

1 AN ACT in relation to agrichemicals.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Environmental Protection Act is amended
5 by changing Section 14.6 as follows:

6 (415 ILCS 5/14.6) (from Ch. 111 1/2, par. 1014.6)

7 Sec. 14.6. Agrichemical facilities.

8 (a) Notwithstanding the provisions of Section 14.4,
9 groundwater protection for storage and related handling of
10 pesticides and fertilizers at a facility for the purpose of
11 commercial application or at a central location for the
12 purpose of distribution to retail sales outlets may be
13 provided by adherence to the provisions of this Section. For
14 any such activity to be subject to this Section, the
15 following action must be taken by an owner or operator:

16 (1) with respect to agrichemical facilities, as
17 defined by the Illinois Pesticide Act, the Illinois
18 Fertilizer Act and regulations adopted thereunder, file a
19 written notice of intent to be subject to the provisions
20 of this Section with the Department of Agriculture by
21 January 1, 1993, or within 6 months after the date on
22 which a maximum setback zone is established or a
23 regulated recharge area regulation is adopted that
24 affects such a facility;

25 (2) with respect to lawn care facilities that are
26 subject to the ~~wash-water~~ containment area provisions of
27 the Lawn Care Products Application and Notice Act and its
28 regulations, file a written notice of intent to be
29 subject to the provisions of this Section with the
30 Department of Agriculture by January 1, 1993, or within 6
31 months after the date on which a maximum setback zone is

1 established or a regulated recharge area regulation is
2 adopted that affects such a facility;

3 (3) with respect to a central distribution location
4 that is not an agrichemical facility, certify intent to
5 be subject to the provisions of this Section on the
6 appropriate license or renewal application form submitted
7 to the Department of Agriculture; or

8 (4) with respect to any other affected facility,
9 certify intent to be subject to the provisions of this
10 Section on the appropriate renewal application forms
11 submitted to the Department of Agriculture or other
12 appropriate agency.

13 An owner or operator of a facility that takes the action
14 described in this subsection shall be subject to the
15 provisions of this Section and shall not be regulated under
16 the provisions of Section 14.4, except as provided in
17 subsection (d) of this Section and unless a regulatory
18 program is not in effect by January 1, 1994, pursuant to
19 subsection (b) or (c) of this Section. The Department of
20 Agriculture or other appropriate agency shall provide copies
21 of the written notices and certifications to the Agency. For
22 the purposes of this subsection, the term "commercial
23 application" shall not include the use of pesticides or
24 fertilizers in a manner incidental to the primary business
25 activity.

26 (b) The Agency and Department of Agriculture shall
27 cooperatively develop a program for groundwater protection
28 for designated facilities or sites consistent with the
29 activities specified in subsection (a) of this Section. In
30 developing such a program, the Agency and the Department of
31 Agriculture shall consult with affected interests and take
32 into account relevant information. Based on such agreed
33 program, the Department of Agriculture shall adopt
34 appropriate regulatory requirements by January 1, 1994, for

1 the designated facilities or sites and administer a program.
2 At a minimum, the following considerations must be adequately
3 addressed as part of such program:

4 (1) a facility review process, using available
5 information when appropriate, to determine those sites
6 where groundwater monitoring will be implemented;

7 (2) requirements for groundwater quality monitoring
8 for sites identified under item (1);

9 (3) reporting, response, and operating practices
10 for the types of designated facilities; and

11 (4) requirements for closure or discontinuance of
12 operations.

13 (c) The Agency may enter into a written agreement with
14 any State agency to operate a cooperative program for
15 groundwater protection for designated facilities or sites
16 consistent with the activities specified in subparagraph (4)
17 of subsection (a) of this Section. Such State agency shall
18 adopt appropriate regulatory requirements for the designated
19 facilities or sites and necessary procedures and practices to
20 administer the program.

21 (d) The Agency shall ensure that any facility that is
22 subject to this Section is in compliance with applicable
23 provisions as specified in subsection (b) or (c) of this
24 Section. To fulfill this responsibility, the Agency may rely
25 on information provided by another State agency or other
26 information that is obtained on a direct basis. If a facility
27 is not in compliance with the applicable provisions, or a
28 deficiency in the execution of a program affects such a
29 facility, the Agency may so notify the facility of this
30 condition and shall provide 30 days for a written response to
31 be filed. The response may describe any actions taken by the
32 owner which relate to the condition of noncompliance. If the
33 response is deficient or untimely, the Agency shall serve
34 notice upon the owner that the facility is subject to the

1 applicable provisions of Section 14.4 of this Act and
2 regulations adopted thereunder.

3 (e) After January 1, 1993, and before January 1, 1994,
4 an owner or operator of a facility that is subject to the
5 provisions of this Section may withdraw the notice given
6 under subsection (a) of this Section by filing a written
7 withdrawal statement with the Department of Agriculture.
8 Within 45 days after such filing and after consultation with
9 the Agency, the Department of Agriculture shall provide
10 written confirmation to the owner or operator that the
11 facility is no longer subject to the provisions of this
12 Section and must comply with the applicable provisions of
13 Section 14.4 within 90 days after receipt of the
14 confirmation. The Department of Agriculture shall provide
15 copies of the written confirmations to the Agency.

16 (f) After January 1, 1994, and before one year after the
17 date on which a maximum setback zone is established or a
18 regulated recharge area regulation is adopted that affects a
19 facility subject to the provisions of this Section, an owner
20 or operator of such a facility may withdraw the notice given
21 under subsection (a) of this Section by filing a written
22 withdrawal statement with the Department of Agriculture.
23 Within 45 days after such filing and after consultation with
24 the Agency, the Department of Agriculture shall provide
25 written confirmation to the owner or operator that the
26 facility is no longer subject to the provisions of this
27 Section and must comply with the applicable provisions of
28 Section 14.4 within 90 days after receipt of the
29 confirmation. The Department of Agriculture shall provide
30 copies of the written confirmations to the Agency.

31 (g) On or after the effective date of this amendatory
32 Act of 1994, an owner or operator of an agrichemical facility
33 that is subject to the provisions of Section 14.4 and
34 regulations adopted thereunder solely because of the presence

1 of an on-site potable water supply well that is not a
2 non-community water supply may file a written notice with the
3 Department of Agriculture by January 1, 1995 declaring the
4 facility to be subject to the provisions of this Section.
5 When that action is taken, the regulatory requirements of
6 subsection (b) of this Section shall be applicable beginning
7 January 1, 1995. During the period from January 1, 1993
8 through December 31, 1994, any facility described in this
9 subsection shall not be subject to regulation under Section
10 14.4 of this Act. Beginning on January 1, 1995, such
11 facilities shall be subject to either Section 14.4 or this
12 Section depending on the action taken under this subsection.
13 An owner or operator of an agrichemical facility that is
14 subject to this Section because a written notice was filed
15 under this subsection shall do all of the following:

16 (1) File a facility review report with the
17 Department of Agriculture on or before February 28, 1995
18 consistent with the regulatory requirements of subsection
19 (b) of this Section.

20 (2) Implement an approved monitoring program within
21 120 days of receipt of the Department of Agriculture's
22 determination or a notice to proceed from the Department
23 of Agriculture. The monitoring program shall be
24 consistent with the requirements of subsection (b) of
25 this Section.

26 (3) Implement applicable operational and management
27 practice requirements and submit a permit application or
28 modification to meet applicable structural provisions
29 consistent with those in subsection (b) of this Section
30 on or before July 1, 1995 and complete construction of
31 applicable structural requirements on or before January
32 1, 1996.

33 Notwithstanding the provisions of this subsection, an owner
34 or operator of an agrichemical facility that is subject to

1 the provisions of Section 14.4 and regulations adopted
2 thereunder solely because of the presence of an on-site
3 private potable water supply well may file a written notice
4 with the Department of Agriculture before January 1, 1995
5 requesting a release from the provisions of Section 14.4 and
6 this Section. Upon receipt of a request for release, the
7 Department of Agriculture shall conduct a site visit to
8 confirm the private potable use of the on-site well. If
9 private potable use is confirmed, the Department shall
10 provide written notice to the owner or operator of the
11 agrichemical facility that the facility is released from
12 compliance with the provisions of Section 14.4 and this
13 Section. If private potable use is not confirmed, the
14 Department of Agriculture shall provide written notice to the
15 owner or operator that a release cannot be given. No action
16 in this subsection shall be precluded by the on-site
17 non-potable use of water from an on-site private potable
18 water supply well.

19 (Source: P.A. 87-1108; 88-496; 88-571, eff. 8-11-94.)

20 Section 10. The Illinois Pesticide Act is amended by
21 changing Sections 4, 19, and 19.3 as follows:

22 (415 ILCS 60/4) (from Ch. 5, par. 804)

23 Sec. 4. Definitions. As used in this Act:

24 1. "Director" means Director of the Illinois Department
25 of Agriculture or his authorized representative.

26 2. "Active Ingredient" means any ingredient which will
27 prevent, destroy, repel, control or mitigate a pest or which
28 will act as a plant regulator, defoliant or desiccant.

29 3. "Adulterated" shall apply to any pesticide if the
30 strength or purity is not within the standard of quality
31 expressed on the labeling under which it is sold, distributed
32 or used, including any substance which has been substituted

1 wholly or in part for the pesticide as specified on the
2 labeling under which it is sold, distributed or used, or if
3 any valuable constituent of the pesticide has been wholly or
4 in part abstracted.

5 4. "Agricultural Commodity" means produce of the land
6 including but not limited to plants and plant parts,
7 livestock and poultry and livestock or poultry products,
8 seeds, sod, shrubs and other products of agricultural origin
9 including the premises necessary to and used directly in
10 agricultural production. Agricultural commodity also includes
11 aquatic products as defined in the Aquaculture Development
12 Act.

13 5. "Animal" means all vertebrate and invertebrate
14 species including, but not limited to, man and other mammals,
15 bird, fish, and shellfish.

16 6. "Beneficial Insects" means those insects which during
17 their life cycle are effective pollinators of plants,
18 predators of pests or are otherwise beneficial.

19 7. "Certified applicator".

20 A. "Certified applicator" means any individual who
21 is certified under this Act to purchase, use, or
22 supervise the use of pesticides which are classified for
23 restricted use.

24 B. "Private applicator" means a certified
25 applicator who purchases, uses, or supervises the use of
26 any pesticide classified for restricted use, for the
27 purpose of producing any agricultural commodity on
28 property owned, rented, or otherwise controlled by him or
29 his employer, or applied to other property if done
30 without compensation other than trading of personal
31 services between no more than 2 producers of agricultural
32 commodities.

33 C. "Licensed Commercial Applicator" means a
34 certified applicator, whether or not he is a private

1 applicator with respect to some uses, who owns or manages
2 a business that is engaged in applying pesticides,
3 whether classified for general or restricted use, for
4 hire. The term also applies to a certified applicator
5 who uses or supervises the use of pesticides, whether
6 classified for general or restricted use, for any purpose
7 or on property of others excluding those specified by
8 subparagraphs 7 (B), (D), (E) of Section 4 of this Act.

9 D. "Commercial Not For Hire Applicator" means a
10 certified applicator who uses or supervises the use of
11 pesticides classified for general or restricted use for
12 any purpose on property of an employer when such activity
13 is a requirement of the terms of employment and such
14 application of pesticides under this certification is
15 limited to property under the control of the employer
16 only and includes, but is not limited to, the use or
17 supervision of the use of pesticides in a greenhouse
18 setting.

19 E. "Licensed Public Applicator" means a certified
20 applicator who uses or supervises the use of pesticides
21 classified for general or restricted use as an employee
22 of a state agency, municipality, or other duly
23 constituted governmental agency or unit.

24 8. "Defoliant" means any substance or combination of
25 substances which cause leaves or foliage to drop from a plant
26 with or without causing abscission.

27 9. "Desiccant" means any substance or combination of
28 substances intended for artificially accelerating the drying
29 of plant tissue.

30 10. "Device" means any instrument or contrivance, other
31 than a firearm or equipment for application of pesticides
32 when sold separately from pesticides, which is intended for
33 trapping, repelling, destroying, or mitigating any pest,
34 other than bacteria, virus, or other microorganisms on or

1 living in man or other living animals.

2 11. "Distribute" means offer or hold for sale, sell,
3 barter, ship, deliver for shipment, receive and then deliver,
4 or offer to deliver pesticides, within the State.

5 12. "Environment" includes water, air, land, and all
6 plants and animals including man, living therein and the
7 interrelationships which exist among these.

8 13. "Equipment" means any type of instruments and
9 contrivances using motorized, mechanical or pressure power
10 which is used to apply any pesticide, excluding pressurized
11 hand-size household apparatus containing dilute ready to
12 apply pesticide or used to apply household pesticides.

13 14. "FIFRA" means the "Federal Insecticide Fungicide
14 Rodenticide Act", as amended.

15 15. "Fungi" means any non-chlorophyll bearing
16 thallophytes, any non-chlorophyll bearing plant of a lower
17 order than mosses or liverworts, as for example rust, smut,
18 mildew, mold, yeast and bacteria, except those on or in
19 living animals including man and those on or in processed
20 foods, beverages or pharmaceuticals.

21 16. "Household Substance" means any pesticide
22 customarily produced and distributed for use by individuals
23 in or about the household.

24 17. "Imminent Hazard" means a situation which exists
25 when continued use of a pesticide would likely result in
26 unreasonable adverse effect on the environment or will
27 involve unreasonable hazard to the survival of a species
28 declared endangered by the U.S. Secretary of the Interior or
29 to species declared to be protected by the Illinois
30 Department of Natural Resources.

31 18. "Inert Ingredient" means an ingredient which is not
32 an active ingredient.

33 19. "Ingredient Statement" means a statement of the name
34 and percentage of each active ingredient together with the

1 total percentage of inert ingredients in a pesticide and for
2 pesticides containing arsenic in any form, the ingredient
3 statement shall include percentage of total and water soluble
4 arsenic, each calculated as elemental arsenic. In the case
5 of spray adjuvants the ingredient statement need contain only
6 the names of the functioning agents and the total percent of
7 those constituents ineffective as spray adjuvants.

8 20. "Insect" means any of the numerous small
9 invertebrate animals generally having the body more or less
10 obviously segmented for the most part belonging to the class
11 Insects, comprised of six-legged, usually winged forms, as
12 for example beetles, caterpillars, and flies. This
13 definition encompasses other allied classes of arthropods
14 whose members are wingless and usually have more than 6 legs
15 as for example spiders, mites, ticks, centipedes, and
16 millipedes.

17 21. "Label" means the written, printed or graphic matter
18 on or attached to the pesticide or device or any of its
19 containers or wrappings.

20 22. "Labeling" means the label and all other written,
21 printed or graphic matter: (a) on the pesticide or device or
22 any of its containers or wrappings, (b) accompanying the
23 pesticide or device or referring to it in any other media
24 used to disseminate information to the public, (c) to which
25 reference is made to the pesticide or device except when
26 references are made to current official publications of the
27 U. S. Environmental Protection Agency, Departments of
28 Agriculture, Health, Education and Welfare or other Federal
29 Government institutions, the state experiment station or
30 colleges of agriculture or other similar state institution
31 authorized to conduct research in the field of pesticides.

32 23. "Land" means all land and water area including
33 airspace, and all plants, animals, structures, buildings,
34 contrivances, and machinery appurtenant thereto or situated

1 thereon, fixed or mobile, including any used for
2 transportation.

3 24. "Licensed Operator" means a person employed to apply
4 pesticides to the lands of others under the direction of a
5 "licensed commercial applicator" or a "licensed public
6 applicator" or a "licensed commercial not-for-hire
7 applicator".

8 25. "Nematode" means invertebrate animals of the phylum
9 nemathelminthes and class nematoda, also referred to as nemas
10 or eelworms, which are unsegmented roundworms with elongated
11 fusiform or sac-like bodies covered with cuticle and
12 inhabiting soil, water, plants or plant parts.

13 26. "Permit" means a written statement issued by the
14 Director or his authorized agent, authorizing certain acts of
15 pesticide purchase or of pesticide use or application on a
16 interim basis prior to normal certification, registration, or
17 licensing.

18 27. "Person" means any individual, partnership,
19 association, fiduciary, corporation, or any organized group
20 of persons whether incorporated or not.

21 28. "Pest" means (a) any insect, rodent, nematode,
22 fungus, weed, or (b) any other form of terrestrial or aquatic
23 plant or animal life or virus, bacteria, or other
24 microorganism, excluding virus, bacteria, or other
25 microorganism on or in living animals including man, which
26 the Director declares to be a pest.

27 29. "Pesticide" means any substance or mixture of
28 substances intended for preventing, destroying, repelling, or
29 mitigating any pest or any substance or mixture of substances
30 intended for use as a plant regulator, defoliant or
31 desiccant.

32 30. "Pesticide Dealer" means any person who distributes
33 registered pesticides to the user.

34 31. "Plant Regulator" means any substance or mixture of

1 substances intended through physiological action to affect
2 the rate of growth or maturation or otherwise alter the
3 behavior of ornamental or crop plants or the produce thereof.
4 This does not include substances which are not intended as
5 plant nutrient trace elements, nutritional chemicals, plant
6 or seed inoculants or soil conditioners or amendments.

7 32. "Protect Health and Environment" means to guard
8 against any unreasonable adverse effects on the environment.

9 33. "Registrant" means person who has registered any
10 pesticide pursuant to the provision of FIFRA and this Act.

11 34. "Restricted Use Pesticide" means any pesticide with
12 one or more of its uses classified as restricted by order of
13 the Administrator of USEPA.

14 35. "SLN Registration" means registration of a pesticide
15 for use under conditions of special local need as defined by
16 FIFRA.

17 36. "State Restricted Pesticide Use" means any pesticide
18 use which the Director determines, subsequent to public
19 hearing, that an additional restriction for that use is
20 needed to prevent unreasonable adverse effects.

21 37. "Structural Pest" means any pests which attack and
22 destroy buildings and other structures or which attack
23 clothing, stored food, commodities stored at food
24 manufacturing and processing facilities or manufactured and
25 processed goods.

26 38. "Unreasonable Adverse Effects on the Environment"
27 means the unreasonable risk to the environment, including
28 man, from the use of any pesticide, when taking into account
29 accrued benefits of as well as the economic, social, and
30 environmental costs of its use.

31 39. "USEPA" means United States Environmental Protection
32 Agency.

33 40. "Use inconsistent with the label" means to use a
34 pesticide in a manner not consistent with the label

1 instruction, the definition adopted in FIFRA as interpreted
2 by USEPA shall apply in Illinois.

3 41. "Weed" means any plant growing in a place where it
4 is not wanted.

5 42. "Wildlife" means all living things, not human,
6 domestic, or pests.

7 43. "Bulk pesticide" means any registered pesticide
8 which is transported or held in an individual container in
9 undivided quantities of greater than 55 U.S. gallons liquid
10 measure or 100 pounds net dry weight.

11 44. "Bulk repackaging" means the transfer of a
12 registered pesticide from one bulk container (containing
13 undivided quantities of greater than 100 U.S. gallons liquid
14 measure or 100 pounds net dry weight) to another bulk
15 container (containing undivided quantities of greater than
16 100 U.S. gallons liquid measure or 100 pounds net dry weight)
17 in an unaltered state in preparation for sale or distribution
18 to another person.

19 45. "Business" means any individual, partnership,
20 corporation or association engaged in a business operation
21 for the purpose of selling or distributing pesticides or
22 providing the service of application of pesticides in this
23 State.

24 46. "Facility" means any building or structure and all
25 real property contiguous thereto, including all equipment
26 fixed thereon used for the operation of the business.

27 47. "Chemigation" means the application of a pesticide
28 through the systems or equipment employed for the primary
29 purpose of irrigation of land and crops.

30 48. "Use" means any activity covered by the pesticide
31 label including but not limited to application of pesticide,
32 mixing and loading, storage of pesticides or pesticide
33 containers, disposal of pesticides and pesticide containers
34 and reentry into treated sites or areas.

1 (Source: P.A. 89-445, eff. 2-7-96.)

2 (415 ILCS 60/19) (from Ch. 5, par. 819)

3 Sec. 19. Interagency Committee on Pesticides. The
4 Director is authorized to create an interagency committee on
5 pesticides. Its purpose is to study and advise on the use of
6 pesticides on State property. Also, its purpose is to advise
7 any State agency in connection with quarantine programs or
8 the protection of the public health and welfare, and to
9 recommend needed legislation concerning pesticides.

10 1. An interagency committee on pesticides shall consist
11 of: (1) the Director of the Department of Agriculture, (2)
12 the Director of Natural Resources, (3) the Director of the
13 Environmental Protection Agency, (4) the Director of the
14 Department of Public Health, (5) the Secretary of the
15 Department of Transportation, (6) the Chief of the State
16 Natural History Survey and (7) the Dean of the College of
17 Agriculture, University of Illinois. Each member of the
18 committee may designate some person in his department to
19 serve on the committee in his stead. Other State agencies
20 may, at the discretion of the Director, be asked to serve on
21 the interagency committee on pesticides. The Director of the
22 Department of Agriculture shall be chairman of this
23 committee.

24 2. The interagency committee shall: (1) Review the
25 current status of the sales and use of pesticides within the
26 State of Illinois. (2) Review pesticide programs to be
27 sponsored or directed by a governmental agency. (3) Consider
28 the problems arising from pesticide use with particular
29 emphasis on the possible adverse effects on human health,
30 livestock, crops, fish, and wildlife, business, industry,
31 agriculture, or the general public. (4) Recommend legislation
32 to the Governor, if appropriate, which will prohibit the
33 irresponsible use of pesticides. (5) Review rules and

1 regulations pertaining to the regulation or prohibition of
2 the sale, use or application of pesticides and labeling of
3 pesticides for approval prior to promulgation and adoption.

4 (6) Contact various experts and lay groups, such as the
5 Illinois Pesticide Control Committee, to obtain their views
6 and cooperation. (7) Advise on and approve of all programs
7 involving the use of pesticides on State owned property,
8 state controlled property, or administered by State agencies.
9 This shall not be construed to include research programs, or
10 the generally accepted and approved practices essential to
11 good farm and institutional management on the premises of the
12 various State facilities.

13 3. Members of this committee shall receive no
14 compensation for their services as members of this committee
15 other than that provided by law for their respective
16 positions with the State of Illinois. All necessary expenses
17 for travel of the committee members shall be paid out of
18 regular appropriations of their respective agencies.

19 4. The committee shall meet at least once each quarter
20 of the calendar year, and may hold additional meetings upon
21 the call of the chairman. Four members shall constitute a
22 quorum.

23 5. The committee shall make a detailed report of its
24 findings and recommendations to the Governor of Illinois
25 prior to each General Assembly Session.

26 6. The Interagency Committee on Pesticides shall, at a
27 minimum, annually, during the spring, conduct a statewide
28 public education campaign and agriculture chemical safety
29 campaign to inform the public about pesticide products, uses
30 and safe disposal techniques. A toll-free hot line number
31 shall be made available for the public to report misuse
32 cases.

33 The Committee shall include in its educational program
34 information and advice about the effects of various

1 pesticides and application techniques upon the groundwater
2 and drinking water of the State.

3 7. The Interagency Committee on Pesticides shall conduct
4 a special study of the effects of chemigation and other
5 agricultural applications of pesticides upon the groundwater
6 of this State. The results of such study shall be reported
7 to the General Assembly by March 1, 1989. The members of the
8 Committee may utilize the technical and clerical resources of
9 their respective departments and agencies as necessary or
10 useful in the conduct of the study.

11 8. In consultation with the Interagency Committee, the
12 Department shall develop, and the Interagency Committee shall
13 approve, procedures, methods, and guidelines for addressing
14 agrichemical pesticide contamination at agrichemical
15 facilities in Illinois. In developing those procedures,
16 methods, and guidelines, the following shall be considered
17 and addressed: (1) an evaluation and assessment of site
18 conditions and operational practices at agrichemical
19 facilities where agricultural pesticides are handled; (2)
20 what constitutes pesticide contamination; (3) cost effective
21 procedures for site assessments and technologies for remedial
22 action; and (4) achievement of adequate protection of public
23 health and the environment from such actual or potential
24 hazards. In consultation with the Interagency Committee, the
25 Department shall develop, and the Interagency Committee shall
26 approve, guidelines and recommendations regarding long term
27 financial resources which may be necessary to remediate
28 pesticide contamination at agrichemical facilities in
29 Illinois. The Department, in consultation with the
30 Interagency Committee, shall present a report on those
31 guidelines and recommendations to the Governor and the
32 General Assembly on or before January 1, 1993. The
33 Department and the Interagency Committee shall consult with
34 the Illinois Pesticide Control Committee and other

1 appropriate parties during this development process.

2 9. As part of the consideration of cost effective
3 technologies pursuant to subsection 8 of this Section, the
4 Department may, upon request, provide a written authorization
5 to the owner or operator of an agrichemical facility for land
6 application of agrichemical contaminated soils at agronomic
7 rates. As used in this Section, "agrichemical" means
8 pesticides or commercial fertilizers, at an agrichemical
9 facility, in transit from an agrichemical facility to the
10 field of application, or at the field of application. The
11 written authorization may also provide for use of groundwater
12 contaminated by the on-site release of an agrichemical,
13 provided that the groundwater is not also contaminated due to
14 the release of a petroleum product or hazardous substance
15 other than an agrichemical. The uses of agrichemical
16 contaminated groundwater authorized by the Department shall
17 be limited to supervised application or irrigation onto
18 farmland and blending as make-up water in the preparation of
19 agrichemical spray solutions that are to be applied to
20 farmland. In either case, the use of the agrichemical
21 contaminated water shall not cause (i) the total annual
22 application amounts of a pesticide to exceed the respective
23 pesticide label application rate on any authorized sites or
24 (ii) the total annual application amounts of a fertilizer to
25 exceed the generally accepted annual application rate on any
26 authorized sites. All authorizations shall prescribe
27 appropriate operational control practices to protect the site
28 of application and shall identify each site or sites where
29 land application or irrigation take place. Where
30 agrichemical contaminated groundwater is used on farmland,
31 the prescribed practices shall be designed to prevent
32 off-site runoff or conveyance through underground tile
33 systems. The Department shall periodically advise the
34 Interagency Committee regarding the issuance of such

1 authorizations and the status of compliance at the
2 application sites.

3 (Source: P.A. 88-257; 88-512; 88-513; 89-94, eff. 7-6-95;
4 89-445, eff. 2-7-96.)

5 (415 ILCS 60/19.3)

6 Sec. 19.3. Agrichemical Facility Response Action
7 Program.

8 (a) It is the policy of the State of Illinois that an
9 Agrichemical Facility Response Action Program be implemented
10 to reduce potential agrichemical pesticide pollution and
11 minimize environmental degradation risk potential at these
12 sites. In this Section, "agr~~ichemical~~ facility" means a site
13 where agrichemicals ~~agricultural--pesticides~~ are stored or
14 handled, or both, in preparation for end use. "Agrichemical
15 facility" does not include basic manufacturing or central
16 distribution sites utilized only for wholesale purposes. As
17 used in this Section, "agrichemical" means pesticides or
18 commercial fertilizers at an agrichemical facility.

19 The program shall provide guidance for assessing the
20 threat of soil agrichemical pesticide contaminants to
21 groundwater and recommending which sites need to establish a
22 voluntary corrective action program.

23 The program shall establish appropriate site-specific
24 soil cleanup objectives, which shall be based on the
25 potential for the agrichemical pesticide contaminants to move
26 from the soil to groundwater and the potential of the
27 specific soil agrichemical pesticide contaminants to cause an
28 exceedence of a Class I or Class III groundwater quality
29 standard or a health advisory level. The Department shall
30 use the information found and procedures developed in the
31 Agrichemical Facility Site Contamination Study or other
32 appropriate physical evidence to establish the soil
33 agrichemical pesticide contaminant levels of concern to

1 groundwater in the various hydrological settings to establish
2 site-specific cleanup objectives.

3 No remediation of a site may be recommended unless (i)
4 the agricultural pesticide contamination level in the soil
5 exceeds the site-specific cleanup objectives or (ii) the
6 agricultural pesticide contaminant level in the soil exceeds
7 levels where physical evidence and risk evaluation indicates
8 probability of the site causing an exceedence of a
9 groundwater quality standard.

10 When a remediation plan must be carried out over a number
11 of years due to limited financial resources of the owner or
12 operator of the agricultural facility, those soil
13 agricultural pesticide contaminated areas that have the
14 greatest potential to adversely impact vulnerable Class I
15 groundwater aquifers and adjacent potable water wells shall
16 receive the highest priority rating and be remediated first.

17 (b) The Agricultural Facility Response Action Program
18 Board ("the Board") is created. The Board members shall
19 consist of the following:

- 20 (1) The Director or the Director's designee.
- 21 (2) One member who represents pesticide
22 manufacturers.
- 23 (3) Two members who represent retail agricultural
24 dealers.
- 25 (4) One member who represents agricultural
26 distributors.
- 27 (5) One member who represents active farmers.
- 28 (6) One member at large.

29 The public members of the Board shall be appointed by the
30 Governor for terms of 2 years. Those persons on the Board who
31 represent pesticide manufacturers, agricultural dealers,
32 agricultural distributors, and farmers shall be selected from
33 recommendations made by the associations whose membership
34 reflects those specific areas of interest. The members of the

1 Board shall be appointed within 90 days after the effective
2 date of this amendatory Act of 1995. Vacancies on the Board
3 shall be filled within 30 days. The Board may fill any
4 membership position vacant for a period exceeding 30 days.

5 The members of the Board shall be paid no compensation,
6 but shall be reimbursed for their expenses incurred in
7 performing their duties. If a civil proceeding is commenced
8 against a Board member arising out of an act or omission
9 occurring within the scope of the Board member's performance
10 of his or her duties under this Section, the State, as
11 provided by rule, shall indemnify the Board member for any
12 damages awarded and court costs and attorney's fees assessed
13 as part of a final and unreversed judgement, or shall pay the
14 judgment, unless the court or jury finds that the conduct or
15 inaction that gave rise to the claim or cause of action was
16 intentional, wilful or wanton misconduct and was not intended
17 to serve or benefit interests of the State.

18 The chairperson of the Board shall be selected by the
19 Board from among the public members.

20 (c) The Board has the authority to do the following:

21 (1) Cooperate with the Department and review and
22 approve an agrichemical facility remediation program as
23 outlined in the handbook or manual as set forth in
24 subdivision (d)(8) of this Section.

25 (2) Review and give final approval to each
26 agrichemical facility corrective action plan.

27 (3) Approve any changes to an agrichemical
28 facility's corrective action plan that may be necessary.

29 (4) Upon completion of the corrective action plan,
30 recommend to the Department that the site-specific
31 cleanup objectives have been met and that a notice of
32 closure be issued by the Department stating that no
33 further remedial action is required to remedy the past
34 agrichemical pesticide contamination.

1 (5) When a soil agriche mic al pesti eide contaminant
2 assessment confirms that remedial action is not required
3 in accordance with the Agrichemical Facility Response
4 Action Program, recommend that a notice of closure be
5 issued by the Department stating that no further remedial
6 action is required to remedy the past agriche mic al
7 pesti eide contamination.

8 (6) Periodically review the Department's
9 administration of the Agrichemical Incident Response
10 Trust Fund and actions taken with respect to the Fund.
11 The Board shall also provide advice to the Interagency
12 Committee on Pesticides regarding the proper handling of
13 agrichemical incidents at agrichemical facilities in
14 Illinois.

15 (d) The Director has the authority to do the following:

16 (1) When requested by the owner or operator of an
17 agrichemical facility, may investigate the agrichemical
18 facility site contamination.

19 (2) After completion of the investigation under
20 subdivision (d)(1) of this Section, recommend to the
21 owner or operator of an agrichemical facility that a
22 voluntary assessment be made of the soil agriche mic al
23 pesti eide contaminant when there is evidence that the
24 evaluation of risk indicates that groundwater could be
25 adversely impacted.

26 (3) Review and make recommendations on any
27 corrective action plan submitted by the owner or operator
28 of an agrichemical facility to the Board for final
29 approval.

30 (4) On approval by the Board, issue an order to the
31 owner or operator of an agrichemical facility that has
32 filed a voluntary corrective action plan that the owner
33 or operator may proceed with that plan.

34 (5) Provide remedial project oversight, monitor

1 remedial work progress, and report to the Board on the
2 status of remediation projects.

3 (6) Provide staff to support the activities of the
4 Board.

5 (7) Take appropriate action on the Board's
6 recommendations regarding policy needed to carry out the
7 Board's responsibilities under this Section.

8 (8) In cooperation with the Board, incorporate the
9 following into a handbook or manual: the procedures for
10 site assessment; pesticide constituents of concern and
11 associated parameters; guidance on remediation
12 techniques, land application, and corrective action
13 plans; and other information or instructions that the
14 Department may find necessary.

15 (9) Coordinate preventive response actions at
16 agrichemical facilities pursuant to the Groundwater
17 Quality Standards adopted pursuant to Section 8 of the
18 Illinois Groundwater Protection Act to mitigate resource
19 groundwater impairment.

20 Upon completion of the corrective action plan and upon
21 recommendation of the Board, the Department shall issue a
22 notice of closure stating that site-specific cleanup
23 objectives have been met and no further remedial action is
24 required to remedy the past agrichemical pesticide
25 contamination.

26 When a soil agrichemical pesticide contaminant assessment
27 confirms that remedial action is not required in accordance
28 with the Agrichemical Facility Response Action Program and
29 upon the recommendation of the Board, a notice of closure
30 shall be issued by the Department stating that no further
31 remedial action is required to remedy the past agrichemical
32 pesticide contamination.

33 (e) Upon receipt of notification of a agrichemical
34 pesticide contaminant in groundwater pursuant to the

1 Groundwater Quality Standards, the Department shall evaluate
2 the severity of the agricultural pesticide contamination and
3 shall submit to the Environmental Protection Agency an
4 informational notice characterizing it as follows:

5 (1) A agricultural pesticide contaminant in Class I
6 or Class III groundwater has exceeded the levels of a
7 standard adopted pursuant to the Illinois Groundwater
8 Protection Act or a health advisory established by the
9 Illinois Environmental Protection Agency or the United
10 States Environmental Protection Agency; or

11 (2) A agricultural pesticide has been detected at a
12 level that requires preventive notification pursuant to a
13 standard adopted pursuant to the Illinois Groundwater
14 Protection Act.

15 (f) When agricultural pesticide contamination is
16 characterized as in subdivision (e)(1) of this Section, a
17 facility may elect to participate in the Agricultural
18 Facility Response Action Program. In these instances, the
19 scope of the corrective action plans developed, approved, and
20 completed under this program shall be limited to the soil
21 agricultural pesticide contamination present at the site
22 unless implementation of the plan is coordinated with the
23 Illinois Environmental Protection Agency as follows:

24 (1) Upon receipt of notice of intent to include
25 groundwater in an action by a facility, the Department
26 shall also notify the Illinois Environmental Protection
27 Agency.

28 (2) Upon receipt of the corrective action plan, the
29 Department shall coordinate a joint review of the plan
30 with the Illinois Environmental Protection Agency.

31 (3) The Illinois Environmental Protection Agency
32 may provide a written endorsement of the corrective
33 action plan.

34 (4) The Illinois Environmental Protection Agency

1 may approve a groundwater management zone for a period of
2 5 years after the implementation of the corrective action
3 plan to allow for groundwater impairment mitigation
4 results.

5 (5) The Department, in cooperation with the
6 Illinois Environmental Protection Agency, shall recommend
7 a proposed corrective action plan to the Board for final
8 approval to proceed with remediation. The recommendation
9 shall be based on the joint review conducted under
10 subdivision (f)(2) of this Section and the status of any
11 endorsement issued under subdivision (f)(3) of this
12 Section.

13 (6) The Department, in cooperation with the
14 Illinois Environmental Protection Agency, shall provide
15 remedial project oversight, monitor remedial work
16 progress, and report to the Board on the status of the
17 remediation project.

18 (7) The Department shall, upon completion of the
19 corrective action plan and recommendation of the Board,
20 issue a notice of closure stating that no further
21 remedial action is required to remedy the past
22 agricultural pesticide contamination.

23 (g) When an owner or operator of an agricultural
24 facility initiates a soil contamination assessment on the
25 owner's or operator's own volition and independent of any
26 requirement under this Section 19.3, information contained in
27 that assessment may be held as confidential information by
28 the owner or operator of the facility.

29 (Source: P.A. 89-94, eff. 7-6-95; 90-403, eff. 8-15-97.)

30 Section 15. The Lawn Care Products Application and
31 Notice Act is amended by changing Section 5 as follows:

32 (415 ILCS 65/5) (from Ch. 5, par. 855)

1 Sec. 5. Containment of spills, wash water, and rinsate
2 collection.

3 (a) No loading of lawn care products for distribution to
4 a customer or washing or rinsing of pesticide residues from
5 vehicles, application equipment, mixing equipment, floors or
6 other items used for the storage, handling, preparation for
7 use, transport, or application of pesticides to lawns shall
8 be performed at a facility except in designated containment
9 wash areas in accordance with the requirements of this
10 Section. A lawn care containment permit, issued by the
11 Department, shall be obtained prior to the operation of the
12 wash-water containment area. The Department shall issue a
13 lawn care containment permit when the containment area or
14 facility complies with the provisions of this Section and the
15 rules and regulations adopted under Sections 5 and 6.

16 (b) No later than January 1, 1993, wash---water
17 containment areas shall be in use in any facility as defined
18 in this Act and no wash water or rinsates may be released
19 into the environment except in accordance with applicable
20 law. Wash--water Containment areas shall include the
21 following requirements:

22 (1) The containment wash area shall be constructed
23 of concrete, asphalt or other impervious materials which
24 include, but are not limited to, polyethylene containment
25 pans and synthetic membrane liners. All containment area
26 materials shall be compatible with the lawncare products
27 to be contained.

28 (2) The containment wash area shall be designed to
29 capture spills, washwaters, and rinsates generated in the
30 loading of application devices, the lawncare
31 product-related servicing of vehicles, and the triple
32 rinsing of pesticide containers and to prevent the
33 release of such spills, washwaters, or rinsates to the
34 environment other than as described in paragraph (3) of

1 this subsection (b).

2 (3) Spills, washwaters, and rinsates captured in
3 the containment wash area may be used in accordance with
4 the label rates of the lawncare products, either reused
5 as makeup water for dilution of pesticides in preparation
6 of application, or disposed in accordance with applicable
7 local, State and federal regulations.

8 (c) The requirements of this Section shall not apply to
9 situations constituting an emergency where washing or rinsing
10 of pesticide residues from equipment or other items is
11 necessary to prevent imminent harm to human health or the
12 environment.

13 (d) The requirements of this Section shall not apply to
14 persons subject to the containment requirements of the
15 Illinois Pesticide Act or the Illinois Fertilizer Act of 1961
16 and any rules or regulations adopted thereunder.

17 (Source: P.A. 86-358; 87-1033.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.