

Act No. 248
Public Acts of 1993
Approved by the Governor
November 19, 1993
Filed with the Secretary of State
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**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senators Gougeon, Cisky and McManus

ENROLLED SENATE BILL No. 675

AN ACT to amend the title and sections 3, 4, 5, 7, 8, 11, and 12 of Act No. 171 of the Public Acts of 1976, entitled as amended "An act to require registration of, and to regulate the distribution, labeling, and application of pesticides; to license pesticide dealers; to register and certify certain applicators; to prescribe the powers and duties of certain state agencies; to create an advisory committee; to create a fund and provide for expenditures from that fund; to provide certain defenses in certain civil actions; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts," sections 3, 4, and 7 as amended by Act No. 131 of the Public Acts of 1993 and sections 5, 8, and 12 as amended by Act No. 449 of the Public Acts of 1988, being sections 286.553, 286.554, 286.555, 286.557, 286.558, 286.561, and 286.562 of the Michigan Compiled Laws; and to add sections 18a and 18b.

The People of the State of Michigan enact:

Section 1. The title and sections 3, 4, 5, 7, 8, 11, and 12 of Act No. 171 of the Public Acts of 1976, sections 3, 4, and 7 as amended by Act No. 131 of the Public Acts of 1993 and sections 5, 8, and 12 as amended by Act No. 449 of the Public Acts of 1988, being sections 286.553, 286.554, 286.555, 286.557, 286.558, 286.561, and 286.562 of the Michigan Compiled Laws, are amended and sections 18a and 18b are added to read as follows:

TITLE

An act to require registration of, and to regulate the distribution, labeling, and application of pesticides; to license pesticide dealers; to register and certify certain applicators; to prescribe the powers and duties of certain state agencies; to create an advisory committee; to create a fund and provide for expenditures from that fund; to provide for the protection of groundwater from pesticide contamination; to provide certain defenses in certain civil actions; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts.

Sec. 3. (1) "Active ingredient" means an ingredient which will prevent, destroy, repel, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant or otherwise alter the behavior of plants or products.

(2) "Activity plan" means a plan for the mitigation of groundwater contamination at a specific location, including a time frame for implementation.

(3) "Adulterated" applies to a pesticide if its strength or purity is less than, or significantly greater than, the professed standard or quality as expressed on its labeling or under which it is sold; if a substance was substituted wholly or in part for a pesticide; or if a valuable constituent of the pesticide was wholly or in part abstracted.

(4) "Agricultural commodity" means a plant or part of a plant, or an animal or animal product produced primarily for sale, consumption, propagation, or other use by human beings or animals.

(5) "Animal" means all vertebrate and invertebrate species, including, but not limited to, human beings and other mammals, birds, fish, and shellfish.

(6) "Aquifer" means a geologic formation, a group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(7) "Aquifer sensitivity" means a hydrogeologic function representing the inherent abilities of materials surrounding the aquifer to attenuate the movement of pesticides into that aquifer.

(8) "Avcide" means a substance or mixture of substances for preventing, destroying, repelling, or mitigating pest birds.

(9) "Building manager" means the person who is designated as being responsible for the building's pest management program and to whom any reporting and notification shall be made pursuant to this act or rules promulgated under this act.

(10) "Certified applicator" means a person authorized under this act to use and supervise the use of a restricted use pesticide.

(11) "Commercial applicator" means a person who is not a private agricultural applicator, whether that person is a private agricultural applicator with respect to some uses or not, who is required to be a registered or certified applicator under this act, or who uses or supervises the use of a restricted use pesticide or who holds himself or herself out to the public as being in the business of applying pesticides.

(12) "Commercial building" means any building or portion of a building which is not a private residence where a business is located and which is frequented by the public.

(13) "Confirmed contaminant" means a contaminant that has been detected in at least 2 groundwater samples collected from the same groundwater sampling point at an interval of greater than 14 days.

(14) "Contaminant" means any pesticide originated chemical, radionuclide, ion, synthetic organic compound, microorganism or waste that does not occur naturally in groundwater or that naturally occurs at a lower concentration than detected.

(15) "Contamination" means the direct or indirect introduction into groundwater of any contaminant caused in whole or in part by human activity.

Sec. 4. (1) "Defoliant" means a substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(2) "Department" means the Michigan department of agriculture.

(3) "Desiccant" means a substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(4) "Device" means an instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating a pest; but does not include equipment used for the application of pesticides when sold separately.

(5) "Direct supervision" means that a certified applicator is supervising the application of a pesticide and is physically present at the time and place the pesticide is being applied. However, direct supervision by a private agricultural applicator who is supervising the application of a restricted use pesticide for an agricultural purpose means that a certified applicator shall either be in the same field or at the same location with that applicator as he or she applies the restricted use pesticide or that the private agricultural applicator supervises at all times the applicator and directly supervises representative aspects of each initial application process on an agricultural commodity or agricultural structure, including the calibration, mixing, application, operator safety, and disposal aspects of the process.

(6) "Director" means the director of the department of agriculture or his or her authorized representative.

(7) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and having so received deliver or offer to deliver, pesticides in this state.

(8) "Envelope monitoring" means monitoring of groundwater in areas adjacent to properties where groundwater is contaminated to determine the concentration and spatial distribution of the contaminant in the aquifer.

(9) "Environment" includes water, air, land, and all plants and human beings and other animals living therein, and the interrelationships which exist among them.

(10) "EPA" means the United States environmental protection agency.

(11) "FIFRA" means the federal insecticide, fungicide, and rodenticide act, chapter 125, 61 Stat. 163, 7 U.S.C. 136 to 136y.

(12) "Fungi" means all nonchlorophyll bearing thallophytes, that is, all nonchlorophyll bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those in or on other animals, and except those in or on processed foods, beverages, or pharmaceuticals.

(13) "General use pesticide" means a pesticide that is not classified as a restricted use pesticide.

(14) "Groundwater" means underground water within the zone of saturation.

(15) "Groundwater protection rule" means a rule promulgated under this act that defines a minimum operational standard for structures, activities, and procedures that may have or may contribute to the contamination of groundwater and that defines the scope of a groundwater protection rule, the region of implementation of a groundwater protection rule, and implementation period for those rules. As used in this subsection:

(a) "Structures, activities, and procedures" include, but are not limited to, mixing, loading, and rinse pads, application equipment, application timing, application rates, crop rotation, and pest control thresholds.

(b) "The scope of a groundwater protection rule" may define a particular pesticide, structure, activity, or procedure or may define pesticides containing specific ingredients.

(c) "The region of implementation of a groundwater protection rule" may include specific soil types or aquifer sensitivity regions or other geographic boundary.

(16) "Groundwater resource protection level" means a maximum contaminant level, health advisory level, or, if the United States environmental protection agency has not established a maximum contaminant level or a health advisory level, a level established by the director of public health using risk assessment protocol established by rule under this act.

(17) "Groundwater resource response level" means 20% of the groundwater resource protection level. In cases where 20% of the groundwater resource protection level is less than the method detection limit, the method detection limit shall serve as the groundwater resource protection level.

Sec. 5. (1) "Inert ingredient" means an ingredient which is not an active ingredient.

(2) "Ingredient statement" means:

(a) A statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide.

(b) When the pesticide contains arsenic in any form, the ingredient statement shall include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(3) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes or arthropods whose members are wingless and usually have more than 6 legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(4) "Insecticide" means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating an insect.

(5) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(6) "Labeling" means the label and all other written, printed, or graphic matter accompanying the pesticide or device, or to which reference is made on the label or in literature accompanying the pesticide or device, and all applicable modifications or supplements to official publications of the EPA, the United States departments of agriculture and interior, the United States department of health, education, and welfare, state experiment stations, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(7) "Maximum contaminant level" means that term as it is defined in title XIV of the public health service act, chapter 373, 88 Stat. 1660, and regulations promulgated under that act.

(8) "Method detection limit" means the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than 0 and is determined from analysis of a sample in a given matrix that contains the analyte.

(9) "Minor use" means the use of a pesticide on a crop, animal, or site where any of the following exist:

(a) The total United States acreage for the crop or site is less than 300,000 acres.

(b) The acreage expected to be treated nationally as a result of that use is less than 300,000 acres annually.

(c) The use does not provide sufficient economic incentive to support the initial registration or continuing registration of the use.

(10) "Misbranded" applies to any pesticide or device if it is an imitation of or is offered for sale under the name of another pesticide, or if its labeling does not comply with labeling requirements of this act, the rules promulgated under this act, the FIFRA, or regulations promulgated thereunder.

(11) "Molluscicide" means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating a mollusk.

Sec. 7. (1) "Registered applicator" means a person who is not a certified applicator and who is 1 or more of the following:

(a) Authorized to apply general and restricted use pesticides for a commercial purpose as provided in this act and in the rules promulgated under this act.

(b) Applies pesticides as a scheduled and required work assignment in the course of his or her employment on the property of another person for any purpose.

(c) Applies pesticides for a private agricultural purpose.

(2) "Ready-to-use pesticide" means a pesticide that is applied directly from its original container consistent with label directions, such as an aerosol insecticide or rodent bait box, which does not require mixing or loading prior to application.

(3) "Registrant" means a person who has registered a pesticide pursuant to this act.

(4) "Restricted use pesticide" means a pesticide formulation classified for restricted use by EPA or the director.

(5) "Restricted use pesticide dealer" means a person engaged in the distributing, selling, or offering for sale restricted use pesticides to the ultimate user.

(6) "Rodenticide" means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal.

(7) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(8) "State management plan" means a plan for the protection of groundwater as required by the United States environmental protection agency's labeling requirements for pesticides and devices, 40 C.F.R. part 156.

(9) "School" means public and private schools, grades kindergarten through the twelfth grade.

(10) "Supervise" means the act or process of a certified applicator in directing the application of a pesticide by a competent person under his or her instruction and control and for whose actions the certified applicator is responsible, even though the certified applicator is not physically present at the time and place the pesticide is applied.

(11) "Unreasonable adverse effects on the environment" means any unreasonable risk to human beings or the environment, taking into account the economic, social, and environmental costs and benefits of the use of a pesticide.

(12) "Use of a pesticide" means the loading, mixing, applying, storing, transporting, and disposing of a pesticide.

(13) "Vendor" means a person who sells or distributes pesticides.

(14) "Weed" means a plant which grows where it is not wanted.

Sec. 8. (1) Every pesticide that is distributed, sold, exposed, or offered for sale in this state shall be registered with the director pursuant to this act. Registration shall be on forms provided by the director and shall be renewed annually before July 1. The director shall not register a pesticide under this act unless the registrant has paid all groundwater protection fees required under the groundwater and freshwater protection act. Registration is not required if a pesticide is shipped from 1 plant or warehouse to another plant or warehouse operated by the same person and used solely at that plant or warehouse as a constituent part to make a pesticide that is registered under this act, or if the pesticide is distributed pursuant to an experimental permit.

(2) An applicant for registration of a pesticide shall submit a complete copy of the labeling accompanying the pesticide, and shall file on a form provided by the director information which shall include the following:

(a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant.

(b) The full product name of the pesticide.

(c) A full description of tests made and the results of tests made upon which claims are based for the pesticide if not registered by the EPA.

(d) Other necessary information required for completion of the registration form.

(3) To register a pesticide for special local needs pursuant to section 24(c) of FIFRA, or the regulations promulgated under that section, the director shall require the information set forth under subsection (2). A pesticide may be registered for special local needs if the director determines that all of the following conditions are met:

(a) Its composition is such as to warrant the proposed claims for it.

(b) Its labeling and other material required to be submitted comply with the labeling requirements of FIFRA or regulations promulgated under that act.

(c) It will perform its intended functions without unreasonable adverse effects on the environment.

(d) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment.

(e) The classification for general or restricted use is in conformity with section 3(d) of FIFRA.

(4) Pesticides containing active or inert ingredients that have been confirmed in groundwater at a level above their groundwater resource response level and pesticides for which a state management plan is required shall be registered as restricted use pesticides. The director, by rule, shall establish additional criteria for designating a pesticide a restricted use pesticide due to groundwater concerns.

(5) The director shall require the applicant to submit a complete formula of the pesticide proposed for registration, including the active and inert ingredients, when necessary to execute the director's duties under this act. The director may not use for his or her own advantage or reveal, other than to his or her authorized representative, the EPA, the department of natural resources, the department of public health, a court of the state in response to a subpoena, a licensed physician, or in an emergency to a pharmacist or other persons qualified to administer antidotes, any information relative to formulas of products, trade secrets, or other information obtained under authority of this act.

(6) A registration approved by the director and in effect on June 30 for which the July 1 renewal application is made and the annual registration fee paid shall continue in full force and effect until the director notifies the applicant that the registration is renewed or denied.

(7) Decisions on pesticide registration shall continue to be made cooperatively by the departments of agriculture, natural resources, and public health in accordance with a memorandum of agreement entered into by the departments.

(8) If a specific pesticide active ingredient for which a groundwater protection rule has been promulgated has been confirmed in groundwater at 3 or more sites at levels exceeding the groundwater resource protection level, the director may cancel the registration of pesticides containing that specific pesticide ingredient. In determining the need to cancel pesticide registrations due to groundwater concerns, the director shall consider the degree to which the registrant or registrants are willing to address groundwater concerns associated with their product or products, and the potential effectiveness of additional restrictions, prohibitions, or groundwater protection rule modifications.

(9) A registrant who intends to discontinue a pesticide registration shall do either of the following:

(a) Terminate further distribution within the state and continue to register the pesticide annually for 2 successive years.

(b) Initiate a recall of the pesticide from distribution in the state within 60 days from the date of notification to the director of intent to discontinue registration.

(10) Upon the director's request, a person that has registered a pesticide in this state shall submit to the director information necessary to determine the pesticide's mobility in the environment and potential to contaminate groundwater. This information may include any of the following:

(a) Water solubility.

(b) Vapor pressure.

(c) Octanol-water partition coefficient.

(d) Soil absorption coefficient.

(e) Henry's law constant.

(f) Dissipation studies including hydrolysis, photolysis, aerobic and anaerobic soil metabolism.

(g) Product formulation.

(h) Other information considered necessary by the director.

(11) Information requested under subsection (10) shall be consistent with product registration information required under FIFRA or criteria for designating a pesticide as a restricted use pesticide due to groundwater concerns as promulgated by rule under section 8(4). The director shall consider impacts on minor use pesticide registrations when requesting information.

(12) As used in this section:

(a) "Aerobic soil metabolism" means the rate at which a chemical degrades in soil in the presence of oxygen.

(b) "Anaerobic soil metabolism" means the rate at which a chemical degrades in soil in the absence of oxygen.

(c) "Henry's law constant" means the ratio of the partial pressure of a compound in air to the concentration of the compound in water at a given temperature.

(d) "Hydrolysis" means a chemical reaction in which a water combines with and splits the original chemical creating degradation products.

(e) "Octanol-water partition coefficient" means the ratio of a chemical's concentration in the water-saturated octanol phase to the chemical's concentration in the octanol-saturated water phase.

(f) "Photolysis" means a chemical reaction in which light or radiant energy serves to split the original compound creating degradation products.

(g) "Soil absorption coefficient" means the ratio of absorbed chemical per unit weight of soil or organic carbon to the aqueous solute concentration.

(h) "Vapor pressure" means the pressure exerted by the vapor of a substance when it is under equilibrium conditions.

(i) "Water solubility" means the maximum amount of a material that can be dissolved in water to give a stable solution.

Sec. 11. (1) A person who is a restricted use pesticide dealer shall obtain an annual license for each business location. The license shall expire on December 31. The annual license fee of \$50.00 shall accompany the application for license together with other pertinent information the director may require. The license fee shall be credited to the general fund of the state.

(2) Application shall be made by a person in charge of each business location who shall demonstrate to the director his or her knowledge of the laws and rules governing the use and sale of restricted use pesticides, and his or her responsibility in carrying on the business of a restricted use pesticide dealer. This demonstration shall be made with a written examination prescribed by the director.

(3) A restricted use pesticide dealer shall forward to the director, as required by rule, a record of all sales of restricted use pesticides on forms provided by the director. Duplicate copies of the records shall be kept on file by the restricted use pesticide dealer, subject to inspection by an authorized agent of the director, for 2 years after the date of sale. The information contained in the individual reports filed with the director by licensees pursuant to this section, shall, upon request, be supplied in summary form to other state agencies, except that the information regarding a pesticide for which a patent is in force may not be made available to the public if, in the discretion of the director, release of that information would tend to have a significant adverse effect on the competitive position of the dealer, distributor, or manufacturer. The summary shall include the name and address of the restricted use pesticide dealer, the name and address of the purchaser, the name of the pesticide sold and, in an emergency, the quantity sold.

(4) A restricted use pesticide shall be sold or distributed only by a licensed restricted use pesticide dealer for use by applicators certified under this act.

(5) A restricted use pesticide dealer's license is subject to denial, suspension, or revocation for a violation of this section or rules promulgated under this section, whether committed by the dealer or by the dealer's officer, agent, or employee.

(6) A restricted use pesticide dealer shall maintain and submit records of all sales and the intended county of application for all pesticides whose use is restricted due to groundwater concerns sold to private applicators.

(7) Information collected in subsection (6) is confidential business information and is not subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 12. (1) A private agricultural applicator or commercial applicator shall not use a restricted use pesticide without first complying with the certification and other requirements of this act and the rules promulgated under this act. Certification requirements for commercial applicators shall include completion of a written examination prescribed by the director. Certification requirements for private agricultural applicators shall provide optional methods of certification to include 1 of the following:

(a) Self-study and examination.

(b) Classroom training and examination.

(c) An oral fact-finding interview administered by an authorized representative of the director when a person is unable to demonstrate competence by examination or classroom training.

(2) At the time of sale, private applicators shall provide identification of the intended county of application of a restricted use pesticide.

(3) A certified commercial applicator shall maintain records of restricted use pesticide applications for 3 years from the date of application and make those records available upon request to an authorized representative of the director during normal business hours.

(4) A commercial applicator shall keep for 3 years from the date of application a record of the pesticide registration number, product name, the formulated amount applied, and application location for all restricted use pesticides used by the commercial applicator. A summary of this information indicating the pesticide registration number, product name, and total formulated amount of pesticide applied to each county during the previous calendar year shall be transmitted to the director before March 1. This summary shall be submitted on forms provided by or approved by the director. Information collected under this subsection is confidential business information and is not subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(5) A certified applicator shall supervise the application of a general use pesticide by a noncertified applicator under his or her instruction and control even if the certified applicator is not physically present. A certified applicator shall

directly supervise the application of a restricted use pesticide if prescribed by the label, this act, or rules promulgated under this act.

(6) A certified applicator and a commercial applicator are subject to the requirements, prohibitions, and penalties of this act for an application of pesticides by the certified applicator or the commercial applicator and for an application of pesticides by a person directly or indirectly supervised by the certified applicator or the commercial applicator.

(7) Each person shall follow recommended and accepted good practices in the use of pesticides including use of a pesticide in a manner consistent with its labeling.

(8) A federal agency, state agency, municipality, county road commission, or any other governmental agency that uses a pesticide classified for restricted use is subject to this act and the rules promulgated under this act.

Sec. 18a. (1) Upon confirming contamination of groundwater by a pesticide pursuant to the groundwater and freshwater protection act at a single location, the director shall do all of the following:

(a) Assist in the coordination of local activities designed to prevent further contamination of groundwater.

(b) Conduct envelope monitoring.

(c) Perform an evaluation of activities that may have contributed to the contamination.

(d) Make a determination as to the degree to which groundwater stewardship practices were being utilized.

(e) Make a determination as to the potential source or sources of the contamination.

(2) If confirmed concentrations of pesticides exceed the groundwater resource response level or a confirmed contaminant has migrated into groundwater off of the property, the director shall require a person whose action or negligence was potentially responsible for the contamination to develop an activity plan. A person required to develop an activity plan shall develop and submit the activity plan to the director within 90 days after receiving notice from the director. Upon receipt of an activity plan, the director shall approve or reject the plan within 90 days. If rejected, the director shall provide a description of reasons for rejection. Upon receipt of a rejection, the person shall within 90 days develop an acceptable activity plan.

(3) If the activities on a contamination site are determined by the director to be in accordance with all applicable components of the groundwater stewardship practices and groundwater protection rules, activities that are not responsible for or potentially responsible for the contamination incident may continue.

(4) If activities on a contamination site are determined by the director not to be in accordance with this act, the director may issue an order to cease or modify activities on the site involving pesticide use. A person aggrieved by an order issued under this section may request a hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

Sec. 18b. (1) The director shall promulgate a groundwater protection rule that defines the scope and region of implementation of the rule if any of the following occur:

(a) A pesticide has been confirmed in groundwater at levels exceeding its groundwater resource response level in at least 3 distinct locations as a result of similar activities as determined under section 18a(1) and the director determines that voluntary adoption of the groundwater stewardship practices pursuant to the groundwater and freshwater protection act has not been effective in preventing groundwater contaminant concentrations from exceeding the groundwater resource response level.

(b) The EPA proposes to suspend or cancel registration of the pesticide, prohibits or limits the pesticide's sale or use in the state, or otherwise initiates action against the pesticide because of groundwater concerns.

(2) The director may promulgate a groundwater protection rule for a specific pesticide if the pesticide contains an active ingredient with a method detection limit greater than its groundwater resource response level.

(3) In determining the need for and scope of a groundwater protection rule, the director shall consider the type of contaminant or contaminants and the extent to which any of the following apply:

(a) The source or sources of the contaminant or contaminants can be identified.

(b) An identified source or sources are associated with a specific activity, or activities.

(c) Local response to the contamination is adequate to protect groundwater.

(d) State label restrictions as allowed under sections 18 and 24 of FIFRA, chapter 125, 86 Stat. 995 and 997, 7 U.S.C. 136p and 136v, that could adequately address the problem.

(e) Restricted use classification could adequately address the problem.

(f) The use, value, and vulnerability of the resource and whether the groundwater is a currently or reasonably expected source of drinking water.

(g) The technical and economic feasibility of any mandated practices on persons in the region.

(h) The overall productivity and economic viability of the state's agriculture.

(4) In determining the region of implementation for a groundwater protection rule, the director shall consider both of the following:

(a) The reliability and geographical distribution of groundwater sample test data.

(b) The extent to which local aquifer sensitivity conditions can be considered characteristics of a larger region.

(5) The director may approve alternative operations to those defined in a groundwater protection rule if they can be shown to provide the equivalent level of groundwater protection.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 74 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.

