



SPONSOR: Sen. McBride & Rep. Quillen;
Sen. Connor; Reps. Mulrooney & Price

DELAWARE STATE SENATE

141st GENERAL ASSEMBLY

SENATE BILL NO. 119

AN ACT TO AMEND CHAPTER 60, TITLE 7, OF THE DELAWARE CODE RELATING TO THE FORMULATION AND IMPLEMENTATION OF A SOURCE WATER PROTECTION PROGRAM.

1 WHEREAS, sixty percent of the residents of the State of Delaware rely on ground water and
2 forty percent rely on surface water as their sole sources of drinking water; and

3 WHEREAS, certain public drinking water supplies exceed maximum contaminant levels for
4 various chemical constituents; and

5 WHEREAS, the United States Congress has mandated the assessment of drinking water
6 supplies through the provisions of the Safe Drinking Water Act Amendments of 1996; and

7 WHEREAS, the United States Congress has encouraged the protection of drinking water
8 supplies through the provisions of the Safe Drinking Water Act Amendments of 1996; and

9 WHEREAS, the United States Environmental Protection Agency granted approval of the
10 State of Delaware's Wellhead Protection Plan on July 31, 1990 and the State of Delaware Source
11 Water Assessment Plan on October 27, 1999; and

12 WHEREAS, the State of Delaware is required to complete the delineation of source water
13 assessment areas and an assessment of their susceptibility to contamination for all public water
14 supplies by April 2003; and

15 WHEREAS, the State of Delaware will have completed mapping the areas of ground water
16 recharge potential within the state by 2001; and

17 WHEREAS, the protection of existing and proposed sources of water for public consumption
18 is critical to protection of public health and the environment and continued economic prosperity.

19 NOW, THEREFORE:

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

21 Section 1. Amend §6002, Chapter 60, Title 7, Delaware Code by adding new definitions as
22 follows:

23 "(63) 'Delineation' shall mean the process of defining and/or mapping a boundary that
24 approximates the areas that contribute water to a particular water source used as a public water
25 supply.

26 (64) 'Public Drinking Water System' shall mean a community, non-community, or non-
27 transient non-community water system, which provides piped water to the public for human
28 consumption. The system must have at least 15 service connections or regularly serve at least 25
29 individuals daily for at least 60 days.

30 (65) 'Source Water' shall mean any aquifer or surface water body from which water is taken
31 either periodically or continuously by a public drinking water system for drinking or food processing
32 purposes.

33 (66) 'Source Water Assessment Area' shall mean the delineated area which contributes water
34 to a public water supply system. This is called a wellhead protection area for a well and a watershed
35 or basin for a surface water intake. A Source Water Assessment Area shall constitute a critical area as
36 defined under Chapter 92, Title 29 of the Delaware Code.

37 (67) 'Source Water Assessment Plan' shall mean the October 1999 U.S. EPA approved plan
38 for evaluating the sources of public drinking water in Delaware for their vulnerability and
39 susceptibility to contamination.

40 (68) 'Source Water Assessment' shall mean the identification and evaluation of the sources of
41 water within the state that are used by public drinking water systems in an effort to determine the
42 susceptibility of those sources to contamination.

43 (69) 'Wellhead Protection Area' shall mean the surface and subsurface area surrounding a
44 water well, or wellfield supplying a public water system through which contaminants are likely to
45 reach such well, or wellfield. A Wellhead Protection Area shall constitute a critical area as defined
46 under Chapter 92, Title 29 of the Delaware Code.

47 (70) 'Wellhead Protection Plan' shall mean the March 1990 U.S. EPA approved plan for
48 protecting the quality of drinking water derived from public water supply wells in Delaware.

49 (71) 'Excellent Ground-Water Recharge Potential Area' shall mean any area where soils and
50 sedimentary deposits of the most coarse grained nature have the best ability to transmit water
51 vertically through the unsaturated zone to the water table as mapped by the methods described in the
52 Delaware Geological Survey Open File Report No. 34, "Methodology For Mapping Ground-Water
53 Recharge Areas in Delaware's Coastal Plain" (August 1991), and as depicted on a series of maps
54 prepared by the Delaware Geological Survey. An Excellent Ground-Water Recharge Potential Area
55 shall constitute a critical area as defined under Chapter 92, Title 29 of the Delaware Code."

56 (72) 'Source Water Protection Citizens Technical Advisory Committee' shall mean a group to
57 advise the Secretary of the Department of Natural Resources and Environmental Control including,
58 but not limited to, representatives of the following organizations or municipalities: DNREC,
59 Department of Health and Social Services, Department of Agriculture, the Delaware Nature Society,
60 the Delaware Public Health Association, the American Association of Retired Persons, the United
61 States Geological Survey, the Christina River Conservancy, the Water Resources Agency of the
62 University of Delaware, the Council of Farm Organizations, the Delaware Rural Water Association,

63 the League of Women Voters, the Friends of Herring Creek, the Civic League of New Castle County,
64 the Delaware Geological Survey, the Committee of 100, the City of Dover, the City of Lewes, the
65 New Castle County Department of Land Use, Kent County Levy Court, Sussex County Council, the
66 League of Local Governments, the Sussex County Association of Towns, the Homebuilders
67 Association of Delaware, the Commercial Industrial Realty Council, public water suppliers and the
68 Delaware Association of Professional Engineers."

69 Section 2. Amend Chapter 60, Title 7, Delaware Code by redesignating existing Subchapters
70 VI, and VII as Subchapters VII and VIII and by adding a new subchapter to read as follows:

71 "Subchapter VI. Source Water Protection

72 §6081. Reporting on Source Water Protection

73 (a) The Secretary shall prepare, periodically, a report to the Governor and General Assembly,
74 beginning in 2003, of the potential threats, including contaminants currently not regulated, to
75 public drinking water systems. The report shall identify actions that the Secretary proposes to
76 control these threats.

77 (b) The Secretary shall periodically prepare a report to the respective counties and
78 municipalities, beginning in 2003, that denotes the availability of source water assessments
79 completed by the Department. The Secretary shall also report on the status of the Ground-
80 Water Recharge Potential mapping project.

81 §6082. Adoption of Source Water Assessment, Wellhead Protection, and Excellent Ground-Water
82 Recharge Potential Areas by Counties and Municipalities

83 (a) By December 31, 2004, the Department shall develop a guidance manual, in conjunction
84 with and with the substantial concurrence of the Source Water Protection Citizens
85 Technical Advisory Committee, for desirable land uses within source water assessment

86 areas that promote the long-term protection of public drinking water supplies, consistent
87 with “Shaping Delaware’s Future: Managing Growth in 21st Century Delaware, Strategies
88 for State Policies and Spending” (December 1999)

89 (b) The counties and municipalities with populations of 2,000 persons or more, with the
90 assistance of the Department, shall adopt as part of the update and implementation of the 2007
91 Comprehensive Land Use Plans, the overlay maps delineating, as critical areas, source water
92 assessment, wellhead protection, and excellent ground-water recharge potential areas.

93 Furthermore, the counties and municipalities shall adopt, by December 31, 2007, regulations
94 governing the use of land within those critical areas designed to protect those critical areas
95 from activities and substances that may harm water quality and subtract from overall water
96 quantity.

97 (c) Municipalities with populations of less than 2,000 persons, with the assistance of the
98 Department, may adopt by ordinance, the overlay maps delineating, as critical areas, source
99 water assessment, wellhead protection, and excellent ground-water recharge potential areas.
100 Furthermore, the ordinance shall include regulations governing the use of land within those
101 critical areas designed to protect those critical areas from activities and substances that may
102 harm water quality and subtract from overall water quantity. Counties and municipalities of
103 more than 2,000 persons that have previously adopted ordinances that include the
104 Department’s overlay maps and regulations that protect public water supplies and are
105 consistent with minimum standards identified in the guidance manual shall be exempt from
106 the provisions of this subsection.

107 (d) The Department shall make source water assessment areas available to the public as they
108 are completed, with all systems to be completed by 2003.

109 (e) The Department may, when based on sound science and factual information, revise and
110 update the overlay maps of source water assessment areas.
111 (f) Counties and municipalities with populations of 2,000 persons or more shall update their
112 overlay maps in accordance with changes made by the Department with respect to source
113 water assessment, wellhead protection, and excellent ground-water recharge potential areas.
114 (g) Municipalities with populations of less than 2,000 persons may update their overlay maps
115 in accordance with changes made by the Department with respect to source water assessment,
116 wellhead protection, and excellent ground-water recharge potential areas.

117 §6083. Adoption of Source Water Assessment, Wellhead Protection and Excellent Ground-Water
118 Recharge Potential Areas by the Governor's Cabinet Committee on State Planning Issues.

119 The Department shall make source water assessment, wellhead protection, and excellent
120 ground-water recharge potential area delineations available for maps developed as part of "Shaping
121 Delaware's Future: Managing Growth in 21st Century Delaware, Strategies for State Policies and
122 Spending" (December 1999).

123 §6084. Source Water Protection Citizen and Technical Advisory Committee.

124 The Secretary shall consult a citizen and technical advisory committee, as established by the
125 Delaware Source Water Assessment Plan, on matters related to the implementation of the Source
126 Water Assessment Plan and the requirements of this statute."

SYNOPSIS

This Bill requires county governments and municipalities with populations of 2,000 or more, as part of the updates to the 2007 Comprehensive Land Use Plans, to adopt maps delineating source water assessment, wellhead protection and excellent groundwater recharge areas, and regulations governing the use of land within those critical areas designed to protect drinking water supplies. The bill obligates DNREC to provide the necessary technical assistance to local governments to adopt these measures and defines and clarifies source water and wellhead protection areas as critical areas as defined under Chapter 92, Title 29 of the Delaware Code. The bill also requires that a citizen and technical advisory committee be consulted in the implementation of the Source Water Assessment

Plan and closely related matters.

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