

COMPONENT NINE ENFORCEMENT MECHANISMS

9.1 INTRODUCTION

Pesticides and Ground Water State Management Plan (SMP) enforcement actions occur at the State level. The authority for enforcement of pesticide and water statutes is described in detail in Component 3, "Agency Legal Authority." The SMP will be designed, implemented and enforced under these authorities. The South Dakota Department of Agriculture's (SDDA's) "Enforcement Action Penalty Policy" is provided in Appendix I.

9.2 ENFORCEMENT

Authority granted pursuant to South Dakota Codified Law §1-26, §38-20A, and §38-21, provides for SDDA to administer and carry out legislative intent related to agency materials inspection, rule making authority, and the regulation and use of pesticides.

Box 9.1
South Dakota Department of Agriculture - Pesticide Regulation

The SDDA is the State lead agency for the Pesticides and Ground Water State Management Plan. Through codified law, rule making authority, policy, Memorandums of Understanding, the State/Environmental Protection Agency Multi-Year Agreement, and the Cooperative Enforcement Agreement of 1985, SDDA has primacy over and regulates the use, sale, distribution, transportation, handling, storage, registration and disposal of pesticides in South Dakota.

Data gathered from monitoring activities (Component 6), will be carefully reviewed in a timely fashion by a Pesticides and Ground Water Advisory Group and SDDA. Significant investigative findings will prompt implementation of the actions outlined in Components 7 and 8, (including when the State will inform the general public and private well owners of a verified detection). The SMP will deal with ground water contamination originating from the

legal use of SMP pesticides. Other contaminant findings impacting state agency programs such as the Federal Insecticide, Fungicide, and Rodenticide Act, the Safe Drinking Water Act, the Clean Water Act, the Resource Conservation and Recovery Act, and the Comprehensive Emergency Response, Compensation and Recovery Act will be addressed by the appropriate state agency (see program descriptions and authorities in Components 2 and 3).

Ground water monitoring, pesticide monitoring and other monitoring (such as surface water, spills, etc.), and complaints will drive the actions listed and described in Components 7 and 8. Actions range from voluntary actions to mandatory actions (including possible pesticide cancellation). The SDDA will implement enforcement mechanisms when there is a SMP label violation.

The SDDA investigations resulting in an enforcement action(s) for a SMP label violation(s) will provide the respondent an opportunity to reply to the charges by telephone, by letter or in a meeting with the department. Such opportunities offer the respondent a chance to present new information, clarify and defend actions or information related to the enforcement action. All other actions taken by state or federal agencies will be under current enforcement authorities.