



# SENATE BILL No. 1175

September 24, 1996, Introduced by Senators MC MANUS, GAST, STEIL, SCHWARZ, EMMONS, ROGERS, KOIVISTO and SCHUETTE and referred to the Committee on Agriculture and Forestry.

A bill to amend sections 8702, 8703, 8707, 8708, 8711, and 8713 of Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," section 8703 as amended by Act No. 61 of the Public Acts of 1995, being sections 324.8702, 324.8703, 324.8707, 324.8708, 324.8711, and 324.8713 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 8702, 8703, 8707, 8708, 8711, and 8713  
2 of Act No. 451 of the Public Acts of 1994, section 8703 as  
3 amended by Act No. 61 of the Public Acts of 1995, being sections  
4 324.8702, 324.8703, 324.8707, 324.8708, 324.8711, and 324.8713 of  
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 8702. (1) "Activity plan" means a plan for the  
7 mitigation of groundwater contamination at a specific location,  
8 including a time frame for implementation.

1 (2) "Agronomic rate" means either of the following:

2 (a) For pesticides, the application of pesticide contami-  
3 nated materials in such a manner as not to exceed legal labeled  
4 rates.

5 (b) For fertilizers, the application of fertilizer contami-  
6 nated materials at rates not to exceed those recommended by the  
7 Michigan state university ~~cooperative~~ extension, ~~service,~~  
8 taking all available sources of nutrients into account.

9 (3) "Analyte" or "analytes" means the material or materials  
10 that an analysis is designed to detect either qualitatively or  
11 quantitatively.

12 (4) "Confirmation mechanism" means a scientific process for  
13 the verification of detection of analytes in groundwater utiliz-  
14 ing at least 2 separate water samples collected at time intervals  
15 of greater than 14 days from the same groundwater sampling point  
16 and analyzed by peer reviewed and authenticated laboratory  
17 methodologies.

18 (5) "Contaminant" means any pesticide or fertilizer origi-  
19 nated chemical, radionuclide, ion, synthetic organic compound,  
20 microorganism, or waste that does not occur naturally in ground-  
21 water or that naturally occurs at a lower concentration than  
22 detected.

23 (6) "Contamination" means the direct or indirect introduc-  
24 tion into groundwater of any contaminant caused in whole or in  
25 part by human activity.

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

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

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

7 Sec. 8703. (1) "Envelope monitoring" means monitoring of  
8 groundwater in areas adjacent to properties where groundwater is  
9 contaminated to determine the concentration and spatial distribu-  
10 tion of the contaminant in the aquifer.

11 (2) "Fertilizer" means a fertilizer as defined in part 85.

12 (3) "Fund" means the freshwater protection fund created in  
13 section 8716.

14 (4) "General screening" means monitoring of groundwater for  
15 the purpose of determining the presence and concentration of  
16 analytes.

17 (5) "Groundwater" means underground water within the zone of  
18 saturation.

19 (6) "Groundwater advisory council" means the groundwater  
20 advisory council established in section 8708.

21 (7) "Groundwater impact potential" means the potential for  
22 contamination of groundwater as a result of pesticide or nitrogen  
23 fertilizer use.

24 (8) "Groundwater protection rule" means a groundwater pro-  
25 tection rule promulgated under part 83 or part 85, or both.

26 (9) "Groundwater resource protection level" means a maximum  
27 contaminant level, health advisory level, or, if the United

1 States environmental protection agency has not established a  
2 maximum contaminant level or a health advisory level, a level  
3 established by the director of ~~public~~ COMMUNITY health using a  
4 risk assessment protocol established by rule under this part.

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

10 (11) "Groundwater stewardship practices" means any of a set  
11 of voluntary practices ~~adopted~~ APPROVED by the commission of  
12 agriculture pursuant to section 8707 and designed to protect  
13 groundwater from contamination by pesticides and fertilizers.

14 (12) "Maximum contaminant level" means that term as it is  
15 defined in title XIV of the public health service act, chapter  
16 373, 88 Stat. 1660, and regulations promulgated under that act.

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

22 (14) "Monitoring" means sampling and analysis to determine  
23 the levels of pesticides or their breakdown products; fertilizers  
24 or their residues; or other analytes as determined by the  
25 director.

26 Sec. 8707. (1) The director, in conjunction with ~~the~~  
27 Michigan state university ~~cooperative extension service and the~~

1 ~~agricultural experiment station~~ AND in cooperation with the  
2 United State department of agriculture ~~soil and~~ NATURAL  
3 RESOURCES conservation service and ~~the agricultural stabiliza-~~  
4 ~~tion and conservation service~~ FARM SERVICES AGENCY, the depart-  
5 ment of ~~natural resources~~ ENVIRONMENTAL QUALITY, and other pro-  
6 fessional and industry organizations, shall develop groundwater  
7 stewardship practices for approval by the ~~commissioner~~  
8 COMMISSION of agriculture and upon approval shall promote their  
9 implementation.

10 (2) The director, in conjunction with Michigan state univer-  
11 sity, the department of ~~natural resources~~ ENVIRONMENTAL  
12 QUALITY, and other persons the director considers appropriate,  
13 shall develop a CONFIDENTIAL voluntary on-site evaluation system  
14 for pesticide or nitrogen fertilizer use. The on-site evaluation  
15 system shall be designed to do all of the following:

16 (a) Provide persons with the ability to voluntarily AND  
17 CONFIDENTIALLY determine the relative groundwater impact poten-  
18 tial posed by their use of pesticides and nitrogen fertilizers.

19 (b) Provide persons with the ability to CONFIDENTIALLY  
20 determine the degree to which operations are in accord with  
21 groundwater stewardship practices and applicable groundwater pro-  
22 tection rules.

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

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

1 (3) INFORMATION OBTAINED THROUGH A CONFIDENTIAL VOLUNTARY  
 2 ON-SITE EVALUATION DEVELOPED UNDER SUBSECTION (2) IS NOT SUBJECT  
 3 TO THE DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, ACT  
 4 NO. 442 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO  
 5 15.246 OF THE MICHIGAN COMPILED LAWS.

6 (4) ~~(3)~~ The director, in conjunction with the groundwater  
 7 advisory council, shall review and evaluate the effectiveness of  
 8 groundwater stewardship practices adopted under subsection (1).

9 Sec. 8708. (1) The director shall establish a groundwater  
 10 advisory council composed of all of the following:

11 (a) The director of the department of agriculture.

12 (b) The director of the department of ~~natural resources~~  
 13 ENVIRONMENTAL QUALITY.

14 (c) The director of ~~public~~ COMMUNITY health.

15 (d) The director of the Michigan state university  
 16 ~~cooperative~~ extension. ~~service.~~

17 (e) The director of the Michigan state university agricul-  
 18 tural experimentation station.

19 (f) Representatives of all of the following as appointed by  
 20 the director:

21 (i) The United States department of agriculture  
 22 ~~stabilization and conservation service~~ FARM SERVICES AGENCY.

23 (ii) The United States department of agriculture ~~soil~~  
 24 NATURAL RESOURCES conservation service.

25 (iii) The United States geological survey.

26 (iv) Soil and water conservation districts.

- 1 (v) Agricultural producers.
- 2 (vi) Nongovernmental environmental organizations.
- 3 (vii) Regulated agricultural industries.
- 4 (viii) Right-of-way applicators.
- 5 (ix) Other persons as determined by the director.
- 6 (2) The groundwater advisory council shall advise the direc-
- 7 tor on, but not limited to, the following:
- 8 (a) Groundwater stewardship practices.
- 9 (b) On-site evaluation system.
- 10 (c) Groundwater protection rules established under part 83.
- 11 (d) Water quality and environmental monitoring.
- 12 (e) Stewardship program activities.
- 13 (f) Interagency coordination of groundwater programs.
- 14 (g) Prioritizing the activities of the groundwater steward-
- 15 ship teams based on detections of pesticides in groundwater,
- 16 nitrogen concentrations in groundwater, groundwater impact poten-
- 17 tial estimation, or other factors as determined by the director.
- 18 Sec. 8711. (1) Pesticides containing ingredients that have
- 19 been confirmed in groundwater at a level above their groundwater
- 20 resource response level or pesticides for which a state manage-
- 21 ment plan is required shall be registered as restricted use pes-
- 22 ticides pursuant to part 83. The director, by rule promulgated
- 23 pursuant to part 83, shall establish criteria for designating a
- 24 pesticide a restricted use pesticide due to groundwater
- 25 concerns.
- 26 (2) The director of the department of ~~public~~ COMMUNITY
- 27 health shall establish groundwater resource protection levels and

1 promulgate groundwater resource protection levels for all  
2 pesticides that do not have a federally established maximum con-  
3 taminant level or a health advisory level and for which monitor-  
4 ing occurs.

5       Sec. 8713. (1) The director, in conjunction with the  
6 department of ~~natural resources~~ ENVIRONMENTAL QUALITY and the  
7 department of ~~public~~ COMMUNITY health, shall develop and estab-  
8 lish priorities, procedures, and protocols for the implementation  
9 of a groundwater monitoring program to do all of the following:

10       (a) Provide general screening of groundwater.

11       (b) Determine the relative risk of groundwater contamination  
12 at different locations.

13       (c) Perform envelope monitoring.

14       (2) The director shall, in a timely manner, notify affected  
15 well owners of their monitoring results from the monitoring con-  
16 ducted pursuant to this section, including the method detection  
17 limits and associated water resource protection levels.

18       (3) The monitoring program conducted pursuant to this sec-  
19 tion may provide for modifications of sampling density and anal-  
20 yses to reflect regional groundwater impact potential.

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

23       (5) The department shall establish a method detection limit  
24 goal for monitoring conducted pursuant to this section set at 10%  
25 of a compound's groundwater resource response level.

26       (6) Agencies conducting monitoring for pesticides or  
27 fertilizers pursuant to this section shall notify the director,



1 on forms provided by or in a format approved by the director, of  
2 the location, procedure, and concentration of all pesticide  
3 detections or nitrate concentrations in excess of 10 parts per  
4 million. Information received by the director shall be evaluated  
5 based upon accepted protocols and procedures established under  
6 this part.

7 (7) The director shall ~~establish by rule laboratory confir-~~  
8 ~~mation mechanisms used under this part~~ USE UNITED STATES ENVI-  
9 RONMENTAL PROTECTION AGENCY APPROVED LABORATORY PROCEDURES FOR  
10 MONITORING CONDUCTED UNDER THIS PART.

11 (8) The director shall establish ~~by rule risk assessment~~  
12 ~~protocols for the development of~~ groundwater resource protection  
13 levels USING THE RISK ASSESSMENT PROTOCOL DESCRIBED IN SECTION  
14 20105(1).