

SENATE BILL No. 989

December 13, 2001, Introduced by Senators MC MANUS, STILLE, GOUGEON and GAST
and referred to the Committee on Farming, Agribusiness and Food Systems.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 8302, 8303, 8304, 8305, 8306, 8309, 8310,
8311, 8312, 8313, 8314, 8317, 8318, 8319, 8322, 8327, 8329, 8330,
and 8333 (MCL 324.8302, 324.8303, 324.8304, 324.8305, 324.8306,
324.8309, 324.8310, 324.8311, 324.8312, 324.8313, 324.8314,
324.8317, 324.8318, 324.8319, 324.8322, 324.8327, 324.8329,
324.8330, and 324.8333), section 8319 as amended by 1996 PA 312,
and by adding sections 8307a, 8307b, 8307c, 8307d, 8307e, and
8307f; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8302. (1) "Active ingredient" means an ingredient that
2 will prevent, destroy, repel, or mitigate pests, or that will act
3 as a plant regulator, defoliant, or desiccant or otherwise alter
4 the behavior of plants or products.

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

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

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

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

17 (6) "APPLICATION SEASON" MEANS A TIME PERIOD OF PESTICIDE
18 APPLICATION, CONSISTENT WITH THE CATEGORY OF APPLICATION, WITHIN
19 A CALENDAR YEAR.

20 (7) ~~(6)~~ "Aquifer" means a geologic formation, a group of
21 formations, or a part of a formation capable of yielding a sig-
22 nificant amount of groundwater to wells or springs.

23 (8) ~~(7)~~ "Aquifer sensitivity" means a hydrogeologic func-
24 tion representing the inherent abilities of materials surrounding
25 the aquifer to attenuate the movement of pesticides into that
26 aquifer.

1 (9) ~~(8)~~ "Avicide" means a ~~substance or mixture of~~
2 ~~substances~~ PESTICIDE INTENDED for preventing, destroying,
3 repelling, or mitigating pest birds.

4 (10) ~~(9)~~ "Building manager" means the person who is desig-
5 nated as being responsible for the building's pest management
6 program and to whom any reporting and notification shall be made
7 pursuant to this part or rules promulgated under this part.

8 (11) ~~(10)~~ "Certified applicator" means ~~a person~~ AN INDI-
9 VIDUAL WHO IS authorized under this part to use and supervise the
10 use of a restricted use pesticide.

11 (12) ~~(11)~~ "Commercial applicator" means a person ~~who is~~
12 ~~not a private agricultural applicator, whether that person is a~~
13 ~~private agricultural applicator with respect to some uses or~~
14 ~~not,~~ who is required to be a registered or certified applicator
15 under this part, ~~or who uses or supervises the use of a~~
16 ~~restricted use pesticide~~ or who holds himself or herself out to
17 the public as being in the business of applying pesticides. A
18 COMMERCIAL APPLICATOR DOES NOT INCLUDE A PERSON USING A PESTICIDE
19 FOR A PRIVATE AGRICULTURAL PURPOSE.

20 (13) ~~(12)~~ "Commercial building" means any ~~building or~~
21 portion of a building that is not a private residence where a
22 business is located and that is frequented by the public.

23 (14) ~~(13)~~ "Confirmed contaminant" means a contaminant that
24 has been detected in at least 2 groundwater samples collected
25 from the same groundwater sampling point at an interval of
26 greater than 14 days.

1 (15) ~~(14)~~ "Contaminant" means any pesticide originated
2 chemical, radionuclide, ion, synthetic organic compound,
3 microorganism, or waste that does not occur naturally in ground-
4 water or that naturally occurs at a lower concentration than
5 detected.

6 (16) ~~(15)~~ "Contamination" means the direct or indirect
7 introduction into groundwater of any contaminant caused in whole
8 or in part by human activity.

9 Sec. 8303. (1) "Defoliant" means a substance or mixture of
10 substances intended for causing the leaves or foliage to drop
11 from a plant, with or without causing abscission.

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

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

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

20 (5) "Direct supervision" means ~~that a certified applicator~~
21 ~~is supervising the application of a pesticide and is~~ TO BE phys-
22 ically present ~~at the time and place the~~ WHEN A pesticide is
23 ~~being~~ applied. However, direct supervision by a private agri-
24 cultural applicator ~~who is supervising the application of a~~
25 ~~restricted use pesticide for an agricultural purpose~~ means
26 either ~~that~~ OF THE FOLLOWING:

1 (A) IF THE APPLICATOR IS a certified applicator, ~~shall be~~
2 THAT THE PRIVATE AGRICULTURAL APPLICATOR IS in the same field or
3 ~~at the same~~ location with ~~that~~ THE CERTIFIED applicator ~~as~~
4 ~~he or she applies the~~ DURING THE APPLICATION OF A restricted use
5 pesticide. ~~or~~

6 (B) IF THE APPLICATOR IS NOT A CERTIFIED APPLICATOR, that
7 the private agricultural applicator supervises ~~at all times~~ the
8 applicator and ~~directly supervises representative aspects of~~
9 ~~each~~ IS PHYSICALLY PRESENT DURING THE initial RESTRICTED USE
10 PESTICIDE application ~~process~~ on an agricultural commodity or
11 agricultural structure, including ~~the~~ calibration, mixing,
12 application, operator safety, and disposal. ~~aspects of the~~
13 ~~process.~~

14 (6) "Director" means the director of the department of agri-
15 culture or his or her authorized representative.

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

20 (8) "DOWNSTREAM EFFECT" MEANS THE POTENTIAL FOR MOVEMENT OF
21 A MICROBIOCIDAL TO AFFECT SURFACE WATER OR GROUNDWATER.

22 (9) ~~(8)~~ "Envelope monitoring" means monitoring of ground-
23 water in areas adjacent to properties where groundwater is con-
24 taminated to determine the concentration and spatial distribution
25 of the contaminant in the aquifer.

1 (10) ~~(9)~~ "Environment" includes water, air, land, and all
2 plants and human beings and other animals living therein, and the
3 interrelationships that exist among them.

4 (11) ~~(10)~~ "EPA" means the United States environmental pro-
5 tection agency.

6 (12) ~~(11)~~ "FIFRA" means the federal insecticide, fungi-
7 cide, and rodenticide act, chapter 125, 86 Stat. 973, 7
8 U.S.C. 136 to 136i and 136j ~~136y~~ 136r AND 136s TO 136y.

9 (13) ~~(12)~~ "Fungi" means all nonchlorophyll bearing thallo-
10 phytes; that is, all nonchlorophyll bearing plants of a lower
11 order than mosses and liverworts, as for example rusts, smuts,
12 mildews, molds, yeasts, and bacteria, except those in or on other
13 animals, and except those in or on processed foods, beverages, or
14 pharmaceuticals.

15 (14) ~~(13)~~ "General use pesticide" means a pesticide that
16 is not ~~classified as~~ a restricted use pesticide.

17 (15) ~~(14)~~ "Groundwater" means underground water within the
18 zone of saturation.

19 (16) ~~(15)~~ "Groundwater protection rule" means a rule
20 promulgated under this part that defines a minimum operational
21 standard for structures, activities, and procedures that may have
22 or may contribute to the contamination of groundwater and that
23 defines the scope of a groundwater protection rule, the region of
24 implementation of a groundwater protection rule, and implementa-
25 tion period for those rules. As used in this subsection:

26 (a) "Structures, activities, and procedures" includes, but
27 is not limited to, mixing, loading, and rinse pads, application

1 equipment, application timing, application rates, crop rotation,
2 and pest control thresholds.

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

6 (c) "The region of implementation of a groundwater protec-
7 tion rule" may include specific soil types or aquifer sensitivity
8 regions or any other geographic boundary.

9 (17) ~~(16)~~ "Groundwater resource protection level" means a
10 maximum contaminant level, health advisory level, or, if the EPA
11 has not established a maximum contaminant level or a health
12 advisory level, a level established by the director of public
13 health using risk assessment protocol established by rule under
14 this part.

15 (18) ~~(17)~~ "Groundwater resource response level" means 20%
16 of the groundwater resource protection level. In cases where 20%
17 of the groundwater resource protection level is less than the
18 method detection limit, the method detection limit shall serve as
19 the groundwater resource response level.

20 Sec. 8304. (1) "Inert ingredient" means an ingredient that
21 is not ~~an~~ active. ~~ingredient.~~

22 (2) "Ingredient statement" means:

23 (a) A statement of the name and percentage of each active
24 ingredient together with the total percentage of the inert ingre-
25 dients in the pesticide.

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

4 (3) "Insect" means any of the numerous small invertebrate
5 animals generally having the body more or less obviously segment-
6 ed, for the most part belonging to the class insecta, comprising
7 6-legged, usually winged forms, as for example beetles, bugs,
8 bees, and flies, and to other allied classes or arthropods whose
9 members are wingless and usually have more than 6 legs, as for
10 example spiders, mites, ticks, centipedes, and wood lice.

11 (4) "Insecticide" means a ~~substance or mixture of~~
12 ~~substances~~ PESTICIDE intended for preventing, destroying, repel-
13 ling, or mitigating an insect.

14 (5) "INTEGRATED PEST MANAGEMENT" MEANS A PEST MANAGEMENT
15 SYSTEM THAT USES ALL SUITABLE TECHNIQUES IN A TOTAL MANAGEMENT
16 SYSTEM TO PREVENT PESTS FROM REACHING UNACCEPTABLE LEVELS OR TO
17 REDUCE EXISTING PEST POPULATIONS TO ACCEPTABLE LEVELS.

18 (6) ~~(5)~~ "Label" means the written, printed, or graphic
19 matter on or attached to the pesticide or device or any of its
20 containers or wrappers.

21 (7) ~~(6)~~ "Labeling" means the label and all other written,
22 printed, or graphic matter accompanying the pesticide or device,
23 or to which reference is made on the label or in literature
24 accompanying the pesticide or device, and all applicable modifi-
25 cations or supplements to official publications of the EPA, the
26 United States departments of agriculture and interior, the United
27 States departments of education and health and human services,

1 state experiment stations, state agricultural colleges, and other
2 similar federal or state institutions or agencies authorized by
3 law to conduct research in the field of pesticides.

4 (8) ~~-(7)-~~ "Maximum contaminant level" means that term as it
5 is defined in title XIV of the public health service act, chapter
6 373, 88 Stat. 1660, 42 U.S.C. 300f to 300j-3, 300j-4 to 300j-9
7 and 300j-11 to 300j-25, and regulations promulgated under that
8 act.

9 (9) ~~-(8)-~~ "Method detection limit" means the minimum concen-
10 tration of a substance that can be measured and reported with 99%
11 confidence that the analyte concentration is greater than 0 and
12 is determined from analysis of a sample in a given matrix that
13 contains the analyte.

14 (10) "MICROBE" INCLUDES ANY VIRUS, FUNGUS, BACTERIUM, OR
15 OTHER MICROORGANISM.

16 (11) "MICROBIOCIDE" MEANS A PESTICIDE INTENDED FOR PREVENT-
17 ING, REPELLING, DESTROYING, OR MITIGATING MICROBES.

18 (12) ~~-(9)-~~ "Minor use" means the use of a pesticide on a
19 crop, animal, or site where any of the following exist:

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

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

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

1 (13) ~~(10)~~ "Misbranded" applies to any pesticide or device
 2 if it is an imitation of or is offered for sale under the name of
 3 another pesticide, or if its labeling does not comply with label-
 4 ing requirements of this part, the rules promulgated under this
 5 part, FIFRA, or regulations promulgated under FIFRA.

6 (14) ~~(11)~~ "Molluscicide" means a ~~substance or mixture of~~
 7 ~~substances~~ PESTICIDE intended for preventing, destroying, repel-
 8 ling, or mitigating a mollusk.

9 Sec. 8305. (1) "Nematode" means invertebrate animals of the
 10 phylum nemathelminthes and class nematoda, which are unsegmented
 11 roundworms with elongated, fusiform, or sac-like bodies covered
 12 with cuticle that inhabit soil, water, plants, or plant parts. A
 13 nematode may also be called a nema or eelworm.

14 (2) "Person" ~~, when referring to a certified or registered~~
 15 ~~applicator, means individuals only~~ MEANS AN INDIVIDUAL, PARTNER-
 16 SHIP, CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER
 17 LEGAL ENTITY.

18 (3) "Pest" means an insect, rodent, nematode, fungus, weed,
 19 and other forms of terrestrial or aquatic plant or animal life or
 20 virus, bacteria, or other microorganism, ~~except viruses, fungi,~~
 21 ~~bacteria, nematodes, or other microorganisms in or on living~~
 22 ~~animals,~~ or any other organism that the director declares to be
 23 a pest under section 8322, EXCEPT VIRUSES, FUNGI, BACTERIA, NEMA-
 24 TODES, OR OTHER MICROORGANISMS IN OR ON LIVING ANIMALS.

25 (4) "Pesticide" means a substance or mixture of substances
 26 intended for preventing, destroying, repelling, or mitigating
 27 pests or intended for use as a plant regulator, defoliant, or

1 desiccant. PESTICIDE DOES NOT INCLUDE LIQUID CHEMICAL STERILANT
2 PRODUCTS, INCLUDING ANY STERILANT OR SUBORDINATE DISINFECTANT
3 CLAIMS ON SUCH PRODUCTS, FOR USE ON A CRITICAL OR SEMI-CRITICAL
4 DEVICE, AS DEFINED IN SECTION 201 OF THE FEDERAL FOOD, DRUG, AND
5 COSMETIC ACT, CHAPTER 675, 52 STAT. 1040, 21 U.S.C. 321. AS USED
6 IN THIS SUBSECTION:

7 (A) "CRITICAL DEVICE" INCLUDES ANY DEVICE THAT IS INTRODUCED
8 DIRECTLY INTO THE HUMAN BODY, EITHER INTO OR IN CONTACT WITH THE
9 BLOODSTREAM OR NORMALLY STERILE AREAS OF THE BODY.

10 (B) "SEMI-CRITICAL DEVICE" INCLUDES ANY DEVICE THAT CONTACTS
11 INTACT MUCOUS MEMBRANES BUT THAT DOES NOT ORDINARILY PENETRATE
12 THE BLOOD BARRIER OR OTHERWISE ENTER NORMALLY STERILE AREAS OF
13 THE BODY.

14 (4) "PESTICIDE MANAGEMENT PLAN" MEANS A PLAN FOR THE PROTEC-
15 TION OF GROUNDWATER AS REQUIRED BY THE EPA'S LABELING REQUIRE-
16 MENTS FOR PESTICIDES AND DEVICES, 40 C.F.R. PART 156.

17 (5) "PESTICIDE REGISTRATION RENEWAL" MEANS THE REGISTRATION
18 OF ANY PESTICIDE THAT WAS PREVIOUSLY REGISTERED BY THE
19 DEPARTMENT.

20 (6) ~~-(5)-~~ "Place of business" means a location that is
21 staffed by at least 1 person who independently, without supervi-
22 sion, ~~applies~~ SELLS OR USES pesticides ~~or who supervises~~
23 ~~others in the~~ WITHIN THIS STATE OR WHERE A PERSON EXERCISES THE
24 RIGHT TO CONTROL OTHERS IN THE SALE OR use of pesticides WITHIN
25 THIS STATE.

26 (7) ~~-(6)-~~ "Plant regulator" means a substance or mixture of
27 substances intended through physiological action for accelerating

1 or retarding the rate of growth or rate of maturation or for
 2 otherwise altering the behavior of plants or the produce of
 3 plants. Plant regulator does not include substances to the
 4 extent that they are intended as plant nutrients, trace elements,
 5 nutritional chemicals, plant inoculants, and soil amendments.

6 (8) ~~(7)~~ "Private agricultural applicator" means a certi-
 7 fied applicator who uses or supervises the use of a restricted
 8 use pesticide for a private agricultural purpose.

9 (9) ~~(8)~~ "Private agricultural purpose" means the
 10 APPLICATION OF A PESTICIDE FOR THE production of an agricultural
 11 commodity on ~~property~~ EITHER OF THE FOLLOWING:

12 (A) PROPERTY owned or rented by ~~that~~ THE person APPLYING
 13 THE PESTICIDE or BY his or her employer. ~~or~~

14 (B) PROPERTY OF ANOTHER PERSON if applied without compensa-
 15 tion, other than trading of personal services between producers
 16 of agricultural commodities. ~~, on the property of another~~
 17 ~~person.~~

18 (10) ~~(9)~~ "Protect health and environment" means protection
 19 against any unreasonable adverse effects on the environment.

20 (11) ~~(10)~~ "Public building" means a building that is owned
 21 or operated by a federal, state, or local government, including
 22 public universities.

23 Sec. 8306. (1) "Registered applicator" means ~~a person~~ AN
 24 INDIVIDUAL who is ~~not a certified applicator and who is 1 or~~
 25 ~~more of the following:~~ (a) ~~Authorized~~ AUTHORIZED to apply gen-
 26 eral ~~and restricted~~ use pesticides for a PRIVATE OR commercial

1 purpose as provided in this part and in the rules promulgated
2 under this part.

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

6 ~~(c) Applies pesticides for a private agricultural purpose.~~

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

12 (3) "Registrant" means a person who ~~has registered~~ IS
13 REQUIRED TO REGISTER a pesticide pursuant to this part.

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

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

20 (6) "Rodenticide" means a ~~substance or mixture of~~
21 ~~substances~~ PESTICIDE intended for preventing, destroying, repel-
22 ling, or mitigating rodents. ~~or any other vertebrate animal.~~

23 ~~(7) "State management plan" means a plan for the protection~~
24 ~~of groundwater as required by the EPA's labeling requirements for~~
25 ~~pesticides and devices, 40 C.F.R. part 156.~~

26 (7) ~~(8)~~ "School" means public and private schools, grades
27 kindergarten through the twelfth grade.

1 (8) ~~(9)~~ "Supervise" means ~~the act or process of a~~
2 ~~certified applicator in~~ directing the application of a pesticide
3 ~~by a competent person who is under his or her instruction and~~
4 ~~control and for whose actions the certified applicator is respon=~~
5 ~~sible, even though the certified applicator is not~~ WITH OR WITH-
6 OUT BEING physically present ~~at the time and place the pesticide~~
7 ~~is applied~~ DURING THE APPLICATION.

8 (9) ~~(10)~~ "Unreasonable adverse effect on the environment"
9 means any unreasonable risk to human beings or the environment,
10 taking into account the economic, social, and environmental costs
11 and benefits of the use of a pesticide.

12 (10) ~~(11)~~ "Use of a pesticide" means the loading, mixing,
13 applying, storing, transporting, and disposing of a pesticide.

14 (11) ~~(12)~~ "Vendor" means a person who sells or distributes
15 pesticides.

16 (12) "VIOLATES THIS PART" OR "VIOLATION OF THIS PART" MEANS
17 A VIOLATION OF THIS PART, A RULE PROMULGATED UNDER THIS PART, OR
18 AN ORDER ISSUED UNDER THIS PART.

19 (13) "Weed" means a plant which grows where it is not
20 wanted.

21 SEC. 8307A. (1) EVERY PESTICIDE DISTRIBUTED, SOLD, EXPOSED,
22 OR OFFERED FOR SALE IN THIS STATE SHALL BE REGISTERED WITH THE
23 DIRECTOR PURSUANT TO THIS PART. THE REGISTRATION SHALL BE SUB-
24 MITTED ON A FORM PROVIDED BY THE DIRECTOR AND SHALL BE RENEWED
25 ANNUALLY BEFORE JULY 1. THE DIRECTOR SHALL NOT REGISTER A PESTI-
26 CIDE UNDER THIS PART UNLESS THE REGISTRANT HAS PAID ALL
27 GROUNDWATER PROTECTION FEES AND LATE FEES REQUIRED UNDER PART 87,

1 REGISTRATION FEES UNDER THIS PART, AND ANY ADMINISTRATIVE FINES
2 IMPOSED UNDER THIS PART.

3 (2) A PESTICIDE IS CONSIDERED DISTRIBUTED, SOLD, EXPOSED, OR
4 OFFERED FOR SALE IN THIS STATE WHEN THE OFFER TO SELL EITHER
5 ORIGINATES WITHIN THIS STATE OR IS DIRECTED BY THE OFFEROR TO
6 PERSONS IN THIS STATE AND RECEIVED BY THOSE PERSONS.

7 (3) IF A REGISTRANT DISTRIBUTES IDENTICAL PESTICIDES UNDER
8 MORE THAN 1 BRAND NAME, OR DISTRIBUTES MORE THAN 1 PESTICIDE FOR-
9 MULATION, EACH BRAND OR FORMULATION SHALL BE REGISTERED AS A SEP-
10 ARATE PRODUCT.

11 (4) A REGISTRANT SHALL NOT REGISTER A PESTICIDE THAT CON-
12 TAINS A SUBSTANCE THAT IS REQUIRED TO BE REGISTERED WITH THE
13 DEPARTMENT UNLESS THAT SUBSTANCE IS ALSO REGISTERED WITH THE
14 DEPARTMENT.

15 (5) A PESTICIDE REGISTRATION APPLICANT SHALL SUBMIT TO THE
16 DIRECTOR A COMPLETE COPY OF THE PESTICIDE LABELING AND THE FOL-
17 LOWING, IN A FORMAT PRESCRIBED BY THE DIRECTOR:

18 (A) THE NAME AND ADDRESS OF THE APPLICANT AND THE NAME AND
19 ADDRESS OF THE PERSON WHOSE NAME WILL APPEAR ON THE LABEL, IF
20 OTHER THAN THE APPLICANT.

21 (B) THE FULL PRODUCT NAME OF THE PESTICIDE AND THE EPA REG-
22 ISTRATION NUMBER.

23 (C) OTHER INFORMATION CONSIDERED NECESSARY BY THE DIRECTOR.

24 (6) THE APPLICANT SHALL SUBMIT A COMPLETE FORMULA OF THE
25 PESTICIDE PROPOSED FOR REGISTRATION, INCLUDING THE ACTIVE AND
26 INERT INGREDIENTS, WHEN REQUESTED BY THE DIRECTOR AND NECESSARY
27 FOR THE DIRECTOR TO EXECUTE HIS OR HER DUTIES UNDER THIS PART.

1 THE DIRECTOR SHALL NOT USE ANY INFORMATION RELATIVE TO FORMULAS
2 OF PRODUCTS, TRADE SECRETS, OR OTHER INFORMATION OBTAINED UNDER
3 THIS PART FOR HIS OR HER OWN ADVANTAGE OR REVEAL SUCH INFORMA-
4 TION, OTHER THAN TO HIS OR HER AUTHORIZED REPRESENTATIVE, THE
5 EPA, THE DEPARTMENT OF ENVIRONMENTAL QUALITY, THE DEPARTMENT OF
6 COMMUNITY HEALTH, A COURT OF THE STATE IN RESPONSE TO A SUBPOENA,
7 A LICENSED PHYSICIAN, OR IN AN EMERGENCY TO A PHARMACIST OR OTHER
8 PERSONS QUALIFIED TO ADMINISTER ANTIDOTES.

9 SEC. 8307B. (1) A PESTICIDE THAT HAS BEEN REGISTERED WITH
10 THE DEPARTMENT MUST CONTINUE TO BE REGISTERED AS LONG AS THE PES-
11 TICIDE REMAINS IN THE CHANNELS OF TRADE IN THIS STATE. IT IS THE
12 REGISTRANT'S RESPONSIBILITY TO MAINTAIN THE PESTICIDE
13 REGISTRATION.

14 (2) IT IS A VIOLATION OF THIS PART TO CONTINUE TO DISTRIBUTE
15 A PESTICIDE FOR WHICH A RENEWAL APPLICATION, INCLUDING THE
16 REQUIRED FEE, HAS NOT BEEN RECEIVED BY THE DIRECTOR ON OR BEFORE
17 THE LAST DAY IN JUNE. IT IS THE RESPONSIBILITY OF THE REGISTRANT
18 TO OBTAIN AND SUBMIT AN APPLICATION FOR RENEWAL OF A PESTICIDE
19 REGISTRATION BEFORE THE EXPIRATION DATE.

20 (3) A REGISTRANT WHO INTENDS TO DISCONTINUE A PESTICIDE REG-
21 ISTRATION SHALL DO EITHER OF THE FOLLOWING:

22 (A) TERMINATE FURTHER DISTRIBUTION WITHIN THE STATE AND CON-
23 TINUE TO REGISTER THE PESTICIDE ANNUALLY FOR 2 SUCCESSIVE YEARS.

24 (B) INITIATE A RECALL OF THE PESTICIDE FROM DISTRIBUTION IN
25 THE STATE PRIOR TO THE EXPIRATION OF THE REGISTRATION OF THE
26 PESTICIDE. PESTICIDES THAT DO NOT GO THROUGH A 2-YEAR
27 DISCONTINUANCE PERIOD AND THAT ARE FOUND IN THE CHANNELS OF TRADE

1 ARE SUBJECT TO REGISTRATION PENALTIES AND ALL RELATED FEES SINCE
2 THE PRODUCT'S LAST YEAR OF REGISTRATION.

3 SEC. 8307C. REGISTRATION IS NOT REQUIRED UNDER THIS PART IF
4 A PESTICIDE IS SHIPPED FROM 1 PLANT OR WAREHOUSE TO ANOTHER PLANT
5 OR WAREHOUSE OPERATED BY THE SAME PERSON AND USED TO MAKE A PES-
6 TICIDE THAT IS REGISTERED UNDER THIS PART, OR IF THE PESTICIDE IS
7 DISTRIBUTED PURSUANT TO AN EPA EXPERIMENTAL USE PERMIT.

8 SEC. 8307D. (1) NO PERSON WHO USES, DISTRIBUTES, EXPOSES,
9 OR OFFERS TO SELL A PESTICIDE SHALL MAKE CLAIMS THAT THE PESTI-
10 CIDE CAN BE USED ON SITES THAT ARE NOT INCLUDED IN THE PESTICIDE
11 LABELING.

12 (2) NO PERSON WHO USES, DISTRIBUTES, EXPOSES, OR OFFERS TO
13 SELL A PESTICIDE SHALL MAKE CLAIMS THAT THE PESTICIDE HAS CHARAC-
14 TERISTICS, INGREDIENTS, USES, BENEFITS, OR QUALITIES THAT IT DOES
15 NOT HAVE OR THAT ARE NOT ALLOWED UNDER FIFRA.

16 SEC. 8307E. TO REGISTER A PESTICIDE FOR SPECIAL LOCAL NEEDS
17 PURSUANT TO SECTION 24(C) OF FIFRA, 7 U.S.C. 136v, OR THE REGULA-
18 TIONS PROMULGATED UNDER THAT SECTION, THE DIRECTOR SHALL REQUIRE
19 THE INFORMATION REQUIRED UNDER SECTION 8307A(5). A PESTICIDE MAY
20 BE REGISTERED FOR SPECIAL LOCAL NEEDS IF THE DIRECTOR DETERMINES
21 THAT ALL OF THE FOLLOWING CONDITIONS ARE MET:

22 (A) A SPECIAL LOCAL NEED EXISTS.

23 (B) THE PESTICIDE'S COMPOSITION WARRANTS THE PROPOSED CLAIMS
24 FOR IT.

25 (C) THE PESTICIDE'S LABELING AND OTHER SUBMITTED MATERIAL
26 COMPLY WITH THE LABELING REQUIREMENTS OF FIFRA OR REGULATIONS
27 PROMULGATED UNDER THAT ACT.

1 (D) IT DOES NOT CAUSE UNREASONABLE ADVERSE EFFECTS ON THE
2 ENVIRONMENT.

3 (E) THE CLASSIFICATION FOR GENERAL OR RESTRICTED USE CON-
4 FORMS WITH SECTION 3(D) OF FIFRA, 7 U.S.C. 136a.

5 SEC. 8307F. (1) PESTICIDES CONTAINING ACTIVE OR INERT
6 INGREDIENTS THAT HAVE BEEN CONFIRMED IN GROUNDWATER AT A LEVEL
7 ABOVE THEIR GROUNDWATER RESOURCE RESPONSE LEVEL AND PESTICIDES
8 FOR WHICH A PESTICIDE MANAGEMENT PLAN IS REQUIRED SHALL BE REGIS-
9 TERED AS RESTRICTED USE PESTICIDES. THE DIRECTOR, BY RULE, SHALL
10 ESTABLISH ADDITIONAL CRITERIA FOR DESIGNATING A PESTICIDE A
11 RESTRICTED USE PESTICIDE DUE TO GROUNDWATER CONCERNS.

12 (2) THE DIRECTOR MAY CANCEL THE REGISTRATION OF A PESTICIDE
13 THAT CONTAINS A PESTICIDE ACTIVE INGREDIENT FOR WHICH A GROUNDWA-
14 TER PROTECTION RULE HAS BEEN PROMULGATED AND THAT HAS EXCEEDED
15 THE GROUNDWATER RESOURCE PROTECTION LEVEL AT 3 OR MORE AREAS OF
16 THE STATE WHERE ENVELOPE MONITORING HAS BEEN CONDUCTED. IN
17 DETERMINING THE NEED TO CANCEL PESTICIDE REGISTRATIONS DUE TO
18 GROUNDWATER CONCERNS, THE DIRECTOR SHALL CONSIDER THE DEGREE TO
19 WHICH THE REGISTRANT OR REGISTRANTS ARE WILLING TO ADDRESS
20 GROUNDWATER CONCERNS ASSOCIATED WITH THEIR PRODUCT OR PRODUCTS,
21 AND THE POTENTIAL EFFECTIVENESS OF ADDITIONAL RESTRICTIONS, PRO-
22 HIBITIONS, OR GROUNDWATER PROTECTION RULE MODIFICATIONS.

23 (3) UPON THE DIRECTOR'S REQUEST, A PERSON WHO HAS REGISTERED
24 A PESTICIDE SHALL PROVIDE THE INFORMATION NECESSARY TO DETERMINE
25 ITS MOBILITY IN THE ENVIRONMENT AND ITS POTENTIAL TO CONTAMINATE
26 GROUNDWATER. THIS INFORMATION MAY INCLUDE ANY OF THE FOLLOWING:

- 1 (A) WATER SOLUBILITY.
- 2 (B) VAPOR PRESSURE.
- 3 (C) OCTANOL-WATER PARTITION COEFFICIENT.
- 4 (D) SOIL ABSORPTION COEFFICIENT.
- 5 (E) HENRY'S LAW CONSTANT.
- 6 (F) DISSIPATION STUDIES INCLUDING THE RATE OF HYDROLYSIS,
7 PHOTOLYSIS, OR AEROBIC OR ANAEROBIC SOIL METABOLISM.
- 8 (G) PRODUCT FORMULATION.
- 9 (H) OTHER INFORMATION CONSIDERED NECESSARY BY THE DIRECTOR.
- 10 (4) INFORMATION REQUESTED UNDER SUBSECTION (3) SHALL BE CON-
11 SISTENT WITH PRODUCT REGISTRATION INFORMATION REQUIRED UNDER
12 FIFRA OR CRITERIA FOR DESIGNATING A PESTICIDE AS A RESTRICTED USE
13 PESTICIDE DUE TO GROUNDWATER CONCERNS AS PROMULGATED BY RULE
14 UNDER SUBSECTION (1).
- 15 (5) AS USED IN THIS SECTION:
- 16 (A) "AEROBIC SOIL METABOLISM" MEANS CHEMICAL DEGRADATION IN
17 SOIL IN THE PRESENCE OF OXYGEN.
- 18 (B) "ANAEROBIC SOIL METABOLISM" MEANS CHEMICAL DEGRADATION
19 IN SOIL IN THE ABSENCE OF OXYGEN.
- 20 (C) "HENRY'S LAW CONSTANT" MEANS THE RATIO OF THE PARTIAL
21 PRESSURE OF A COMPOUND IN AIR TO THE CONCENTRATION OF THE COM-
22 POUND IN WATER AT A GIVEN TEMPERATURE.
- 23 (D) "HYDROLYSIS" MEANS A CHEMICAL REACTION IN WHICH WATER
24 COMBINES WITH AND SPLITS THE ORIGINAL CHEMICAL CREATING DEGRADA-
25 TION PRODUCTS.
- 26 (E) "OCTANOL-WATER PARTITION COEFFICIENT" MEANS THE RATIO OF
27 A CHEMICAL'S CONCENTRATION IN THE WATER-SATURATED OCTANOL PHASE

1 TO THE CHEMICAL'S CONCENTRATION IN THE OCTANOL-SATURATED WATER
2 PHASE.

3 (F) "PHOTOLYSIS" MEANS A CHEMICAL REACTION IN WHICH LIGHT OR
4 RADIANT ENERGY SERVES TO SPLIT THE ORIGINAL COMPOUND CREATING
5 DEGRADATION PRODUCTS.

6 (G) "SOIL ABSORPTION COEFFICIENT" MEANS THE RATIO OF
7 ABSORBED CHEMICAL PER UNIT WEIGHT OF SOIL OR ORGANIC CARBON TO
8 THE AQUEOUS SOLUTE CONCENTRATION.

9 (H) "VAPOR PRESSURE" MEANS THE PRESSURE EXERTED BY THE VAPOR
10 OF A SUBSTANCE WHEN IT IS UNDER EQUILIBRIUM CONDITIONS.

11 (I) "WATER SOLUBILITY" MEANS THE MAXIMUM AMOUNT OF A MATE-
12 RIAL THAT CAN BE DISSOLVED IN WATER TO GIVE A STABLE SOLUTION.

13 Sec. 8309. The director may refuse to register or may
14 cancel or suspend registration of a pesticide if ~~1 or more~~ ANY
15 of the following circumstances exist:

16 ~~(a) A pesticide does not warrant the proposed claims for it~~
17 ~~or the pesticide and its labeling and other material required to~~
18 ~~be submitted do not comply with this part or the rules promul-~~
19 ~~gated under this part. The applicant shall be notified of the~~
20 ~~manner in which the pesticide, labeling, or other material~~
21 ~~required to be submitted fails to comply with this part. If,~~
22 ~~upon receipt of the notice, the applicant does not make the~~
23 ~~required changes within 30 days, the director may refuse to reg-~~
24 ~~ister the pesticide.~~

25 ~~(b) A registered pesticide or a pesticide proposed for reg-~~
26 ~~istration under this part is in violation of this part or rules~~
27 ~~promulgated under this part.~~

1 (A) THE PESTICIDE DOES NOT WARRANT ITS EPA REGISTRATION AND
2 LABELING CLAIMS.

3 (B) THE PESTICIDE LABELING AND OTHER MATERIAL REQUIRED TO BE
4 SUBMITTED DOES NOT COMPLY WITH THIS PART OR THE RULES PROMULGATED
5 UNDER THIS PART.

6 (C) THE PESTICIDE IS IN VIOLATION OF THIS PART.

7 ~~(c) Based on substantial scientific evidence, use of a pes=
8 ticide causes, or is likely to cause if the pesticide is regis=
9 tered, an unreasonable, adverse effect.~~

10 (d) Based on substantial scientific evidence, THE DIRECTOR
11 DETERMINES THAT THE use of ~~a~~ THE pesticide ~~causes, or~~ is
12 likely to cause ~~if the pesticide is registered,~~ an unreason-
13 able, ~~serious, chronic hazard to human health or long-term envi=
14 ronmental damage, which cannot be controlled by designating the
15 pesticide as a restricted use pesticide, by limiting the uses for
16 which a pesticide may be used or registered, or by other changes
17 to the registration or pesticide label~~ ADVERSE EFFECT ON THE
18 ENVIRONMENT.

19 Sec. 8310. (1) A ~~person who is a~~ restricted use pesticide
20 dealer shall obtain an annual license for each PLACE OF business.
21 ~~location. The license shall expire on December 31. The annual
22 license fee of \$50.00 shall accompany the application for license
23 together with other pertinent information the director may
24 require. The license fee shall be credited to the general fund
25 of the state.~~

26 (2) ~~Application shall be made by a person in charge of each
27 business location who shall demonstrate to the director his or~~

~~1 her knowledge of the laws and rules governing the use and sale of~~
~~2 restricted use pesticides, and his or her responsibility in car-~~
~~3 rying on the business of a restricted use pesticide dealer. This~~
~~4 demonstration shall be made with a written examination prescribed~~
~~5 by the director.~~ THE APPLICANT FOR A LICENSE UNDER SUBSECTION
6 (1) SHALL BE THE PERSON IN CHARGE OF EACH BUSINESS LOCATION. THE
7 APPLICANT SHALL DEMONSTRATE BY WRITTEN EXAMINATION HIS OR HER
8 KNOWLEDGE OF LAWS AND RULES GOVERNING THE USE AND SALE OF
9 RESTRICTED USE PESTICIDES.

10 (3) A restricted use pesticide dealer shall forward to the
11 director ~~, as required by rule,~~ a record of all sales of
12 restricted use pesticides on forms provided by the director AS
13 REQUIRED BY RULE. ~~Duplicate copies~~ RESTRICTED USE PESTICIDE
14 DEALERS SHALL KEEP COPIES of the records ~~shall be kept~~ on file
15 ~~by the restricted use pesticide dealer,~~ FOR 2 YEARS. THESE
16 RECORDS ARE subject to inspection by an authorized agent of the
17 director. ~~, for 2 years after the date of sale.~~ The
18 ~~information contained in the individual reports filed with the~~
19 ~~director by licensees pursuant to this section~~ RECORDS shall,
20 upon request, be supplied in summary form to other state
21 agencies. ~~, except that the information regarding a pesticide~~
22 ~~for which a patent is in force~~ THE SUMMARY SHALL INCLUDE THE
23 NAME AND ADDRESS OF THE RESTRICTED USE PESTICIDE DEALER, THE NAME
24 AND ADDRESS OF THE PURCHASER, THE NAME OF THE PESTICIDE SOLD,
25 AND, IN AN EMERGENCY, THE QUANTITY SOLD. INFORMATION may not be
26 made available to the public if, in the discretion of the
27 director, release of that information would ~~tend to~~ have a

1 significant adverse effect on the competitive position of the
2 dealer, distributor, or manufacturer. ~~The summary shall include~~
3 ~~the name and address of the restricted use pesticide dealer, the~~
4 ~~name and address of the purchaser, the name of the pesticide~~
5 ~~sold, and, in an emergency, the quantity sold.~~

6 (4) A restricted use pesticide DEALER shall ~~be sold or dis-~~
7 ~~tributed only by a licensed~~ SELL OR DISTRIBUTE restricted use
8 ~~pesticide dealer~~ PESTICIDES for use ONLY by applicators certi-
9 fied under this part.

10 (5) ~~A restricted use pesticide dealer's license is subject~~
11 ~~to denial, suspension, or revocation for a violation of this sec-~~
12 ~~tion or rules promulgated under this section, whether~~ THE DIREC-
13 TOR MAY DENY, SUSPEND, OR REVOKE A RESTRICTED USE PESTICIDE
14 DEALER'S LICENSE FOR ANY VIOLATION OF THIS PART committed by the
15 dealer or ~~by~~ the dealer's officer, agent, or employee.

16 (6) A restricted use pesticide dealer shall maintain and
17 submit TO THE DEPARTMENT records of all RESTRICTED USE PESTICIDE
18 sales TO PRIVATE APPLICATORS and OF the intended county of appli-
19 cation for all pesticides. ~~sold to private applicators, the use~~
20 ~~of which pesticides is restricted due to groundwater concerns.~~

21 (7) Information collected in subsection (6) is confidential
22 business information and is not subject to the freedom of infor-
23 mation act, ~~Act No. 442 of the Public Acts of 1976, being~~
24 ~~sections 15.231 to 15.246 of the Michigan Compiled Laws~~ 1976
25 PA 442, MCL 15.231 TO 15.246.

26 Sec. 8311. (1) A ~~private agricultural applicator or~~
27 ~~commercial applicator~~ PERSON shall not use a restricted use

1 pesticide without first complying with the certification ~~and~~
2 ~~other~~ requirements of this part. ~~and the rules promulgated~~
3 ~~under this part.~~

4 (2) A PERSON IS NOT REQUIRED TO BE A CERTIFIED APPLICATOR TO
5 APPLY A RESTRICTED USE PESTICIDE FOR A PRIVATE AGRICULTURAL PUR-
6 POSE IF THE PERSON IS UNDER THE DIRECT SUPERVISION OF A CERTIFIED
7 APPLICATOR, UNLESS PROHIBITED BY THE PESTICIDE LABEL.

8 (3) Certification requirements for commercial applicators
9 shall include completion of ~~a~~ written ~~examination~~
10 EXAMINATIONS prescribed by the director. Certification require-
11 ments for private agricultural applicators shall provide optional
12 methods of certification to include 1 of the following:

13 (a) Self-study and examination.

14 (b) Classroom training and examination.

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

18 (4) ~~(2)~~ At the time of sale, private applicators shall
19 ~~provide identification of~~ IDENTIFY the intended county of
20 application of a restricted use pesticide.

21 (5) ~~(3)~~ A certified commercial applicator shall maintain
22 records of restricted use pesticide applications for 3 years from
23 the date of application and make those records available upon
24 request to an authorized representative of the director during
25 normal business hours.

26 (6) ~~(4)~~ A commercial applicator shall keep for 3 years
27 from the date of application a record of the pesticide

1 registration number, product name, the formulated amount applied,
2 and application location for all restricted use pesticides used
3 by the commercial applicator. A summary of this information
4 indicating the pesticide registration number, product name, and
5 total formulated amount of pesticide applied to each county
6 during the previous calendar year shall be transmitted to the
7 director before March 1. This summary shall be submitted on
8 forms provided by or approved by the director. Information col-
9 lected under this subsection is confidential business information
10 and is not subject to the freedom of information act, ~~Act~~
11 ~~No. 442 of the Public Acts of 1976, being sections 15.231 to~~
12 ~~15.246 of the Michigan Compiled Laws~~ 1976 PA 442, MCL 15.231 TO
13 15.246.

14 (7) ~~(5) A certified applicator shall supervise the applica-~~
15 ~~tion of a general use pesticide by a noncertified applicator~~
16 ~~under his or her instruction and control even if the certified~~
17 ~~applicator is not physically present.~~ A certified applicator
18 shall directly supervise the application of a restricted use pes-
19 ticide if prescribed by the label, this part, or rules promul-
20 gated under this part.

21 (8) ~~(6) A certified applicator and a commercial applica-~~
22 ~~tor are subject to the requirements, prohibitions, and penalties~~
23 ~~of this part for an application of pesticides by the certified~~
24 ~~applicator or the commercial applicator and for an application of~~
25 ~~pesticides by a person directly or indirectly supervised by the~~
26 ~~certified applicator or the commercial applicator~~ IS RESPONSIBLE

1 FOR PESTICIDE APPLICATIONS MADE BY PERSONS UNDER HIS OR HER
2 SUPERVISION.

3 (9) ~~(7)~~ Each person shall follow recommended and accepted
4 good practices in the use of pesticides, including, but not
5 limited to, use of a pesticide in a manner consistent with its
6 labeling.

7 (10) ~~(8)~~ A federal agency, state agency, municipality,
8 county road commission, or any other governmental agency that
9 uses a pesticide classified for restricted use is subject to this
10 part and the rules promulgated under this part.

11 Sec. 8312. (1) ~~Satisfactory completion of~~ TO BECOME A
12 CERTIFIED APPLICATOR, AN APPLICANT MUST SATISFACTORILY COMPLETE
13 THE certification requirements prescribed by the director and
14 categorized according to the various types of pesticide applica-
15 tions prescribed by rule and consistent with the regulations of
16 the EPA. ~~is a prerequisite for certification.~~

17 (2) ~~Application~~ THE APPLICATION for a ~~private agricul-~~
18 tural applicator certificate or a commercial applicator certifi-
19 cate shall be on a form provided by the director and shall con-
20 tain information regarding the applicant's qualifications and
21 proposed operations, the type of equipment to be used by the
22 applicant, and other CERTIFIED APPLICATOR CERTIFICATE SHALL
23 CONTAIN information considered to be pertinent by the director.

24 (3) ~~An application for a private agricultural applicator~~
25 certificate or a commercial applicator certificate shall be
26 accompanied by the A CERTIFIED APPLICATOR APPLICANT SHALL PAY
27 THE appropriate fee as provided in section 8317.

1 (4) ~~If an applicant complies with the certification~~
2 ~~requirements, the~~ A director shall issue a certificate ~~that~~
3 ~~signifies that the applicant is a certified private agricultural~~
4 ~~applicator or a certified commercial applicator~~ TO APPLICANTS
5 THAT SUCCESSFULLY COMPLY WITH ALL CERTIFICATION REQUIREMENTS
6 UNDER THIS PART.

7 (5) ~~A private agricultural applicator certificate or a com-~~
8 ~~mmercial applicator certificate~~ THE DIRECTOR may restrict an
9 applicant to ~~the~~ use ~~of~~ ONLY a certain type of equipment or
10 pesticide ~~if the director finds~~ UPON FINDING that the applicant
11 is ONLY qualified to use ~~only~~ that type of equipment or
12 pesticide.

13 (6) The director may refuse to issue ~~a private agricultural~~
14 ~~applicator certificate or a commercial applicator certificate or~~
15 ~~renewal of~~ OR RENEW a certificate if an applicant demonstrates
16 an insufficient knowledge of any item called for in the applica-
17 tion or has unsatisfied judgments UNDER THIS PART OR RULES
18 PROMULGATED UNDER THIS PART against him or her or if the equip-
19 ment to be used by the applicant is unsafe or inadequate to
20 ~~accomplish the proper application of the pesticides to be used~~
21 PROPERLY APPLY PESTICIDES.

22 ~~(7) If an applicant is not issued a private agricultural~~
23 ~~applicator certificate or a commercial applicator certificate~~
24 ~~under this section, the director shall inform the applicant in~~
25 ~~writing of the reasons why the license was not issued.~~

26 (7) ~~(8)~~ The director may at any time deny, revoke, or
27 suspend a private agricultural applicator certificate or a

1 commercial applicator certificate for a violation of this part ~~,~~
2 ~~or a violation of an order issued under this part,~~ or upon con-
3 viction under section 14 of FIFRA, 7 U.S.C. 136l, or upon convic-
4 tion under a state pesticide law of a reciprocating state in
5 accordance with section 8320.

6 (8) THE DIRECTOR SHALL INFORM AN APPLICANT WHO IS DENIED AN
7 APPLICATOR CERTIFICATE THE REASONS WHY THE CERTIFICATE WAS
8 DENIED.

9 (9) A PERSON SHALL DISPLAY HIS OR HER CERTIFICATE UPON THE
10 REQUEST OF THE DIRECTOR.

11 Sec. 8313. (1) ~~A commercial applicator who advertises in~~
12 ~~any form or who holds himself or herself~~ COMMERCIAL APPLICATORS
13 WHO HOLD THEMSELVES out to the public as being in the business of
14 applying ~~either general use or restricted use~~ pesticides shall
15 obtain a commercial applicator license for each place of
16 business. ~~and shall comply with the requirements of this section~~
17 ~~before engaging in business.~~

18 (2) A commercial applicator ~~required to be licensed by sub-~~
19 ~~section (1)~~ shall be certified under section 8312 and shall have
20 at least 1 of the following in order to qualify for a license:
21 ~~under this section:~~

22 (a) Service for not less than 2 ~~years~~ APPLICATION SEASONS
23 as an employee of ~~1 or more~~ A commercial ~~applicators,~~
24 APPLICATOR or ~~a person with~~ comparable EDUCATION AND experience
25 as determined by the director. ~~, during which period the~~
26 ~~employee receives training and obtains experience in the~~

1 ~~application of pesticides under the supervision of a commercial~~
2 ~~applicator.~~

3 (b) A baccalaureate degree from a recognized college or uni-
4 versity in a discipline that provides education regarding pests
5 and the control of pests and 1 ~~year~~ APPLICATION SEASON of serv-
6 ice as an employee of ~~1 or more commercial applicators, or a~~
7 ~~person with comparable experience as determined by the director,~~
8 ~~during which period the employee receives training and obtains~~
9 ~~experience in the application of pesticides under the supervision~~
10 ~~of a commercial applicator.~~

11 ~~(c) A commercial applicator license issued under former Act~~
12 ~~No. 171 of the Public Acts of 1976 before December 27, 1988.~~

13 (3) ~~An application for a~~ THE commercial applicator license
14 APPLICATION shall be on a form provided by the director and shall
15 contain information regarding the applicant's qualifications and
16 proposed operations, the type of equipment to be used by the
17 applicant, and other information considered pertinent by the
18 director.

19 (4) An application for a commercial applicator license shall
20 be accompanied by the appropriate fee as provided in section
21 ~~8317(2)~~ 8317.

22 (5) An application for a commercial applicator license shall
23 be accompanied by proof of sufficient financial responsibility as
24 prescribed by rule.

25 (6) ~~A commercial applicator license~~ THE DIRECTOR may
26 restrict ~~the~~ AN applicant to use ONLY a certain type of

1 equipment or pesticide ~~if the director finds~~ UPON FINDING that
2 the applicant is qualified to use only that type.

3 (7) The director may refuse to issue or renew a commercial
4 applicator license if the applicant demonstrates ~~an~~ insuffi-
5 cient knowledge of an item ~~called for~~ in the application, or
6 has unsatisfied judgments UNDER THIS PART OR A RULE PROMULGATED
7 UNDER THIS PART against him or her, or if the equipment ~~to be~~
8 used by the applicant is unsafe or inadequate ~~to accomplish the~~
9 ~~proper application of the pesticides to be used~~ FOR PESTICIDE
10 APPLICATIONS.

11 ~~(8) If an applicant is not issued a commercial applicator~~
12 ~~license under this section, the director shall inform the appli-~~
13 ~~cant in writing of the reasons why the license was not issued.~~

14 (8) ~~(9)~~ The director may at any time deny, revoke, or sus-
15 pend a commercial applicator license for a violation of this part
16 or a violation of an order issued under this part, or upon con-
17 viction under this part, FIFRA, or a state pesticide law of a
18 reciprocating state in accordance with section 8320.

19 (9) THE DIRECTOR SHALL INFORM AN APPLICANT WHO IS DENIED A
20 COMMERCIAL APPLICATOR LICENSE THE REASONS WHY THE LICENSE WAS
21 DENIED.

22 (10) A PERSON SUBJECT TO THE LICENSING REQUIREMENTS IN THIS
23 SECTION SHALL ONLY APPLY PESTICIDES THAT ARE REGISTERED WITH, OR
24 SUBJECT TO, EITHER UNITED STATES EPA OR THIS STATE'S LAWS AND
25 RULES.

26 (11) A PERSON SUBJECT TO THE LICENSING REQUIREMENTS IN THIS
27 SECTION SHALL NOT REPRESENT THAT A PESTICIDE APPLICATION HAS

1 CHARACTERISTICS, INGREDIENTS, USES, BENEFITS, OR QUALITIES THAT
2 IT DOES NOT HAVE.

3 (12) A PERSON SUBJECT TO THE LICENSING REQUIREMENTS IN THIS
4 SECTION SHALL NOT REPRESENT THAT A PESTICIDE APPLICATION IS NEC-
5 ESSARY TO CONTROL A PEST WHEN THE PEST IS NOT PRESENT OR LIKELY
6 TO OCCUR.

7 Sec. 8314. (1) ~~Commencing 3 months after promulgation of~~
8 ~~the rules required under former section 19 of Act No. 171 of the~~
9 ~~Public Acts of 1976, currently section 8325, it is a violation of~~
10 ~~this part for a person to apply any pesticide for a commercial~~
11 ~~purpose or to apply any pesticide in the course of his or her~~
12 ~~employment for any purpose other than a private agricultural pur-~~
13 ~~pose unless that person is either a certified applicator or a~~
14 ~~registered applicator.~~ A PERSON SHALL NOT APPLY A PESTICIDE FOR
15 A COMMERCIAL PURPOSE OR IN THE COURSE OF HIS OR HER EMPLOYMENT
16 UNLESS THAT PERSON IS EITHER A CERTIFIED APPLICATOR OR A REGIS-
17 TERED APPLICATOR. A PERSON MAY APPLY A GENERAL USE PESTICIDE FOR
18 A PRIVATE AGRICULTURAL PURPOSE WITHOUT BEING A CERTIFIED APPLICA-
19 TOR OR REGISTERED APPLICATOR.

20 (2) A person who is not subject to the licensing requirement
21 in section 8313 may apply a general use ready-to-use pesticide
22 without being a certified applicator or a registered applicator.

23 (3) ~~To be eligible to be a registered applicator, an appli-~~
24 ~~cant shall do all of the following:~~ A COMMERCIAL CERTIFIED OR
25 REGISTERED APPLICATOR MUST BE AT LEAST 18 YEARS OF AGE.

26 (4) A PERSON WHO IS NOT SUBJECT TO THE LICENSING
27 REQUIREMENTS IN SECTION 8313 MAY APPLY A GENERAL USE MICROBIOCID

1 WITHOUT BEING A CERTIFIED OR REGISTERED APPLICATOR IF THERE IS NO
2 POTENTIAL FOR DOWNSTREAM EFFECTS TO AQUATIC ENVIRONMENTS.

3 (5) A COMMERCIAL APPLICATOR SHALL ONLY MAKE PESTICIDE APPLI-
4 CATIONS IN THE CATEGORY FOR WHICH HE OR SHE IS CERTIFIED OR
5 REGISTERED.

6 (6) A REGISTERED APPLICATOR SHALL DO ALL OF THE FOLLOWING:

7 (a) Complete a training program that ~~has been~~ IS approved
8 by the director and ~~is~~ conducted by a trainer who has the mini-
9 mum qualifications established by rule. ~~Registration~~
10 ~~requirements~~ THE TRAINING PROGRAM for applicators who apply pes-
11 ticides ~~only~~ for private agricultural purposes may ~~provide~~
12 ~~optional~~ UTILIZE OTHER methods of training and testing as pro-
13 vided in section 8311(1). ~~The training program shall be~~
14 ~~designed to facilitate and encourage persons who apply pesticides~~
15 ~~for private agricultural purposes to become registered~~
16 ~~applicators.~~

17 (b) Pass a test that is approved by the director. ~~and is~~
18 ~~administered by the director's designee.~~

19 (c) Possess ~~either a valid temporary registration certifi-~~
20 ~~cate issued by the director's designee under subsection (3) or a~~
21 valid registration ~~card~~ CERTIFICATE issued by the director.

22 (7) ~~(4) If an applicant successfully completes an approved~~
23 ~~training program and passes a test that is administered by the~~
24 ~~director's designee as a requirement of that training program, a~~
25 A trainer shall issue a temporary registration to an applicant
26 WHO COMPLETES AN APPROVED TRAINING PROGRAM AND PASSES A TEST
27 ADMINISTERED BY THE DIRECTOR. A temporary registration is ~~only~~

1 valid from the time it is issued until the applicant receives a
2 registration ~~card~~ CERTIFICATE from the director. ~~An~~ THE
3 DEPARTMENT SHALL PROVIDE THE applicant ~~may receive a valid~~ WITH
4 THE registration ~~card~~ CERTIFICATE upon payment of the fee pro-
5 vided for in section ~~8317(3)~~ 8317 and when the ~~director's~~
6 designee APPROVED TRAINER COMPLETES AND submits ~~to the~~
7 director a program completion form. ~~that is signed and dated by~~
8 the trainer and by the applicant stating that the required train-
9 ing program has been provided and received and indicating that
10 the applicant has passed the required test. ~~The program comple-~~
11 tion form shall be promptly submitted as soon as the director's
12 designee issues a temporary registration.

13 (5) ~~A registered applicator may apply a pesticide that is~~
14 ~~not a restricted use pesticide under the supervision of a certi-~~
15 ~~fied applicator and may apply a restricted use pesticide when~~
16 ~~under the direct supervision of a certified applicator. In addi-~~
17 ~~tion, during a registered applicator's initial 3-year registra-~~
18 ~~tion, a registered applicator may apply categories of restricted~~
19 ~~use pesticides while not directly supervised after the registered~~
20 ~~applicator has applied that category of restricted use pesticide~~
21 ~~under direct supervision for the number of hours required by the~~
22 ~~director unless prohibited by a label.~~

23 (6) ~~A registered applicator who applies general use pesti-~~
24 ~~cides only for a private agricultural purpose or is not employed~~
25 ~~by a commercial applicator and who applies general use pesticides~~
26 ~~as a scheduled and required work assignment in the course of his~~
27 ~~or her employment is exempt from the provisions of this part~~

1 ~~requiring supervision by a certified applicator when that~~
2 ~~registered applicator applies general use pesticides.~~

3 ~~(7) The employer of a registered applicator shall maintain a~~
4 ~~record of the hours and location of directly supervised hours of~~
5 ~~application of a restricted use pesticide by each registered~~
6 ~~applicator for the duration of the restricted applicator's~~
7 ~~employment and for 3 years following the termination of that~~
8 ~~person's employment. In addition, when a registered applicator~~
9 ~~has applied a category of restricted use pesticides while~~
10 ~~directly supervised for the length of time required by the direc-~~
11 ~~tor, the employer of the applicator may notify the director.~~
12 ~~Upon notification, the director shall forward a sticker or symbol~~
13 ~~to the employer that shall be attached to the registered~~
14 ~~applicator's registration card.~~

15 (8) A REGISTERED APPLICATOR WHO APPLIES GENERAL USE PESTI-
16 CIDES AND IS NOT SUBJECT TO COMMERCIAL PESTICIDE APPLICATOR
17 LICENSING REQUIREMENTS IS EXEMPT FROM THE PROVISIONS REQUIRING
18 SUPERVISION BY A CERTIFIED APPLICATOR.

19 (9) ~~(8)~~ A ~~registered applicator who is applying any~~
20 ~~pesticide~~ PERSON shall display his or her registration ~~card~~
21 CERTIFICATE upon the request of ~~an employee of the department~~
22 THE DIRECTOR.

23 (10) ~~(9)~~ A registered applicator shall complete a
24 ~~refresher~~ training program every 3 years to be eligible to
25 renew his or her registration.

26 (11) ~~(10)~~ The director may at any time deny, revoke, or
27 suspend a certification or registration for a violation of this

1 part ~~, or a violation of an order issued under this part,~~ or
2 upon conviction under this part, FIFRA, or a state pesticide law
3 of a reciprocating state in accordance with section 8320.

4 (12) ~~(11)~~ The director shall develop and provide the docu-
5 ments and forms necessary to implement this section.

6 Sec. 8317. ~~(1) Except as otherwise provided in this sub-~~
7 ~~section, a fee of \$50.00 shall accompany the application for a~~
8 ~~certificate for a certified commercial applicator. A fee of~~
9 ~~\$10.00 shall accompany an application for a private agricultural~~
10 ~~applicator and an application for a registered applicator who~~
11 ~~applies pesticides only for a private agricultural purpose. A~~
12 ~~certificate shall be valid until revoked or for a period of time~~
13 ~~of not less than 3 years to be established by rule by the~~
14 ~~director. The director shall consider changes in technology or~~
15 ~~use patterns in those categories of pesticide applications~~
16 ~~engaged in by the applicant as the criteria for requiring~~
17 ~~renewal. The certificate may be renewed if the applicant quali-~~
18 ~~fies and pays the certification fee.~~

19 ~~(2) A fee of \$50.00 shall accompany an application for a~~
20 ~~license for a commercial applicator. The license shall expire on~~
21 ~~December 31 annually.~~

22 ~~(3) Except as otherwise provided in this section, a fee of~~
23 ~~\$25.00 shall accompany the application for the registration of an~~
24 ~~applicator and the renewal of the applicator's registration. The~~
25 ~~registration shall expire 3 years after the date on which it is~~
26 ~~issued.~~

1 ~~(4) An applicant desiring to register a pesticide product~~
2 ~~shall pay to the director an annual registration fee of \$20.00~~
3 ~~for each name of pesticide product sold, offered, exposed for~~
4 ~~sale, or distributed in this state.~~

5 (1) AN APPLICATION SUBMITTED UNDER THIS PART SHALL BE ACCOM-
6 PANIED BY THE FOLLOWING APPLICATION FEE:

7 (A) FOR A COMMERCIAL APPLICATOR CERTIFICATION, \$75.00.

8 (B) FOR A PRIVATE AGRICULTURE APPLICATOR CERTIFICATION,
9 \$30.00.

10 (C) FOR A COMMERCIAL REGISTERED APPLICATOR, \$45.00.

11 (D) FOR A PRIVATE REGISTERED APPLICATOR, \$30.00.

12 (2) CERTIFICATES FOR COMMERCIAL APPLICATORS, PRIVATE AGRI-
13 CULTURAL APPLICATORS, AND REGISTERED APPLICATORS SHALL BE VALID
14 FOR A PERIOD OF TIME OF NOT LESS THAN 3 YEARS TO BE ESTABLISHED
15 BY RULE BY THE DIRECTOR.

16 (3) THE LICENSE APPLICATION FEE FOR A COMMERCIAL APPLICATOR
17 LICENSE IS \$100.00. THE LICENSE SHALL EXPIRE ON DECEMBER 31
18 ANNUALLY.

19 (4) THE REGISTRATION APPLICATION FEE FOR THE REGISTRATION OF
20 PESTICIDES SOLD, OFFERED, EXPOSED FOR SALE, OR DISTRIBUTED IS
21 \$40.00 PER PRODUCT.

22 (5) THE LICENSE APPLICATION FEE FOR A RESTRICTED USE PESTI-
23 CIDE DEALER'S LICENSE IS \$100.00. THE LICENSE SHALL EXPIRE ANNU-
24 ALLY ON DECEMBER 31.

25 (6) APPLICATION FEES SUBMITTED UNDER THIS SECTION ARE NOT
26 REFUNDABLE.

1 Sec. 8318. (1) ~~A~~ THE pesticide control fund is
2 established in the state treasury. The pesticide control fund
3 shall be expended only as provided in this section.

4 (2) The pesticide control fund shall receive as revenue all
5 fees, PENALTIES, ADMINISTRATIVE OR CIVIL FINES, AND ANY PAYMENTS
6 FOR COSTS OR REIMBURSEMENTS FOR EXPENSES OF INVESTIGATIONS col-
7 lected under this part, which shall be forwarded by the director
8 to the state treasurer, and the fund may receive as revenue money
9 appropriated by the legislature or from any other source.

10 (3) The revenue in the pesticide control fund shall be
11 expended to administer and enforce this part, to process applica-
12 tions received under this section, and to develop and improve
13 training programs to ensure the safe ~~application~~ AND EFFECTIVE
14 USE of pesticides.

15 (4) Money in the fund that is unexpended at the end of the
16 fiscal year shall be carried over to the succeeding fiscal year
17 and shall be expended as provided in subsection (3).

18 Sec. 8319. (1) The certification and registration of appli-
19 cators and licensing requirements do not apply to any of the
20 following:

21 (a) Employees of a certified private agricultural applicator
22 while acting under the level of supervision required in this
23 part.

24 (B) PERSONS APPLYING GENERAL USE PESTICIDES FOR A PRIVATE
25 AGRICULTURAL PURPOSE.

26 (C) ~~(b)~~ Commercial applicators applying general use
27 ~~pesticides~~ MICROBIOCIDES indoors ~~other than insecticides,~~

1 ~~rodenticides, avicides, and molluscicides~~ WHERE THERE IS NO
2 POTENTIAL FOR DOWNSTREAM EFFECTS. HOWEVER, THIS SUBDIVISION DOES
3 NOT EXEMPT FROM THESE REQUIREMENTS THE APPLICATION OF MICROBIO-
4 CIDES BY COMMERCIAL APPLICATORS TO PLANTS OR PLANTING MEDIUM
5 INDOORS.

6 ~~(c) Persons applying general use pesticides for a private~~
7 ~~agricultural purpose.~~

8 ~~(d) Persons applying general use pesticides on their own~~
9 ~~premises or employees of those persons applying general use pes-~~
10 ~~ticides indoors other than insecticides, rodenticides, avicides,~~
11 ~~and molluscicides on those premises as a scheduled and required~~
12 ~~work assignment in the course of their employment.~~

13 (D) PERSONS NOT SUBJECT TO LICENSING REQUIREMENTS IN SECTION
14 8313 THAT APPLY GENERAL USE PESTICIDES TO SWIMMING POOLS.

15 (E) INDOOR APPLICATIONS OF GENERAL USE MICROBIOCIDES BY PER-
16 SONS ON THEIR OWN PREMISES OR EMPLOYEES OF THOSE PERSONS WHEN
17 MAKING APPLICATIONS ON THOSE PREMISES AS A SCHEDULED AND REQUIRED
18 WORK ASSIGNMENT IN THE COURSE OF THEIR EMPLOYMENT, WHERE THERE IS
19 NO POTENTIAL FOR DOWNSTREAM EFFECT.

20 (F) ~~(e)~~ Allopathic or osteopathic physicians and doctors
21 of veterinary medicine applying pesticides during the course of
22 their normal practice and their employees AND PEOPLE WORKING
23 UNDER THEIR CONTROL while acting under the level of supervision
24 required in subsections (2) and (3).

25 (G) ~~(f)~~ Persons conducting laboratory type research
26 involving restricted use pesticides.

1 (2) An allopathic or osteopathic physician or a doctor of
2 veterinary medicine shall supervise the application of a general
3 use pesticide by a competent employee under his or her instruc-
4 tion and control during the course of the normal practice of the
5 allopathic or osteopathic physician or the doctor of veterinary
6 medicine even if the allopathic or osteopathic physician or the
7 doctor of veterinary medicine is not physically present. An
8 allopathic or osteopathic physician or a doctor of veterinary
9 medicine shall directly supervise the application of a restricted
10 use pesticide by an employee under his or her instruction or con-
11 trol during the course of the normal practice of the allopathic
12 or osteopathic physician or doctor of veterinary medicine by
13 being physically present at the time and place the restricted use
14 pesticide is being applied.

15 (3) An allopathic or osteopathic physician or doctor of vet-
16 erinary medicine is subject to the requirements, prohibitions,
17 and penalties of this part and rules promulgated under this part
18 for an application of pesticides by the allopathic or osteopathic
19 physician or the doctor of veterinary medicine and for an appli-
20 cation of pesticides by an employee directly or indirectly super-
21 vised by the allopathic or osteopathic physician or the doctor of
22 veterinary medicine during the course of the normal practice of
23 the allopathic or osteopathic physician or the doctor of veteri-
24 nary medicine.

25 Sec. 8322. (1) The director may do all of the following:

26 (a) Declare as a pest any form of plant or animal life,
27 except viruses, nematodes, bacteria, or other microorganisms on

1 or in living human beings or other animals, that is injurious to
2 health or the environment.

3 (b) Determine the toxicity of pesticides to human beings.
4 The director shall use the data in support of registration and
5 classification as a guide in this determination.

6 (c) Determine pesticides, and quantities of substances con-
7 tained in pesticides, that are injurious to the environment. The
8 director shall use the EPA regulations as a guide in this
9 determination.

10 (d) Enter into cooperative agreements with agencies of the
11 federal government or any other agency of this state, or an
12 agency of another state, for the purpose of implementing this
13 part and securing uniformity of rules.

14 (e) Enter AND CONDUCT INSPECTIONS upon any public or private
15 premises or other place, including vehicles of transport, where
16 pesticides or devices are being used or held for distribution or
17 sale, for the purposes of INSPECTING RECORDS, inspecting and
18 obtaining samples of pesticides or devices, ~~or~~ AND to inspect
19 equipment or methods of application, TO ASSURE COMPLIANCE WITH
20 THIS PART AND THE RULES PROMULGATED UNDER THIS PART.

21 (f) Allow only certified applicators to apply a pesticide
22 that is classified as a restricted use pesticide pursuant to
23 subsection (2).

24 (G) CONDUCT INVESTIGATIONS WHEN THERE IS REASONABLE CAUSE TO
25 BELIEVE THAT A PESTICIDE HAS BEEN USED IN VIOLATION OF THIS PART
26 OR THE RULES PROMULGATED UNDER THIS PART.

1 (2) In addition to any other authority provided by this
2 part, the director, by administrative order, may: ~~classify~~

3 (A) CLASSIFY a pesticide as a restricted use pesticide in
4 accordance with any 1 of the restrictive criteria in
5 40 C.F.R. 152.170. ~~(May 4, 1988).~~

6 (B) CREATE CERTIFICATION CATEGORIES IN ADDITION TO THOSE
7 PROMULGATED BY RULE.

8 (3) Prior to classifying a pesticide as a restricted use
9 pesticide under subsection (2), the director shall issue a pre-
10 liminary administrative order and provide for a 30-day period for
11 public comment and review pertaining to the preliminary order.
12 Prior to issuing the final administrative order, the director
13 shall review and consider any public comments received during the
14 30-day period. An administrative order classifying a pesticide
15 as a restricted use pesticide shall cite each of the provisions
16 of subsection (2) that justify that classification.

17 (4) The department shall develop a program on pesticide con-
18 tainer recycling and disposal to be approved by the commission of
19 agriculture. The program shall be limited to licensed pesticide
20 dealers and other persons seeking approval from the department
21 for participation in the program.

22 Sec. 8327. (1) When the director ~~believes~~ HAS PROBABLE
23 CAUSE TO BELIEVE that an applicator is using or intending to use
24 a pesticide in an unsafe or inadequate manner or in a manner
25 inconsistent with its labeling, the director shall order the
26 applicator to cease the use of or refrain from the intended use

1 of the pesticide. The order may be either oral or written and
2 shall inform the applicator of the reason for the order.

3 (2) Upon receipt of the order, the applicator shall immedi-
4 ately comply with the DIRECTOR'S order. Failure to comply con-
5 stitutes cause for revocation of the applicator's license or cer-
6 tification OR REGISTRATION and subjects the applicator to the
7 penalty imposed under section ~~8332~~ 8333.

8 (3) The director shall rescind the order ~~immediately~~ upon
9 being satisfied ~~after inspection that the order has been com-~~
10 plied with. ~~The inspection shall be conducted as soon as possi-~~
11 ble at the oral or written request of the applicator. ~~The~~
12 ~~rescinding order of the director may be oral and the applicator~~
13 ~~may rely on that oral rescinding order. However, an oral order~~
14 ~~shall be followed by a written rescinding~~ THAT THE APPLICATOR
15 HAS COMPLIED WITH THE order.

16 ~~(4) If sampling or examination of a pesticide or device~~
17 ~~discloses that it fails to comply with this part or the rules~~
18 ~~promulgated under this part, then the pesticide or device is in~~
19 ~~violation of this part.~~

20 Sec. 8329. (1) When the director has reasonable ~~cause to~~
21 ~~believe~~ SUSPICION THAT a pesticide or device is ~~being~~ distrib-
22 uted, stored, transported, offered for sale, or used in violation
23 of this part, ~~or the rules promulgated under this part,~~ the
24 director may issue ~~a written~~ AN order ~~to the owner or custo-~~
25 dian of the pesticide or device to stop the prohibited conduct.
26 ~~After receipt of such an order, a~~ THE person shall ~~not sell,~~

1 ~~use, or remove the pesticide or device described in the order~~
2 ~~except in accordance~~ IMMEDIATELY COMPLY with the order.

3 (2) A pesticide or device that is ~~being~~ transported, ~~was~~
4 ~~transported and remains unsold~~ or is in original unbroken pack-
5 ages, OR is sold or offered for sale in this state, or is
6 imported from a foreign country, in violation of this part, ~~or~~
7 ~~the rules promulgated under this part,~~ is liable to be proceeded
8 against in any district court in the district where it is found
9 and seized for confiscation by a process in rem for condemnation
10 if:

11 (a) In the case of a pesticide, any of the following circum-
12 stances exist:

13 (i) It is adulterated or misbranded.

14 (ii) It is not registered pursuant to this part.

15 (iii) Its labeling fails to bear the information required by
16 FIFRA or by regulations promulgated under FIFRA.

17 (iv) ~~It is not colored or discolored and coloring or dis-~~
18 ~~coloring is~~ ITS COLORING IS DIFFERENT THAN THAT required under
19 FIFRA.

20 (v) Any ~~of the~~ claims ~~made for it or any of the~~ OR
21 directions for its use differ ~~in substance~~ from the representa-
22 tions made ~~in connection~~ with its registration.

23 (b) In the case of a device, it is misbranded.

24 (c) In the case of a pesticide or device, when used in
25 accordance with the requirements imposed under this part ~~and as~~
26 ~~directed by the labeling, it nevertheless~~ IT causes unreasonable
27 adverse effects on the environment. ~~However, when a plant~~

1 ~~regulator, defoliant, or desiccant is used in accordance with the~~
2 ~~label claims and recommendations, physical or physiological~~
3 ~~effects on plants or parts of plants are not considered to be~~
4 ~~injurious if those effects are the purpose for which the plant~~
5 ~~regulator, defoliant, or desiccant was applied.~~

6 (3) If the pesticide or device is condemned, it shall ~~—~~,
7 ~~after entry of the decree,~~ be disposed of by destruction or sale
8 as the court directs. ~~—, and, if~~ IF the pesticide or device is
9 sold, the proceeds less the court costs shall be credited to the
10 general fund. ~~However, the~~ A pesticide or device shall not be
11 sold contrary to this part or the laws of the jurisdiction in
12 which it is sold. ~~However, upon~~ UPON payment of the costs of
13 the condemnation proceedings and the execution and delivery of a
14 ~~good and~~ sufficient bond conditioned that ~~the pesticide or~~
15 ~~device~~ IT shall not be sold or ~~otherwise~~ disposed of contrary
16 to this part or the laws of the jurisdiction in which it is sold,
17 the court may direct that ~~the pesticide or device~~ IT be deliv-
18 ered to the owner. The proceedings of condemnation cases shall
19 conform as nearly as possible to proceedings in admiralty, except
20 that either party may demand trial by jury of an issue of fact
21 joined in a case, and the proceedings shall be brought by and in
22 the name of the people of the state.

23 (4) ~~If a decree of condemnation is entered against a pesti-~~
24 ~~cide or device, court~~ COURT costs, ~~and~~ fees, storage, and
25 other proper expenses shall be awarded against the person, ~~if~~
26 ~~any,~~ intervening as claimant of the pesticide or device UPON
27 ENTRY OF A DECREE OF CONDEMNATION.

1 Sec. 8330. (1) ~~A pesticide that is~~ PESTICIDES
2 DISTRIBUTED, transported, sold, OR exposed ~~—~~ or offered for
3 sale in this state shall be in the registrant's or manufacturer's
4 unbroken immediate container and shall have attached to it a
5 label conforming to the labeling requirements as prescribed under
6 ~~section 8307~~ THIS PART or the rules promulgated under this
7 part. ~~However, the~~ THE unbroken container requirement of this
8 subsection does not apply to an applicator who is transporting a
9 pesticide between the place of storage and the area of
10 application.

11 (2) A pesticide container shall be free from damage that
12 ~~might render~~ RENDERS the pesticide unsafe.

13 (3) A pesticide that is required ~~by rule~~ to be colored ~~or~~
14 ~~discolored~~ shall not be distributed, sold, exposed, or offered
15 for sale unless the pesticide is colored ~~or discolored~~ as
16 prescribed.

17 (4) A pesticide shall be handled, stored, displayed, or
18 transported ~~in such a manner~~ SO that it will not endanger human
19 beings and ~~their~~ THE environment or endanger food, feed, or
20 other products that ~~may be~~ ARE stored, displayed, or trans-
21 ported with the pesticide.

22 (5) A person shall not detach, alter, deface, or destroy ~~in~~
23 ~~whole or in part~~ any PORTION OF A label or labeling provided for
24 in this part or rules promulgated under this part, or add a sub-
25 stance to or take a substance from a pesticide in a manner that
26 may defeat the purpose of this part or FIFRA.

1 (6) A PESTICIDE vendor ~~of pesticides~~ shall keep on file,
2 subject to inspection by an authorized agent of the director for
3 a period of 1 year, all invoices, freight bills, truckers'
4 receipts, waybills, and similar shipping data pertaining to pes-
5 ticides that would establish date and origin of the shipments.

6 Sec. 8333. (1) A PERSON WHO VIOLATES THIS PART IS SUBJECT
7 TO THE PENALTIES AND REMEDIES PROVIDED IN THIS PART REGARDLESS OF
8 WHETHER HE OR SHE ACTED ALONE OR THROUGH AN EMPLOYEE OR AGENT.

9 (2) ~~(1)~~ The director, upon finding after notice and an
10 opportunity for a hearing that a person has violated OR ATTEMPTED
11 TO VIOLATE any provision of this part, ~~except sections 8311(2)~~
12 ~~and 8312,~~ may impose an administrative fine of not more than
13 \$1,000.00 for each violation OF THIS PART.

14 (3) ~~(2)~~ If the director finds that a violation OR
15 ATTEMPTED VIOLATION occurred despite the exercise of due care or
16 did not result in significant harm to human health or the envi-
17 ronment, the director may issue a warning instead of imposing an
18 administrative fine.

19 (4) ~~(3)~~ The director shall advise the attorney general of
20 the failure of a person to pay an administrative fine imposed
21 under this section. The attorney general ~~shall~~ MAY bring an
22 action in a court of competent jurisdiction ~~to recover the fine~~
23 FOR THE FAILURE TO PAY AN ADMINISTRATIVE FINE IMPOSED UNDER THIS
24 SECTION.

25 (5) ~~(4)~~ A ~~registrant, commercial applicator, registered~~
26 ~~applicator, restricted use pesticide dealer, or distributor~~ A
27 PERSON who ~~knowingly~~ violates this part ~~or a rule promulgated~~

1 ~~under~~ OR ATTEMPTS TO VIOLATE this part is guilty of a
2 misdemeanor ~~and shall be fined~~ PUNISHABLE BY IMPRISONMENT FOR
3 NOT MORE THAN 90 DAYS OR A FINE OF not more than \$5,000.00, OR
4 BOTH, for each offense. ~~A registrant, commercial applicator,~~
5 ~~registered applicator, restricted use pesticide dealer, or dis-~~
6 ~~tributor who knowingly and with malicious intent violates this~~
7 ~~part or a rule promulgated under this part is guilty of a misde-~~
8 ~~meanor, and shall be fined not more than \$25,000.00 for each~~
9 ~~offense. A private agricultural applicator or any other person~~
10 ~~who knowingly violates this part or a rule promulgated under this~~
11 ~~part is guilty of a misdemeanor and shall be fined not more than~~
12 ~~\$1,000.00 for each offense.~~ A PERSON WHO VIOLATES THIS PART OR
13 ATTEMPTS TO VIOLATE THIS PART WITH INTENT TO CAUSE HARM TO THE
14 ENVIRONMENT IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
15 NOT MORE THAN 5 YEARS OR A FINE OF NOT LESS THAN \$25,000.00 AND
16 NOT MORE THAN \$50,000.00, OR BOTH, FOR EACH OFFENSE. The ~~court~~
17 ~~may allow the~~ department ~~to~~ MAY recover reasonable costs and
18 attorney fees incurred in a prosecution resulting in a conviction
19 for a violation ~~committed knowingly and with malicious intent~~
20 ~~under this subsection~~ OF THIS PART OR AN ATTEMPTED VIOLATION OF
21 THIS PART WITH INTENT TO CAUSE HARM TO THE ENVIRONMENT.

22 (6) ~~(5)~~ The director may bring an action to enjoin ~~the~~ A
23 violation ~~or threatened~~ OF THIS PART OR AN ATTEMPTED violation
24 of this part ~~or a rule promulgated under this part~~ in a court
25 of competent jurisdiction of the county in which the violation
26 occurs or is about to occur.

1 (7) ~~(6)~~ The attorney general may file a civil action in
2 which the court may impose on any person who violates this part
3 or ~~a rule promulgate under~~ ATTEMPTS TO VIOLATE this part a
4 civil fine of not more than \$5,000.00 for each violation OR
5 ATTEMPTED VIOLATION. IN ADDITION, THE ATTORNEY GENERAL MAY BRING
6 AN ACTION IN CIRCUIT COURT TO RECOVER THE REASONABLE COSTS OF THE
7 INVESTIGATION FROM ANY PERSON WHO VIOLATED THIS PART OR ATTEMPTED
8 TO VIOLATE THIS PART. MONEY RECOVERED UNDER THIS SUBSECTION
9 SHALL BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE
10 PESTICIDE CONTROL FUND CREATED IN SECTION 8318.

11 (8) ~~(7)~~ In defense of an action filed under this section,
12 in addition to any other lawful defense, a person may present
13 evidence as an affirmative defense that, at the time of the
14 alleged violation OF THIS PART OR ATTEMPTED VIOLATION OF THIS
15 PART, he or she was in compliance with label directions and with
16 this part and rules promulgated under this part AT THE TIME OF
17 THE ALLEGED VIOLATION.

18 (9) ~~(8)~~ A civil cause of action does not arise for inju-
19 ries to any person or property if a private agricultural applica-
20 tor, or a registered applicator who stores, handles, or applies
21 pesticides only for a private agricultural purpose, was not
22 grossly negligent and stored, handled, or applied pesticides in
23 compliance with this part, rules promulgated under this part, and
24 the pesticide labeling.

25 (10) ~~(9)~~ Applicable provisions of the revised judicature
26 act of 1961, ~~Act No. 236 of the Public Acts of 1961, being~~
27 ~~sections 600.101 to 600.9947 of the Michigan Compiled Laws~~ 1961

1 PA 236, MCL 600.101 TO 600.9948, apply to civil actions filed
2 pursuant to this part.

3 Enacting section 1. Section 8307 of the natural resources
4 and environmental protection act, 1994 PA 451, MCL 324.8307, is
5 repealed.