

HOUSE BILL No. 6219

June 20, 2006, Introduced by Rep. Palmer and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending the heading of part 23 and section 8803 (MCL 324.8803), as added by 1998 PA 287, and by adding part 86.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 23. AGRICULTURE AND ~~THE ENVIRONMENT~~ RURAL COMMUNITIES
2 ROUNDTABLE

3 PART 86. AGRICULTURE

4 SEC. 8601. AS USED IN THIS PART:

5 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
6 QUALITY.

7 (B) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS OR

1 HER DESIGNEE TO WHOM THE DIRECTOR DELEGATES A POWER OR DUTY BY
2 WRITTEN INSTRUMENT.

3 (C) "FARM" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
4 MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

5 (D) "FARM OPERATION" MEANS THAT TERM AS DEFINED IN SECTION 2
6 OF THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

7 (E) "GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES"
8 MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE MICHIGAN RIGHT TO
9 FARM ACT, 1981 PA 93, MCL 286.472.

10 (F) "LIVESTOCK PRODUCTION FACILITY" MEANS THAT TERM AS DEFINED
11 WITHIN THE GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES
12 FOR SITE SELECTION AND ODOR CONTROLS AT NEW AND EXPANDING ANIMAL
13 LIVESTOCK FACILITIES.

14 SEC. 8603. AS USED IN THIS PART, "MICHIGAN AGRICULTURE
15 ENVIRONMENTAL ASSURANCE PROGRAM" OR "MAEAP" MEANS A PROGRAM, AS IT
16 EXISTED ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
17 SECTION, THAT WAS RECOMMENDED BY THE MICHIGAN AGRICULTURE POLLUTION
18 PREVENTION IMPLEMENTATION PLAN SIGNED BY THE DIRECTOR AND THE
19 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE IN 1998, THAT IS DESIGNED
20 TO HELP FARMS AND FARM OPERATIONS VOLUNTARILY PREVENT OR MINIMIZE
21 AGRICULTURAL POLLUTION RISKS, THAT FOCUSES ON LIVESTOCK, FARMING,
22 AND CROPPING SYSTEMS, AND THAT CONSISTS OF THE FOLLOWING 3 PHASES:

23 (A) AN EDUCATIONAL PROGRAM IN WHICH PRODUCERS LEARN ABOUT THE
24 3 MAEAP SYSTEMS, STATE AND FEDERAL ENVIRONMENTAL RULES AND
25 REGULATIONS, THE IMPACT OF AGRICULTURE POLLUTION ON THE
26 ENVIRONMENT, AND THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL
27 286.471 TO 286.474, WITH SPECIAL EMPHASIS ON GENERALLY ACCEPTED

1 AGRICULTURAL AND MANAGEMENT PRACTICES. THIS PHASE MAY BE COMPLETED
2 BY ATTENDING EDUCATIONAL MEETINGS, WORKSHOPS, OR SEMINARS
3 ESTABLISHED AND APPROVED BY THE MICHIGAN DEPARTMENT OF AGRICULTURE.

4 (B) AN ASSESSMENT PHASE CONSISTING OF AT LEAST 1 OF THE
5 FOLLOWING:

6 (i) FOR LIVESTOCK SYSTEMS, AN ON-FARM ENVIRONMENTAL RISK
7 ASSESSMENT AND DEVELOPMENT AND IMPLEMENTATION OF A FARM-SPECIFIC
8 COMPREHENSIVE NUTRIENT MANAGEMENT PLAN THAT INCLUDES ALL OF THE
9 FOLLOWING:

10 (A) AN OVERVIEW OF THE FARM OPERATION, INCLUDING ENTERPRISES,
11 GOALS, AND LONG-TERM PLANS FOR RESOURCE MANAGEMENT.

12 (B) A FARM HEADQUARTERS MAP SHOWING THE LOCATION OF FARM
13 BUILDINGS, ANIMAL HOUSING, MANURE STORAGE STRUCTURES, SOURCES OF
14 MANURE AND WASTEWATER, FEED STORAGE, FARM HOUSES, AND ANY OTHER
15 RELEVANT PHYSICAL FEATURES.

16 (C) A REVIEW OF THE PRODUCTION, COLLECTION, STORAGE,
17 TREATMENT, AND TRANSFER OF MANURE, INCLUDING, BUT NOT LIMITED TO,
18 THE INVENTORY OF SPECIES, TOTAL AMOUNT AND CHARACTERISTICS OF
19 MANURE, ANIMAL MORTALITIES MANAGEMENT, MANURE AND WASTEWATER
20 COLLECTION METHODS, AND THE METHOD FOR TRANSPORT OF MANURE AND
21 WASTEWATER.

22 (D) AN EVALUATION OF THE POTENTIAL FOR NITROGEN OR PHOSPHORUS
23 TRANSPORT OFF SITE, IDENTIFICATION OF SENSITIVE AREAS SUCH AS
24 STREAMS AND WATER BODIES, IDENTIFICATION OF CONSERVATION AND
25 MANAGEMENT PRACTICES NEEDED FOR EROSION CONTROL AND WATER
26 MANAGEMENT IN ORDER TO CONTROL OFF-SITE TRANSPORT OF MANURE, AND
27 MAPS SHOWING SENSITIVE AREAS AND CONSERVATION PRACTICES.

1 (E) LAND APPLICATION MANAGEMENT IN WHICH A NUTRIENT BUDGET IS
2 DEVELOPED, EQUIPMENT IS CALIBRATED, AND THE APPLICATION SCHEDULE
3 AND RATES ARE DETERMINED.

4 (F) RECORDS OF PLAN IMPLEMENTATION, INCLUDING, BUT NOT LIMITED
5 TO, RECORDS BY FIELD REGARDING SOIL TESTS, DATES OF MANURE OR
6 WASTEWATER APPLICATION, METHOD OF APPLICATION, WEATHER CONDITIONS,
7 TYPES AND YIELDS OF CROPS PREVIOUSLY GROWN, ANALYSIS OF MANURE OR
8 WASTEWATER QUANTITIES, AND SALE OR DISTRIBUTION OF MANURE OR
9 WASTEWATER TO OTHERS.

10 (G) MANAGEMENT OF ANIMAL DIETS TO RESULT IN OPTIMUM
11 PRODUCTION, BEST ECONOMICAL USE OF FEED MATERIALS, AND MINIMIZATION
12 OF THE AMOUNT OF NUTRIENTS CONTAINED IN MANURE.

13 (H) REVIEW OF ENVIRONMENTALLY SOUND OFF-SITE UTILIZATION AND
14 THE TRANSPORTATION OF MANURE.

15 (I) ALTERNATIVE UTILIZATION OF MANURE, ON A FARM-BY-FARM
16 BASIS, AT THE DISCRETION OF THE DEPARTMENT TO ADDRESS COMPOSTING OR
17 OTHER VALUE-ADDED OPTIONS.

18 (J) INSPECTIONS, OPERATION, AND MAINTENANCE TRAINING FOR ALL
19 EXISTING EMPLOYEES AND NEW HIRES REGARDING A FARM'S COMPREHENSIVE
20 NUTRIENT MANAGEMENT PLAN, INCLUDING SCHEDULING AN INSPECTION OF
21 STRUCTURAL AND VEGETATIVE PRACTICES AND EQUIPMENT, AS WELL AS
22 REVIEWING THE OPERATION AND MAINTENANCE PRACTICES, AND SCHEDULING
23 THE REVIEW OF MANAGEMENT PRACTICES TO ENSURE IMPLEMENTATION OF THE
24 COMPREHENSIVE NUTRIENT MANAGEMENT PLAN.

25 (K) A SCHEDULE, DEVELOPED BY THE PRODUCER AND PLAN WRITER
26 WORKING TOGETHER, TO ALLOW FOR REASONABLE IMPLEMENTATION OF THE
27 COMPREHENSIVE NUTRIENT MANAGEMENT PLAN. THE SCHEDULE SHALL SHOW

1 WHEN CHANGES OCCURRED OR WILL OCCUR AND WHEN THE FARM'S ANNUAL
2 REVIEW WILL TAKE PLACE.

3 (L) AN EMERGENCY ACTION PLAN TO PROVIDE PRODUCERS WITH ACTIONS
4 TO TAKE IN THE EVENT OF A SPILL OR FAILURE OF COLLECTION OR
5 TRANSFER COMPONENTS. THE EMERGENCY ACTION PLAN SHALL INCLUDE A LIST
6 OF EMERGENCY TELEPHONE NUMBERS, ANTICIPATED FLOW PATHS IN THE EVENT
7 OF A SPILL, AND REMEDIATION PROCEDURES.

8 (M) REFERENCES AND APPENDICES TO COLLECT INFORMATION,
9 ENVIRONMENTAL DOCUMENTATION, AND COPIES OF PERTINENT REFERENCES
10 CITED IN THE COMPREHENSIVE NUTRIENT MANAGEMENT PLAN.

11 (ii) FOR FARMSTEAD SYSTEMS, BOTH OF THE FOLLOWING:

12 (A) AN ASSESSMENT OF AREAS THAT PRESENT A RISK OF
13 CONTAMINATING WATER RESOURCES, INCLUDING WORK WITH TRAINED
14 SPECIALISTS AS DETERMINED BY THE DEPARTMENT OF AGRICULTURE TO
15 ASSESS HOW EFFECTIVELY FARM STRUCTURES, MANAGEMENT PRACTICES, AND
16 SITE CONDITIONS PROTECT WATER RESOURCES.

17 (B) DEVELOPMENT AND IMPLEMENTATION OF A FARM-SPECIFIC ACTION
18 PLAN THAT ADDRESSES IDENTIFIED RISKS AND INCLUDES THE SOURCES OF
19 TECHNICAL AND FINANCIAL ASSISTANCE AND A TARGETED DATE FOR
20 COMPLETION AND MAEAP VERIFICATION.

21 (iii) FOR CROP ASSESSMENT SYSTEMS, BOTH OF THE FOLLOWING:

22 (A) AN ASSESSMENT OF POTENTIAL ENVIRONMENTAL RISKS AT THE
23 FARMSTEAD AND HOW EFFECTIVELY CROP MANAGEMENT PRACTICES PROTECT
24 GROUNDWATER AND SURFACE WATER RESOURCES. THE ASSESSMENT SHALL
25 INCLUDE NUTRIENT MANAGEMENT PRACTICES, SOIL AND WATER CONSERVATION
26 PRACTICES, PEST MANAGEMENT PRACTICES, WATER USE REPORTING, CROP-
27 SPECIFIC MANAGEMENT PRACTICES, PASTURE MANAGEMENT PRACTICES,

1 IRRIGATION MANAGEMENT PRACTICES, AND OPERATIONS AND MAINTENANCE.

2 (B) DEVELOPMENT AND IMPLEMENTATION OF A FARM-SPECIFIC ACTION
3 PLAN THAT ADDRESSES IDENTIFIED RISKS AND INCLUDES SOURCES OF
4 TECHNICAL AND FINANCIAL ASSISTANCE AND A TARGETED DATE FOR
5 COMPLETION AND MAEAP VERIFICATION.

6 (C) THIRD PARTY VERIFICATION BY THE DEPARTMENT OF AGRICULTURE.

7 SEC. 8605. (1) THE OWNER OR OPERATOR OF A LIVESTOCK PRODUCTION
8 FACILITY MAY SUBMIT TO THE DEPARTMENT OF AGRICULTURE A WRITTEN
9 REQUEST THAT THE LIVESTOCK PRODUCTION FACILITY BE REGISTERED FOR
10 THE PURPOSES OF SUBSECTION (5). UPON RECEIPT OF THE REQUEST, THE
11 DEPARTMENT OF AGRICULTURE SHALL NOTIFY THE DEPARTMENT. WITHIN 180
12 DAYS AFTER RECEIPT OF THE REQUEST BY THE DEPARTMENT OF AGRICULTURE,
13 THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT SHALL DETERMINE
14 WHETHER THE LIVESTOCK PRODUCTION FACILITY IS ENTITLED TO
15 REGISTRATION PURSUANT TO SUBSECTION (2) OR (3), AS APPLICABLE, AND
16 SHALL NOTIFY THE OWNER OR OPERATOR OF THE DETERMINATION. THE
17 DEPARTMENT OF AGRICULTURE SHALL ENTER THE LIVESTOCK PRODUCTION
18 FACILITY ON A REGISTRY IF IT IS ENTITLED TO REGISTRATION.

19 (2) AN EXISTING OR EXPANDING LIVESTOCK PRODUCTION FACILITY IS
20 ENTITLED TO REGISTRATION UNDER SUBSECTION (1) IF THE LIVESTOCK
21 PRODUCTION FACILITY MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

22 (A) IS VERIFIED UNDER AND CONTINUES TO BE IN COMPLIANCE WITH
23 THE LIVESTOCK SYSTEM OF THE MICHIGAN AGRICULTURE ENVIRONMENTAL
24 ASSURANCE PROGRAM.

25 (B) HAS NOT HAD A DISCHARGE OF WASTE OR WASTE EFFLUENT INTO
26 THE WATERS OF THIS STATE IN THE LAST 5 YEARS.

27 (3) A NEW LIVESTOCK PRODUCTION FACILITY IS ENTITLED TO

1 REGISTRATION UNDER SUBSECTION (1) IF ALL OF THE FOLLOWING
2 REQUIREMENTS ARE MET:

3 (A) BEFORE CONSTRUCTION OF THE LIVESTOCK PRODUCTION FACILITY,
4 THE OWNER OR OPERATOR SUBMITS TO THE DEPARTMENT OF AGRICULTURE A
5 WRITTEN NOTICE OF INTENT TO SUBMIT A REQUEST FOR REGISTRATION UNDER
6 SUBSECTION (1).

7 (B) BEFORE POPULATING THE LIVESTOCK PRODUCTION FACILITY, THE
8 OWNER OR OPERATOR OBTAINS FROM THE DEPARTMENT OF AGRICULTURE A
9 DETERMINATION OF CONFORMANCE WITH THE GENERALLY ACCEPTED
10 AGRICULTURAL AND MANAGEMENT PRACTICES FOR SITE SELECTION AND ODOR
11 CONTROLS AT NEW AND EXPANDING ANIMAL LIVESTOCK FACILITIES.

12 (C) NOT LESS THAN 30 DAYS BEFORE POPULATING THE LIVESTOCK
13 PRODUCTION FACILITY, THE OWNER OR OPERATOR SUBMITS TO THE
14 DEPARTMENT OF AGRICULTURE A WRITTEN REQUEST FOR VERIFICATION OF THE
15 LIVESTOCK PRODUCTION FACILITY UNDER THE LIVESTOCK SYSTEM OF THE
16 MAEAP.

17 (4) REQUESTS SUBMITTED UNDER SUBSECTION (1), THE REGISTRY
18 DEVELOPED UNDER SUBSECTION (1), AND ANY RECORDS OF THE DEPARTMENT
19 OR THE DEPARTMENT OF AGRICULTURE DEVELOPED UNDER SUBSECTION (1),
20 (2), OR (3) ARE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER THE
21 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.
22 HOWEVER, THE NAME OF THE OWNER OR OPERATOR AND THE LOCATION OF A
23 LIVESTOCK PRODUCTION FACILITY FOR WHICH A REQUEST HAS BEEN
24 SUBMITTED OR THAT HAS BEEN ENTERED ON THE REGISTRY SHALL BE MADE
25 AVAILABLE TO THE PUBLIC.

26 (5) A LIVESTOCK PRODUCTION FACILITY REGISTERED UNDER
27 SUBSECTION (1) IS NOT REQUIRED TO HAVE A PERMIT UNDER PART 31.

1 (6) IF EITHER OF THE FOLLOWING APPLIES TO A LIVESTOCK
2 PRODUCTION FACILITY REGISTERED UNDER SUBSECTION (1), THE DEPARTMENT
3 OF AGRICULTURE SHALL PROMPTLY REMOVE THE LIVESTOCK PRODUCTION
4 FACILITY FROM THE REGISTRY:

5 (A) THE DEPARTMENT HAS DETERMINED THAT THE LIVESTOCK
6 PRODUCTION FACILITY HAS HAD A DISCHARGE OF WASTE OR WASTE EFFLUENT
7 INTO THE WATERS OF THIS STATE AND HAS NOTIFIED THE DEPARTMENT OF
8 AGRICULTURE OF THE DETERMINATION. THE DEPARTMENT SHALL CONSULT WITH
9 THE DEPARTMENT OF AGRICULTURE BEFORE MAKING SUCH A DETERMINATION.

10 (B) THE FARM OR FARM OPERATION WAS REGISTERED PURSUANT TO
11 SUBSECTION (3) AND THE FARM OR FARM OPERATION WAS NOT VERIFIED
12 UNDER THE LIVESTOCK SYSTEM OF THE MAEAP WITHIN 1 YEAR OF BEING
13 POPULATED. THE DEPARTMENT OF AGRICULTURE MAY PROVIDE AN EXTENSION
14 OF THE 1-YEAR DEADLINE UNDER THIS SUBDIVISION IF THE LIVESTOCK
15 PRODUCTION FACILITY SHOWS PROGRESS TOWARD VERIFICATION.

16 (7) WITHIN 30 DAYS AFTER A LIVESTOCK PRODUCTION FACILITY IS
17 REMOVED FROM THE REGISTRY, THE OWNER OR OPERATOR OF THE LIVESTOCK
18 PRODUCTION FACILITY SHALL APPLY FOR A PERMIT UNDER PART 31 IF A
19 PERMIT IS REQUIRED UNDER RULES PROMULGATED UNDER THAT PART.

20 (8) IF A LIVESTOCK PRODUCTION FACILITY IS ON THE REGISTRY, HAS
21 BEEN VERIFIED UNDER THE LIVESTOCK SYSTEM OF THE MAEAP, AND
22 NEGLIGENTLY OR WILLFULLY VIOLATES THE REQUIREMENTS OF THE LIVESTOCK
23 SYSTEM OF THE MAEAP, THE OWNER OR OPERATOR OF THE LIVESTOCK
24 PRODUCTION FACILITY MAY BE ORDERED TO PAY AN ADMINISTRATIVE FINE OF
25 NOT LESS THAN \$5,000.00 FOR THE FIRST VIOLATION, \$10,000.00 FOR A
26 SECOND VIOLATION, AND \$20,000.00 FOR A THIRD OR SUBSEQUENT
27 VIOLATION.

1 Sec. 8803. (1) ~~In~~ **SUBJECT TO SUBSECTION (2), IN** selecting
2 projects for a grant award, the department shall consider the
3 following as they relate to a project:

4 (a) The expectation for long-term water quality improvement.

5 (b) The expectation for long-term protection of high quality
6 waters.

7 (c) The consistency of the project with remedial action plans
8 and other regional water quality or watershed management plans
9 approved by the department.

10 (d) The placement of the watershed on the list of impaired
11 waters pursuant to ~~section 303(d) of title III of the federal~~
12 ~~water pollution control act, chapter 758, 86 Stat. 846, 33 U.S.C.~~
13 **33 USC 1313.**

14 (e) Commitments for financial and technical assistance from
15 the partners in the project.

16 (f) Financial and other resource contributions, including in-
17 kind services, by project participants in excess of that required
18 in section 8802(4).

19 (g) The length of time the applicant has committed to maintain
20 the physical improvements.

21 (h) The commitment to provide monitoring to document
22 improvement in water quality or the reduction of pollutant loads.

23 (i) Whether the project provides benefits to sources of
24 drinking water.

25 (j) Other information the department considers relevant.

26 **(2) IN SELECTING PROJECTS FOR AN AWARD OF GRANT MONEY**
27 **DEPOSITED INTO THE FUND FOR WATER QUALITY MONITORING AND WATER**

1 RESOURCES PROTECTION AND POLLUTION CONTROL ACTIVITIES PURSUANT TO
2 SECTION 19608(1)(E), THE DEPARTMENT SHALL GIVE FIRST PRIORITY TO
3 WATER QUALITY MONITORING PROJECTS IN WATERSHEDS WITH A HIGH
4 CONCENTRATION OF LIVESTOCK PRODUCTION FACILITIES AS DETERMINED
5 JOINTLY BY THE DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE.