

SENATE BILL NO. 494

May 27, 2021, Introduced by Senators DALEY, MCBROOM, OUTMAN, VICTORY and LAUWERS and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8201, 8202, 8203, 8206, 8207, 8702, 8703, 8705, 8707, 8708, 8710, 8715, 8716, 8801, and 8807 (MCL 324.8201, 324.8202, 324.8203, 324.8206, 324.8207, 324.8702, 324.8703, 324.8705, 324.8707, 324.8708, 324.8710, 324.8715, 324.8716, 324.8801, and 324.8807), sections 8201, 8202, 8203, and 8207 as added by 2001 PA 176, section 8206 as amended by 2018 PA 237,

sections 8702, 8703, 8707, 8708, 8710, 8715, 8716, and 8807 as amended by 2015 PA 118, section 8705 as amended by 2011 PA 2, and section 8801 as amended by 2011 PA 1; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8201. As used in this part:

2 **(a) "Analyte" or "analytes" means the material or materials**
 3 **that an analysis is designed to detect either qualitatively or**
 4 **quantitatively.**

5 **(b) "Confirmation mechanism" means a scientific process for**
 6 **the verification or detection of analytes in groundwater utilizing**
 7 **at least 2 separate water samples collected at time intervals of**
 8 **greater than 14 days from the same groundwater sampling point and**
 9 **analyzed by peer-reviewed and authenticated laboratory**
 10 **methodologies.**

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

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

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

21 **(i) ~~The practices comply~~**Comply** with United States natural**
 22 **~~resource conservation service~~**Department of Agriculture Natural****
 23 ****Resources Conservation Service** standards and specifications as**
 24 **approved by the department.**

1 (ii) ~~The practices are~~ **Are** provided in rules promulgated by the
2 department under this part.

3 (iii) ~~The practices have~~ **Have** been approved by the commission of
4 agriculture **and rural development**.

5 (f) "Demonstration project" means a project designed to
6 illustrate the implementation and impact of alternate conservation
7 practices.

8 (g) ~~(d)~~ "Department" means the department of agriculture **and**
9 **rural development** or its authorized representatives.

10 (h) "Determination" or "determine", unless the context
11 requires otherwise, means a decision by the department that 1 or
12 more conservation practices have been established and are being
13 maintained in accordance with a conservation plan.

14 (i) "Envelope monitoring" means monitoring groundwater in
15 areas adjacent to properties where groundwater is contaminated to
16 determine the concentration and spatial distribution of a
17 contaminant in an aquifer.

18 (j) ~~(e)~~ "Fund" means the agriculture pollution prevention fund
19 created in section 8206.

20 (k) "General screening" means monitoring groundwater to
21 determine the presence and concentration of an analyte.

22 (l) "Groundwater" means waters of the state as that term is
23 defined in part 31, not including surface waters.

24 (m) "Landowner" means a person that holds title to or has
25 contracted to purchase land in this state.

26 (n) "MAEAP" means the Michigan agriculture environmental
27 assurance program provided for in section 8710.

28 (o) "MAEAP standards" means that term as defined in section
29 8703.

1 (p) "MAEAP-verified farm" means that term as defined in
2 section 8703.

3 (q) "Method detection limit" means the minimum concentration
4 of a substance that can be measured and reported with 99%
5 confidence that the analyte concentration is greater than 0 and is
6 determined from analysis for a sample in a given matrix that
7 contains the analyte.

8 (r) "Monitoring" means sampling and analysis to determine the
9 levels of any of the following:

10 (i) Pesticides or their breakdown products.

11 (ii) Fertilizers or their residues.

12 (iii) Any other analyte as determined by the department.

13 (s) "On-site evaluation" means a specific set of criteria used
14 to voluntarily evaluate a farmer's property in determining
15 environmental risks.

16 (t) "Pesticide" means that term as defined in section 8305.

17 (u) "Surface water" means waters of the state as that term is
18 defined in part 31, not including groundwater.

19 (v) ~~(f)~~ "Verification" or "verify" means ~~a determination the~~
20 ~~on-site evaluation performed~~ by the department ~~that 1 or more~~
21 ~~conservation practices have been established and are being~~
22 ~~maintained in accordance with a conservation plan.~~ **in accordance**
23 **with the protocols adopted by the commission of agriculture and**
24 **rural development to determine if MAEAP standards are met.**

25 Sec. 8202. (1) The department may establish conservation
26 programs designed to encourage the voluntary use of conservation
27 practices in ~~the~~ **this** state.

28 (2) ~~In implementing~~ **To implement** the conservation programs
29 established under this part, the department, in coordination with

1 the departments of natural resources and ~~environmental quality,~~
2 **environment, Great Lakes, and energy**, may do 1 or more of the
3 following:

4 (a) Enter into contracts with 1 or more persons ~~for the~~
5 ~~implementation of to~~ **implement** conservation practices on ~~his or her~~
6 **the person's** land.

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

10 (c) Provide payments, financial incentives, or, ~~upon~~
11 ~~verification on determination~~ of the implementation of conservation
12 practices, reimbursement for rental payments or for costs of
13 conservation practice implementation, or both.

14 (d) Promote the use of conservation practices.

15 (e) Recognize and provide awards for persons ~~who~~ **that** have
16 implemented conservation practices.

17 (f) Monitor and ~~verify~~ **determine** compliance with conservation
18 plans.

19 (g) Enforce contracts or other agreements entered into under
20 this part.

21 (h) Terminate contracts or other agreements entered into under
22 this part in ~~accord~~ **accordance** with **the** terms established in the
23 contract or other agreement.

24 (3) ~~In carrying~~ **To carry** out its responsibilities under this
25 part, the department shall coordinate with the departments of
26 natural resources and ~~environmental quality~~ **environment, Great**
27 **Lakes, and energy** and other applicable partners.

28 Sec. 8203. (1) As part of a conservation program established
29 under this part, the department may provide for conservation

1 practice ~~verification.~~ **determination.** Conservation practice
2 ~~verification~~ **determination** may be granted to a person if all of the
3 following conditions are met:

4 (a) The person ~~has submitted~~ **submits** a conservation plan in
5 compliance with requirements of the department.

6 (b) The person ~~has established~~ **establishes** and ~~is maintaining~~
7 **maintains** all conservation practices provided for in the
8 conservation plan, according to the **conservation** plan schedule.

9 (c) The person ~~has agreed~~ **agrees** to allow the department,
10 after giving ~~prior~~ notice to the landowner, to conduct inspections
11 of the applicable land and facilities.

12 (d) The department ~~has conducted~~ **conducts** an on-site
13 inspection of the conservation practices and ~~has determined~~
14 **determines** that the person has established and is maintaining all
15 conservation practices provided for in the conservation plan,
16 according to the **conservation** plan schedule.

17 (2) If the department determines at any time that the
18 conservation practices provided in ~~a~~ **the** conservation plan have not
19 been established or are not being maintained, the department may
20 revoke a person's conservation practice ~~verification.~~ **determination.**

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

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

29 (2) The state treasurer may receive money or other assets from

1 any source for deposit into the fund, including state and federal
2 revenues, gifts, bequests, and other donations. The state treasurer
3 shall direct the investment of the fund and ~~shall~~ credit to the
4 fund interest and earnings from fund investments.

5 (3) Money in the fund or in any account within the fund at the
6 close of the fiscal year ~~shall remain~~ **remains** in the fund or
7 account and ~~shall~~ **does** not lapse to the general fund. The
8 department ~~shall be~~ **is** the administrator of the fund for auditing
9 purposes.

10 (4) Money in the fund ~~shall~~ **must** be expended, upon
11 appropriation, only for 1 or more of the following:

12 (a) For payments, financial incentives, **cost-share**, or
13 reimbursement for rental payments ~~for the implementation of to~~
14 **assist farmers and landowners with** conservation, **environmental risk**
15 **reduction, and natural resource protection** practices.

16 (b) **For incentive and cost-share programs to assist farmers in**
17 **achieving MAEAP standards.**

18 (c) **For incentive and cost-share programs for MAEAP-verified**
19 **farms with potential sources of contamination on the property.**

20 (d) **For promoting MAEAP and activities to encourage more**
21 **MAEAP-verified farms.**

22 (e) ~~(b)~~ For payments required under contracts entered into
23 under this part.

24 (f) ~~(e)~~ For the purchase of conservation easements.

25 (g) ~~(d)~~ For monitoring and enforcement of conservation
26 easements.

27 (h) ~~(e)~~ For awards to participants in conservation programs
28 established by the department under this part.

29 (i) ~~(f)~~ For the promotion of conservation programs established

1 by the department under this part.

2 (j) For demonstration projects to implement conservation
3 practices.

4 (k) For research projects on topics including 1 or more of the
5 following management practices to protect natural resources:

6 (i) Soil health.

7 (ii) Conservation practices.

8 (iii) Nutrient management plans.

9 (iv) Pesticide use and integrated pest management.

10 (v) On-farm protection of water quality or natural resources.

11 (vi) Impediments to verification and improvements to MAEAP
12 standards.

13 (vii) Economic research on costs and benefits or effective ways
14 to incentivize implementation of conservation practices or natural
15 resource protection activities.

16 (viii) Other topics approved by the department.

17 (l) For reducing nonpoint source pollution as identified by the
18 department.

19 (m) For removal of potential sources of contamination.

20 (n) For emergency response and removal of potential sources of
21 water contamination. Expenditures made under this subdivision must
22 not exceed \$15,000.00 per emergency response location.

23 (o) For providing alternate noncommunity supplies. As used in
24 this subdivision, "noncommunity supplies" means that term as
25 defined in section 2 of the safe drinking water act, 1976 PA 399,
26 MCL 325.1002.

27 (p) For closure of wells that may impact groundwater, such as
28 abandoned, improperly constructed, or drainage wells.

29 (q) For monitoring private well water for pesticides,

1 fertilizers, and other contaminants.

2 (r) For the removal of soils and waters contaminated by
3 pesticides and fertilizers as well as the land application of
4 pesticides and fertilizers at agronomic rates.

5 (s) For water quality monitoring programs. The department, in
6 conjunction with the department of environment, Great Lakes, and
7 energy, the department of health and human services, and the
8 environmental assurance advisory council created under section
9 8708, shall develop and establish priorities, procedures, and
10 protocols to do all of the following:

11 (i) Provide general screening of groundwater or surface water,
12 or both.

13 (ii) Determine the relative risk of groundwater contamination
14 at different locations.

15 (iii) Perform envelope monitoring.

16 (iv) Promote voluntary water quality monitoring by farms.

17 (v) Monitor and benchmark the effectiveness of conservation
18 practices and MAEAP standards in cooperation with participating
19 farmers.

20 (vi) Notify affected well owners of their monitoring results
21 from the monitoring conducted under this subdivision in a timely
22 manner, including the method detection limits and associated
23 relevant water quality standards developed under part 31 or the
24 rules promulgated under part 31.

25 (vii) Provide for modifications of sampling density and
26 analytes to reflect regional groundwater impact potential.

27 (viii) Conduct monitoring utilizing generally accepted
28 scientific practices.

29 (ix) Establish a method detection limit goal for monitoring

1 conducted under this subdivision set at 10% of a compound's
2 associated relevant water quality standard developed under part 31
3 or the rules promulgated under part 31.

4 (t) To purchase land, easements, or rights in land for the
5 protection of surface water or groundwater.

6 (5) The department shall promulgate rules to establish
7 laboratory confirmation mechanisms and risk assessment protocols
8 for the development of associated relevant water quality standards
9 developed under part 31 or the rules promulgated under part 31.

10 (6) Water quality information collected by the department
11 under this section must be aggregated and made available to the
12 commission of agriculture and rural development and the department
13 of environment, Great Lakes, and energy. Specific locations and the
14 names of persons involved in the collection of water quality
15 information under this section are exempt from disclosure under the
16 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

17 (7) Not more than 10% of the total annual appropriations from
18 the fund may be used to monitor and benchmark the effectiveness of
19 conservation practices and MAEAP standards in cooperation with
20 participating farmers.

21 (8) ~~(g)~~ Not more than 20% of the annual appropriations from
22 the fund **may be used** for the administrative costs of the department
23 ~~in implementing to implement~~ this part. As used in this
24 ~~subdivision, subsection,~~ administrative costs include, but are not
25 limited to, costs incurred in doing 1 or more of the following:

26 (a) ~~(i)~~ Developing and implementing conservation programs.

27 (b) ~~(ii)~~ Managing payments and financial incentives.

28 (c) ~~(iii)~~ Monitoring and ~~verifying~~ **determining** the
29 implementation of conservation practices and enforcing contracts or

1 agreements concerning conservation practices.

2 (d) ~~(iv)~~—Coordinating conservation programs with the United
3 States ~~department~~ **Department** of agriculture ~~Agriculture~~ and other
4 state agencies with jurisdiction over conservation programs.

5 Sec. 8207. Any information voluntarily provided by a person in
6 connection with the development, implementation, or ~~verification~~
7 **determination** of a conservation plan or conservation practices **or**
8 **verification of MAEAP standards** under this part is confidential, is
9 exempt from disclosure under the freedom of information act, 1976
10 PA 442, MCL 15.231 to 15.246, and is not open to public inspection
11 without the person's consent. Any ~~such~~ information that is released
12 to a legislative body ~~shall~~ **must** not contain information that
13 identifies a specific person. The exemption provided in this
14 section does not extend to any documents, communication, data,
15 reports, or other information required to be collected, maintained,
16 or made available or reported to a regulatory agency or any other
17 person by statute, rule, ordinance, permit, order, consent
18 agreement, or as otherwise provided by law.

19 Sec. 8702. ~~(1) "Activity plan" means a plan for a specific~~
20 ~~location that identifies all environmental risks and includes a~~
21 ~~time frame for implementation of conservation practices to address~~
22 ~~the environmental risks.~~

23 (1) ~~(2)~~—"Agronomic rate" means either of the following:

24 (a) For pesticides, the application of pesticide contaminated
25 materials in ~~such~~ a manner as not to exceed **the** legal labeled
26 rates.

27 (b) For fertilizers, the application of fertilizer
28 contaminated materials at rates not to exceed those recommended by
29 the Michigan State University Extension, taking all available

1 sources of nutrients into account.

2 (2) ~~(3)~~—"Analyte" or "analytes" means the material or
3 materials that an analysis is designed to detect either
4 qualitatively or quantitatively.

5 (3) ~~(4)~~—"Conservation plan" means that term as ~~it is~~ defined
6 in part 82.

7 (4) ~~(5)~~—"Conservation practices" means that term as it is
8 defined in part 82.

9 ~~(6) "Confirmation mechanism" means a scientific process for
10 the verification of detection of analytes in groundwater utilizing
11 at least 2 separate water samples collected at time intervals of
12 greater than 14 days from the same groundwater sampling point and
13 analyzed by peer reviewed and authenticated laboratory
14 methodologies.~~

15 (5) ~~(7)~~—"Contaminant" means any pesticide or fertilizer
16 originated chemical, radionuclide, ion, synthetic organic compound,
17 microorganism, or other waste that does not occur naturally or that
18 naturally occurs at a lower concentration than detected.

19 (6) ~~(8)~~—"Contamination" means the direct or indirect
20 introduction into the environment of any contaminant caused in
21 whole or in part by human activity.

22 (7) ~~(9)~~—"Council" means the environmental assurance advisory
23 council created in section 8708.

24 (8) ~~(10)~~—"Demonstration project" means a project designed to
25 illustrate the implementation and impact of alternate conservation
26 practices.

27 (9) ~~(11)~~—"Department" means the department of agriculture and
28 rural development.

29 (10) ~~(12)~~—"Director" means the director of the department or

1 his or her designee.

2 Sec. 8703. ~~(1) "Envelope monitoring" means monitoring of~~
 3 ~~groundwater in areas adjacent to properties where groundwater is~~
 4 ~~contaminated to determine the concentration and spatial~~
 5 ~~distribution of the contaminant in the aquifer.~~

6 (1) ~~(2)~~ "Farm" means that term as ~~it is~~ defined in section 2
 7 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

8 (2) ~~(3)~~ "Farmer" means a person ~~who~~ **that** owns or operates a
 9 farm.

10 (3) ~~(4)~~ "Fertilizer" means a ~~fertilizer~~ **that term** as defined
 11 in part 85.

12 (4) ~~(5)~~ "Fund" means the freshwater protection fund created in
 13 section 8716.

14 ~~(6) "General screening" means monitoring of groundwater for~~
 15 ~~the purpose of determining the presence and concentration of~~
 16 ~~analytes.~~

17 (5) ~~(7)~~ "Groundwater" means ~~underground water within the zone~~
 18 ~~of saturation.~~ **waters of the state as that term is defined in part**
 19 **31, not including surface water.**

20 (6) "Landowner" means a person that holds title to or has
 21 **contracted to purchase land in this state.**

22 (7) ~~(8)~~ "MAEAP" or "Michigan agriculture environmental
 23 assurance program" means the Michigan agriculture environmental
 24 assurance program provided for in section 8710.

25 (8) ~~(9)~~ "MAEAP standards" means all of the following as
 26 adopted by the commission of agriculture and rural development for
 27 the purpose of implementing the Michigan agriculture environmental
 28 assurance program:

29 (a) Conservation practices.

1 (b) Site-specific nutrient management plan requirements.

2 (c) Emergency protocols.

3 (d) Completed environmental risk and benefit assessments.

4 (e) United States Department of Agriculture Natural Resources
5 Conservation Service practice standards.

6 (f) Generally accepted agricultural and management practices
7 developed under the **Michigan** right to farm act, 1981 PA 93, MCL
8 286.471 to 286.474.

9 (g) Other standards considered appropriate by the director.

10 **(9)** ~~(10)~~ "MAEAP-verified farm" means a farm **that meets**
11 **applicable MAEAP standards as** determined by the department ~~as~~
12 ~~meeting applicable MAEAP standards through an on-site evaluation.~~

13 **(10)** ~~(11)~~ "Maximum contaminant level" means that term as ~~it is~~
14 defined in title XIV of the public health service act, chapter 373,
15 ~~88 Stat. 1660,~~ **42 USC 300f**, and regulations promulgated under that
16 act.

17 ~~(12) "Method detection limit" means the minimum concentration~~
18 ~~of a substance that can be measured and reported with 99%~~
19 ~~confidence that the analyte concentration is greater than 0 and is~~
20 ~~determined from analysis of a sample in a given matrix that~~
21 ~~contains the analyte.~~

22 **(11)** ~~(13)~~ "Monitoring" means sampling and analysis to
23 determine ~~the levels of pesticides~~ **the levels of any of the**
24 **following:**

25 **(a) Pesticides** or their breakdown products. ~~; fertilizers~~

26 **(b) Fertilizers** or their residues. ~~; or other analytes~~

27 **(c) Any other analyte** as determined by the director.

28 Sec. 8705. (1) "Registrant" means that term as ~~it is~~ defined
29 in part 83.

1 (2) "Restricted use pesticide" means that term as ~~it is~~
2 defined in part 83.

3 (3) "Site-specific nutrient management plan" means a plan
4 designed to assist farmers in achieving MAEAP standards that
5 includes both of the following:

6 (a) Conservation practices and nutrient management activities
7 that, when implemented as part of a conservation system, will help
8 to ensure that both production and natural resources protection
9 goals are achieved.

10 (b) Proposed actions to address soil erosion, manure, and
11 organic by-products and their potential impact on water quality.

12 (4) "Specialty pesticide" means a disinfectant, sanitizer,
13 germicide, biocide, or other pesticide labeled solely for use
14 directly on humans or pets, or other pesticides labeled solely for
15 use in areas associated with the household or home life including
16 garden and ornamental uses or on institutional or industrial
17 premises, but excludes pesticides labeled for use on rights-of-way,
18 or other outdoor wide-area treatments.

19 (5) "State management plan" means a plan for the protection of
20 groundwater as required by the United States ~~environmental~~
21 ~~protection agency's~~ **Environmental Protection Agency's** labeling
22 requirements for pesticides and devices ~~pursuant to~~ **under** 40 CFR
23 part 156.

24 (6) **"Surface water" means waters of the state as that term is**
25 **defined in part 31, not including groundwater.**

26 (7) ~~(6)~~ "Technical assistance" means direct on-site assistance
27 provided to individuals that is designed to achieve MAEAP
28 standards.

29 (8) ~~(7)~~ "Use" means the loading, mixing, applying, storing,

1 transporting, or disposing of a pesticide or fertilizer.

2 (9) ~~(8)~~ "Verification" or "verify" means the on-site
3 evaluation performed by the department in accordance with **the**
4 protocols adopted by the commission of agriculture and rural
5 development to determine if MAEAP standards ~~have been~~ **are** met.

6 ~~(9) "Water monitoring" means monitoring of water in areas~~
7 ~~adjacent to properties to determine the concentration and spatial~~
8 ~~distribution of contaminants.~~

9 Sec. 8707. (1) The director, in conjunction with Michigan
10 State University Extension and Michigan State University
11 AgBioResearch, and in cooperation with the United States Department
12 of Agriculture Natural Resources Conservation Service, the
13 department of ~~environmental quality,~~ **environment, Great Lakes, and**
14 **energy**, and other professional and industry organizations, shall
15 develop conservation **and environmental risk reduction** practices for
16 approval by the commission of agriculture and rural development
17 and, upon approval, shall promote their implementation.

18 (2) The director, in conjunction with Michigan State
19 University, the department of ~~environmental quality,~~ **environment,**
20 **Great Lakes, and energy**, and other persons the director considers
21 appropriate, shall develop protocols for voluntary on-site
22 evaluations. The on-site evaluations ~~shall~~ **must** be designed to do
23 all of the following:

24 (a) Provide farmers with the ability to voluntarily determine
25 the relative risk of current practices in relation to sources of
26 contamination.

27 (b) Provide farmers with the ability to determine the degree
28 to which farm operations are in ~~accord~~ **accordance** with **the** MAEAP
29 standards and applicable law.

1 (c) Prioritize operational changes on farms to protect
2 groundwater and surface waters from sources of contamination.

3 (d) Guide farmers to appropriate technical and educational
4 materials.

5 (e) Provide farmers with the opportunity for verification.

6 (f) Provide landowners with the ability to voluntarily assess
7 the value of managing areas of the land that are not utilized for
8 traditional or production agriculture practices for environmental,
9 ecological, and economic benefits.

10 (3) The director, in conjunction with the council, shall
11 review and evaluate the effectiveness of conservation practices
12 approved under subsection (1).

13 Sec. 8708. (1) The director shall establish an environmental
14 assurance advisory council composed of all of the following:

15 (a) The director of the department of agriculture and rural
16 development.

17 (b) The director of the department of ~~environmental~~
18 ~~quality~~. **environment, Great Lakes, and energy.**

19 (c) The director of the Michigan State University Extension.

20 (d) The director of the Michigan State University
21 AgBioResearch.

22 (e) Representatives of all of the following as appointed by
23 the director to serve terms of 3 years:

24 (i) The United States Department of Agriculture —Farm Service
25 Agency.

26 (ii) The United States Department of Agriculture Natural
27 Resources Conservation Service.

28 (iii) Conservation districts.

29 (iv) Farmers, **statewide agricultural organizations**, and other

1 agricultural organizations.

2 (v) Nongovernmental conservation and environmental
3 organizations.

4 (vi) ~~Regulated agricultural~~ **Agricultural** industries.

5 (vii) A private consulting forester.

6 (viii) A member of the forest products industry.

7 (ix) A member of the logging profession.

8 (x) Other persons as determined by the director.

9 ~~(xi) A member representing each regional environmental~~
10 ~~assurance team established under section 8709.~~

11 (2) The council shall be co-chaired by the representative from
12 Michigan State University Extension and a representative from 1 of
13 the ~~farmers and other~~ **statewide** agricultural organizations.

14 (3) The council shall advise the director on topics including,
15 but not limited to, **all of** the following:

16 (a) MAEAP standards.

17 (b) On-site evaluations for verification of specific aspects
18 of a farming operation.

19 (c) Water quality ~~and environmental monitoring~~ **as identified**
20 **in part 82.**

21 (d) Protocols for verification and revocation of verification.

22 (e) MAEAP activities.

23 (f) Interagency coordination of conservation programs.

24 (g) The use of money in the clean water fund created in
25 section 8807, **the agriculture pollution prevention fund created in**
26 **section 8206**, and other funding sources to promote MAEAP and
27 activities to encourage more MAEAP-verified farms.

28 (h) Options to increase assistance to assist small- and
29 medium-sized farms in achieving MAEAP standards.

1 (i) The creation of subcommittees as needed to address
2 emerging and ongoing issues.

3 (j) On-site evaluations of potential environmental,
4 ecological, and economic benefits that can be realized by managing
5 areas of the land that are not utilized for traditional or
6 production agriculture practices.

7 (4) The council shall do all of the following:

8 (a) Annually provide recommendations to the director on MAEAP
9 standards and protocols for verification and revocation of
10 verification for consideration by the commission of agriculture and
11 rural development.

12 (b) Annually submit a report to the department **and the**
13 **legislature** that outlines activities, accomplishments, and emerging
14 issues. The department shall share ~~this~~ **the** report with the
15 agriculture community.

16 (c) Provide recommendations to the director on the creation of
17 a ~~tiered~~-recognition program for farms working toward MAEAP
18 verification. To qualify for the recognition program, farmers must
19 have completed educational programs, conducted appropriate farm
20 assessments, and implemented conservation practices as approved by
21 the director. The ~~tiers~~ **recognition program** may be used to
22 recognize a farm's ~~movement~~ **progress** toward MAEAP verification.

23 (d) ~~Provide~~ **Beginning April 1, 2022, provide biannual**
24 recommendations to the director and the legislature on incentives
25 **and program modifications** to increase participation in MAEAP.

26 (e) Annually provide recommendations to the director on
27 funding for research projects ~~that address impediments to~~
28 ~~verification and improve MAEAP practice standards.~~ **authorized under**
29 **section 8206.**

1 Sec. 8710. (1) The director, in consultation with the council,
2 shall implement a Michigan agriculture environmental assurance
3 program designed to promote natural resources conservation through
4 education, technical assistance, and verification. The MAEAP ~~shall~~
5 ~~be~~**is** a voluntary program that is available to **all** farms ~~throughout~~
6 ~~the~~**in this** state.

7 (2) A farmer who desires to have his or her farm MAEAP-
8 verified shall do all of the following:

9 (a) Complete educational requirements authorized by the
10 department.

11 (b) Develop and implement 1 or more conservation plans as
12 approved by the director.

13 (c) Upon completion of subdivisions (a) and (b), contact the
14 department to arrange for an on-site evaluation.

15 (3) If the department conducts an on-site evaluation and
16 determines that a farm is meeting MAEAP standards, the department
17 shall issue a MAEAP verification. A MAEAP verification that is in
18 effect on September 30, 2015 is valid for 5 years from the original
19 issue date. Beginning October 1, 2015, a new MAEAP verification or
20 reverification is valid for 5 years.

21 (4) A farm is eligible for reverification if the department
22 determines ~~it~~**that the farm** is meeting MAEAP standards through an
23 on-site evaluation conducted by the department or its designee.

24 (5) The department shall provide MAEAP verification signs to
25 each MAEAP-verified farm.

26 (6) A farm that allows its verification to lapse or whose
27 verification is revoked under subsection (7) shall forfeit its
28 verification ~~sign~~ and all other benefits that are provided to
29 MAEAP-verified farms under this act.

1 (7) The director may revoke verification of a MAEAP-verified
2 farm if any of the following apply:

3 (a) The department, in consultation with the department of
4 ~~environmental quality,~~ **environment, Great Lakes, and energy,**
5 determines with scientific evidence provided by water quality data
6 that the MAEAP-verified farm caused an exceedance of water quality
7 standards as a result of nonconformance with MAEAP standards.

8 (b) The MAEAP-verified farm fails to conform to MAEAP
9 standards as a result of gross negligence.

10 (c) The MAEAP-verified farm fails to comply with protocols for
11 verification as approved by the commission of agriculture and rural
12 development.

13 (d) Upon advice from the interagency technical review panel
14 provided for in subsection (11), the director determines that the
15 MAEAP-verified farm is responsible for a pattern of repeated
16 violations of environmental laws, rules, regulations, permit
17 conditions, settlement agreements, orders of consent, or judicial
18 orders that were due to separate and distinct events.

19 (8) A farmer is not liable for groundwater **or surface water**
20 contamination on a MAEAP-verified farm for activities on the MAEAP-
21 verified farm unless he or she was grossly negligent, ~~or~~ in
22 violation of state or federal law, or failed to comply with ~~the~~
23 MAEAP standards. This part does not modify or limit any obligation,
24 responsibility, or liability imposed by any other provision of
25 state law.

26 (9) The department shall establish a MAEAP grants program.
27 Grants issued under the MAEAP grants program are limited to
28 availability of funds collected ~~pursuant to~~ **under** this part. Grants
29 ~~shall~~ **must** be available for all of the following:

1 (a) Technical assistance.

2 (b) Promotion of the MAEAP.

3 (c) Educational programs related to the MAEAP.

4 (d) Demonstration projects to implement conservation
5 practices.

6 ~~(e) Removal of potential sources of contamination.~~

7 **(e)** ~~(f)~~ Other purposes considered appropriate by the director.

8 (10) Following review of the proposed ~~tiered~~ recognition
9 program submitted to the director by the council under section
10 8708, the director shall approve and implement a ~~tiered~~ recognition
11 program. As part of the ~~tiered~~ recognition program, the department
12 shall provide a certificate of progress to a farm ~~participating~~
13 **that participates** in **the** MAEAP. ~~recognizing each time a new tier is~~
14 ~~achieved.~~ The certificate of progress shall ~~shall~~ **must** summarize
15 conservation practices implemented by the farm and the
16 environmental impacts of the implemented conservation practices.
17 The certificate of progress shall ~~shall~~ **must** recognize the farm for its
18 achievement and encourage the farm to complete the remaining
19 conservation practices necessary for verification. A certificate of
20 progress is valid for 5 years from the date of mailing. Upon
21 written confirmation by the farmer and the MAEAP technician
22 updating any new conservation practices and confirming that all
23 previous applicable conservation practices are still being
24 implemented, the department shall reissue a certificate of progress
25 for additional 5-year periods, as appropriate, until the farm
26 becomes MAEAP-verified in the applicable system or the farmer
27 ceases implementation of the conservation practices. Information
28 collected under this section is not subject to the freedom of
29 information act, 1976 PA 442, MCL 15.231 to 15.246.

1 (11) The department and the department of ~~environmental~~
 2 ~~quality~~**environment, Great Lakes, and energy** shall enter into a
 3 memorandum of understanding to formalize a commitment to promote
 4 the MAEAP and to clarify the application of state and federal
 5 environmental laws to farms. In addition, the memorandum of
 6 understanding ~~shall~~**must** provide for all of the following:

7 (a) An ongoing interagency technical review panel for MAEAP-
 8 verified farms that discharge in violation of state or federal law
 9 to determine enforcement action.

10 (b) Preference for funding for nonpoint source pollution -
 11 funds for farms seeking MAEAP verification.

12 (c) Considerations for reverification of a farm with revoked
 13 MAEAP verification status.

14 (d) Integration of the MAEAP into pollution prevention
 15 activities of both agencies.

16 (e) Clarification of the consultation process in part 88 to
 17 ensure that the department of ~~agriculture and rural development~~ has
 18 meaningful input into the establishment of the **MAEAP** grants program
 19 **under subsection (9)** and the issuance of grants **under the MAEAP**
 20 **grants program.**

21 (12) Beginning December 1, 2016 and every December 1
 22 thereafter, the department shall publish a report on **the** MAEAP that
 23 includes, but is not limited to, all of the following:

24 (a) County and statewide totals for the previous fiscal year
 25 of all of the following:

26 (i) Conservation practices implemented.

27 (ii) Environmental impacts of **conservation** practices
 28 implemented.

29 (iii) Number of new verifications and reverifications.

1 (iv) Number of unique farms verified.

2 (v) Number of farms in ~~tiered~~**the** recognition ~~system~~**program**.

3 (vi) Total area and percentage of this state's farmland
4 involved.

5 (b) County and statewide program to-date totals of all of the
6 following:

7 (i) Conservation practices implemented.

8 (ii) Environmental impacts of **conservation** practices
9 implemented.

10 (iii) Number of new verifications and reverifications.

11 (iv) Number of unique farms verified.

12 (v) Number of farms in ~~tiered~~**the** recognition ~~system~~**program**.

13 (vi) Total area and percentage of this state's farmland
14 involved.

15 (c) A summary of educational and MAEAP verification standards
16 changes for each system tool and an overview of the reasons for the
17 changes.

18 (d) A summary of each system subcommittee's work beyond the
19 standards changes, including identification of ongoing and emerging
20 issues.

21 (13) The department shall make available a consent form for
22 completion by farmers implementing conservation practices that
23 includes both of the following:

24 (a) Permission for the department to associate the farmer's
25 name, farm location, and mailing address with conservation
26 practices implemented on that farm.

27 (b) A statement by the farmer that conservation practices
28 being implemented on the farm are for the purpose of working toward
29 MAEAP verification.

1 (14) The department shall provide for the consent forms
2 described in subsection (13) to be authenticated. The department
3 may use a completed consent form in the recognition program
4 described in subsection (10). Information collected under this
5 subsection is not subject to the freedom of information act, 1976
6 PA 442, MCL 15.231 to 15.246.

7 Sec. 8715. (1) In addition to the fees provided for in part
8 83, a registrant shall pay an annual water quality protection fee
9 for each product to be registered. The water quality protection fee
10 is \$270.00 per product. The water quality protection fee is due in
11 the office of the director before July 1.

12 (2) ~~An~~ **A registrant shall pay an** additional late fee of
13 \$100.00 ~~shall be paid by the registrant~~ for each pesticide if the
14 pesticide registration is a renewal registration and the water
15 quality protection fee is received by the department after June 30.

16 (3) A person required to pay a specialty fertilizer or soil
17 conditioner registration fee under section 8505 shall pay an
18 additional \$100.00 water quality protection fee for each brand and
19 product name of each grade registered.

20 (4) ~~All~~ **Beginning January 1, 2016, all** fertilizer
21 manufacturers or distributors licensed under part 85, except
22 specialty fertilizer and soil conditioner registrants, shall pay
23 ~~the following:~~

24 ~~(a) Until December 31, 2015, a water quality protection fee of~~
25 ~~1-1/2 cents per percent of nitrogen in the fertilizer for each ton~~
26 ~~of fertilizer sold.~~

27 ~~(b) Beginning January 1, 2016, \$.0005 per pound of fertilizer~~
28 ~~sold.~~

29 (5) The fees collected under this part, including any interest

1 or dividends earned, ~~shall~~**must** be transmitted to the state
2 treasurer, who shall credit the money received to the fund.

3 (6) Upon the expenditure or appropriation of money raised in
4 this section for any purpose other than those specifically listed
5 in this part, authorization to collect fees in this section ~~shall~~
6 **must** be suspended until the money expended or appropriated for
7 purposes other than those listed in this part are returned to the
8 fund.

9 (7) The department may audit, or may contract for audits, of
10 records that are the basis for fees levied under this section.

11 (8) This section is repealed December 31, ~~2021~~**2026**.

12 Sec. 8716. (1) The freshwater protection fund is created
13 within the state treasury.

14 (2) The state treasurer may receive money or other assets from
15 any source for deposit into the fund, including general fund
16 general purpose appropriations, gifts, grants, and bequests. The
17 director shall annually seek matching general fund general purpose
18 appropriations in amounts equal to the water quality protection
19 fees collected under section 8715 that are deposited into the fund
20 ~~pursuant to~~**under** this part. The state treasurer shall direct the
21 investment of the fund. The state treasurer shall credit to the
22 fund interest and earnings from fund investments.

23 (3) Money in the fund at the close of the fiscal year ~~shall~~
24 ~~remain~~**remains** in the fund and ~~shall~~**does** not lapse to the general
25 fund.

26 (4) The department shall be the administrator of the fund for
27 auditing purposes.

28 (5) The department shall expend money from the fund, upon
29 appropriation, only for 1 or more of the following purposes:

1 (a) Direct assistance.

2 (b) Indirect assistance.

3 ~~(c) Emergency response and removal of potential sources of~~
 4 ~~water contamination. Expenditures pursuant to this subdivision~~
 5 ~~shall not exceed \$15,000.00 per location.~~

6 (c) ~~(d)~~ Natural resources protection.

7 (d) ~~(e)~~ Administrative costs. Expenditures ~~pursuant to~~ **under**
 8 this subdivision ~~shall~~ **must** not exceed 20% of the annual
 9 appropriations from the fund.

10 (6) The department shall establish criteria and procedures for
 11 approving proposed expenditures from the fund.

12 (7) Notwithstanding section 8715, if at the close of any
 13 fiscal year the amount of money in the fund exceeds \$5,000,000.00,
 14 the department shall not collect water quality protection fees for
 15 the following year. After the water quality protection fees have
 16 been suspended under this subsection, the fees ~~shall~~ **must** only be
 17 reinstated if, at the close of any succeeding fiscal year, the
 18 amount of money in the fund is less than \$2,000,000.00.

19 (8) ~~The~~ **Before November 1 of each year, the** department of
 20 treasury shall ~~, before November 1 of each year,~~ notify the
 21 department of the balance in the fund at the close of the preceding
 22 fiscal year.

23 (9) As used in this section:

24 (a) "Administrative costs" includes, but is not limited to,
 25 costs incurred during any of the following:

26 ~~(i) Groundwater monitoring for pesticides and fertilizers.~~

27 ~~(ii) Development and enforcement of natural resources~~
 28 ~~protection rules.~~

29 (i) ~~(iii)~~ Coordination of programs under this part with the

1 United States Environmental Protection Agency and other state
2 programs with environmental protection responsibilities.

3 **(ii)** ~~(iv)~~—Coordination of programs under this part with the
4 United States Department of Agriculture Natural Resources
5 Conservation Service and state programs with nonpoint source
6 pollution prevention and conservation practice responsibilities.

7 **(iii)** ~~(v)~~—Management of pesticide sales information.

8 **(iv)** **Training of staff to improve their ability to assist**
9 **farmers with MAEAP standards and verification.**

10 (b) "Direct assistance" includes, but is not limited to,
11 programs that will provide for any of the following:

12 ~~(i) Provision of alternate noncommunity water supplies.~~

13 ~~(ii) Closure of wells that may impact groundwater, such as~~
14 ~~abandoned, improperly constructed, or drainage wells.~~

15 **(i)** ~~(iii)~~—The environmentally sound disposal or recycling of
16 specialty pesticide containers.

17 **(ii)** ~~(iv)~~—The environmentally sound disposal or recycling of
18 nonspecialty pesticide containers.

19 **(iii)** ~~(v)~~—Specialty and nonspecialty pesticide disposal
20 programs.

21 **(iv)** ~~(vi)~~—Programs devoted to integrated natural resources
22 conservation that encourage the judicious use of pesticides and
23 fertilizers and other agricultural inputs and practices that are
24 protective of water quality through targeted systems approach to
25 management decisions.

26 ~~(vii) Incentive and cost share programs to assist farmers in~~
27 ~~achieving MAEAP standards.~~

28 ~~(viii) Incentive and cost share programs for MAEAP-verified~~
29 ~~farms with potential sources of contamination on their property.~~

1 ~~(ix) Monitoring of private well water for pesticides,~~
 2 ~~fertilizers, and other contaminants.~~

3 ~~(x) Removal of soils and waters contaminated by pesticides and~~
 4 ~~fertilizers and the land application of those materials at~~
 5 ~~agronomic rates.~~

6 (v) ~~(xi)~~ MAEAP grants pursuant to **under** section 8710.

7 (vi) ~~(xii)~~ Programs that enhance investment of private and
 8 federal funds in conservation.

9 (vii) ~~(xiii)~~ Verification.

10 (viii) ~~(xiv)~~ Other programs established pursuant to **under** this
 11 part.

12 (ix) **Technical assistance programs.**

13 (x) **The implementation of on-site evaluation systems,**
 14 **conservation practices, and the MAEAP.**

15 (c) "Indirect assistance" includes, but is not limited to,
 16 programs that will provide for any of the following:

17 (i) Public education and demonstration programs on specialty
 18 pesticide container recycling and environmentally sound disposal
 19 methods.

20 (ii) Educational programs.

21 ~~(iii) Technical assistance programs.~~

22 (iii) ~~(iv)~~ The promotion and implementation of on-site evaluation
 23 systems, conservation practices, and the MAEAP.

24 (iv) ~~(v)~~ Research programs.

25 (d) **"Natural resource protection" includes programs that will**
 26 **provide for either of the following:**

27 (i) **Development of conservation practices and MAEAP standards**
 28 **to protect groundwater and surface water under section 8707.**

1 (ii) Development of ways to assist the value of managing areas
2 of land that are not utilized for traditional or production
3 agriculture practices for environmental, ecological, and economic
4 benefits under section 8707.

5 Sec. 8801. As used in this part:

6 (a) "Department" means the department of ~~environmental~~
7 ~~quality~~. **environment, Great Lakes, and energy.**

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

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

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

12 (e) **"Groundwater" means waters of the state as that term is**
13 **defined in part 31, not including surface water.**

14 (f) ~~(e)~~-"Local unit of government" means ~~a~~**any of the**
15 **following:**

16 (i) **A** county, city, village, or township, or an agency of a
17 county, city, village, or township. ~~;~~~~the~~

18 (ii) **The** office of a county drain commissioner. ~~;~~~~a~~

19 (iii) **A** soil conservation district established under part 93. ~~;~~

20 ~~a~~

21 (iv) **A** watershed council. ~~;~~~~a~~

22 (v) **A** local health department as **that term is** defined in
23 section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

24 ~~;~~~~or an~~

25 (vi) **An** authority or any other public body created by or
26 pursuant to state law.

27 (g) ~~(f)~~-"MAEAP" means the Michigan agriculture environmental
28 assurance program ~~as that term is defined~~ **provided for** in part

29 ~~87~~.**section 8710.**

1 **(h)** ~~(g)~~—"MAEAP-verified farm" means that term as ~~it is~~ defined
2 in ~~part 87.~~**section 8703.**

3 **(i)** ~~(h)~~—"Nonpoint source pollution" means water pollution from
4 diffuse sources, including runoff from precipitation or snowmelt
5 contaminated through contact with pollutants in the soil or on
6 other surfaces and either infiltrating into the groundwater or
7 being discharged to surface waters, or runoff or wind causing
8 erosion of soil into surface waters.

9 **(j)** **"Surface water" means waters of the state as that term is**
10 **defined in part 31. Surface water does not include groundwater.**

11 Sec. 8807. (1) The clean water fund is created within the
12 state treasury.

13 (2) The state treasurer may receive money or other assets from
14 any source for deposit into the fund. The state treasurer shall
15 direct the investment of the fund. The state treasurer shall credit
16 to the fund interest and earnings from fund investments.

17 (3) Money in the fund at the close of the fiscal year ~~shall~~
18 ~~remain~~**remains** in the fund and ~~shall~~**does** not lapse to the general
19 fund.

20 (4) Except as otherwise provided in this section, the
21 department, in consultation with the department of agriculture and
22 rural development, shall expend money in the fund, upon
23 appropriation, for any of the following:

24 (a) To implement the programs described in the department's
25 document entitled ~~"A Strategic Environmental Quality Monitoring~~
26 ~~Program for Michigan's Surface Waters",~~ dated January 1997.
27 **"Michigan Surface Water Monitoring Strategy Update 2017"**. In
28 implementing these programs, the department may contract with any
29 person.

1 ~~(b) Not more than \$100,000.00 of the total annual~~
 2 ~~appropriations from the fund to monitor and benchmark the~~
 3 ~~effectiveness of conservation practices and MAEAP standards in~~
 4 ~~cooperation with participating farmers.~~

5 ~~(c) Promotion of MAEAP and activities to encourage more MAEAP-~~
 6 ~~verified farms.~~

7 **(b)** ~~(d)~~ Water pollution control activities.

8 **(c)** ~~(e)~~ Wellhead protection activities.

9 **(d)** ~~(f)~~ Storm water treatment projects and activities.

10 **(e) Not less than 10% of the total annual funds received in**
 11 **the clean water fund shall be deposited into the agricultural**
 12 **pollution prevention fund created in section 8206.**

13 (5) Money in the fund shall not be expended for combined sewer
 14 overflow corrections.

15 ~~(6) Money in the fund shall not be expended until rules are~~
 16 ~~promulgated under section 8808.~~

17 Enacting section 1. Sections 8709, 8713, and 8713a of the
 18 natural resources and environmental protection act, 1994 PA 451,
 19 MCL 324.8709, 324.8713, and 324.8713a, are repealed.