

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Senators Hune, Emmons, Hansen, Booher, Green and Gleason

ENROLLED SENATE BILL No. 122

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 8801, 8802, 8805, 8806, and 8807 (MCL 324.8801, 324.8802, 324.8805, 324.8806, and 324.8807), as added by 1998 PA 287, and by adding section 3109d.

The People of the State of Michigan enact:

Sec. 3109d. (1) Beginning 6 months after the effective date of the amendatory act that added this section, notwithstanding any other provision of this part, the following apply to MAEAP-verified farms:

(a) Except as provided in subdivision (b), if all of the following conditions are met, the owner or operator of the MAEAP-verified farm is not subject to civil fines under section 3115, but may be responsible for actual natural resources damages:

(i) A discharge to the waters of the state occurs from a portion or operation of the farm that is MAEAP-verified and in compliance with MAEAP standards.

(ii) The owner or operator acted promptly to correct the condition after discovery.

(iii) The owner or operator reported the discharge to the department within 24 hours of the discovery.

(b) Subdivision (a) does not apply if either of the following conditions occurs:

(i) The actions of the owner or operator pose or posed a substantial endangerment to the public health, safety, or welfare.

(ii) The director, upon advice from the interagency technical review panel provided for in section 8710, determines the owner or operator has previously committed significant violations that constitute a pattern of repeated violations of environmental laws, rules, regulations, permit conditions, settlement agreements, or orders of consent or judicial orders and that were due to separate and distinct events.

(c) If a MAEAP-verified farm is in compliance with all MAEAP standards applicable to the farming operation, the farm is considered to be implementing conservation and management practices needed to meet total maximum daily load implementation for impaired waters pursuant to 33 USC 1313.

(d) If a discharge from a MAEAP-verified farm that is in compliance with all MAEAP standards applicable to land application is caused by an act of God weather event, both of the following apply:

(i) The discharge shall be considered nonpoint source pollution.

(ii) If the discharge is determined by the director with scientific evidence provided by water quality data to have caused an exceedance of water quality standards, the farm, within 30 days of notification, shall provide to the department a report that includes details of conservation or management practice changes, if necessary, to further address the risk of discharge recurrence. The report shall state whether those conservation or management practices have already been implemented by the farm. Upon receipt of the report, the department shall review the report and respond within 30 days. The departmental response may include report acceptance with no further action required or may recommend environmentally sound and economically feasible conservation or management practices to prevent future discharges.

(2) This section does not modify or limit any obligation to obtain a permit under this part.

(3) As used in this section:

(a) "Act of God weather event" means a precipitation event that meets both of the following conditions:

(i) Exceeds 1/2 inch in precipitation.

(ii) Was forecast by the national weather service 24 hours earlier as having less than a 70% probability of exceeding 1/2 inch of precipitation.

(b) "MAEAP-verified farm" means that term as it is defined in part 87.

Sec. 8801. As used in this part:

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

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

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

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

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

(f) "MAEAP" means the Michigan agriculture environmental assurance program as that term is defined in part 87.

(g) "MAEAP-verified farm" means that term as it is defined in part 87.

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

Sec. 8802. (1) The department, in consultation with the department of agriculture and rural development, shall establish a grants program to provide grants for nonpoint source pollution prevention and control projects and wellhead protection projects. The grants program shall provide grants to local units of government or entities that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(2) The nonpoint source pollution prevention and control grants issued under this part shall be provided for projects that do 1 or more of the following:

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

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

(c) Promote MAEAP verification.

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

(a) Plug abandoned wells.

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

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

(4) For any grant issued under this part, a local unit of government shall contribute at least 25% of the project's total cost from other public or private funding sources. The department may approve in-kind services to meet all or a portion of the match requirement under this subsection. In addition, the department may accept as the match requirement under this subsection a contract between the grant applicant and the department that provides for maintenance of the project or practices that are funded under terms acceptable to the department. The contract shall require maintenance of the project or practices throughout the period of time in which the state is paying off the bonds that were issued pursuant to the clean Michigan initiative act to implement this part.

(5) In issuing grants under this section, the department, in consultation with the department of agriculture and rural development, shall select projects that, to the extent practicable, provide maximum benefit to the state in protecting public health and the environment and contributing to economic development.

Sec. 8805. Upon receipt of a grant application pursuant to section 8804, the department, in consultation with the department of agriculture and rural development, shall consider the projects proposed to be funded and the extent that money is available for grants under this part, and shall issue grants for projects that the department determines will assist in the prevention or control of pollution from nonpoint sources or will provide for wellhead protection.

Sec. 8806. Grants made under this part are subject to the applicable requirements of part 196. The department, in consultation with the department of agriculture and rural development, shall administer this part in compliance with the applicable requirements of part 196, including the reporting requirements to the legislature of the grants provided under this part.

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

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

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

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

(a) To implement the programs described in the department's document entitled "A strategic environmental quality monitoring program for Michigan's surface waters", dated January 1997. In implementing these programs, the department may contract with any person.

(b) Monitor and benchmark the effectiveness of conservation practices and MAEAP standards in cooperation with participating farmers.

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

(d) Water pollution control activities.

(e) Wellhead protection activities.

(f) Storm water treatment projects and activities.

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

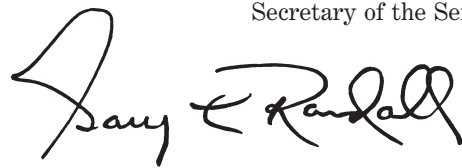
(6) Money in the fund shall not be expended until rules are promulgated under section 8808.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4212 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

.....
Governor