

Appendix S

South Dakota Wellhead Protection Law

7-18-20. Adoption of ordinances to protect groundwater authorized--Scope and purpose--Agreements to implement and enforce wellhead protection program. A county may adopt ordinances for the purpose of protecting public groundwater supplies from pollution. The ordinances shall be consistent with the wellhead protection program guidelines developed by the department pursuant to § 34A-3A-17, and may include ordinances to establish wellhead protection areas; to zone for the purpose of protecting such areas from pollution; to monitor and regulate activities and sources of potential or actual pollution within the areas; and to provide for the containment and cleanup of pollution or other remedial action within the areas. A county may enter into agreements with the state and with other political subdivisions to implement and enforce a wellhead protection program.

Source: SL 1989, ch 306, § 44.

9-12-17. Power to adopt ordinances to protect groundwater--Scope and purpose--Agreements to implement and enforce wellhead protection program. A municipality may adopt ordinances for the purpose of protecting public groundwater supplies from pollution. The ordinances shall be consistent with the wellhead protection program guidelines developed by the department pursuant to § 34A-3A-17, and may include ordinances to establish wellhead protection areas; to zone for the purpose of protecting such areas from pollution; to monitor and regulate activities and sources of potential or actual pollution within the areas; and to provide for the containment and cleanup of pollution or other remedial action within the areas. A municipality may enter into agreements with the state and with other political subdivisions to implement and enforce a wellhead protection program.

Source: SL 1989, ch 306, § 43.

34A-3A-2. Definitions. Terms used in this chapter mean:

- (1) "Area of influence," the area surrounding a pumping or recharging well within which the potentiometric surface or the water table has been changed;
- (2) "Board," the Water Management Board;
- (3) "Cone of depression," the shape of the area of influence in cross section;
- (4) "Critical aquifer protection area," all or part of an area located within an area for which an application or designation as a sole source aquifer has been submitted and approved by the administrator of the United States Environmental Protection Agency;
- (5) "Department," the Department of Environment and Natural Resources;
- (6) "Maximum contaminant level," the maximum permissible level of a contaminant in water which is delivered to any user of a public water system;

(7) "Potentiometric surface," an imaginary surface representing the total head of groundwater in a confined aquifer and defined by the level to which water will rise in a well;

(8) "Public water system," a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year and as provided for in 40 CFR sections 141.2 and 142.2 as amended to April 28, 1998;

(9) "Recharge area," the area through which water may percolate to the aquifer and eventually reach the well;

(10) "Secretary," the secretary of the Department of Environment and Natural Resources;

(11) "Sole source aquifer," an aquifer which provides fifty percent or more of the drinking water for an area and which if contaminated, would create a significant hazard to public health;

(12) "Supplier of water," any person who owns or operates a public water system;

(13) "Water table," that surface of a body of unconfined groundwater at which the pressure is equal to that of the atmosphere;

(14) "Wellhead protection area," the surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

Source: SL 1983, ch 260, § 2; SL 1987, ch 259, § 1; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 1999, ch 181, § 1.

34A-3A-17. Prevention of pollution of water supply systems--Development of voluntary wellhead protection program--Specifications. The department shall develop procedures necessary to safeguard public health and welfare and prevent pollution of public water supply systems. The department shall develop a voluntary wellhead protection program which will specify the following:

(1) Guidelines for a wellhead protection program to protect the public water supplies from new and existing facilities which may be potential or actual pollution sources, including, but not limited to, the design of new facilities and modification of existing facilities, the department approval or denial under existing authority of plans and specifications for new facilities or modifications to existing facilities, the construction and the installation of release detection and containment systems, siting criteria for new facilities, operation and maintenance criteria, contingency plans for pollutant release containment and cleanup, technical assistance,

and education and training;

(2) Guidelines specifying the duties of the department and local governments in developing and implementing the wellhead protection program;

(3) Guidelines for determining the extent of wellhead protection areas. Factors for consideration may include, but are not limited to, the cone of depression, the area of influence, the area of contribution and the recharge area;

(4) Guidelines for determining all potential and actual pollution sources which may have an adverse effect on public health;

(5) Guidelines for taking into consideration potential sources of pollution when siting new wells for public water supplies; and

(6) Guidelines for developing contingency plans for pollution release containment, cleanup and the provision of alternative drinking water supplies for each public water system in the event of well or wellfield pollution.

Source: SL 1989, ch 306, § 42.

34A-3A-24. Certain animal feeding operations prohibited from locating over shallow aquifer. No concentrated animal feeding operation that includes a number of animals equal to or greater than one thousand animal units may be located over a shallow aquifer unless a groundwater discharge permit has been approved in accordance with chapter 34A-2. For purposes of this section, a shallow aquifer is any aquifer having the following characteristics:

(1) The aquifer is within fifty feet or less below the land surface with fifteen feet or less of continuous, overlying, extremely low permeability geologic material, such as clayey till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability material for purposes of this section; or

(2) The aquifer is greater than fifty feet but less than one hundred feet below the land surface with thirty feet or less of continuous overlying low to extremely low permeability geologic material that may be a combination of weathered and unweathered till, shale, or till and shale.

This section does not apply to any concentrated animal feeding operation that was operating on or before July 1, 1997. This section does not limit or prohibit the expansion of any concentrated animal feeding operation that was operating on or before July 1, 1997.

The provisions of this section do not apply to any county which has officially adopted a comprehensive plan and zoning ordinances pursuant to chapter 11-2 and wellhead protection ordinances pursuant to § 7-18-20.

Source: SL 1997, ch 210, §§ 1, 2.

34A-2-107. Standards used in prioritizing groundwater prevention efforts--Other factors for consideration. The secretary shall use the groundwater quality standards promulgated pursuant to §§ 34A-2-10 and 34A-2-11 in prioritizing the groundwater prevention and protection efforts for the state. Other factors that may be considered by the secretary include, but are not limited to, beneficial uses of water, the extent to which a groundwater source supplies or might feasibly supply public water systems or wellhead protection areas established pursuant to § 34A-3A-17, the degree of hazard to public health and welfare, the dependence of local citizens upon groundwater supplies, and the vulnerability of groundwater supplies to contamination.

Source: SL 1989, ch 306, § 45.