

## CHAPTER 46-10A

## WATER USE CONTROL AREAS

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46-10A-1. Establishment of area--Petition of chief engineer. The chief engineer may, after appropriate investigation, petition the Water Management Board to establish a water use control area. The petition shall be regarded as filed at the time it is signed and dated by the chief engineer.

**Source:** SL 1983, ch 314, § 179.

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46-10A-2. Establishment of area--Petition of water right holders. As an alternative to the provisions of § 46-10A-1, a petition to establish a water use control area may be brought before the Water Management Board when signed by water right holders representing not less than fifty percent of the total rate of diversion under permit, filed vested rights or adjudicated rights in the geographical area described in the petition.

**Source:** SL 1983, ch 314, § 180.

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46-10A-3. Identification of lands and waters in petition. Any petition to establish a water use control area shall identify the lands and waters proposed to be included in the area.

**Source:** SL 1983, ch 314, § 181.

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46-10A-4. Hearing on petition--Publication and notice. The chief engineer, upon knowledge of the filing of a valid petition to establish a water use control area, shall set the petition for hearing before the Water Management Board at the nearest reasonable date and shall publish a copy of the notice of hearing at least once a week for two successive weeks in one legal newspaper in each county in which the land included in the proposed area is found. The chief engineer shall also send notice by first class mail to all water permit holders and holders of filed vested rights or adjudicated rights in the affected area. The contents of the notice shall be as specified in § 1-26-17.

**Source:** SL 1983, ch 314, § 182.

46-10A-5. Approval of petition--When required. The Water Management Board shall approve a petition to establish a water use control area if the board finds that a water use control area is in the public interest, is necessary to equitably apportion the available water supplies for use among the water right holders and is feasible.

**Source:** SL 1983, ch 314, § 183.

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46-10A-6. Water master--Appointment--Agent of board. Upon establishment of a water use control area, the Water Management Board, at the same hearing if feasible, shall appoint a water master, giving significant weight to the recommendations of the affected water permit or right holders. The water master shall act as agent of the board.

**Source:** SL 1983, ch 314, § 184.

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46-10A-7. Water master--Duties. The duties and authority of the water master shall be set out either in an order establishing the water use control area or by resolution and may include, but are not limited to, the following:

- (1) Enforcement procedures for distribution of water under a court decree;
- (2) Enforcement procedures for priorities and rights to use water as established in statutory law and case law;
- (3) Notwithstanding the provisions of subdivisions (1) and (2), enforcement procedures for any temporary schedule of water deliveries which all affected water permit or right holders agree upon;
- (4) Regulation and security of headgates and measuring devices as necessary to enforce proper distribution of water; and
- (5) Other duties and authority as the Water Management Board may specify.

**Source:** SL 1983, ch 314, § 185.

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46-10A-8. Water measuring devices--Order for installation. The board may order installation of water measuring devices as provided in § 46-7-2 if it determines them to be necessary for proper regulation of water diversion and use among water permit or right holders in a water use control area.

**Source:** SL 1983, ch 314, § 186.

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46-10A-9. Fee assessed--Maximum amount--Annual payment. The Water Management Board shall assess a fee to be collected annually from each water right holder in each water use control area. The amount of the fee may not exceed twenty dollars for each cubic foot per second, or portion thereof, of the diversion capability of the water permit or right holder's diversion works plus fifty cents for each acre irrigated. Fees shall be paid to the board annually at a date set by the board. No water may be diverted by a water permit or right holder who has not paid the fee required by this section.

**Source:** SL 1983, ch 314, § 187.

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46-10A-10. Repealed by SL 2006, ch 2, § 32.

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46-10A-11. Violations of orders of board or water master. Violation of any order of the Water Management Board or of the water master is regarded as a violation of the terms of a permit or license under the provisions of § 46-1-12.

**Source:** SL 1983, ch 314, § 189.

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46-10A-12. Petition of chief engineer to abolish area, suspend operation, change boundaries, amend powers of or suspend water master, or adjust administration of area. The chief engineer, after appropriate investigation, may petition the board:

- (1) To abolish a water use control area;
- (2) To suspend the operation of a water use control area;
- (3) To change the boundaries of a water use control area;
- (4) To amend the powers and duties of a water master in a water use control area;
- (5) To suspend or remove any water master appointed by it; or
- (6) To adjust administration of a water use control area to protect valid water permits or rights within the water use control area or affected by the exercise of water rights within the water use control area.

**Source:** SL 1983, ch 314, § 190.

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46-10A-13. Petition as in § 46-10A-12 by water rights holders. Any petition which may be brought by the chief engineer pursuant to the provisions of § 46-10A-12 may also be brought before the Water Management Board if the petition is signed by water rights holders representing not less than twenty-five percent of the total rate of diversion under permit, filed vested rights or adjudicated rights in the geographical area of the water use control area.

**Source:** SL 1983, ch 314, § 191.

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46-10A-14. Hearing on petition under § 46-10A-12 or 46-10A-13--Publication and notice. The chief engineer, upon learning of the filing of a valid petition under the provisions of § 46-10A-12 or 46-10A-13, shall set the petition for hearing before the Water Management Board at the nearest reasonable date and shall publish a copy of the notice of hearing at least once a week for two successive weeks in at least one legal newspaper in each county in which the land included in the existing water use control area is found. The chief engineer shall also send notice by first class mail to all water permit holders and holders of filed vested rights or adjudicated rights in the affected area. The contents of the notice shall be as specified in the provisions of § 1-26-17.

**Source:** SL 1983, ch 314, § 192.

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46-10A-15. Approval of petition under § 46-10A-12 or 46-10A-13--When required. The Water Management Board shall approve a petition brought under the provisions of § 46-10A-12 or 46-10A-13 upon finding that approval of the petition is in the public interest and will further the goal of efficient and equitable apportionment of water among affected water permit or right holders.

**Source:** SL 1983, ch 314, § 193.

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46-10A-16. Appeal from board actions relating to establishment or administration of area. Any person who is in a water use control area and is affected by board decisions may appeal from acts or decisions of the board with respect to establishment of a water use control area or administration of water diversion or use.

**Source:** SL 1961, ch 460, § 3; SDCL, § 46-10-27; SL 1983, ch 314, § 176.

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