



SENATE BILL No. 74

January 13, 1993, Introduced by Senator MC MANUS and
referred to the Committee on Agriculture and Forestry.

A bill to provide for the protection of groundwater from contamination by pesticides and fertilizers; to regulate the use of certain pesticides and fertilizers to prevent adverse effects to human health and the environment and protect the integrity of the state's groundwater resource; to prescribe the powers and duties of certain state agencies and officials; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "groundwater and freshwater protection act".

3 Sec. 2. The words and phrases defined in sections 3 to 6
4 have the meanings ascribed to them in those sections.

5 Sec. 3. (1) "Activity plan" means a plan for the mitigation
6 of groundwater contamination at a specific location, including a
7 time frame for implementation.

1 (2) "Analyte" or "analytes" means the material or materials
2 an analysis is designed to detect either qualitatively or
3 quantitatively.

4 (3) "Aquifer" means a geologic formation, a group of forma-
5 tions, or part of a formation capable of yielding a significant
6 amount of groundwater to wells or springs.

7 (4) "Aquifer sensitivity" means a hydrogeologic function
8 representing the inherent abilities of materials surrounding the
9 aquifer to attenuate the movement of pesticides or nitrogen fer-
10 tilizers into that aquifer.

11 (5) "Commercial applicator" means that term as it is defined
12 in the pesticide control act.

13 (6) "Commercial lawn care operation" means a person required
14 to be certified or registered in the turf grass pest management
15 category pursuant to R 285.636.1 to R 285.636.17 of the Michigan
16 administrative code.

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

21 (8) "Contaminant" means any chemical, radionuclide, ion,
22 synthetic organic compound, microorganism, waste, or other sub-
23 stance that does not occur naturally in groundwater or that natu-
24 rally occurs at a lower concentration than detected.

25 (9) "Contamination" means the direct or indirect introduc-
26 tion into groundwater of any contaminant caused in whole or in
27 part by humans.

1 (10) "Demonstration project" means a project designed to
2 illustrate the implementation and impact of alternate pesticide
3 and fertilizer management practices.

4 (11) "Department" means the department of agriculture.

5 (12) "Director" means the director of the department or his
6 or her designee.

7 (13) "Distribute" means to offer for sale, hold for sale,
8 sell, barter, ship, deliver for shipment, or receive and upon
9 receipt, deliver or offer to deliver pesticides or fertilizers in
10 this state.

11 (14) "Distributor" means a person who distributes.

12 Sec. 4. (1) "Envelope monitoring" means monitoring of
13 groundwater in areas adjacent to properties where groundwater is
14 contaminated to determine the concentration and spatial distribu-
15 tion of the contaminant in the aquifer.

16 (2) "Fertilizer" means a fertilizer as defined in the fer-
17 tilizer act of 1975, Act No. 198 of the Public Acts of 1975,
18 being sections 286.751 to 286.767 of the Michigan Compiled Laws.

19 (3) "Fund" means the freshwater protection fund created in
20 section 11.

21 (4) "General screening" means monitoring of groundwater for
22 the purpose of early detection of groundwater contamination and
23 to protect human health.

24 (5) "Groundwater" means underground water within the zone of
25 saturation.

1 (6) "Groundwater impact potential" means the potential for
2 contamination of groundwater as a result of pesticide or nitrogen
3 fertilizer use.

4 (7) "Groundwater protection rule" means a rule promulgated
5 under this act that defines a minimum operational standard for
6 structures, activities, and procedures that may have or may con-
7 tribute to the contamination of groundwater and that defines the
8 scope of a groundwater protection rule, the region of implementa-
9 tion of a groundwater protection rule, and implementation period
10 for those rules. As used in this subsection:

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

15 (b) "The scope of a groundwater protection rule" may define
16 a particular pesticide or nitrogen fertilizer use, structure,
17 activity, and procedure or may define pesticides containing spe-
18 cific ingredients.

19 (c) "The region of implementation of a groundwater protec-
20 tion rule" may include specific soil types or aquifer sensitivity
21 regions or other geographic boundary.

22 (8) "Groundwater resource protection level" means a maximum
23 contaminant level as established by the United States environmen-
24 tal protection agency or, if the United States environmental pro-
25 tection agency has not established a maximum contaminant level, a
26 level established by the director using risk assessment protocol
27 defined by the United States environmental protection agency.

1 (9) "Groundwater resource response level" means a numerical
2 value expressing the concentration of a substance in groundwater
3 that is 30% of the substances groundwater resource protection
4 level.

5 (10) "Groundwater sampling point" means a specific public or
6 community water supply, a private water supply, a monitoring
7 well, or other reasonable source of groundwater used for collec-
8 tion of water samples.

9 (11) "Groundwater stewardship practices" means any of a set
10 of voluntary practices promulgated by the commission of agricul-
11 ture pursuant to section 7 and designed to protect groundwater
12 from contamination by pesticides and fertilizers.

13 (12) "Method detection limit" means the minimum concentra-
14 tion of a substance that can be measured and reported with 99%
15 confidence that the analyte concentration is greater than 0 and
16 is determined from analysis of a sample in a given matrix that
17 contains the analyte.

18 (13) "Monitoring" means soil and groundwater sampling and
19 analysis to determine the levels of pesticides or their breakdown
20 products; fertilizers or their residues; or other analytes as
21 determined by the director.

22 Sec. 5. (1) "Nitrogen fertilizer" means a commercially man-
23 ufactured fertilizer that contains nitrogen as a component.

24 (2) "Nitrogen fertilizer distributor" means a person who
25 sells, offers for sale, barter, or otherwise supplies nitrogen
26 fertilizer and is required to pay tonnage fees or specialty
27 fertilizer registration fees under the fertilizer act of 1975,

1 Act No. 198 of the Public Acts of 1975, being sections 286.751 to
2 286.767 of the Michigan Compiled Laws, or commercial lawn care
3 operations who apply nitrogen fertilizer.

4 (3) "On-site evaluation system" means a specific set of cri-
5 teria used to evaluate a property with regard to determination of
6 potential sources of contamination.

7 (4) "Person" means an individual, partnership, corporation,
8 association, governmental entity, or other legal entity.

9 (5) "Pesticide" means that term as it is defined in the pes-
10 ticide control act.

11 (6) "Pesticide control act" means the pesticide control act,
12 Act No. 171 of the Public Acts of 1976, being sections 286.551 to
13 286.581 of the Michigan Compiled Laws.

14 (7) "Pesticide registration number" means a number estab-
15 lished by the United States environmental protection agency for
16 the identification of a specific pesticide formulation and
17 registrant.

18 (8) "Potentially responsible" means actions that could con-
19 tribute to the type of contamination found.

20 (9) "Private applicator" means private agricultural applica-
21 tor as defined in the pesticide control act.

22 (10) "Product name" means a name that has sufficient detail
23 to discriminate between product registrations with the same pes-
24 ticide registration number.

25 Sec. 6. (1) "Registrant" means a person who is subject to
26 the registration requirements of the pesticide control act.

1 (2) "Registration category" means a delineation of classes
2 of use sites for which a pesticide is labeled for application.
3 Registration category may include, but is not limited to, a spe-
4 cialty use and an agricultural use.

5 (3) "Registration year" means from July 1 to June 30.

6 (4) "Response activity" means the containment, cleanup, or
7 removal of pesticides and fertilizers that pose a threat to
8 groundwater, the land application of those materials at agronomic
9 rates, or the initiation of other actions that may be necessary
10 to prevent, minimize, or mitigate the movement of pesticides and
11 fertilizers into groundwater.

12 (5) "Restricted use pesticide" means that term as it is
13 defined in the pesticide control act.

14 (6) "Restricted use pesticide dealer" means that term as it
15 is defined in the pesticide control act.

16 (7) "Rule" means a rule promulgated pursuant to the adminis-
17 trative procedures act of 1969, Act No. 306 of the Public Acts of
18 1969, being sections 24.201 to 24.328 of the Michigan Compiled
19 Laws.

20 (8) "Specialty pesticide" means a disinfectant, sanitizer,
21 germicide, biocide, or pesticide labeled solely for use directly
22 on humans or pets, in, on, or around areas associated with the
23 household or home life including garden and ornamental uses but
24 does not include turf as determined by the director.

25 (9) "Stewardship plan" means a plan developed and imple-
26 mented pursuant to this act that will ensure operations are in
27 accord with groundwater stewardship practices.

1 (10) "Technical assistance" means direct on-site assistance
2 provided to individuals designed to improve implementation of
3 groundwater stewardship practices or groundwater protection
4 rules.

5 Sec. 7. (1) The commission of agriculture shall promulgate
6 rules establishing voluntary groundwater stewardship practices
7 that are designed to prevent the contamination of groundwater by
8 pesticides and nitrogen fertilizers.

9 (2) The director, in conjunction with other agencies the
10 director considers appropriate and other interested persons,
11 shall develop and promote the implementation of groundwater stew-
12 ardship practices.

13 (3) The director, in conjunction with agencies the director
14 considers appropriate, shall develop a voluntary on-site evalu-
15 ation system for pesticide or nitrogen fertilizer use. The
16 on-site evaluation system shall be designed to do all of the
17 following:

18 (a) Provide persons with the ability to voluntarily deter-
19 mine the relative groundwater impact potential posed by their use
20 of pesticides and nitrogen fertilizers.

21 (b) Provide persons with the ability to determine the degree
22 to which operations are in accord with groundwater stewardship
23 practices and applicable groundwater protection rules.

24 (c) Prioritize operational changes at the site level
25 intended to protect groundwater.

26 (d) Guide persons to appropriate technical and educational
27 materials.

1 (4) The director, in conjunction with agencies considered
2 appropriate by the director and other interested persons, shall
3 review and evaluate the effectiveness of groundwater stewardship
4 practices promulgated under subsection (1).

5 Sec. 8. (1) The director shall establish a groundwater
6 advisory council composed of departmental, educational, and tech-
7 nical assistance personnel, agricultural producers, and other
8 persons as determined necessary by the director. The groundwater
9 advisory council shall do all of the following:

10 (a) Establish educational programs on groundwater protection
11 related topics.

12 (b) Coordinate technical assistance programs for persons
13 making changes consistent with the groundwater stewardship prac-
14 tices or groundwater protection rules.

15 (c) Provide interagency coordination of groundwater
16 programs.

17 (d) Review the groundwater stewardship program established
18 pursuant to section 10.

19 (2) The education personnel of the groundwater advisory
20 council created in subsection (1) shall develop and promote edu-
21 cational materials including, but not limited to, all of the
22 following:

23 (a) Direct educational assistance and consulting programs.

24 (b) Demonstration projects.

25 (c) Educational programs.

26 (d) Tours, workshops, and conferences.

1 (3) The technical assistance personnel of the groundwater
2 advisory council created in subsection (1) shall be responsible
3 for technical assistance programs including on-site evaluation of
4 practices that may impact groundwater and the development of
5 stewardship and activity plans.

6 Sec. 9. (1) The director may establish regional groundwater
7 stewardship teams composed of departmental, educational, and
8 technical assistance and other personnel as determined necessary
9 by the director for implementation of programs developed under
10 this act.

11 (2) The director may prioritize the duties of the groundwa-
12 ter stewardship teams established pursuant to subsection (1)
13 based on detections of pesticides in groundwater, nitrogen con-
14 centrations in groundwater, groundwater impact potential estima-
15 tion, or other factors as determined by the director.

16 Sec. 10. (1) The director, in conjunction with agencies
17 considered appropriated by the director, shall establish a
18 groundwater stewardship program designed to promote the protec-
19 tion of groundwater through technical assistance and grants. A
20 person who has completed an on-site evaluation with technical
21 assistance personnel is eligible to participate in the groundwa-
22 ter stewardship program. Participants in the groundwater stew-
23 ardsip program shall develop and implement a stewardship plan
24 approved by the director.

25 (2) The department shall provide grants to persons partici-
26 pating in the groundwater stewardship program in accordance with
27 procedures established by the department. Grants shall be

1 available for making changes consistent with groundwater
2 stewardship practices, groundwater protection rules, and the
3 removal of potential sources of contamination and other purposes
4 considered suitable by the director.

5 (3) Liability for groundwater contamination shall not be
6 imposed on a person in the groundwater stewardship program under
7 this act unless he or she was grossly negligent, or in violation
8 of state or federal law.

9 (4) Technical assistance programs and grants provided under
10 this section are limited to availability of funds collected pur-
11 suant to this act.

12 Sec. 11. (1) The freshwater protection fund is created
13 within the state treasury.

14 (2) The state treasurer may receive money or other assets
15 from any source for deposit into the fund, including, if provided
16 by law, revenue from the sale of Michigan freshwater protection
17 bonds or the Michigan freshwater protection checkoff on state
18 income and single business tax returns. The state treasurer
19 shall direct the investment of the fund. The state treasurer
20 shall credit to the fund interest and earnings from fund
21 investments.

22 (3) Money in the fund at the close of the fiscal year shall
23 remain in the fund and shall not lapse to the general fund.

24 (4) The department shall expend money from the fund, upon
25 appropriation, only for 1 or more of the following purposes:

26 (a) Direct assistance.

1 (b) Indirect assistance.

2 (c) Emergency response and removal of potential sources of
3 groundwater contamination. Expenditures pursuant to this subdi-
4 vision shall not exceed \$15,000.00 per location.

5 (d) Administrative costs. Expenditures pursuant to this
6 subdivision shall not exceed 20% of the annual appropriations
7 from the fund.

8 (5) The department shall establish a procedure for approving
9 proposed expenditures from the fund.

10 (6) As used in this section:

11 (a) "Direct assistance" includes, but is not limited to,
12 programs that will provide for any of the following:

13 (i) Provision of alternate noncommunity water supplies.

14 (ii) Closure of improperly constructed wells that may impact
15 groundwater.

16 (iii) The environmentally sound disposal or recycling of
17 specialty pesticide containers.

18 (iv) The environmentally sound disposal or recycling of non-
19 specialty pesticide containers.

20 (v) Specialty and nonspecialty pesticide pickup programs for
21 pesticides not currently registered for use.

22 (vi) Programs devoted to integrated pest and crop management
23 that strive to encourage the judicious use of pesticides and fer-
24 tilizers through targeted applications as part of a systems
25 approach to pest control and related crop management decisions.

1 (vii) Incentive and cost share programs for persons in the
2 groundwater stewardship program for implementation of groundwater
3 stewardship practices or groundwater protection rules.

4 (viii) Incentive and cost share programs for persons who
5 notify the director of potential sources on groundwater contami-
6 nation on their property.

7 (ix) Monitoring of private well water for pesticides and
8 fertilizers.

9 (x) Removal of soils and waters contaminated by pesticides
10 and fertilizers and the land application of those materials at
11 agronomic rates.

12 (xi) Groundwater stewardship program grants pursuant to sec-
13 tion 10.

14 (xii) Other programs established pursuant to this act.

15 (b) "Indirect assistance" includes, but is not limited to,
16 programs which will provide for any of the following:

17 (i) Public education and demonstration programs on specialty
18 pesticide container recycling and environmentally sound disposal
19 methods.

20 (ii) Educational programs for pesticide and fertilizer end
21 users.

22 (iii) Technical assistance programs for pesticide and fer-
23 tilizer end users.

24 (iv) The promotion and implementation of on-site evaluation
25 systems and groundwater stewardship practices.

26 (v) Research programs for determination of the impacts of
27 alternate pesticide and fertilizer management practices.

1 (vi) Research program for determination of aquifer
2 sensitivity and vulnerability to contamination by pesticides and
3 fertilizers.

4 (c) "Administrative costs" include, but are not limited to,
5 costs incurred during any of the following:

6 (i) Groundwater monitoring for pesticides and fertilizers.

7 (ii) Development and enforcement of groundwater protection
8 rules.

9 (iii) Coordination of programs under this act with the
10 United States environmental protection agency and other state
11 programs with groundwater and pesticide management
12 responsibilities.

13 (iv) Management and pesticide sales information.

14 Sec. 12. (1) Pesticides containing ingredients that have
15 been confirmed in groundwater at a level above their groundwater
16 resource response level and pesticides for which a specific state
17 management plan is required shall be registered as restricted use
18 pesticides. The director, by rule, shall establish criteria for
19 designating a pesticide a restricted use pesticide due to ground-
20 water concerns.

21 (2) Upon the director's request, a person that has regis-
22 tered a pesticide in this state shall submit to the director
23 information necessary to determine the pesticide's mobility in
24 the environment and potential to contaminate groundwater. This
25 information may include any of the following:

26 (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.

(3) All information requested under this section shall be submitted in a summary format approved by the director. The director, after review of the submitted information, may request individual studies including methods and protocols.

(4) If not previously defined by the United States environmental protection agency, the director shall by rule establish a water resources protection level for all pesticides confirmed in groundwater in this state.

Sec. 13. (1) The director shall establish and implement a program to track pesticides whose use is restricted due to groundwater concerns in their county of application.

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

(3) 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.

1 (4) A commercial applicator shall keep a record of the
2 pesticide registration number, product name, the formulated
3 amount applied, and application location for all restricted use
4 pesticides used by the commercial applicator. A summary of this
5 information indicating the pesticide registration number, product
6 name, and total formulated amount of pesticide applied to each
7 county during the previous calendar year shall be transmitted to
8 the director before March 1. This summary shall be submitted on
9 forms provided by or approved by the director.

10 (5) The director may require additional information for more
11 refined tracking in specific areas determined through groundwater
12 impact potential estimation to be highly vulnerable to groundwa-
13 ter contamination.

14 (6) Information collected in subsections (3), (4), and (5)
15 shall be considered confidential business information and not
16 subject to the freedom of information act, Act No. 442 of the
17 Public Acts of 1976, being sections 15.231 to 15.246 of the
18 Michigan Compiled Laws.

19 Sec. 14. (1) The director, in conjunction with agencies
20 considered appropriate by the director, shall develop and estab-
21 lish priorities, procedures, protocols, and confirmation mecha-
22 nisms for the implementation of a groundwater monitoring program
23 to do all of the following:

24 (a) Provide general screening of groundwater.

25 (b) Determine the relative risk of groundwater contamination
26 at different locations.

1 (c) Perform envelope monitoring.

2 (2) The director or the director's designee shall notify
3 well owners of the results of the monitoring conducted pursuant
4 to this section, in a timely manner, including, the method detec-
5 tion limits and associated water resource protection levels.

6 (3) The monitoring program conducted pursuant to this sec-
7 tion may provide for modifications of sampling density and anal-
8 ytes to reflect regional groundwater impact potential.

9 (4) The monitoring conducted pursuant to this section shall
10 be conducted utilizing generally accepted scientific practices.

11 (5) The department shall establish a method detention limit
12 goal for monitoring conducted pursuant to this section set at 10%
13 of a compound's groundwater resource protection level.

14 (6) The director may require a registrant to conduct ground-
15 water monitoring programs for ingredients contained in their
16 products as a condition of product registration.

17 (7) Agencies conducting monitoring for pesticides or fertil-
18 izers pursuant to this section shall notify the director on forms
19 provided by or a format approved by the director of the location,
20 procedure, and concentration of all pesticide detections and
21 nitrate concentrations in excess of 10 parts per million.

22 Information received by the director shall be evaluated based
23 upon accepted protocols and procedures established under this
24 act.

25 Sec. 15. (1) Upon confirming contamination of groundwater
26 by a pesticide or nitrogen fertilizer at a single location, the
27 director shall do all of the following:

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

3 (b) Conduct envelope monitoring.

4 (c) Perform an evaluation of activities in the envelope mon-
5 itoring region that may have contributed to the contamination.

6 (d) Make a determination as to the degree to which groundwa-
7 ter stewardship practices were being utilized in the envelope
8 monitoring region.

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

11 (2) If confirmed concentrations of pesticides or fertilizers
12 exceed the groundwater resource response level or a confirmed
13 contaminant has migrated into groundwater off of the property,
14 the director may require a person whose action or negligence was
15 potentially responsible for the contamination to develop an
16 activity plan. A person required to develop an activity plan
17 shall develop and submit the activity plan to the director within
18 90 days after receiving notice from the director. Upon receipt
19 of an activity plan, the director shall approve or reject the
20 plan within 90 days. If rejected, the director shall provide a
21 description of reasons for rejection. Upon receipt of a rejec-
22 tion, the person shall within 90 days develop an acceptable
23 activity plan.

24 (3) If the activities on a contamination site are determined
25 by the director to be in accordance with all applicable compo-
26 nents of the groundwater stewardship practices and groundwater

1 protection rules, activities not potentially responsible for the
2 contamination incident may continue.

3 (4) If activities on a contamination site are determined by
4 the director not to be in accordance with this act, the director
5 may issue an order to cease or modify activities on the site
6 involving pesticides or nitrogen fertilizer. A person aggrieved
7 by an order issued under this section may request a hearing pur-
8 suant to the administrative procedures act of 1969, Act No. 306
9 of the Public Acts of 1969, being sections 24.201 to 24.328 of
10 the Michigan Compiled Laws.

11 Sec. 16. (1) The director may promulgate a groundwater pro-
12 tection rule that defines the scope and region of implementation
13 of the rule when any of the following occur:

14 (a) The director determines that voluntary adoption of the
15 groundwater stewardship practices has not been effective in pre-
16 venting groundwater contaminant concentrations from exceeding the
17 groundwater resource response level.

18 (b) A pesticide has been confirmed in groundwater at levels
19 exceeding its groundwater resource response level in a least 3
20 distinct locations as a result of similar activities as deter-
21 mined under section 15(1)(e).

22 (c) Nitrogen has been confirmed in groundwater at levels
23 exceeding the maximum contaminant level in 20% of wells associ-
24 ated with an aquifer sensitivity region or a fertilizer use
25 activity as a result of similar activities as determined under
26 section 15(1)(e).

1 (d) The United States environmental protection agency
2 proposes to suspend or cancel registration of the pesticide,
3 prohibits or limits the pesticide's sale or use in the state, or
4 otherwise initiates action against the pesticide because of
5 groundwater concerns.

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

10 (3) In determining the need for and scope of a groundwater
11 protection rule, the director shall consider the type of contami-
12 nant or contaminants and the extent to which any of the following
13 apply:

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

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

18 (c) Local response to the contamination is adequate to pro-
19 tect groundwater.

20 (d) State label restrictions could adequately address the
21 problem.

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

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

1 (g) Technical and economic feasibility of any mandated
2 practices on persons in the region.

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

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

8 (a) The reliability and geographical distribution of ground-
9 water sample test data.

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

12 (5) The director may approve alternative operations to those
13 defined in a groundwater protection rule if they can be shown to
14 be protective of groundwater.

15 Sec. 17. If a specific pesticide ingredient for which a
16 groundwater protection rule has been adopted has been confirmed
17 in groundwater at 3 or more sites at levels exceeding the ground-
18 water resource protection level, the director may cancel the reg-
19 istration of pesticides containing that specific pesticide
20 ingredient. In determining the need to cancel pesticide regis-
21 trations due to groundwater concerns, the director shall consider
22 the degree to which the registrant or registrants are willing to
23 address groundwater concerns associated with their product or
24 products, and the potential effectiveness of additional restric-
25 tions, prohibitions, or groundwater protection rule
26 modifications.

1 Sec. 18. (1) The director may, upon reasonable notice,
2 require a person to furnish any information that the person may
3 have relating to the identification, nature, and quantity of pes-
4 ticides and fertilizers that are or have been used on a particu-
5 lar site and current or past production practices that may have
6 impacted groundwater quality. This information shall be treated
7 as confidential business information and not subject to the free-
8 dom of information act, Act No. 442 of the Public Acts of 1976,
9 being sections 15.231 to 15.246 of the Michigan Compiled Laws.

10 (2) The director may, upon written request, authorize per-
11 sons to land-apply materials contaminated with pesticides or fer-
12 tilizers at agronomic rates. This authorization shall prescribe
13 appropriate operational control activities to protect the appli-
14 cation location and shall identify both the location of remedia-
15 tion and the location or locations where such a land application
16 will take place.

17 Sec. 19. (1) A registrant shall pay an annual groundwater
18 protection fee for each product to be registered. The specialty
19 pesticide groundwater protection fee is \$100.00 per product.
20 Groundwater protection fees for all other pesticides are 0.75% of
21 the previous registration years' sales with a \$150.00 minimum
22 groundwater protection fee. The minimum groundwater protection
23 fee is due in the office of the director before July 1. Sales
24 based groundwater protection fees greater than the \$150.00 mini-
25 mum are due in the office of the director before October 1 of the
26 following registration years.

1 (2) An additional late fee of \$500.00 shall be paid by the
2 registrant for each pesticide if the pesticide registration is a
3 renewal registration and the groundwater protection fee is
4 received by the department after June 30.

5 (3) A registrant who intends to discontinue a pesticide reg-
6 istration shall do either of the following:

7 (a) Terminate further distribution within the state and con-
8 tinue to register the pesticide annually for 2 successive years.

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

12 (4) A person required to pay a specialty fertilizer or soil
13 conditioner registration fee under the fertilizer Act of 1975,
14 Act No. 198 of the Public Acts of 1975, being sections 286.751 to
15 286.767 of the Michigan Compiled Laws, shall pay an additional
16 \$100.00 groundwater protection fee for each brand and product
17 name of each grade registered.

18 (5) Nitrogen fertilizer distributors shall pay an additional
19 \$0.65 groundwater protection fee for each ton of fertilizer
20 sold.

21 (6) The department may credit a portion of the previous
22 years registration fees in proportion to their relative percen-
23 tage so as to limit the fund to 3.5 million 1992 dollars total
24 unencumbered funds.

25 (7) The department may accept gifts, grants, or requests
26 from any person, public or private source, federal, state, or
27 local units of government to further the intent of this act.

1 (8) The fees collected under this act, including any
2 interest or dividends earned, shall be transmitted to the state
3 treasurer, who shall credit the money received to the fund.

4 Sec. 20. The director shall promulgate rules to implement
5 this act, including, but not limited to, groundwater protection
6 rules and a pesticide registration assessment protocol.