Pros and Cons

- + Simple to form
- + Eligible for public money
- + Provide water and wastewater service
- + Provide a form of local government
- - Run by *Heroic* Volunteer BOD, but with limited expertise in business, water, and engineering
- - Powers very limited
- - Serves only members with no defined service area
- - Cannot force people to join or stay



SPA 2006 Changes of Note

- Clearly defined as political subdivision of the State
- Flexibility for number and term of BOD
- BOD may exercise Eminent Domain without NMED approval
- BOD shall shut off water for non-payment and complete BOD training.
- NMED may issue compliance order and assess civil penalty of up to \$250/day



SPA 2006 Changes of Note (con't)

- BOD shall establish fees based on rate setting analysis
- Certificate & Bylaws must be filed with PRC and include dissolution as public body
- Minimum requirements for Bylaws
- BOD must file member accountability report with NMED by July 1st – Open Meeting Act resolution and financial statement
- Provisions for mergers added



Cooperatives & Non-Profit Corporations Can Easily Convert

- 2000 law change allow Cooperatives formed under 53-4 & Non-Profit Corporations formed under 53-8 to convert to mutual domestics.
- Must file certificate of association with PRC.
- Requires majority of vote of a quorum of members after 15 day notice.
- Conversion allows access to public money, but requires observance of Public Meetings Act, Public Records Act, etc.



Specific Sections of Interest

- 3-29-3: Political Subdivision
- 3-29-5: Limitations on Formation
- 3-29-6: Board Duties
- 3-29-7: NMED Powers
- 3-29-12: Board of Directors
- 3-26-17.5: Filing Annual Reports
- 3-29-19: Filing with the PRC
- 3-29-19.1: Bylaws
- 3-29-20: Coops Reorganizing under the SPA

Questions?

