

**SUBSTITUTE FOR
SENATE BILL NO. 504**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3101, 3109, 5303, 8201, 8202, 8203, 8206, 8801, 8802, and 8803 (MCL 324.3101, 324.3109, 324.5303, 324.8201, 324.8202, 324.8203, 324.8206, 324.8801, 324.8802, and 324.8803), section 3101 as amended by 2006 PA 97, section 3109 as amended by 2005 PA 241, section 5303 as amended by 2002 PA 398, sections 8201, 8202, 8203, and 8206 as added by 2001 PA 176, and sections 8801, 8802, and 8803 as added by 1998 PA 287, and by adding sections 3113b, 3113c, and 8209.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3101. As used in this part:

2 (A) "AGRICULTURAL STORM WATER DISCHARGE" MEANS AN AGRICULTURAL
3 STORM WATER DISCHARGE AS DESCRIBED IN 40 CFR 122.23.

4 (B) "ANIMAL FEEDING OPERATION" OR "AFO" MEANS A LOT OR
5 FACILITY, OTHER THAN AN AQUACULTURE FACILITY, WHERE ANIMALS, OTHER
6 THAN AQUACULTURE SPECIES, HAVE BEEN, ARE, OR WILL BE STABLED OR
7 CONFINED AND FED OR MAINTAINED FOR A TOTAL OF 45 DAYS OR MORE IN
8 ANY 12-MONTH PERIOD, AND CROPS, VEGETATION, FORAGE GROWTH, OR
9 POSTHARVEST RESIDUES ARE NOT SUSTAINED IN THE NORMAL GROWING SEASON
10 OVER ANY PORTION OF THE LOT OR FACILITY.

11 (C) ~~(a)~~—"Aquatic nuisance species" means a nonindigenous
12 species that threatens the diversity or abundance of native species
13 or the ecological stability of infested waters, or commercial,
14 agricultural, aquacultural, or recreational activities dependent on
15 such waters.

16 (D) ~~(b)~~—"Ballast water" means water and associated solids
17 taken on board a vessel to control or maintain trim, draft,
18 stability, or stresses on the vessel, without regard to the manner
19 in which it is carried.

20 (E) ~~(c)~~—"Ballast water treatment method" means a method of
21 treating ballast water and sediments to remove or destroy living
22 biological organisms through 1 or more of the following:

23 (i) Filtration.

24 (ii) The application of biocides or ultraviolet light.

25 (iii) Thermal methods.

26 (iv) Other treatment techniques approved by the department.

27 (F) ~~(d)~~—"Department" means the department of environmental

1 quality.

2 (G) ~~(e)~~—"Detroit consumer price index" means the most
3 comprehensive index of consumer prices available for the Detroit
4 area from the United States department of labor, bureau of labor
5 statistics.

6 (H) ~~(f)~~—"Emergency management coordinator" means that term as
7 defined in section 2 of the emergency management act, 1976 PA 390,
8 MCL 30.402.

9 (I) ~~(g)~~—"Great Lakes" means the Great Lakes and their
10 connecting waters, including Lake St. Clair.

11 (J) ~~(h)~~—"Group 1 facility" means a facility whose discharge is
12 described by R 323.2218 of the Michigan administrative code.

13 (K) ~~(i)~~—"Group 2 facility" means a facility whose discharge is
14 described by R 323.2210(y), R 323.2215, or R 323.2216 of the
15 Michigan administrative code.

16 (L) ~~(j)~~—"Group 3 facility" means a facility whose discharge is
17 described by R 323.2211 or R 323.2213 of the Michigan
18 administrative code.

19 (M) "LARGE CAFO" IS AN AFO THAT STABLES OR CONFINES NOT LESS
20 THAN THE NUMBER OF ANIMALS SPECIFIED IN ANY OF THE FOLLOWING
21 CATEGORIES:

22 (i) 700 MATURE DAIRY COWS, WHETHER MILKED OR DRY.

23 (ii) 1,000 VEAL CALVES.

24 (iii) 1,000 CATTLE OTHER THAN MATURE DAIRY COWS OR VEAL CALVES.
25 CATTLE INCLUDES HEIFERS, STEERS, BULLS, AND COW/CALF PAIRS.

26 (iv) 2,500 SWINE EACH WEIGHING 55 POUNDS OR MORE.

27 (v) 10,000 SWINE EACH WEIGHING LESS THAN 55 POUNDS.

1 (vi) 500 HORSES.

2 (vii) 10,000 SHEEP OR LAMBS.

3 (viii) 55,000 TURKEYS.

4 (ix) 30,000 LAYING HENS OR BOILERS, IF THE AFO USES A LIQUID
5 MANURE HANDLING SYSTEM.

6 (x) 125,000 CHICKENS, OTHER THAN LAYING HENS, IF THE AFO USES
7 OTHER THAN A LIQUID MANURE HANDLING SYSTEM.

8 (xi) 82,000 LAYING HENS, IF THE AFO USES OTHER THAN A LIQUID
9 MANURE HANDLING SYSTEM.

10 (xii) 30,000 DUCKS, IF THE AFO USES OTHER THAN A LIQUID MANURE
11 HANDLING SYSTEM.

12 (xiii) 5,000 DUCKS, IF THE AFO USES A LIQUID MANURE HANDLING
13 SYSTEM.

14 (N) ~~(k)~~—"Local health department" means that term as defined
15 in section 1105 of the public health code, 1978 PA 368, MCL
16 333.1105.

17 (O) ~~(l)~~—"Local unit" means a county, city, village, or township
18 or an agency or instrumentality of any of these entities.

19 (P) "MAEAP-VERIFIED FARM" MEANS THAT TERM AS IT IS DEFINED IN
20 SECTION 8201.

21 (Q) "MAEAP-VERIFIED LARGE CAFO" MEANS THAT TERM AS IT IS
22 DEFINED IN SECTION 8201.

23 (R) ~~(m)~~—"Municipality" means this state, a county, city,
24 village, or township, or an agency or instrumentality of any of
25 these entities.

26 (S) ~~(n)~~—"National response center" means the national
27 communications center established under the clean water act, 33 USC

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1 1251 to 1387, located in Washington, DC, that receives and relays
 2 notice of oil discharge or releases of hazardous substances to
 3 appropriate federal officials.

4 (T) ~~(e)~~—"Nonocean-going vessel" means a vessel that is not an
 5 ocean-going vessel.

6 (U) "NUTRIENT MANAGEMENT PLAN" MEANS <<THAT TERM AS IT
 7 IS DEFINED IN 40 CFR 122.42 (E) .

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12 (V) ~~(p)~~—"Ocean-going vessel" means a vessel that operates on
 13 the Great Lakes or the St. Lawrence waterway after operating in
 14 waters outside of the Great Lakes or the St. Lawrence waterway.

15 (W) ~~(q)~~—"Open water disposal of contaminated dredge materials"
 16 means the placement of dredge materials contaminated with toxic
 17 substances as defined in R 323.1205 of the Michigan administrative
 18 code into the open waters of the waters of the state but does not
 19 include the siting or use of a confined disposal facility
 20 designated by the United States army corps of engineers or beach
 21 nourishment activities utilizing uncontaminated materials.

22 (X) ~~(r)~~—"Primary public safety answering point" means that
 23 term as defined in section 102 of the emergency telephone service
 24 enabling act, 1986 PA 32, MCL 484.1102.

25 (Y) ~~(s)~~—"Sediments" means any matter settled out of ballast
 26 water within a vessel.

27 (Z) ~~(t)~~—"Sewage sludge" means sewage sludge generated in the

1 treatment of domestic sewage, other than only septage or industrial
2 waste.

3 (AA) ~~(u)~~—"Sewage sludge derivative" means a product for land
4 application derived from sewage sludge that does not include solid
5 waste or other waste regulated under this act.

6 (BB) ~~(v)~~—"Sewage sludge generator" means a person who
7 generates sewage sludge that is applied to land.

8 (CC) ~~(w)~~—"Sewage sludge distributor" means a person who
9 applies, markets, or distributes, except at retail, a sewage sludge
10 derivative.

11 (DD) ~~(x)~~—"St. Lawrence waterway" means the St. Lawrence river,
12 the St. Lawrence seaway, and the gulf of St. Lawrence.

13 (EE) ~~(y)~~—"Threshold reporting quantity" means that term as
14 defined in R 324.2002 of the Michigan administrative code.

15 (FF) ~~(z)~~—"Waters of the state" means groundwaters, lakes,
16 rivers, and streams and all other watercourses and waters,
17 including the Great Lakes, within the jurisdiction of this state.

18 Sec. 3109. (1) A person shall not directly or indirectly
19 discharge into the waters of the state a substance that is or may
20 become injurious to any of the following:

21 (a) To the public health, safety, or welfare.

22 (b) To domestic, commercial, industrial, agricultural,
23 recreational, or other uses that are being made or may be made of
24 such waters.

25 (c) To the value or utility of riparian lands.

26 (d) To livestock, wild animals, birds, fish, aquatic life, or
27 plants or to their growth or propagation.

1 (e) To the value of fish and game.

2 (2) The discharge of any raw sewage of human origin, directly
3 or indirectly, into any of the waters of the state ~~shall be~~
4 ~~considered~~ IS prima facie evidence of a violation of this part by
5 the municipality in which the discharge originated unless the
6 discharge is permitted by an order or rule of the department. If
7 the discharge is not the subject of a valid permit issued by the
8 department, a municipality responsible for the discharge may be
9 subject to the remedies provided in section 3115. If the discharge
10 is the subject of a valid permit issued by the department pursuant
11 to section 3112, and is in violation of that permit, a municipality
12 responsible for the discharge is subject to the penalties
13 prescribed in section 3115.

14 (3) Notwithstanding subsection (2), a municipality is not
15 responsible or subject to the remedies provided in section 3115 for
16 an unauthorized discharge from a sewerage system as defined in
17 section 4101 that is permitted under this part and owned by a party
18 other than the municipality, unless the municipality has accepted
19 responsibility in writing for the sewerage system and, with respect
20 to the civil fine and penalty under section 3115, the municipality
21 has been notified in writing by the department of its
22 responsibility for the sewerage system.

23 (4) Unless authorized by a permit, order, or rule of the
24 department, the discharge into the waters of this state of any
25 medical waste, as defined in part 138 of the public health code,
26 1978 PA 368, MCL 333.13801 to 333.13831, is prima facie evidence of
27 a violation of this part and subjects the responsible person to the

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1 penalties prescribed in section 3115.

2 (5) Beginning January 1, 2007, unless a discharge is
3 authorized by a permit, order, or rule of the department, the
4 discharge into the waters of this state from an oceangoing vessel
5 of any ballast water is prima facie evidence of a violation of this
6 part and subjects the responsible person to the penalties
7 prescribed in section 3115.

8 (6) A violation of this section is prima facie evidence of the
9 existence of a public nuisance and in addition to the remedies
10 provided for in this part may be abated according to law in an
11 action brought by the attorney general in a court of competent
12 jurisdiction.

13 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, AN
14 AGRICULTURAL STORM WATER DISCHARGE SHALL NOT BE CONSIDERED <<A
15 POINT SOURCE DISCHARGE REQUIRING A PERMIT UNDER THIS PART.>>

16 (8) THE DEPARTMENT SHALL REVIEW AND PROVIDE ENVIRONMENTAL
17 INPUT TO THE DEPARTMENT OF AGRICULTURE ON ALL GENERALLY ACCEPTED
18 AGRICULTURAL AND MANAGEMENT PRACTICES ESTABLISHED UNDER THE
19 MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.471 TO 286.474,
20 THAT ARE DESIGNED TO PROTECT WATER RESOURCES.

21 SEC. 3113B. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), THE
22 DEPARTMENT SHALL NOT REQUIRE AN ANIMAL FEEDING OPERATION TO OBTAIN
23 A PERMIT UNDER THIS PART.

24 (2) AN ANIMAL FEEDING OPERATION SHALL OBTAIN A PERMIT UNDER
25 THIS PART IF ANY OF THE FOLLOWING CIRCUMSTANCES EXIST:

26 (A) THE ANIMAL FEEDING OPERATION IS 5 TIMES LARGER THAN THE
27 MINIMUM SIZE OF A LARGE CAFO.

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1 (B) THE ANIMAL FEEDING OPERATION IS A LARGE CAFO THAT IS NOT
2 AN MAEAP-VERIFIED LARGE CAFO.

3 (C) THE ANIMAL FEEDING OPERATION HAS A <<POINT SOURCE>> DISCHARGE,
4 THAT IS NOT
5 AN AGRICULTURAL STORM WATER DISCHARGE, OF POLLUTANTS INTO THE
6 WATERS OF THE STATE<<. >>

7 (3) AS A CONDITION OF A PERMIT ISSUED UNDER SUBSECTION (2),
8 THE DEPARTMENT SHALL, AT A MINIMUM, REQUIRE THAT THE PERMITTEE DO
9 ALL OF THE FOLLOWING:

10 (A) PREPARE AND IMPLEMENT A NUTRIENT MANAGEMENT PLAN TO ASSURE
11 THAT WATER QUALITY STANDARDS ARE MET.

12 (B) IF THE ANIMAL FEEDING OPERATION IS A LARGE CAFO, OBTAIN
13 CERTIFICATION OF CONSTRUCTION FROM THE DEPARTMENT OF AGRICULTURE
14 UNDER SECTION 3113A, IF APPROPRIATE.

15 (C) DEMONSTRATE COMPLIANCE WITH STANDARDS FOR VERIFICATION
16 UNDER THE MICHIGAN AGRICULTURE ENVIRONMENTAL ASSURANCE PROGRAM
17 UNDER PART 82.

18 (D) EVERY 3 YEARS, TEST SOIL SAMPLES AT THE LOCATION OF THE
19 AFO USING THE BRAY P1 SOIL TEST FOR PHOSPHORUS AND REPORT THAT
20 INFORMATION TO THE DEPARTMENT. IF THE TESTING FINDS PHOSPHORUS IN
21 EXCESS OF 150 PARTS PER MILLION, THE PERMITTEE SHALL DISCONTINUE
22 MANURE APPLICATIONS AT THE AFO UNTIL NUTRIENT USE BY CROPS REDUCES
23 PHOSPHORUS TEST LEVELS TO LESS THAN 150 PARTS PER MILLION.

24 (4) THE DEPARTMENT SHALL ANNUALLY CONDUCT A COMPLIANCE
25 INSPECTION OF EACH ANIMAL FEEDING OPERATION REQUIRED TO OBTAIN A
26 PERMIT UNDER THIS SECTION THAT INCLUDES AN INSPECTION OF MANURE
27 STORAGE STRUCTURES TO DETERMINE THEIR STRUCTURAL INTEGRITY.

SEC. 3113C. (1) THE PATHOGEN REDUCTION ADVISORY COUNCIL IS

1 CREATED IN THE DEPARTMENT. THE COUNCIL SHALL CONSIST OF ALL THE
2 FOLLOWING MEMBERS APPOINTED JOINTLY BY THE DIRECTOR OF THE
3 DEPARTMENT AND THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE:

4 (A) FOURTEEN INDIVIDUALS REPRESENTING MUNICIPAL, INDUSTRY,
5 AGRICULTURE, PUBLIC HEALTH, CONSERVATION, AND ENVIRONMENTAL
6 INTERESTS AND THE GENERAL PUBLIC.

7 (B) REPRESENTATIVES OF THE DEPARTMENT, THE DEPARTMENT OF
8 AGRICULTURE, THE DEPARTMENT OF COMMUNITY HEALTH, THE DEPARTMENT OF
9 NATURAL RESOURCES, MICHIGAN STATE UNIVERSITY, GRAND VALLEY STATE
10 UNIVERSITY, THE UNITED STATES DEPARTMENT OF AGRICULTURE NATURAL
11 RESOURCES CONSERVATION SERVICE, AND THE UNITED STATES ENVIRONMENTAL
12 PROTECTION AGENCY AS NONVOTING MEMBERS WHO SHALL SERVE AS
13 INFORMATION RESOURCES TO THE COUNCIL.

14 (2) MEMBERS OF THE COUNCIL APPOINTED UNDER SUBSECTION (1)
15 SHALL BE APPOINTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE
16 AMENDATORY ACT THAT ADDED THIS SECTION.

17 (3) THE COUNCIL SHALL DO ALL OF THE FOLLOWING:

18 (A) REVIEW SCIENTIFIC INFORMATION REGARDING PATHOGEN SOURCES
19 AND ASSOCIATED ISSUED IN MICHIGAN.

20 (B) STUDY THE EFFECTIVENESS OF CONSERVATION MEASURES,
21 TECHNOLOGIES, AND REGULATIONS ON PATHOGEN REDUCTION.

22 (C) RECOMMEND EDUCATION, MONITORING, AND CONSERVATION MEASURES
23 RELATED TO PATHOGEN REDUCTION.

24 (D) PROVIDE A RECOMMENDATION FOR A PATHOGEN SOURCE STUDY OF AT
25 LEAST 2 WATERSHEDS IN THE STATE THAT INCLUDES STUDY SCOPE, SCALE,
26 POTENTIAL PARTICIPANTS, TIME FRAME AND ASSOCIATED COSTS.

27 (4) WITHIN 12 MONTHS AFTER ALL MEMBERS ARE APPOINTED TO THE

1 COUNCIL, THE COUNCIL SHALL SUBMIT A REPORT, APPROVED BY A MAJORITY
2 OF THE VOTING MEMBERS OF THE COUNCIL, ON ITS FINDINGS AND
3 RECOMMENDATIONS UNDER SUBSECTION (3) TO THE SENATE MAJORITY LEADER,
4 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE STANDING
5 COMMITTEES OF THE LEGISLATURE WITH JURISDICTION PRIMARILY RELATED
6 TO NATURAL RESOURCES AND THE ENVIRONMENT.

7 (5) THE DIRECTOR OF THE DEPARTMENT AND THE DIRECTOR OF THE
8 DEPARTMENT OF AGRICULTURE SHALL ENCOURAGE THE IMPLEMENTATION OF THE
9 COUNCIL'S RECOMMENDATIONS OF INDUSTRY-SPECIFIC CONSERVATION
10 MEASURES.

11 (6) EFFECTIVE 6 MONTHS AFTER THE COUNCIL SUBMITS ITS FINDINGS
12 AND RECOMMENDATIONS UNDER SUBSECTION (4), THE COUNCIL IS DISBANDED.

13 Sec. 5303. (1) Municipalities shall consider and utilize,
14 where possible, cooperative regional or intermunicipal projects in
15 satisfying sewerage needs in the development of project plans.

16 (2) A municipality may submit a project plan for use by the
17 department in developing a priority list.

18 (3) The project plan for a tier I project shall include
19 documentation that demonstrates that the project is needed to
20 assure maintenance of, or to progress toward, compliance with the
21 federal water pollution control act or part 31, and to meet the
22 minimum requirements of the national environmental policy act of
23 1969, ~~Public Law 91-190, 42 U.S.C. USC 4321, 4331 to 4335, and~~
24 ~~4341 to 4347~~. The documentation shall demonstrate all of the
25 following:

26 (a) The need for the project.

27 (b) That feasible alternatives to the project were evaluated

1 taking into consideration volume reduction opportunities and the
2 demographic, topographic, hydrologic, and institutional
3 characteristics of the area.

4 (c) That the project is cost effective and implementable from
5 a legal, institutional, financial, and management standpoint.

6 (d) Other information as required by the department.

7 (4) The project plan for a tier II project shall include
8 documentation that demonstrates that the project is or was needed
9 to assure maintenance of or progress towards compliance with the
10 federal water pollution control act or part 31, and is consistent
11 with all applicable state environmental laws. The documentation
12 shall include all of the following information:

13 (a) Information to demonstrate the need for the project.

14 (b) A showing that the cost of the project is or was
15 justified, taking into account available alternatives. Those costs
16 determined by the department to be in excess of those costs
17 justified will not be eligible for assistance under this part.

18 (5) After notice and an opportunity for public comment, the
19 department shall annually develop separate priority lists for
20 sewage treatment works projects and stormwater treatment projects,
21 for nonpoint source projects, and for projects funded under the
22 strategic water quality initiatives fund created in section 5204.
23 Projects not funded during the time that a priority list developed
24 under this section is in effect shall be automatically prioritized
25 on the next annual list using the same criteria, unless the
26 municipality submits an amendment to its plan that introduces new
27 information to be used as the basis for prioritization. These

1 priority lists shall be based upon project plans submitted by
2 municipalities, and the following criteria:

3 (a) That a project complies with all applicable standards in
4 part 31 and the federal water pollution control act.

5 (b) An application for a segment of a project that received
6 funds under the title II construction grant program or title VI
7 state revolving loan funds of the federal water pollution control
8 act or the strategic water quality initiatives fund created in
9 section 5204 shall be first priority on its respective priority
10 list for funding for a period of not more than 3 years after funds
11 were first committed under those programs.

12 (c) If the project is a sewage treatment works project or a
13 stormwater treatment project, all of the following criteria:

14 (i) The severity of the water pollution problem to be
15 addressed, maximizing progress towards restoring beneficial uses
16 and meeting water quality standards.

17 (ii) A determination of whether a project is or was necessary
18 to comply with an order, permit, or other document with an
19 enforceable schedule for addressing a municipality's sewage-related
20 water pollution problems that was issued by the department or
21 entered as part of an action brought by the state against the
22 municipality or any component of the municipality. A municipality
23 may voluntarily agree to an order, permit, or other document with
24 an enforceable schedule as described in this subparagraph.

25 (iii) The population to be served by the project. However, the
26 criterion provided in this subparagraph shall not be applied to
27 projects funded by the strategic water quality initiatives fund

1 created in section 5204.

2 (iv) The dilution ratio existing between the discharge volume
3 and the receiving stream.

4 (d) If the project is a sewage treatment works project, 100
5 priority points shall be awarded pursuant to R 323.958 of the
6 Michigan administrative code for each of the following that apply
7 to the project:

8 (i) The project addresses on-site septic systems that are
9 adversely affecting the water quality of a water body or represent
10 a threat to public health, provided that soil and hydrologic
11 conditions are not suitable for the replacement of those on-site
12 septic systems.

13 (ii) The project includes the construction of facilities for
14 the acceptance or treatment of septage collected from on-site
15 septic systems.

16 (e) Rankings for nonpoint source projects shall be consistent
17 with the state nonpoint source management plan developed pursuant
18 to ~~section 319 of title III of the federal water pollution control~~
19 ~~act, chapter 758, 101 Stat. 52, 33 U.S.C. USC 1329. HOWEVER,~~
20 **PRIORITY SHALL BE GIVEN TO PROJECTS THAT SUPPORT THE EFFORTS BEING**
21 **MADE BY MAEAP-VERIFIED FARMS AS DEFINED IN SECTION 8201.**

22 (f) Any other criteria established by the department by rule.

23 (6) The priority list shall be submitted annually to the chair
24 of the senate and house of representatives standing committees that
25 primarily consider legislation pertaining to the protection of
26 natural resources and the environment.

27 (7) For purposes of providing assistance, the priority list

1 shall take effect on the first day of each fiscal year.

2 (8) This section does not limit other actions undertaken to
3 enforce part 31, the federal water pollution control act, or any
4 other act.

5 (9) As used in this section, "on-site septic system" means
6 that term as defined in section 5201.

7 Sec. 8201. As used in this part:

8 **(A) "AGRICULTURAL STORM WATER DISCHARGE" MEANS THAT TERM AS IT**
9 **IS DEFINED IN SECTION 3101.**

10 **(B)** ~~(a)~~—"Conservation easement" means that term as it is
11 defined in section 2140.

12 **(C)** ~~(b)~~—"Conservation plan" means a plan approved by the
13 department for all or a portion of a parcel of land that specifies
14 the conservation practices to be undertaken and includes a schedule
15 for implementation.

16 **(D)** ~~(e)~~—"Conservation practices" means practices, voluntarily
17 implemented by the landowner, that protect and conserve water
18 quality, soil, natural features, wildlife, or other natural
19 resources and that meet 1 or more of the following:

20 (i) The practices comply with United States natural resource
21 conservation service standards and specifications as approved by
22 the department.

23 (ii) The practices are provided in rules promulgated by the
24 department under this part.

25 (iii) The practices have been approved by the commission of
26 agriculture.

27 **(E) "CONSERVATION PROGRAMS" MEANS THE CONSERVATION PROGRAMS**

1 ESTABLISHED UNDER SECTION 8202(1) OR (2).

2 (F) ~~(d)~~—"Department" means the department of agriculture or
3 its authorized representatives.

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

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

8 (I) ~~(e)~~—"Fund" means the agriculture pollution prevention fund
9 created in section 8206.

10 (J) "LARGE CAFO" MEANS THAT TERM AS IT IS DEFINED IN SECTION
11 3101.

12 (K) "MAEAP" MEANS THE MICHIGAN AGRICULTURE ENVIRONMENTAL
13 ASSURANCE PROGRAM ESTABLISHED UNDER SECTION 8202.

14 (L) "MAEAP-VERIFIED FARM" MEANS A FARM OR FARM OPERATION THAT
15 HAS BEEN VERIFIED UNDER SECTION 8203 AS BEING IN COMPLIANCE WITH
16 THE CONSERVATION PRACTICES REQUIRED UNDER MAEAP.

17 (M) "MAEAP-VERIFIED LARGE CAFO" MEANS A LARGE CAFO THAT HAS
18 BEEN VERIFIED UNDER SECTION 8203 AS BEING IN COMPLIANCE WITH THE
19 CONSERVATION PRACTICES REQUIRED UNDER MAEAP FOR LARGE CAFOS.

20 (N) "SITE-SPECIFIC NUTRIENT MANAGEMENT PLAN" MEANS A SITE
21 SPECIFIC CONSERVATION PLAN THAT MEETS ALL OF THE FOLLOWING
22 REQUIREMENTS:

23 (i) REPRESENTS A GROUPING OF CONSERVATION PRACTICES AND
24 MANAGEMENT ACTIVITIES THAT, WHEN IMPLEMENTED AS PART OF A
25 CONSERVATION SYSTEM, WILL HELP TO ENSURE THAT BOTH PRODUCTION AND
26 NATURAL RESOURCES PROTECTION GOALS ARE ACHIEVED.

27 (ii) ADDRESSES SOIL EROSION, MANURE, AND ORGANIC BY-PRODUCTS

1 AND THEIR POTENTIAL IMPACT ON WATER QUALITY.

2 (iii) IS DESIGNED TO ASSIST LIVESTOCK PRODUCERS IN MEETING ALL
3 APPLICABLE LOCAL, TRIBAL, STATE, AND FEDERAL WATER QUALITY GOALS
4 AND REGULATIONS.

5 (O) ~~(f)~~—"Verification" or "verify" means a determination by
6 the department that 1 or more conservation practices have been
7 established and are being maintained in accordance with a
8 conservation plan.

9 Sec. 8202. (1) The department may establish conservation
10 programs designed to encourage the ~~voluntary~~ use of conservation
11 practices in the state.

12 (2) THE DEPARTMENT SHALL IMPLEMENT A MICHIGAN AGRICULTURE
13 ENVIRONMENTAL ASSURANCE PROGRAM FOR FARMS AND FARM OPERATIONS THAT
14 MEETS ALL OF THE FOLLOWING REQUIREMENTS:

15 (A) WAS RECOMMENDED BY THE MICHIGAN AGRICULTURE POLLUTION
16 PREVENTION IMPLEMENTATION PLAN SIGNED BY THE DIRECTOR OF THE
17 DEPARTMENT AND THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL
18 QUALITY IN 1998.

19 (B) CONSISTS OF EDUCATION, ON-FARM RISK ASSESSMENT, AND THIRD
20 PARTY VERIFICATION BY THE DEPARTMENT OF AGRICULTURE.

21 (C) FOCUSES ON LIVESTOCK, CROPPING, OR FARMSTEAD SYSTEMS.

22 (D) IS DESIGNED TO HELP FARMS AND FARM OPERATIONS VOLUNTARILY
23 PREVENT OR MINIMIZE AGRICULTURAL POLLUTION RISKS.

24 (E) FOR PRIMARILY LIVESTOCK OPERATIONS, REQUIRES COMPLIANCE
25 WITH A SITE-SPECIFIC NUTRIENT MANAGEMENT PLAN.

26 (3) ~~(2)~~—In implementing the conservation programs established
27 under this part, the department, in coordination with the

1 departments of natural resources and environmental quality, may do
2 1 or more of the following:

3 (a) Enter into contracts with 1 or more persons for the
4 implementation of conservation practices on his or her land.

5 (b) Enter into contracts or other agreements with 1 or more
6 persons to administer or promote conservation programs, or to
7 implement conservation practices.

8 (c) Provide payments, financial incentives, or, upon
9 verification of the implementation of conservation practices,
10 reimbursement for rental payments or for costs of conservation
11 practice implementation, or both.

12 (d) Promote the use of conservation practices.

13 (e) Recognize and provide awards for persons who have
14 implemented conservation practices.

15 (f) Monitor and verify compliance with conservation plans.

16 (g) Enforce contracts or other agreements entered into under
17 this part.

18 (h) Terminate contracts or other agreements entered into under
19 this part in accord with terms established in the contract or other
20 agreement.

21 (4) ~~(3)~~—In carrying out its responsibilities under this part,
22 the department shall coordinate with the departments of natural
23 resources and environmental quality and other applicable partners.

24 Sec. 8203. (1) As part of a conservation program established
25 under this part, **INCLUDING, BUT NOT LIMITED TO MAEAP**, the
26 department ~~may~~**SHALL** provide for conservation practice
27 verification. Conservation practice verification may be ~~granted~~

1 **PROVIDED** to a person if all of the following conditions are met:

2 (a) The person has submitted a conservation plan in compliance
3 with requirements of the department.

4 (b) The person has established and is maintaining all
5 conservation practices provided for in the conservation plan,
6 according to the plan schedule.

7 (c) The person has agreed to allow the department, after
8 giving prior notice to the landowner, to conduct inspections of the
9 applicable land and facilities.

10 (d) The department has conducted an on-site inspection of the
11 conservation practices and has determined that the person has
12 established and is maintaining all conservation practices provided
13 for in the conservation plan, according to the plan schedule. **FOR A**
14 **LARGE CAFO, THE ON-SITE INSPECTION SHALL BE CONDUCTED ANNUALLY AND**
15 **SHALL INCLUDE AN INSPECTION OF MANURE STORAGE STRUCTURES AT THE**
16 **LARGE CAFO TO DETERMINE THEIR STRUCTURAL INTEGRITY.**

17 (E) **FOR PRIMARILY LIVESTOCK OPERATIONS, THE PERSON HAS**
18 **PREPARED AND IS MAINTAINING COMPLIANCE WITH A SITE-SPECIFIC**
19 **NUTRIENT MANAGEMENT PLAN.**

20 (F) **FOR A LARGE CAFO, THE DEPARTMENT HAS DETERMINED ALL OF THE**
21 **FOLLOWING:**

22 (i) **BASED UPON AN ON-SITE INSPECTION OF THE LARGE CAFO, THAT**
23 **THE LARGE CAFO IS IN COMPLIANCE WITH GENERALLY ACCEPTED**
24 **AGRICULTURAL AND MANAGEMENT PRACTICES UNDER THE RIGHT TO FARM ACT,**
25 **1981 PA 93, MCL 286.471 TO 286.474, RELATED TO SITING, ODOR, AND**
26 **MANURE MANAGEMENT.**

27 (ii) **THAT THE LARGE CAFO HAS OBTAINED CERTIFICATION UNDER**

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1 SECTION 3113A, IF APPROPRIATE.

2 (iii) THAT THE LARGE CAFO IS IN COMPLIANCE WITH BOTH OF THE
3 FOLLOWING:

4 (A) THE UNITED STATES DEPARTMENT OF AGRICULTURE-NATURAL
5 RESOURCE CONSERVATION SERVICE'S STANDARDS RELATED TO WASTE STORAGE
6 FACILITIES THAT WERE IN EFFECT WHEN THE WASTE STORAGE FACILITIES
7 WERE CONSTRUCTED.

8 (B) CONSERVATION PRACTICE STANDARD CODE 590 (NUTRIENT
9 MANAGEMENT), UNITED STATES DEPARTMENT OF AGRICULTURE-NATURAL
10 RESOURCE CONSERVATION SERVICE, NRCS MICHIGAN FIELD OFFICE TECHNICAL
11 GUIDE, FEBRUARY 2005.

12 <<(2) IF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
13 DETERMINES THAT A LARGE CAFO HAS CAUSED A DISCHARGE OF POLLUTANTS IN
14 VIOLATION OF PART 31, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL
15 NOTIFY THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE. UPON RECEIPT OF
16 NOTIFICATION FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER THIS
17 SUBSECTION, THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE MAY ISSUE AN
18 ORDER REQUIRING THE LARGE CAFO TO ABATE THE POLLUTION AND TO REMOVE
19 ANIMALS FROM THE CAFO.

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(3) ~~(2)~~—If the department determines at any time that the conservation practices provided in a conservation plan have not been established or are not being maintained, the department may revoke a person's conservation practice verification. **IF THE DEPARTMENT DETERMINES THAT A LARGE CAFO HAS HAD A DISCHARGE OF WASTE OR WASTE EFFLUENT INTO THE WATERS OF THIS STATE, OTHER THAN AN AGRICULTURAL STORM WATER DISCHARGE, THE DEPARTMENT SHALL PROMPTLY REVOKE THE LARGE CAFO'S CONSERVATION PRACTICE VERIFICATION. THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY BEFORE MAKING SUCH A DETERMINATION. WITHIN 30 DAYS AFTER A LARGE CAFO'S CONSERVATION PRACTICE VERIFICATION IS REVOKED UNDER THIS SUBSECTION, THE OWNER OR OPERATOR OF THE LARGE CAFO SHALL APPLY FOR A PERMIT UNDER PART 31.**

(4) ~~(3)~~—If a person's conservation practice verification is revoked, the person may be subject to penalties and repayment of all or a portion of the payments, financial incentives, land rental payments, and reimbursement of costs paid for implementation of the conservation practice according to the terms of the contract.

Sec. 8206. (1) The agriculture pollution prevention fund is created in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including state and federal revenues, gifts, bequests, and other donations. The state treasurer shall direct the investment of the fund and shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund or in any account within the fund at the

1 close of the fiscal year shall remain in the fund or account and
2 shall not lapse to the general fund.

3 (4) ~~Money~~**SUBJECT TO SUBSECTION (5), MONEY** in the fund shall
4 be expended, upon appropriation, only for 1 or more of the
5 following:

6 (a) For payments, financial incentives, or reimbursement for
7 rental payments for the implementation of conservation practices.

8 (b) For payments required under contracts entered into under
9 this part.

10 (c) For the purchase of conservation easements.

11 (d) For monitoring and enforcement of conservation easements.

12 (e) For awards to participants in conservation programs
13 established by the department under this part.

14 (f) For the promotion of conservation programs established by
15 the department under this part.

16 (g) Not more than 20% of the annual appropriations from the
17 fund for the administrative costs of the department in implementing
18 this part. As used in this subdivision, administrative costs
19 include, but are not limited to, costs incurred in doing 1 or more
20 of the following:

21 (i) Developing and implementing conservation programs.

22 (ii) Managing payments and financial incentives.

23 (iii) Monitoring and verifying the implementation of
24 conservation practices and enforcing contracts or agreements
25 concerning conservation practices.

26 (iv) Coordinating conservation programs with the United States
27 department of agriculture and other state agencies with

1 jurisdiction over conservation programs.

2 (5) THE DEPARTMENT SHALL GIVE PRIORITY TO EXPENDITURES UNDER
3 SUBSECTION (4) TO PROJECTS AT MAEAP-VERIFIED FARMS.

4 (6) ~~(5)~~—The department shall annually prepare and submit to
5 the standing committees of the senate and house of representatives
6 with jurisdiction over issues related to agriculture and the senate
7 and house of representatives appropriations committees a report
8 that includes all of the following:

9 (a) The amount of money received by the fund during the
10 previous fiscal year.

11 (b) The expenditures of money from the fund during the
12 previous fiscal year broken down by the categories listed in
13 subsection (4)(a) to (g).

14 (c) The balance of the fund on the date of the report.

15 (d) The number of acres in which conservation practices have
16 been implemented.

17 (e) The number of acres in which conservation easements have
18 been purchased or acquired.

19 SEC. 8209. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT OR
20 A RULE PROMULGATED UNDER THIS ACT OR PERMIT OR ORDER ISSUED UNDER
21 THIS ACT, IF A FARM OR FARM OPERATION IS VERIFIED UNDER SECTION
22 8203, THE FARM OR FARM OPERATION SHALL NOT BE CONSIDERED TO HAVE
23 CAUSED AN IMPAIRMENT OF THE NATURAL RESOURCES OF THE STATE UNLESS
24 THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY DETERMINES
25 THAT WATER QUALITY DATA OR RESULTS FROM A WATER QUALITY STUDY
26 CONCLUSIVELY ESTABLISH THAT THE FARM OR FARM OPERATION CAUSED A
27 RECEIVING WATER BODY TO EXCEED WATER QUALITY STANDARDS UNDER PART

1 31.

2 Sec. 8801. As used in this part:

3 (a) "Department" means the department of environmental
4 quality.

5 (b) "Director" means the director of the department.

6 (c) "Fund" means the clean water fund created in section 8807.

7 (d) "Grant" means a nonpoint source pollution prevention and
8 control grant or a wellhead protection grant under this part.

9 (e) "Local unit of government" means a county, city, village,
10 or township, or an agency of a county, city, village, or township;
11 the office of a county drain commissioner; a ~~soil~~-conservation
12 district established under part 93; a watershed council; a local
13 health department as defined in section 1105 of the public health
14 code, 1978 PA 368, MCL 333.1105; or an authority or any other
15 public body created by or pursuant to state law.

16 (F) **"MAEAP-VERIFIED FARM" MEANS THAT TERM AS IT IS DEFINED IN**
17 **SECTION 8201.**

18 (G) ~~(F)~~—"Nonpoint source pollution" means water pollution from
19 diffuse sources, including runoff from precipitation or snowmelt
20 contaminated through contact with pollutants in the soil or on
21 other surfaces and either infiltrating into the groundwater or
22 being discharged to surface waters, or runoff or wind causing
23 erosion of soil into surface waters.

24 Sec. 8802. (1) The department, in consultation with the
25 department of agriculture, shall establish a grants program to
26 provide grants for nonpoint source pollution prevention and control
27 projects and wellhead protection projects. The grants program shall

1 provide grants to local units of government or entities that are
2 exempt from taxation under section 501(c)(3) of the internal
3 revenue code.

4 (2) The nonpoint source pollution prevention and control
5 grants issued under this part shall be provided for projects that
6 do either or both of the following:

7 (a) Implement the physical improvement portion of watershed
8 plans that are approved by the department.

9 (b) Reduce specific nonpoint source pollution as identified by
10 the department.

11 (3) The wellhead protection grants issued under this part
12 shall be provided for projects that are consistent with a wellhead
13 protection plan approved by the department and that do any of the
14 following:

15 (a) Plug abandoned wells.

16 (b) Provide for the purchase of land or the purchase of rights
17 in land to protect aquifer recharge areas.

18 (c) Implement the physical improvement portion of the wellhead
19 protection plan.

20 (4) For any grant issued under this part, a local unit of
21 government shall contribute at least 25% of the project's total
22 cost from other public or private funding sources. The department
23 may approve in-kind services to meet all or a portion of the match
24 requirement under this subsection. In addition, the department may
25 accept as the match requirement under this subsection a contract
26 between the grant applicant and the department that provides for
27 maintenance of the project or practices that are funded under terms

1 acceptable to the department. The contract shall require
2 maintenance of the project or practices throughout the period of
3 time in which the state is paying off the bonds that were issued
4 pursuant to the clean Michigan initiative act, **1998 PA 284, MCL**
5 **324.95101 TO 324.95108**, to implement this part.

6 Sec. 8803. In selecting projects for a grant award, the
7 department shall consider the following as they relate to a
8 project:

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

10 (b) The expectation for long-term protection of high quality
11 waters.

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

15 (d) The placement of the watershed on the list of impaired
16 waters pursuant to ~~section 303(d) of title III of the federal water~~
17 ~~pollution control act, chapter 758, 86 Stat. 846, 33 U.S.C. 33 USC~~
18 1313.

19 (e) Commitments for financial and technical assistance from
20 the partners in the project.

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

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

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

1 (i) Whether the project provides benefits to sources of
2 drinking water.

3 (J) **WHETHER AN MAEAP-VERIFIED FARM IS LOCATED WITHIN THE**
4 **PROJECT AREA.**

5 (K) ~~(j)~~—Other information the department considers relevant.

6 Enacting section 1. This amendatory act does not take effect
7 unless all of the following bills of the 94th Legislature are
8 enacted into law:

9 (a) Senate Bill No. 447.

10 (b) Senate Bill No. 448.

11 (c) Senate Bill No. 503.