

**ENVIRONMENTAL SAFETY
(415 ILCS 60/) Illinois Pesticide Act.**

(415 ILCS 60/1) (from Ch. 5, par. 801)

Sec. 1. This Act shall be known as the Illinois Pesticide Act.

(Source: P.A. 85-177.)

(415 ILCS 60/2) (from Ch. 5, par. 802)

Sec. 2. Declaration of Purpose: The purpose of this Act is to regulate in the public interest the labeling, distribution, use and application of pesticides as herein defined. It is recognized that pesticides are valuable and necessary to Illinois' agricultural production and to the protection of man and his environment from pests, but it is essential to our general health and welfare that they be regulated to prevent adverse effects on man and his environment. New pesticides and application methods are continually being synthesized or discovered which may be valuable for pest control. However, such pesticides may cause unreasonable adverse effects on the environment or may be injurious to animals or man if not properly used. It is, therefore, deemed necessary to provide for the regulation of pesticides.

(Source: P.A. 81-197.)

(415 ILCS 60/3) (from Ch. 5, par. 803)

Sec. 3. Delegation of Authority. The Illinois Department of Agriculture shall administer "The Illinois Pesticide Act".

1. It shall be the duty of the Department of Agriculture to enforce this Act and such provisions of other Acts intended to control the registration, purchase, use, storage and disposal of pesticides, unless otherwise specified in this Section. Also, the Department of Agriculture shall control the purchase and use of pesticides pertaining to the production, protection, care, storage, or transportation of agricultural commodities and to control the use of pesticides applied by agricultural equipment. Also, the Department shall establish and implement an Agrichemical Facility Response Action Program as provided in Section 19.3.

2. It shall be the duty of the Department of Public Health to enforce such provisions of this Act and other Acts intended to control structural pest pesticides, as defined in subparagraph 37 of Section 4, of this Act. It shall be the duty of the Department of Public Health to enforce such provisions of this Act related to vector control, control of pestiferous and disease carrying insects, rodents and other animals, and control of birds and other mammals that may pose a threat to the health of the public.

3. It shall be the duty of the Environmental Protection Agency to enforce such provisions of this Act and other Acts intended to protect and preserve the quality of air, water, and guard against unreasonable contamination of land resources.

4. The regulation of pesticides by any political subdivision of this State, including home rule units, is specifically prohibited except for counties and municipalities with a population over 2,000,000. The regulation of pesticides under this Act is an exclusive power and function of the State, except as provided in this paragraph, and is a denial and limitation, under Article VII, Section 6, subsection (h) of the Illinois Constitution, of the power of a home rule unit to regulate pesticides.

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

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

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

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

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

3. "Adulterated" shall apply to any pesticide if the strength or purity is not within the standard of quality expressed on the labeling under which it is sold, distributed or used, including any substance which has been substituted wholly or in part for the pesticide as specified on the labeling under which it is sold, distributed or used, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

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

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

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

7. "Certified applicator".

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

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

C. "Licensed Commercial Applicator" means a certified applicator, whether or not he is a private applicator with respect to some uses, who owns or manages a business that is engaged in applying pesticides, whether classified for general or restricted use, for hire. The term also applies to a certified applicator who uses or supervises the use of pesticides, whether classified for general or restricted use, for any purpose or on property of others excluding those specified by subparagraphs 7 (B), (D), (E) of Section 4 of this Act.

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

E. "Licensed Public Applicator" means a certified applicator who uses or supervises the use of pesticides

classified for general or restricted use as an employee of a state agency, municipality, or other duly constituted governmental agency or unit.

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

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

10. "Device" means any instrument or contrivance, other than a firearm or equipment for application of pesticides when sold separately from pesticides, which is intended for trapping, repelling, destroying, or mitigating any pest, other than bacteria, virus, or other microorganisms on or living in man or other living animals.

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

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

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

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

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

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

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

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

19. "Ingredient Statement" means a statement of the name and percentage of each active ingredient together with the total percentage of inert ingredients in a pesticide and for pesticides containing arsenic in any form, the ingredient statement shall include percentage of total and water soluble arsenic, each calculated as elemental arsenic. In the case of spray adjuvants the ingredient statement need contain only the names of the functioning agents and the total percent of those constituents ineffective as spray adjuvants.

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

21. "Label" means the written, printed or graphic matter

on or attached to the pesticide or device or any of its containers or wrappings.

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

23. "Land" means all land and water area including airspace, and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

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

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

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

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

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

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

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

31. "Plant Regulator" means any substance or mixture of substances intended through physiological action to affect the rate of growth or maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof. This does not include substances which are not intended as plant nutrient trace elements, nutritional chemicals, plant or seed inoculants or soil conditioners or amendments.

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

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

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

35. "SLN Registration" means registration of a pesticide

for use under conditions of special local need as defined by FIFRA.

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

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

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

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

40. "Use inconsistent with the label" means to use a pesticide in a manner not consistent with the label instruction, the definition adopted in FIFRA as interpreted by USEPA shall apply in Illinois.

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

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

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

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

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

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

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

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

(Source: P.A. 92-113, eff. 7-20-01.)

(415 ILCS 60/5) (from Ch. 5, par. 805)

Sec. 5. Misbranded: The term misbranded shall apply:

1. To any pesticide or device designated as requiring registration by the Director under authority of this Act;

A. If its labeling bears any statement or graphic representation relating to labeling or to the ingredients which is misleading or false in any particular.

B. If it is an imitation of, or is distributed under, the name of another pesticide.

C. If any word, statement, or other required information is not prominently placed upon the label or labeled with such conspicuousness and in such terms as to render it readable and understandable by the ordinary person under customary conditions of purchase and use.

2. To any pesticide;

A. If the labeling does not contain a statement of the Federal use classification under which the product is registered.

B. If the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and any precautions or requirements imposed by FIFRA which if complied with, are adequate to protect health and the environment.

C. If the label does not bear;

i. Name, brand or trademark under which the pesticide is distributed.

ii. An ingredient statement on that part of the immediate container which is presented or customarily displayed under usual conditions of purchase.

iii. A warning or caution statement commensurate with the toxicity categories levels assigned by USEPA.

iv. The net weight or measure of contents.

v. The name and address of the manufacturer, registrant, or person for whom manufactured.

vi. The USEPA registration number assigned to the pesticide as well as the USEPA number assigned to the producing or manufacturing establishment in which the pesticide was produced.

D. If the pesticide contains any substance or substances highly toxic to man (as defined in the USEPA) unless the label bears, in addition to other label requirements;

i. The skull and crossbones.

ii. The word "POISON" in red prominently displayed on a contrasting background.

iii. A statement of practical treatment in case of poisoning by the pesticide.

E. If the pesticide container does not bear a registered label, is not accompanied by registered labeling instructions, does not bear a label registered for "experimental use only", or does not bear a label showing SLN registration.

F. If the pesticide container is not in compliance with child resistant packaging requirements as set forth by the USEPA.

(Source: P.A. 85-177.)

(415 ILCS 60/6) (from Ch. 5, par. 806)

Sec. 6. Registration.

1. Every pesticide which is distributed, sold, offered for sale within this State, delivered for transportation or transported in interstate commerce or between points within the State through any point outside the State, shall be registered with the Director or his designated agent, subject to provisions of this Act. Such registration shall be renewed annually with registrations expiring December 31 each year. Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse by the same person and is used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under provisions of this Act and FIFRA.

2. Registration applicant shall file a statement with the Director which shall include:

A. The name and address of the applicant and the

name and address of the person whose name will appear on

the label if different from the applicant's.

B. The name of the pesticide.

C. A copy of the labeling accompanying the pesticide under customary conditions of distribution, sale and use, including ingredient statement, direction for use, use classification, and precautionary or warning statements.

3. The Director may require the submission of complete formula data.

4. The Director may require a full description of tests made and the results thereof, upon which the claims are based, for any pesticide not registered pursuant to FIFRA, or on any pesticide under consideration to be classified for restricted use.

A. The Director will not consider data he required of the initial registrant of a pesticide in support of another applicants' registration unless the subsequent applicant has obtained written permission to use such data.

B. In the case of renewal registration, the Director may accept a statement only with respect to information which is different from that furnished previously.

5. The Director may prescribe other requirements to support a pesticide registration by regulation.

6. For the years preceding the year 2004, any registrant desiring to register a pesticide product at any time during one year shall pay the annual registration fee of \$100 per product registered for that applicant. For the years 2004 and thereafter, the annual product registration fee is \$200 per product.

In addition, for the years preceding the year 2004 any business registering a pesticide product at any time during one year shall pay the annual business registration fee of \$250. For the years 2004 and thereafter, the annual business registration fee shall be \$400. Each legal entity of the business shall pay the annual business registration fee.

For the years preceding the year 2004, any applicant requesting an experimental use permit shall pay the annual fee of \$100 per permit and all special local need pesticide registration applicants shall pay an annual fee of \$100 per product. For the years 2004 and thereafter, the annual experimental use permit fee and special local need pesticide registration fee is \$200 per permit. Subsequent SLN registrations for a pesticide already registered shall be exempted from the registration fee.

A. All registration accepted and approved by the Director shall expire on the 31st day of December in any one year unless cancelled. Registration for a special local need may be granted for a specific period of time with the approval date and expiration date specified.

B. If a registration for special local need granted by the Director does not receive approval of the Administrator of USEPA, the registration shall expire on the date of the Administrator's disapproval.

7. Registrations approved and accepted by the Director and in effect on the 31st day of December, for which renewal application is made, shall continue in full force and effect until the Director notifies the registrant that the renewal has been approved and accepted or the registration is denied under this Act. Renewal registration forms will be provided to applicants by the Director.

8. If the renewal of a pesticide registration is not filed within 30 days of the date of expiration, a penalty late registration assessment of \$300 per product shall apply in lieu of the normal annual product registration fee. The late

registration assessment shall not apply if the applicant furnishes an affidavit certifying that no unregulated pesticide was distributed or sold during the period of registration. The late assessment is not a bar to prosecution for doing business without proper registry.

9. The Director may prescribe by regulation to allow pesticide use for a special local need, pursuant to FIFRA.

10. The Director may prescribe by regulation the provisions for and requirements of registering a pesticide intended for experimental use.

11. The Director shall not make any lack of essentiality a criterion for denial of registration of any pesticide. Where 2 pesticides meet the requirements, one should not be registered in preference to the other.

12. It shall be the duty of the pesticide registrant to properly dispose of any pesticide the registration of which has been suspended, revoked or cancelled or which is otherwise not properly registered in the State.

(Source: P.A. 93-32, eff. 7-1-03.)

(415 ILCS 60/7) (from Ch. 5, par. 807)

Sec. 7. Refusal to Register, Cancellation, Suspension.

1. The Director may refuse to register a pesticide or cancel or suspend a pesticide registration if:

A. It does not appear that the composition of the pesticide is such as to warrant the proposed claims, if the pesticide does not comply with provisions of this Act or regulations promulgated thereunder, or if the labeling and other materials required for registration do not comply with provisions of this Act or regulations promulgated thereunder. The Director shall notify the applicant of the manner in which the pesticide labeling or other material fails to comply so as to afford the applicant an opportunity to make necessary corrections. The Director may refuse to register the pesticide if the required changes are not made. The applicant may request a hearing as provided under the Illinois Administrative Procedure Act.

B. It is determined that a pesticide or its labeling does not comply with provisions of this Act or regulations promulgated thereunder or unreasonable adverse effects on the environment would result from continued registration, the Director may cancel the registration or change the use classification of the pesticide. Prior to cancellation or a change in classification, the Director shall conduct a hearing in accordance with provisions of the Illinois Administrative Procedure Act.

C. It is determined that there is an imminent hazard. The Director may, of his own accord, suspend the registration of a pesticide and with utmost expedition conduct a hearing in accordance with the Illinois Administrative Procedure Act for the purposes of determining whether to cancel the registration or reclassify the pesticide's use.

2. Any person adversely affected by any order as provided for in this Section may obtain judicial review by filing in the Circuit Court, within 60 days after entry of such order, a petition praying the order in whole or in part be set aside. The petition shall be forthwith transmitted by the Clerk of the Court to the Director. The Director shall file with the court a record of the proceedings on which the order is based. The Court shall have jurisdiction to affirm or set aside in whole or in part such order. The findings of the Director with respect to questions of fact shall be sustained if supported

by substantial evidence. Upon application, the Court may remand the matter to the Director to take further testimony if there are reasonable grounds for failure to adduce such evidence in the prior hearing. The Director may modify his order by reason of additional evidence and shall file the additional record and modification with the Clerk of the Court.

3. If the Director determines that a pesticide does not comply with registration provisions of FIFRA or the regulations adopted thereunder, he shall advise USEPA of the manner in which said pesticide fails to comply and suggest necessary correction.

(Source: P.A. 91-357, eff. 7-29-99.)

(415 ILCS 60/8) (from Ch. 5, par. 808)

Sec. 8. Authority, Determinations, Rules and Regulations, Uniformity.

1. The Director is authorized, after due notice and opportunity for hearing, to declare and establish as a pest, for purposes of pesticide use and application, any form of plant or animal life, other than man himself, bacteria, viruses, and the microorganisms on or in living man or other living animals, which is injurious to health or the environment, provided that the classification of plants as pest does not violate provisions of the Illinois Noxious Weed Law.

2. The Director is authorized, after due notice and public hearing as provided in the Illinois Administrative Procedure Act, to make appropriate regulations for enforcement and administration of the Act including, but not limited to, regulations providing for:

A. The collection, examination, and analysis of samples of pesticides or devices.

B. The storage, display, distribution and disposal of pesticides or devices and their containers.

C. The methods of pesticide application which may relate to time, place, manner, methods, material amounts, or combinations and concentrations, in connection with the application of the pesticide.

D. Packaging, and material coloration necessary to protect public health and the environment from pesticides with experimental use or special local need registration. Such regulations must be consistent with the FIFRA rules and regulations promulgated thereunder.

E. The storage, handling, and containment of pesticides at agrichemical facilities and the protection of groundwater consistent with the provisions of Section 14.6 of the Environmental Protection Act.

F. The development and implementation of an Agrichemical Facility Response Action Program as provided in Section 19.3.

3. For purposes of uniformity and in order to enter into cooperative agreements, the Director may adopt use classifications and other pertinent pesticide registration provisions which are established by the Administrator, EPA.

4. Regulations adopted under this Act shall not permit any pesticide use prohibited by the FIFRA or any regulations or orders issued thereunder.

5. The Director is authorized to cooperate with such state or federal agencies as may be reasonable and proper to carry out the provisions of this Act.

(Source: P.A. 91-357, eff. 7-29-99.)

(415 ILCS 60/9) (from Ch. 5, par. 809)

Sec. 9. Licenses and Pesticide Dealer Registrations Requirements; Certification. Licenses and pesticide dealer registrations issued pursuant to this Act shall be valid for one year, except that private applicator licenses shall be valid for 3 years. All licenses and pesticide dealer registrations shall expire on December 31 of the year in which it is to expire. A license or pesticide dealer registration in effect on the 31st of December, for which renewal has been made within 60 days following the date of expiration, shall continue in full force and effect until the Director notifies the applicant that renewal has been approved and accepted or is to be denied in accordance with this Act. The Director shall not issue a license or pesticide dealer registration to a first time applicant or to a person who has not made application for renewal on or before March 1 following the expiration date of the license or pesticide dealer registration until such applicant or person has been certified by the Director as having successfully demonstrated competence and knowledge regarding pesticide use. The Director shall issue a license or pesticide dealer registration to a person that made application after March 1 and before April 15 if that application is accompanied by a late application fee. A licensee or pesticide dealer shall be required to be recertified for competence and knowledge regarding pesticide use at least once every 3 years and at such other times as deemed necessary by the Director to assure a continued level of competence and ability. The Director shall by regulation specify the standard of qualification for certification and the manner of establishing an applicant's competence and knowledge. An applicant who has been certified shall be required to apply for a license or pesticide dealer registration within 90 days after the date of such certification. Failure to apply for a license or pesticide dealer registration within such 90 day period shall void the certification.

The Director may refuse to issue a license or pesticide dealer registration based upon the violation history of the applicant.

(Source: P.A. 89-94, eff. 7-6-95; 90-205, eff. 1-1-98.)

(415 ILCS 60/10) (from Ch. 5, par. 810)

Sec. 10. Commercial Applicator License. No commercial applicator shall use or supervise the use of any pesticide without a commercial license issued by the Director. For the years preceding the year 2001, the Director shall require an annual fee for commercial applicator license of \$35. For the years 2001, 2002, 2003, 2004, 2005, and 2006, the annual fee for a commercial applicator license is \$45. For the years 2007 and thereafter, the annual fee for a commercial applicator license is \$60. The late application fee for a commercial applicator license shall be \$20 in addition to the normal license fee. A commercial applicator shall be assessed a fee of \$5 for a duplicate license.

1. Application for the commercial applicator license shall be made in writing on designated forms available from the Director. Each application shall contain information regarding the applicants qualifications, nature of the proposed operation, classification of license being sought, and shall include the following:

- A. The full name of the applicant.
- B. The address of the applicant.
- C. Any necessary information prescribed by the Director on the designated application form.

2. An applicant for a license shall demonstrate competence

and knowledge regarding pesticide use in accordance with Section 9 of this Act.

3. A licensed commercial applicator must provide to the Director at the time of original licensing and license renewal evidence of financial responsibility protecting persons who may suffer personal injury or property damage or both as a result of the pesticide operation of the applicant in either of the following manners:

A. Evidence of responsibility may be provided in the form of a surety bond for each licensed commercial applicator naming the licensed commercial applicator as principal of the bond. The amount of the bond shall be not less than \$50,000 per year. It is permissible to provide two bonds; one for \$25,000 for bodily injury liability and the second for \$25,000 for property damage liability. The bond or bonds shall be made payable to the Director of Agriculture, State of Illinois, for the benefit of the injured party and shall be conditioned upon compliance with the provisions of this Act by the principal, his or her officers, representatives and employees; or

B. Evidence of responsibility may be provided in the form of a certificate of liability insurance providing coverage for each licensed commercial applicator or licensed entity in the amount of not less than \$50,000 per person, \$100,000 per occurrence bodily injury liability coverage, with an annual aggregate of not less than \$500,000, and \$50,000 per occurrence property damage liability, with an annual aggregate of not less than \$50,000; or, in lieu thereof, a combined single limit of not less than \$100,000 bodily injury and property damage liability combined, with an annual aggregate of not less than \$500,000.

4. Every insurance policy or bond shall contain a provision that it will not be cancelled or reduced by the principal or insurance company, except upon 30 days prior notice in writing to the Director of the Department at the Springfield, Illinois office and the principal insured. A reduction or cancellation of policy shall not affect the liability accrued or which may accrue under such policy before the expiration of the 30 days. The notice shall contain the termination date. Upon said reduction or cancellation, the Director shall immediately notify the licensee that his or her license will be suspended and the effective date until the minimum bond or liability insurance requirements are met by the licensee for the current license period.

5. Nothing in this Act shall be construed to relieve any person from liability for any damage to persons or property caused by use of pesticides even though such use conforms to label instructions and pertinent rules and regulations of this State.

6. The Director may renew any applicant's license in the classifications for which such applicant is licensed, subject to requalification requirements imposed by the Director. Requalification standards shall be prescribed by regulations adopted pursuant to this Act and are required to ensure that the licensed commercial applicator meets the requirements of changing technology and to assure a continued level of competence and ability.

7. The Director may limit the license of an applicant to allow only the use of certain pesticides in a delimited geographic area, or to the use of certain application techniques or equipment. If a license is not issued as applied for, the Director shall inform the applicant in writing of the reasons and extend an opportunity for the applicant to

complete the requirements for the license desired.

8. For the purpose of uniformity, the Director may enter into agreements for accepting standards of qualification of other states as a basis for licensing commercial applicators. (Source: P.A. 89-94, eff. 7-6-95; 90-205, eff. 1-1-98.)

(415 ILCS 60/11) (from Ch. 5, par. 811)

Sec. 11. Certified Pesticide Applicators. No person shall use or supervise the use of pesticides classified for restricted use without a license issued by the Director. Persons licensed or desiring to be licensed as certified pesticide applicators shall comply with the certification requirements as set forth in Section 9 of this Act in order to protect public health and the environment, including injury to the applicator or other persons using these pesticides.

An applicant for certification as a private pesticide applicator shall meet qualification requirements prescribed by regulation. The application for certification shall be made in writing to the Director, on forms available from the Director or the local county agricultural extension adviser's office and be accompanied by payment of a \$10 license fee in the years preceding the year 2001. During the years 2001, 2002, 2003, 2004, 2005, and 2006, the private pesticide applicator license fee shall be \$15. During the years 2007 and thereafter, the private pesticide applicator license fee shall be \$20. A private pesticide applicator shall be assessed a fee of \$5 for a duplicate license. Such application shall include:

- A. The full name of the applicant.
- B. The mailing address of the applicant.
- C. The documents required as evidence of competence and knowledge regarding the use of pesticides.

Certification, as a private pesticide applicator, issued by the Director shall be valid for a period prescribed by regulation. The Director shall develop regulatory standards to ensure that certified private pesticide applicators continue to meet the requirements of a changing technology and assure a continued level of competence and ability.

(Source: P.A. 90-205, eff. 1-1-98.)

(415 ILCS 60/11.1) (from Ch. 5, par. 811.1)

Sec. 11.1. Public and Commercial Not-for-Hire License. No public or commercial not-for-hire applicator shall use or supervise the use of any pesticide without a license issued by the Director. The late application fee for a public or commercial not-for-hire applicator shall be \$20. A public or commercial not-for-hire applicator shall be assessed a fee of \$5 for a duplicate license.

1. Application for certification as a commercial not-for-hire pesticide applicator shall be made in writing on designated forms available from the Director. Each application shall contain information regarding the qualifications of the applicant, classification of certification being sought, and shall include the following:

- A. The full name of the applicant.
- B. The name of the applicant's employer.
- C. The address at the applicant's place of employment.
- D. Any other information prescribed by the Director on the designated form.

2. The Director shall not issue a certification to a commercial not-for-hire pesticide applicator until the individual identified has demonstrated his competence and knowledge regarding pesticide use in accordance with Section 9 of this Act.

3. The Director shall not renew a certification as a commercial not-for-hire pesticide applicator until the applicant reestablishes his qualifications in accordance with Section 9 of this Act or has met other requirements imposed by regulation in order to ensure that the applicant meets the requirements of changing technology and to assure a continued level of competence and ability.

4. Application for certification as a public pesticide applicator shall be made in writing on designated forms available from the Director. Each application shall contain information regarding qualifications of applicant, classification of certification being sought, and shall include the following:

A. The full name of the applicant.

B. The name of the applicant's employer.

C. Any other information prescribed by the Director on the designated form.

5. The Director shall not issue a certificate to a public pesticide applicator until the individual identified has demonstrated his competence and knowledge regarding pesticide use in accordance with Section 9 of this Act.

6. The Director shall not renew a certification as a public pesticide applicator until the applicant reestablishes his qualifications in accordance with Section 9 of this Act or has met other requirements imposed by regulation in order to ensure that the applicant meets the requirements of changing technology and to assure a continued level of competence and ability.

7. Persons applying general use pesticides, approved by the Inter-Agency Committee on the Use of Pesticides, to scrap tires for the control of mosquitoes shall be exempt from the license requirements of this Section.

(Source: P.A. 90-205, eff. 1-1-98.)

(415 ILCS 60/12) (from Ch. 5, par. 812)

Sec. 12. Licensed Operator. No pesticide operator shall use any pesticides without a pesticide operator license issued by the Director.

1. Application for an operator license shall be made in writing on designated forms available from the Director. Each application shall contain information regarding the nature of applicants pesticide use, his qualifications, and such other facts as prescribed on the form. The application shall also include the following:

A. The full name of applicant.

B. The address of the applicant.

C. The name of and license/certification number of the pesticide applicator under whom the applicant will work.

2. The Director shall not issue a pesticide operator license until the individual identified has demonstrated his competence and knowledge regarding pesticide use in accordance with Section 9 of this Act.

3. The Director shall not issue an operator license to any person who is unable to provide the name and license/certification number of an applicator under whom the operator will work.

4. For the years preceding the year 2001, a licensed operator working for or under the supervision of a certified licensed commercial pesticide applicator shall pay an annual fee of \$25. For the years 2001, 2002, and 2003, the annual fee for a commercial operator license is \$30. For the years 2004, 2005, and 2006, the annual fee for a commercial operator license is \$35. For the years 2007 and thereafter, the annual

fee for a commercial operator license is \$40. The late application fee for an operator license shall be \$20 in addition to the normal license fee. A licensed operator shall be assessed a fee of \$5 for a duplicate license.

(Source: P.A. 89-94, eff. 7-6-95; 90-205, eff. 1-1-98.)

(415 ILCS 60/13) (from Ch. 5, par. 813)

Sec. 13. Pesticide dealers. Any pesticide dealer who sells Restricted Use pesticides shall be registered with the Department on forms provided by the Director. Beginning July 1, 2005, any pesticide dealer that sells non-restricted use pesticides for use in the production of an agricultural commodity in containers with a capacity of 2.5 gallons or greater or 10 pounds or greater must also register with the Department on forms provided by the Director. Registration shall consist of passing a required examination and payment of a \$100 registration fee. The late application fee for a pesticide dealer registration shall be \$20 in addition to the normal pesticide dealer registration fee. A pesticide dealer shall be assessed a fee of \$5 for a duplicate registration.

Dealers who hold a Structural Pest Control license with the Illinois Department of Public Health or a Commercial Applicator's license with the Illinois Department of Agriculture are exempt from the registration fee but must register with the Department.

Each place of business which sells restricted use pesticides or non-restricted pesticides for use in the production of an agricultural commodity in containers with a capacity of 2.5 gallons or greater or 10 pounds or greater shall be considered a separate entity for the purpose of registration.

Registration as a pesticide dealer shall expire on December 31 of each year. Pesticide dealers shall be certified in accordance with Section 9 of this Act.

The Director may prescribe, by rule, requirements for the registration and testing of any pesticide dealer selling other than restricted use pesticides and such rules shall include the establishment of a registration fee in an amount not to exceed the pesticide dealer registration fee.

The Department may refuse to issue or may suspend the registration of any person who fails to file a return, or to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(Source: P.A. 94-60, eff. 6-20-05.)

(415 ILCS 60/13.1) (from Ch. 5, par. 813.1)

Sec. 13.1. (Repealed).

(Source: P.A. 87-1108; repealed internally.)

(415 ILCS 60/13.2)

Sec. 13.2. Agrichemical facility.

(a) An agrichemical facility located within the State of Illinois that was not in existence during the years 1991, 1992, and 1993 and therefore did not pay the registration fee of \$500 per year per agrichemical facility for those years may make a one-time payment of \$1,500 to the Department of Agriculture for deposit into the Agrichemical Incident Response Trust Fund to meet the eligibility requirement of subdivision (2) of subsection (a) of Section 22.3 of this Act. The payment must be received by the Department of Agriculture prior to an incident for which reimbursement is sought under

Section 22.3 to qualify for eligibility under subdivision (2) of subsection (a) of Section 22.3.

(b) An agrichemical facility located within the State of Illinois that was not in existence during the years 1991, 1992, and 1993 and therefore did not pay the registration fee of \$500 per year per agrichemical facility for those years may also meet the eligibility requirement of subdivision (2) of subsection (a) of Section 22.3 of this Act through the transfer of eligibility from a facility under the same ownership whose operations were discontinued after 1993 and replaced by the new facility. To qualify for the eligibility transfer, the owner must submit a written request for the eligibility transfer to the Department of Agriculture, must have paid the \$500 registration fee for each of the years 1991, 1992, and 1993 for the original facility, and completed all closure requirements contained in rules promulgated by the Department of Agriculture. Upon receipt of the eligibility transfer request, the Department of Agriculture shall review the submittal and all related containment facility files and shall notify the owner whether eligibility can be transferred.

(c) An agrichemical facility located within the State of Illinois that was in existence during the years 1991, 1992, and 1993 but did not pay the registration fee of \$500 per year per agrichemical facility for those years may make payment of the unremitted balance to the Department of Agriculture for deposit into the Agrichemical Incident Response Trust Fund to meet the eligibility requirement of subdivision (2) of subsection (a) of Section 22.3 of this Act. The payment must be received by the Department of Agriculture prior to an incident for which reimbursement is sought under Section 22.3 to qualify for eligibility under subdivision (2) of subsection (a) of Section 22.3.

(d) The moneys collected under this Section shall be deposited into the Agrichemical Incident Response Trust Fund.

(e) For purposes of this Section, "agrichemical facility" means a site:

(1) used for commercial purposes,

(A) where bulk pesticides are stored in a single container in excess of 300 gallons of liquid pesticide or 300 pounds of dry pesticide for more than 30 days per year; or

(B) where more than 300 gallons of liquid pesticide or 300 pounds of dry pesticide are being mixed, repackaged, or transferred from one container to another within a 30 day period; and

(2) that serves at a point in the pesticide

distribution chain immediately prior to final use.

(Source: P.A. 90-403, eff. 8-15-97.)

(415 ILCS 60/14) (from Ch. 5, par. 814)

Sec. 14. Unlawful Acts.

1. The following are violations of this Act, if any person:

A. Made false or fraudulent claims through any media misrepresenting the effect of pesticides or methods.

B. Applied known ineffective or improper pesticides.

C. Applied pesticides in a faulty, careless, or negligent manner.

D. Used or made recommendation for use of a pesticide inconsistent with the labeling of the pesticide.

E. Neglected, or after notice in writing, refused,

to comply with provisions of this Act, the regulations adopted hereunder, or of any lawful order of the Director, including the limitations specified in a duly issued

permit, certification, or registration.

F. Failed to keep and maintain records required by this Act or failed to make reports when and as required or made false or fraudulent records or reports.

G. Used or supervised the use of a pesticide without qualifying as a certified applicator or licensed operator.

H. Used fraud or misrepresentation in making application for, or renewal of, any license, permit, certification, or registration or in demonstration of competence.

I. Aided or abetted a person to evade provisions of this Act, conspired with any person to evade provisions of this Act or allowed a license, permit, certification or registration to be used by another person.

J. Impersonated any federal, state, county, or city official.

K. Purchased pesticides by using another person's license or using or purchasing pesticides outside of a specific category for which that person is licensed or any other misrepresentation.

L. Fails to comply with the rules and regulations adopted under the authority of this Act.

2. Except as provided in Section 14 (2G), it is unlawful for any person to distribute in the State the following:

A. A pesticide not registered pursuant to provisions of this Act.

B. Any pesticide, if any claim made for it, use recommendation, other labeling or formulation, differs from the representations made in connection with registration. However, a change in labeling or formulation may be made within a registration if the change does not violate provisions of FIFRA or this Act.

C. Any pesticide unless in the registrants unbroken container.

D. Any pesticide container to which all label information required under provisions of this Act has not been securely affixed.

E. Any pesticide which is adulterated or misbranded or any device which is misbranded.

F. Any pesticide in a container which, due to damage, is hazardous to handle and store.

G. It shall not be unlawful to distribute pesticides "in bulk" provided such distribution does not violate the provisions of this Act, the Rules and Regulations under this Act, or FIFRA.

3. It shall be unlawful:

A. To sell any pesticide labeled for restricted use to any applicator not certified, unless such applicator has a valid permit authorizing purchase under a special exemption from certification requirements.

B. To handle, store, display, use or distribute pesticides in such manner as to endanger man and his environment, to endanger food, feed or other products that may be stored, displayed or distributed with such pesticides.

C. To use, dispose of, discard, or store pesticides or their containers in such a manner as to endanger public health and the environment or to pollute water supplies.

D. To use for personal advantage, reveal to persons, other than the Director designee or properly designated official of other jurisdictions, or to a physician or other qualified person in cases of emergency for preparation of an antidote any information judged as relating to trade secrets. To use or reveal a financial

information obtained by authority or marked as privileged or confidential by a registrant.

E. To sell any pesticide labelled for restricted use over an Internet website to an Illinois resident who is not a certified pesticide applicator as provided under Section 11 of this Act.

4. Exemptions from the violation provisions of this Act are as follows:

A. Carriers lawfully engaged in transporting pesticides within this State, provided that such carrier shall upon request permit the Director to copy all records showing transactions in the movement of the pesticide or device.

B. Public officials of this State or the federal government while engaged in the performance of official duties in administration of pesticide laws or regulations.

C. Persons who ship a substance or mixture of substances being tested for the purpose of determining its value for pesticide use, to determine its toxicity or other properties and from which such user does not derive any benefit in pest control from its use.

5. No pesticide or device shall be deemed in violation of this Act when intended solely for export to a foreign country. If it is not exported all the provisions of this Act shall apply.

(Source: P.A. 94-758, eff. 1-1-07.)

(415 ILCS 60/15) (from Ch. 5, par. 815)

Sec. 15. Enforcement. 1. The sampling and examination of pesticides, devices, books and records, and the labeling of pesticides or devices shall be made under the supervision of the Director for the purposes of determining compliance with provisions of this Act. The Director, upon presentation of identification, is authorized to enter a premises at reasonable times during normal working hours in order to have access to pesticides, devices, books and records, and labeling for pesticides or devices.

A. The Director shall provide a copy of the results of any analysis made of such samples to the owner, operator or agent in charge of the site.

B. If upon such analysis or examination there appears to be a violation of provisions of this Act or regulations adopted thereunder, the Director shall cause notice to be given to the owner, operator or agent in charge and specify any administrative proceedings or criminal actions that are contemplated against such person.

C. In seeking the institution of criminal charges against a violator, the Director shall refer copies of findings or the results of analysis or both, to the prosecuting attorney for the county in which the violation occurred.

2. For the purpose of carrying out the provisions of this Act the Director, upon presentation of identification, is authorized to enter upon public or private premises at reasonable times during normal working hours in order to:

A. Investigate or inspect to determine the facts in complaints of pesticide injury, mis-use, mis-handling, or reported excessive pesticide exposure.

B. Determine the facts in any pesticide incident reported to him, including collecting samples for analysis.

C. Observe pesticide use and sample the pesticides being applied, as well as the site to which the pesticide is being applied.

D. To inspect and collect samples in any place where pesticides are produced, manufactured, sold or distributed.

3. The Director upon being denied access to any land may apply to the court of jurisdiction for a search warrant authorizing such access for purpose of carrying out provision of this Act. The court may upon receiving such request issue such warrant.

4. The Director, with or without the aid and advice of the court of jurisdiction, is charged with enforcing the requirements of this Act and rules adopted hereunder. In the event the enforcement agent of local jurisdiction refuses to act on behalf of the Director, the Attorney General may so act.

5. The Director may bring action to enjoin the violation or threatened violation of any provision of this Act or regulation adopted thereunder in the court of jurisdiction for the county in which such occurs or is about to occur.

6. Nothing in this Act shall be construed as requiring the Director to report minor violations for prosecution or the institution of condemnation proceedings when he believes the public interest would be better served by a suitable written notice of warning.

7. Any person who impedes, obstructs, hinders or otherwise prevents or attempts to prevent the Director in the performance of official duties shall be guilty of a Class A misdemeanor. Any person using physical force against the Director in the performance of official duties shall be guilty of a Class 4 felony.

(Source: P.A. 85-177.)

(415 ILCS 60/16) (from Ch. 5, par. 816)

Sec. 16. Orders to Stop Sale or Use or to Regulate Removal.

1. Under any circumstance where the Director has reason to believe a pesticide or device is being sold, distributed, stored or used in violation of any provision of this Act, or regulations adopted thereunder, he may issue and serve a written order to stop sale, stop use or regulate removal upon the owner, operator, manager or agent in charge of any such pesticide or device. Any pesticide or device so offered shall not be sold or used until brought into compliance with the provisions of this Act and regulation adopted thereunder.

A. The Director shall also provide the registrant of such pesticide or device with a written notice of the order if the violation appears to require corrective action by the registrant.

B. If the owner, operator, manager, or agent in charge is not available for service of the order upon him, the Director shall attach the order to the pesticide or device and shall notify the registrant.

C. The Director shall remove the order by written notice when the violated provisions of this Act or regulations adopted thereunder have been complied with or the condition specified by the Director in said order have been met, or the violation has been otherwise disposed of by a court of local jurisdiction.

2. When the Director has reason to believe a pesticide or device is being used in violation of any provision of this Act or regulations adopted thereunder he may issue and serve a written order to stop the identified use.

A. The Director shall specify conditions under which the order may be removed.

B. The Director shall remove the order by written notice when the violated provisions of this Act or regulations adopted thereunder have been complied with or the conditions specified by the Director in such order have been met or the

violation has been otherwise disposed of by a court of local jurisdiction.

(Source: P.A. 81-197.)

(415 ILCS 60/17) (from Ch. 5, par. 817)

Sec. 17. Judicial Action in order to Stop Sale or Use, or to Regulate Removal.

1. After service of an order to stop sale or use or to regulate removal is made upon any person, either that person, the registrant or the Director may file an action in the circuit court for the county in which a violation is alleged to have occurred for an adjudication of the alleged violation. The court in such action may enter a temporary restraining order or preliminary or permanent injunctions or other order as it deems necessary or advisable. Such injunction or order shall be entered without bond. The court may order condemnation of any pesticide or device not meeting the requirements of this Act or regulation adopted thereunder.

2. After entry of a judgment that the pesticide or device is condemned it shall be disposed of at the direction of the court.

A. The condemned pesticide or device may be delivered to the owner or registrant for relabeling, reprocessing, or removal from the State.

B. The condemned pesticide or device may remain condemned and existing stocks in the State sold by the Director who will pay all costs associated with the disbursement, with the balance of the proceeds being deposited in the State Treasury. The pesticide or device shall not be sold contrary to any provision of this Act, regulations adopted thereunder or a provision of FIFRA. The purchaser shall pay the costs and provide good and sufficient bond insuring that the pesticide or device shall not be disposed of unlawfully.

C. The current inventory stocks of the condemned pesticide or device may be disposed of by sale at the places of distribution under supervision of the Director. No new stock shall be delivered for distribution, sale, or use in the State until any condition giving rise to the order to stop sale or use or to regulate removal and the subsequent condemnation has been corrected.

(Source: P.A. 84-545.)

(415 ILCS 60/18) (from Ch. 5, par. 818)

Sec. 18. Records.

1. Any person issued a license, certificate or permit under the provisions of this Act may be required by the Director to keep records. The record required by the Director shall be kept on forms provided by him. The form shall prescribe the information necessary for effecting compliance with and enforcement of provisions of this Act or rules adopted thereunder.

2. The Director shall have access to such records as required at any reasonable time during normal working hours. Any information on the required record shall be confidential. If it is summarized for any purposes other than that required for enforcement it shall not identify any individual person.

3. All files, records and data gathered by or under the direction or authority of the Director under this Act shall be made available to the Department of Public Health pursuant to the Illinois Health and Hazardous Substances Registry Act.

(Source: P.A. 83-1361.)

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

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

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

2. The interagency committee shall: (1) Review the current status of the sales and use of pesticides within the State of Illinois. (2) Review pesticide programs to be sponsored or directed by a governmental agency. (3) Consider the problems arising from pesticide use with particular emphasis on the possible adverse effects on human health, livestock, crops, fish, and wildlife, business, industry, agriculture, or the general public. (4) Recommend legislation to the Governor, if appropriate, which will prohibit the irresponsible use of pesticides. (5) Review rules and regulations pertaining to the regulation or prohibition of the sale, use or application of pesticides and labeling of pesticides for approval prior to promulgation and adoption. (6) Contact various experts and lay groups, such as the Illinois Pesticide Control Committee, to obtain their views and cooperation. (7) Advise on and approve of all programs involving the use of pesticides on State owned property, state controlled property, or administered by State agencies. This shall not be construed to include research programs, or the generally accepted and approved practices essential to good farm and institutional management on the premises of the various State facilities.

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

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

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

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

The Committee shall include in its educational program information and advice about the effects of various pesticides and application techniques upon the groundwater and drinking water of the State.

7. The Interagency Committee on Pesticides shall conduct a

special study of the effects of chemigation and other agricultural applications of pesticides upon the groundwater of this State. The results of such study shall be reported to the General Assembly by March 1, 1989. The members of the Committee may utilize the technical and clerical resources of their respective departments and agencies as necessary or useful in the conduct of the study.

8. In consultation with the Interagency Committee, the Department shall develop, and the Interagency Committee shall approve, procedures, methods, and guidelines for addressing agrichemical pesticide contamination at agrichemical facilities in Illinois. In developing those procedures, methods, and guidelines, the following shall be considered and addressed: (1) an evaluation and assessment of site conditions and operational practices at agrichemical facilities where agricultural pesticides are handled; (2) what constitutes pesticide contamination; (3) cost effective procedures for site assessments and technologies for remedial action; and (4) achievement of adequate protection of public health and the environment from such actual or potential hazards. In consultation with the Interagency Committee, the Department shall develop, and the Interagency Committee shall approve, guidelines and recommendations regarding long term financial resources which may be necessary to remediate pesticide contamination at agrichemical facilities in Illinois. The Department, in consultation with the Interagency Committee, shall present a report on those guidelines and recommendations to the Governor and the General Assembly on or before January 1, 1993. The Department and the Interagency Committee shall consult with the Illinois Pesticide Control Committee and other appropriate parties during this development process.

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

at the application sites.
(Source: P.A. 92-113, eff. 7-20-01.)

(415 ILCS 60/19.1) (from Ch. 5, par. 819.1)
Sec. 19.1. Collection programs. The Department of Agriculture may conduct a voluntary program for the collection and proper disposal of unwanted agricultural pesticides from Illinois farmers. The Department may also, in cooperation with the Illinois Department of Public Health, develop and implement a voluntary program for the collection and disposal of unwanted pesticides from structural pest control businesses. In conducting these programs, the Department has the authority to collect a fee from participants of not more than \$10 per pound of material submitted for collection or disposal. In calculating the fee, the Department shall consider costs associated with administering the program and whether grant moneys or other funds are available to cover those costs. Any fees collected pursuant to these programs shall be deposited into the Pesticide Control Fund and shall be appropriated by the General Assembly to the Department for the purposes of this Section. The Department shall periodically advise the interagency committee regarding the status of programs implemented under this Section.
(Source: P.A. 89-614, eff. 1-1-97.)

(415 ILCS 60/19.2) (from Ch. 5, par. 819.2)
Sec. 19.2. (Repealed).
(Source: Repealed by P.A. 89-94, eff. 7-6-95.)

(415 ILCS 60/19.3)
Sec. 19.3. Agrichemical Facility Response Action Program.
(a) It is the policy of the State of Illinois that an Agrichemical Facility Response Action Program be implemented to reduce potential agrichemical pollution and minimize environmental degradation risk potential at these sites. In this Section, "agrichemical facility" means a site where agrichemicals are stored or handled, or both, in preparation for end use. "Agrichemical facility" does not include basic manufacturing or central distribution sites utilized only for wholesale purposes. As used in this Section, "agrichemical" means pesticides or commercial fertilizers at an agrichemical facility.

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

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

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

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

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

- (1) The Director or the Director's designee.
- (2) One member who represents pesticide manufacturers.
- (3) Two members who represent retail agrichemical dealers.
- (4) One member who represents agrichemical distributors.
- (5) One member who represents active farmers.
- (6) One member at large.

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

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

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

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

- (1) Cooperate with the Department and review and approve an agrichemical facility remediation program as outlined in the handbook or manual as set forth in subdivision (d)(8) of this Section.
- (2) Review and give final approval to each agrichemical facility corrective action plan.
- (3) Approve any changes to an agrichemical facility's corrective action plan that may be necessary.
- (4) Upon completion of the corrective action plan, recommend to the Department that the site-specific cleanup objectives have been met and that a notice of closure be issued by the Department stating that no further remedial action is required to remedy the past agrichemical contamination.
- (5) When a soil agrichemical contaminant assessment

confirms that remedial action is not required in accordance with the Agrichemical Facility Response Action Program, recommend that a notice of closure be issued by the Department stating that no further remedial action is

required to remedy the past agrichemical contamination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) An agrichemical contaminant in Class I or Class

III groundwater has exceeded the levels of a standard adopted pursuant to the Illinois Groundwater Protection Act or a health advisory established by the Illinois Environmental Protection Agency or the United States Environmental Protection Agency; or

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

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

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

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

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

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

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

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

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

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

(Source: P.A. 92-113, eff. 7-20-01.)

(415 ILCS 60/20) (from Ch. 5, par. 820)

Sec. 20. Cooperation. The Director may cooperate with, receive grants in aid and enter into cooperative agreements or contracts with, any agency of the federal government, of this State, or any other state in order to:

1. Secure uniformity of regulation.
 2. Register pesticides under the authority of this Act and FIFRA.
 3. Cooperate for the enforcement of any pesticide law and regulation adopted thereunder.
 4. Develop and maintain a State Plan for training certification, licensing and the issuance of permits.
 5. Monitor pesticides or regulate certified applicators in order to protect public health and the environment.
- (Source: P.A. 81-197.)

(415 ILCS 60/21) (from Ch. 5, par. 821)

Sec. 21. Publications. The Director may publish, at such times and in such form as is deemed proper, the results of official samples analysis as compared to distributor guarantee, results of other analyses, and information concerning pesticide distribution and use. However, no individual information shall be a public record.

(Source: P.A. 81-197.)

(415 ILCS 60/22) (from Ch. 5, par. 822)

Sec. 22. Reports of Pesticide Accidents and Incidents. The Director shall have the authority to report significant pesticide accidents or incidents to other state agencies with designated authority.

(Source: P.A. 81-197.)

(415 ILCS 60/22.1) (from Ch. 5, par. 822.1)

Sec. 22.1. Pesticide Control Fund. There is hereby created in the State Treasury a special fund to be known as the Pesticide Control Fund. All registration, penalty and license fees collected by the Department pursuant to this Act shall be deposited into the Fund. The amount annually collected as fees shall be appropriated by the General Assembly to the Department for the purposes of conducting a public educational program on the proper use of pesticides, for other activities related to the enforcement of this Act, and for administration of the Insect Pest and Plant Disease Act. However, the increase in fees in Sections 6, 10, and 13 of this Act resulting from this amendatory Act of 1990 shall be used by the Department for the purpose of carrying out the Department's powers and duties as set forth in paragraph 8 of Section 19 of this Act. The monies collected under Section 13.1 of this Act shall be deposited in the Agrichemical Incident Response Fund. In addition, for the years 2004 and thereafter, \$125 of each pesticide annual business registration fee and \$50 of each pesticide product annual registration fee collected by the Department pursuant to Section 6, paragraph 6 of this Act shall be deposited by the Department directly into the State's General Revenue Fund.

(Source: P.A. 93-32, eff. 7-1-03.)

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

Sec. 22.2. (a) There is hereby created a trust fund in the State Treasury to be known as the Agrichemical Incident Response Trust Fund. Any funds received by the Director of Agriculture from the mandates of Section 13.1 shall be deposited with the Treasurer as ex-officio custodian and held separate and apart from any public money of this State, with accruing interest on the trust funds deposited into the trust fund. Disbursement from the fund for purposes as set forth in this Section shall be by voucher ordered by the Director and paid by a warrant drawn by the State Comptroller and

countersigned by the State Treasurer. The Director shall order disbursements from the Agrichemical Incident Response Trust Fund only for payment of the expenses authorized by this Act. Monies in this trust fund shall not be subject to appropriation by the General Assembly but shall be subject to audit by the Auditor General. Should the program be terminated, all unobligated funds in the trust fund shall be transferred to a trust fund to be used for purposes as originally intended or be transferred to the Pesticide Control Fund. Interest earned on the Fund shall be deposited in the Fund. Monies in the Fund may be used by the Department of Agriculture for the following purposes:

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

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

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

(4) for the Department to:

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

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

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

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

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

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

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

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

(415 ILCS 60/22.3) (from Ch. 5, par. 822.3)

Sec. 22.3. (a) An owner or operator of an agrichemical facility is eligible to receive money from the Agrichemical Incident Response Trust Fund for costs of response action only if all of the following requirements are satisfied:

(1) the owner or operator has provided notification of the release as required by law;

(2) the owner or operator was current with payment of all fees required under Section 13.1 at the time of the incident;

(3) the costs of response action were incurred by the owner or operator as a result of an incident involving a release of an agricultural pesticide at an agrichemical facility in Illinois.

(b) The Department shall not approve payment of costs of

response action to an owner or operator which would result in the payment of funds from the Agrichemical Incident Response Trust Fund in excess of \$500,000 during a calendar year. The Department shall not approve any payment from the Fund to reimburse an owner or operator for costs of response action incurred by such owner or operator in an amount in excess of \$500,000 per incident.

(c) Notwithstanding subsection (a) or (b), no owner or operator is eligible to receive money from the Fund unless the owner or operator demonstrates to the Department that, at the time of the incident, the agrichemical facility was in compliance with requirements adopted by the Department for secondary containment of agrichemicals.

(d)(1) Costs of response action incurred by an owner or operator relating to an incident which occurred prior to the effective date of this Section are not eligible for payment or reimbursement under this Section.

(2) Costs of response action incurred by an owner or operator prior to reporting the incident as required by law are not eligible for payment or reimbursement under this Section.

(3) Costs of response action incurred by an owner or operator which have been paid under a policy of insurance shall not be eligible for payment or reimbursement under this Section.

(e) Requests for partial or final payment for claims under this Section shall be sent to the Department and partial or final payment shall be made only if all of the following are satisfied:

(1) The owner or operator is eligible under subsections (a) and (c) of this Section;

(2) Approval of the payments requested will not result in the limitations set forth in subsection (b) of this Section being exceeded;

(3) The owner or operator provides an accounting of all costs, demonstrates the costs to be reasonable, and provides either proof of payment of such costs or demonstrates the financial need for joint payment to the owner or operator and the owner's or operator's contractor in order to pay such costs;

(4) The owner or operator demonstrates that the response action taken was necessary and appropriate.

(f) If an owner or operator submits a claim or claims to the Department for approval under this Section, the Department shall deduct from the amount approved a total of \$50,000 plus 10% of the total response costs incurred by that owner or operator, but in no event shall the Department deduct in excess of \$100,000 for each agrichemical facility for which a claim is submitted. This deductible amount shall apply annually for each agrichemical facility at which costs were incurred under a claim submitted pursuant to this Section.

(g)(1) Upon receipt of notification from the Department that the requirements of this Section have been met, the Department shall make payment to the owner or operator of the amount approved by the Department. If there is insufficient money in the Fund to make payment in full of a claim submitted for reimbursement, the Department may make partial payment until such time as sufficient money in the Fund becomes available.

(2) In no case shall the Fund or the State of Illinois be liable to pay claims or requests for costs of response action if money in the Fund is insufficient to meet such claims or requests.

(h) Payment of any amount from the Fund for response

action shall be subject to the State of Illinois acquiring, by subrogation, the rights of any owner or operator to recover the costs of response action for which the Fund has compensated the owner or operator from the person responsible or liable for the release.

(i)(1) Nothing in this Section shall be construed to authorize recovery for costs of response action for any release authorized or permitted pursuant to State or federal law.

(2) Nothing in this Section shall be construed to authorize recovery for costs of response action as the result of the storage, handling and use, or recommendation for storage, handling and use, of a pesticide consistent with:

(A) its directions for storage, handling and use as stated in its label or labeling;

(B) its warning and cautions as stated in its label or labeling; and

(C) the uses for which it is registered under the federal Insecticide, Fungicide and Rodenticide Act and the Illinois Pesticide Act.

(j) For purposes of this Section and Section 22.2:

(1) "Agrichemical facility" means a site:

(A) used for commercial purposes

(i) where bulk pesticides are stored in a single container in excess of 300 gallons of liquid pesticide or 300 pounds of dry pesticide for more than 30 days per year, or

(ii) where more than 300 gallons of liquid pesticide or 300 pounds of dry pesticide are being mixed, repackaged, or transferred from one container to another within a 30 day period; and

(B) that serves at a point in the pesticide distribution chain immediately prior to final use.

(2) "Response action" means an action to stop, eliminate, contain, or mitigate a release of agricultural pesticides and its effects at an agrichemical facility as may be necessary or appropriate to protect human health and the environment.

(3) "Incident" means a flood, fire, tornado, on-site transportation accident, equipment malfunction, storage container rupture, leak, spill, discharge, escape, or other event that suddenly releases an agricultural pesticide into the environment and that creates an imminent threat to public health or the environment.

(4) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

(Source: P.A. 86-1172; 87-128.)

(415 ILCS 60/23) (from Ch. 5, par. 823)

Sec. 23. Subpoenas. The Director may issue subpoenas to compel the attendance of witnesses or the production of books, documents, records, or other information in the State at any hearing affecting the privilege granted by license, certification, registration or permit issued under provisions of this Act.

(Source: P.A. 90-655, eff. 7-30-98.)

(415 ILCS 60/24) (from Ch. 5, par. 824)

Sec. 24. Criminal Penalties.

(a) Except as otherwise provided in this Section, any person violating any provisions of this Act or regulations

adopted thereunder is guilty of a Class A misdemeanor with a fine of not less than \$5,000.

(b) A retailer convicted of distributing or selling a pesticide that has never been registered with or for which the registration has been cancelled or suspended by the United States Environmental Protection Agency shall be guilty of a Class A misdemeanor with a fine of not less than \$5,000. A retailer convicted of a second or subsequent violation of distributing or selling a pesticide that has never been registered with or for which the registration has been cancelled or suspended by the United States Environmental Protection Agency shall be guilty of a Class 4 felony. For the purposes of this Section, "retailer" means a person who transfers ownership of or title to pesticides to a purchaser for use and who is not certified under the Structural Pest Control Act.

(c) A wholesaler who distributes or sells a pesticide that has never been registered with or for which the registration has been cancelled or suspended by the United States Environmental Protection Agency shall be guilty of a Class 4 felony for a first offense and shall be guilty of a Class 3 felony for a second or subsequent offense. For the purposes of this Section, "wholesaler" means a person who sells or distributes pesticides to a retailer.

(Source: P.A. 93-191, eff. 7-14-03.)

(415 ILCS 60/24.1) (from Ch. 5, par. 824.1)

Sec. 24.1. Administrative actions and penalties.

(1) The Director is authorized after an opportunity for an administrative hearing to suspend, revoke, or modify any license, permit, special order, registration, or certification issued under this Act. This action may be taken in addition to or in lieu of monetary penalties assessed as set forth in this Section. When it is in the interest of the people of the State of Illinois, the Director may, upon good and sufficient evidence, suspend the registration, license, or permit until a hearing has been held. In such cases, the Director shall issue an order in writing setting forth the reasons for the suspension. Such order shall be served personally on the person or by registered or certified mail sent to the person's business address as shown in the latest notification to the Department. When such an order has been issued by the Director, the person may request an immediate hearing.

(2) Before initiating hearing proceedings, the Director may issue an advisory letter to a violator of this Act or its rules and regulations when the violation points total 6 or less, as determined by the Department by the Use and Violation Criteria established in this Section. When the Department determines that the violation points total more than 6 but not more than 13, the Director shall issue a warning letter to the violator.

(3) The hearing officer upon determination of a violation or violations shall assess one or more of the following penalties:

(A) For any person applying pesticides without a license or misrepresenting certification or failing to comply with conditions of an agrichemical facility permit or failing to comply with the conditions of a written authorization for land application of agrichemical contaminated soils or groundwater, a penalty of \$500 shall be assessed for the first offense and \$1,000 for the second and subsequent offenses.

(B) For violations of a stop use order imposed by the Director, the penalty shall be \$2500.

(C) For violations of a stop sale order imposed by the Director, the penalty shall be \$1500 for each individual item of the product found in violation of the order.

(D) For selling restricted use pesticides to a non-certified applicator the penalty shall be \$1000.

(E) For selling restricted use pesticides without a dealer's license the penalty shall be \$1,000.

(F) For constructing or operating without an agricultural facility permit after receiving written notification, the penalty shall be \$500 for the first offense and \$1,000 for the second and subsequent offenses.

(G) For violations of the Act and Rules and Regulations, administrative penalties will be based upon the total violation points as determined by the Use and Violation Criteria as set forth in paragraph (4) of this Section. The monetary penalties shall be as follows:

Total Violation Points	Monetary Penalties
14-16	\$750
17-19	\$1000
20-21	\$2500
22-25	\$5000
26-29	\$7500
30 and above	\$10,000

(4) The following Use and Violation Criteria establishes the point value which shall be compiled to determine the total violation points and administrative actions or monetary penalties to be imposed as set forth in paragraph (3)(G) of this Section:

(A) Point values shall be assessed upon the harm or loss incurred.

(1) A point value of 1 shall be assessed for the following:

(a) Exposure to a pesticide by plants, animals or humans with no symptoms or damage noted.

(b) Fraudulent sales practices or representations with no apparent monetary losses involved.

(2) A point value of 2 shall be assessed for the following:

(a) Exposure to a pesticide which resulted in:

(1) Plants or property showing signs of damage including but not limited to leaf curl, burning, wilting, spotting, discoloration, or dying.

(2) Garden produce or an agricultural crop not being harvested on schedule.

(3) Fraudulent sales practices or representations resulting in losses under \$500.

(3) A point value of 4 shall be assessed for the following:

(a) Exposure to a pesticide resulting in a human experiencing headaches, nausea, eye irritation and such other symptoms which persisted less than 3 days.

(b) Plant or property damage resulting in a loss below \$1000.

(c) Animals exhibiting symptoms of pesticide poisoning including but not limited to eye or skin irritations or lack of coordination.

(d) Death to less than 5 animals.

(e) Fraudulent sales practices or representations resulting in losses from \$500 to \$2000.

(4) A point value of 6 shall be assessed for the following:

(a) Exposure to a pesticide resulting in a human experiencing headaches, nausea, eye irritation and such other symptoms which persisted 3 or more days.

(b) Plant or property damage resulting in a loss of \$1000 or more.

(c) Death to 5 or more animals.

(d) Fraudulent sales practices or representations resulting in losses over \$2000.

(B) Point values shall be assessed based upon the signal word on the label of the chemical involved:

Point Value	Signal Word
1	Caution
2	Warning
4	Danger/Poison

(C) Point values shall be assessed based upon the degree of responsibility.

Point Value	Degree of Responsibility
2	Accidental (such as equipment malfunction)
4	Negligence
10	Knowingly

(D) Point values shall be assessed based upon the violator's history for the previous 3 years:

Point Value	Record
2	Advisory letter
3	Warning letter
5	Previous criminal conviction of this Act or administrative violation resulting in a monetary penalty
7	Certification, license or registration currently suspended or revoked

(E) Point values shall be assessed based upon the violation type:

(1) Application Oriented:

Point Value	Violation
1	Inadequate records
2	Lack of supervision
2	Faulty equipment

Use contrary to label directions:

2	a. resulting in exposure to applicator or operator
3	b. resulting in exposure to other persons or the environment
3	c. precautionary statements, sites, rates, restricted use requirements
3	Water contamination
3	Storage or disposal contrary to label directions
3	Pesticide drift
4	Direct application to a non-target site
6	Falsification of records
6	Failure to secure a permit or

violation of permit or special order

(2) Product Oriented:

Point Value	Violation
6	Pesticide not registered
4	Product label claims differ from approved label
4	Product composition (active ingredients differs from that of approved label)
4	Product not colored as required
4	Misbranding as set forth in Sec. 5 of the Act (4 points will be assessed for each count)

(5) Any penalty not paid within 60 days of notice from the Department shall be submitted to the Attorney General's Office for collection. Failure to pay a penalty shall also be grounds for suspension or revocation of permits, licenses and registrations.

(6) Private applicators, except those private applicators who have been found by the Department to have committed a "use inconsistent with the label" as defined in subsection 40 of Section 4 of this Act, are exempt from the Use and Violation Criteria point values.

(Source: P.A. 90-403, eff. 8-15-97.)

(415 ILCS 60/25) (from Ch. 5, par. 825)

Sec. 25. Continuity: Regulations adopted under laws repealed by enactment of this Act shall remain in full force and effect.

(Source: P.A. 81-197.)

(415 ILCS 60/29)

Sec. 29. Administrative review. All final administrative decisions of the Department are subject to judicial review under Article III of the Code of Civil Procedure and rules adopted under that Article. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. Proceedings for judicial review shall be commenced in the circuit court of any county permitted by Section 3-104 of the Code of Civil Procedure.

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

(415 ILCS 60/30)

Sec. 30. Emergency rulemaking. The Department may implement the amendatory changes made by this amendatory Act of 1995 through the use of emergency rules in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For purposes of the Illinois Administrative Procedure Act, the adoption of rules to implement the amendatory changes made by this amendatory Act of 1995 shall be deemed an emergency and necessary for the public interest, safety, and welfare.

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