

HB4661



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4661

by Rep. Patrick J. Verschoore

SYNOPSIS AS INTRODUCED:

415 ILCS 60/19.3

415 ILCS 60/22.2

from Ch. 5, par. 822.2

Amends the Illinois Pesticide Act. Removes provisions creating the Agrichemical Facility Response Action Program Board. Transfers certain duties of the Board to the Director of the Illinois Department of Agriculture or his or her authorized representative. Effective immediately.

LRB098 17272 MGM 52366 b

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 5. The Illinois Pesticide Act is amended by
5 changing Sections 19.3 and 22.2 as follows:

6 (415 ILCS 60/19.3)

7 Sec. 19.3. Agrichemical Facility Response Action 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 pollution and minimize
11 environmental degradation risk potential at these sites. In
12 this Section, "agrichemical facility" means a site where
13 agrichemicals are stored or handled, or both, in preparation
14 for end use. "Agrichemical facility" does not include basic
15 manufacturing or central distribution sites utilized only for
16 wholesale purposes. As used in this Section, "agrichemical"
17 means pesticides or commercial fertilizers at an agrichemical
18 facility.

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

23 The program shall establish appropriate site-specific soil

1 cleanup objectives, which shall be based on the potential for
2 the agrichemical contaminants to move from the soil to
3 groundwater and the potential of the specific soil agrichemical
4 contaminants to cause an exceedence of a Class I or Class III
5 groundwater quality standard or a health advisory level. The
6 Department shall use the information found and procedures
7 developed in the Agrichemical Facility Site Contamination
8 Study or other appropriate physical evidence to establish the
9 soil agrichemical contaminant levels of concern to groundwater
10 in the various hydrological settings to establish
11 site-specific cleanup objectives.

12 No remediation of a site may be recommended unless (i) the
13 agrichemical contamination level in the soil exceeds the
14 site-specific cleanup objectives or (ii) the agrichemical
15 contaminant level in the soil exceeds levels where physical
16 evidence and risk evaluation indicates probability of the site
17 causing an exceedence of a groundwater quality standard.

18 When a remediation plan must be carried out over a number
19 of years due to limited financial resources of the owner or
20 operator of the agrichemical facility, those soil agrichemical
21 contaminated areas that have the greatest potential to
22 adversely impact vulnerable Class I groundwater aquifers and
23 adjacent potable water wells shall receive the highest priority
24 rating and be remediated first.

25 (b) (Blank). ~~The Agrichemical Facility Response Action~~
26 ~~Program Board ("the Board") is created. The Board members shall~~

1 ~~consist of the following:~~

2 ~~(1) The Director or the Director's designee.~~

3 ~~(2) One member who represents pesticide manufacturers.~~

4 ~~(3) Two members who represent retail agricultural~~
5 ~~dealers.~~

6 ~~(4) One member who represents agricultural~~
7 ~~distributors.~~

8 ~~(5) One member who represents active farmers.~~

9 ~~(6) One member at large.~~

10 ~~The public members of the Board shall be appointed by the~~
11 ~~Governor for terms of 2 years. Those persons on the Board who~~
12 ~~represent pesticide manufacturers, agricultural dealers,~~
13 ~~agricultural distributors, and farmers shall be selected from~~
14 ~~recommendations made by the associations whose membership~~
15 ~~reflects those specific areas of interest. The members of the~~
16 ~~Board shall be appointed within 90 days after the effective~~
17 ~~date of this amendatory Act of 1995. Vacancies on the Board~~
18 ~~shall be filled within 30 days. The Board may fill any~~
19 ~~membership position vacant for a period exceeding 30 days.~~

20 ~~The members of the Board shall be paid no compensation, but~~
21 ~~shall be reimbursed for their expenses incurred in performing~~
22 ~~their duties. If a civil proceeding is commenced against a~~
23 ~~Board member arising out of an act or omission occurring within~~
24 ~~the scope of the Board member's performance of his or her~~
25 ~~duties under this Section, the State, as provided by rule,~~
26 ~~shall indemnify the Board member for any damages awarded and~~

1 ~~court costs and attorney's fees assessed as part of a final and~~
2 ~~unreversed judgement, or shall pay the judgment, unless the~~
3 ~~court or jury finds that the conduct or inaction that gave rise~~
4 ~~to the claim or cause of action was intentional, wilful or~~
5 ~~wanton misconduct and was not intended to serve or benefit~~
6 ~~interests of the State.~~

7 ~~The chairperson of the Board shall be selected by the Board~~
8 ~~from among the public members.~~

9 (c) (Blank). ~~The Board has the authority to do the~~
10 ~~following:~~

11 ~~(1) Cooperate with the Department and review and~~
12 ~~approve an agrichemical facility remediation program as~~
13 ~~outlined in the handbook or manual as set forth in~~
14 ~~subdivision (d) (8) of this Section.~~

15 ~~(2) Review and give final approval to each agrichemical~~
16 ~~facility corrective action plan.~~

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

19 ~~(4) Upon completion of the corrective action plan,~~
20 ~~recommend to the Department that the site specific cleanup~~
21 ~~objectives have been met and that a notice of closure be~~
22 ~~issued by the Department stating that no further remedial~~
23 ~~action is required to remedy the past agrichemical~~
24 ~~contamination.~~

25 ~~(5) When a soil agrichemical contaminant assessment~~
26 ~~confirms that remedial action is not required in accordance~~

1 ~~with the Agrichemical Facility Response Action Program,~~
2 ~~recommend that a notice of closure be issued by the~~
3 ~~Department stating that no further remedial action is~~
4 ~~required to remedy the past agrichemical contamination.~~

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

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

12 (1) When requested by the owner or operator of an
13 agrichemical facility, may investigate the agrichemical
14 facility site contamination.

15 (2) After completion of the investigation under
16 paragraph (1) of subsection (d) ~~subdivision (d)(1)~~ of this
17 Section, recommend to the owner or operator of an
18 agrichemical facility that a voluntary assessment be made
19 of the soil agrichemical contaminant when there is evidence
20 that the evaluation of risk indicates that groundwater
21 could be adversely impacted.

22 (3) Review and make recommendations on any corrective
23 action plan submitted by the owner or operator of an
24 agrichemical facility ~~to the Board for final approval.~~

25 (4) On approval by the Director ~~Board~~, issue an order
26 to the owner or operator of an agrichemical facility that

1 has filed a voluntary corrective action plan that the owner
2 or operator may proceed with that plan.

3 (5) Provide remedial project oversight and ~~7~~ monitor
4 remedial work progress, ~~and report to the Board on the~~
5 ~~status of remediation projects.~~

6 (6) Provide staff to support program ~~the~~ activities ~~of~~
7 ~~the Board.~~

8 (7) (Blank). ~~Take appropriate action on the Board's~~
9 ~~recommendations regarding policy needed to carry out the~~
10 ~~Board's responsibilities under this Section.~~

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

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

23 Upon completion of the corrective action plan ~~and upon~~
24 ~~recommendation of the Board,~~ the Department shall issue a
25 notice of closure stating that site-specific cleanup
26 objectives have been met and no further remedial action is

1 required to remedy the past agrichemical contamination.

2 When a soil agrichemical contaminant assessment confirms
3 that remedial action is not required in accordance with the
4 Agrichemical Facility Response Action Program ~~and upon the~~
5 ~~recommendation of the Board~~, a notice of closure shall be
6 issued by the Department stating that no further remedial
7 action is required to remedy the past agrichemical
8 contamination.

9 (e) Upon receipt of notification of an agrichemical
10 contaminant in groundwater pursuant to the Groundwater Quality
11 Standards, the Department shall evaluate the severity of the
12 agrichemical contamination and shall submit to the
13 Environmental Protection Agency an informational notice
14 characterizing it as follows:

15 (1) An agrichemical contaminant in Class I or Class III
16 groundwater has exceeded the levels of a standard adopted
17 pursuant to the Illinois Groundwater Protection Act or a
18 health advisory established by the Illinois Environmental
19 Protection Agency or the United States Environmental
20 Protection Agency; or

21 (2) An agrichemical has been detected at a level that
22 requires preventive notification pursuant to a standard
23 adopted pursuant to the Illinois Groundwater Protection
24 Act.

25 (f) When agrichemical contamination is characterized as in
26 paragraph (1) of subsection (e) ~~subdivision (e)(1)~~ of this

1 Section, a facility may elect to participate in the
2 Agrichemical Facility Response Action Program. In these
3 instances, the scope of the corrective action plans developed,
4 approved, and completed under this program shall be limited to
5 the soil agrichemical contamination present at the site unless
6 implementation of the plan is coordinated with the Illinois
7 Environmental Protection Agency as follows:

8 (1) Upon receipt of notice of intent to include
9 groundwater in an action by a facility, the Department
10 shall also notify the Illinois Environmental Protection
11 Agency.

12 (2) Upon receipt of the corrective action plan, the
13 Department shall coordinate a joint review of the plan with
14 the Illinois Environmental Protection Agency.

15 (3) The Illinois Environmental Protection Agency may
16 provide a written endorsement of the corrective action
17 plan.

18 (4) The Illinois Environmental Protection Agency may
19 approve a groundwater management zone for a period of 5
20 years after the implementation of the corrective action
21 plan to allow for groundwater impairment mitigation
22 results.

23 (5) (Blank). ~~The Department, in cooperation with the~~
24 ~~Illinois Environmental Protection Agency, shall recommend~~
25 ~~a proposed corrective action plan to the Board for final~~
26 ~~approval to proceed with remediation. The recommendation~~

1 ~~shall be based on the joint review conducted under~~
2 ~~subdivision (f)(2) of this Section and the status of any~~
3 ~~endorsement issued under subdivision (f)(3) of this~~
4 ~~Section.~~

5 (6) The Department, in cooperation with the Illinois
6 Environmental Protection Agency, shall provide remedial
7 project oversight and ~~7~~ monitor remedial work progress, ~~and~~
8 ~~report to the Board on the status of the remediation~~
9 ~~project.~~

10 (7) The Department shall, upon completion of the
11 corrective action plan ~~and recommendation of the Board,~~
12 issue a notice of closure stating that no further remedial
13 action is required to remedy the past agrichemical
14 contamination.

15 (g) When an owner or operator of an agrichemical facility
16 initiates a soil contamination assessment on the owner's or
17 operator's own volition and independent of any requirement
18 under this Section 19.3, information contained in that
19 assessment may be held as confidential information by the owner
20 or operator of the facility.

21 (h) Except as otherwise provided by Department rule, on and
22 after the effective date of this amendatory Act of the 98th
23 General Assembly, any Agrichemical Facility Response Action
24 Program requirement that may be satisfied by an industrial
25 hygienist licensed pursuant to the Industrial Hygienists
26 Licensure Act repealed in this amendatory Act may be satisfied

1 by a Certified Industrial Hygienist certified by the American
2 Board of Industrial Hygiene.

3 (Source: P.A. 98-78, eff. 7-15-13.)

4 (415 ILCS 60/22.2) (from Ch. 5, par. 822.2)

5 Sec. 22.2. Agrichemical Incident Response Trust Fund.

6 (a) There is hereby created a trust fund in the State
7 Treasury to be known as the Agrichemical Incident Response
8 Trust Fund. Any funds received by the Director of Agriculture
9 from the mandates of Section 13.1 shall be deposited with the
10 Treasurer as ex-officio custodian and held separate and apart
11 from any public money of this State, with accruing interest on
12 the trust funds deposited into the trust fund. Disbursement
13 from the fund for purposes as set forth in this Section shall
14 be by voucher ordered by the Director and paid by a warrant
15 drawn by the State Comptroller and countersigned by the State
16 Treasurer. The Director shall order disbursements from the
17 Agrichemical Incident Response Trust Fund only for payment of
18 the expenses authorized by this Act. Monies in this trust fund
19 shall not be subject to appropriation by the General Assembly
20 but shall be subject to audit by the Auditor General. Should
21 the program be terminated, all unobligated funds in the trust
22 fund shall be transferred to a trust fund to be used for
23 purposes as originally intended or be transferred to the
24 Pesticide Control Fund. Interest earned on the Fund shall be
25 deposited in the Fund. Monies in the Fund may be used by the

1 Department of Agriculture for the following purposes:

2 (1) for payment of costs of response action incurred by
3 owners or operators of agrichemical facilities as provided
4 in Section 22.3 of this Act;

5 (2) for the Department to take emergency action in
6 response to a release of agricultural pesticides from an
7 agrichemical facility that has created an imminent threat
8 to public health or the environment;

9 (3) for the costs of administering its activities
10 relative to the Fund as delineated in subsections (b) and
11 (c) of this Section; and

12 (4) for the Department to administer the Agrichemical
13 Facility Response Action Program. †

14 ~~(A) reimburse members of the Agrichemical Facility~~
15 ~~Response Action Program Board for their expenses~~
16 ~~incurred in performing their duties as defined under~~
17 ~~Section 19.3 of this Act; and~~

18 ~~(B) provide staff to support the activities of the~~
19 ~~Agrichemical Facility Response Action Program Board.~~

20 The total annual expenditures from the Fund for these
21 purposes under this paragraph (4) shall not be more than
22 \$120,000, and no expenditure from the Fund for these
23 purposes shall be made when the Fund balance becomes less
24 than \$750,000.

25 (b) The action undertaken shall be such as may be necessary
26 or appropriate to protect human health or the environment.

1 (c) The Director of Agriculture is authorized to enter into
2 contracts and agreements as may be necessary to carry out the
3 Department's duties under this Section.

4 (d) Neither the State, the Director, nor any State employee
5 shall be liable for any damages or injury arising out of or
6 resulting from any action taken under this Section.

7 (e) (Blank). ~~On a quarterly basis, the Department shall~~
8 ~~advise and consult with the Agrichemical Facility Response~~
9 ~~Action Program Board as to the Department's administration of~~
10 ~~the Fund.~~

11 (Source: P.A. 89-94, eff. 7-6-95.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.