

HOUSE BILL No. 4212

February 9, 2011, Introduced by Reps. Daley, Outman, McBroom, Lyons, Johnson, Price, Rendon, Denby, Pscholka, Tyler, Glardon, Horn, Damrow, Bumstead, Heise, Kurtz, Haveman, Shirkey, Muxlow, Potvin, Lori and Hughes and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 8702, 8703, 8704, 8705, 8706, 8707, 8708,
8709, 8710, 8713, 8714, 8715, and 8716 (MCL 324.8702, 324.8703,
324.8704, 324.8705, 324.8706, 324.8707, 324.8708, 324.8709,
324.8710, 324.8713, 324.8714, 324.8715, and 324.8716), section 8703
as amended by 1995 PA 61, section 8707 as amended by 2000 PA 100,
section 8715 as amended by 2008 PA 18, and section 8716 as amended
by 2007 PA 174, and by adding section 8713a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8702. (1) "Activity plan" means a plan for ~~the mitigation~~
2 ~~of groundwater contamination at a specific location , including~~
3 **THAT IDENTIFIES ALL ENVIRONMENTAL RISKS AND INCLUDES** a time frame
4 for implementation **OF CONSERVATION PRACTICES TO ADDRESS THE**

1 **ENVIRONMENTAL RISKS.**

2 (2) "Agronomic rate" means either of the following:

3 (a) For pesticides, the application of pesticide contaminated
4 materials in such a manner as not to exceed legal labeled rates.

5 (b) For fertilizers, the application of fertilizer
6 contaminated materials at rates not to exceed those recommended by
7 the Michigan state university ~~cooperative~~ extension, ~~service~~,
8 taking all available sources of nutrients into account.

9 (3) "Analyte" or "analytes" means the material or materials
10 that an analysis is designed to detect either qualitatively or
11 quantitatively.

12 (4) **"CONSERVATION PLAN" MEANS THAT TERM AS IT IS DEFINED IN**
13 **PART 82.**

14 (5) **"CONSERVATION PRACTICES" MEANS THAT TERM AS IT IS DEFINED**
15 **IN PART 82.**

16 (6) ~~(4)~~—"Confirmation mechanism" means a scientific process
17 for the verification of detection of analytes in groundwater
18 utilizing at least 2 separate water samples collected at time
19 intervals of greater than 14 days from the same groundwater
20 sampling point and analyzed by peer reviewed and authenticated
21 laboratory methodologies.

22 (7) ~~(5)~~—"Contaminant" means any pesticide or fertilizer
23 originated chemical, radionuclide, ion, synthetic organic compound,
24 microorganism, or **OTHER** waste that does not occur naturally ~~in~~
25 ~~groundwater~~ or that naturally occurs at a lower concentration than
26 detected.

27 (8) ~~(6)~~—"Contamination" means the direct or indirect

1 introduction into ~~groundwater~~ **THE ENVIRONMENT** of any contaminant
2 caused in whole or in part by human activity.

3 (9) ~~(7)~~—"Demonstration project" means a project designed to
4 illustrate the implementation and impact of alternate ~~pesticide and~~
5 ~~fertilizer management~~ **CONSERVATION** practices.

6 (10) ~~(8)~~—"Department" means the department of agriculture **AND**
7 **RURAL DEVELOPMENT**.

8 (11) ~~(9)~~—"Director" means the director of the department or
9 his or her designee.

10 Sec. 8703. (1) ~~"Envelope monitoring" means monitoring of~~
11 ~~groundwater in areas adjacent to properties where groundwater is~~
12 ~~contaminated to determine the concentration and spatial~~
13 ~~distribution of the contaminant in the aquifer.~~ **"ENVIRONMENTAL**
14 **ASSURANCE ADVISORY COUNCIL" MEANS THE ENVIRONMENTAL ASSURANCE**
15 **ADVISORY COUNCIL ESTABLISHED IN SECTION 8708.**

16 (2) **"FARM" MEANS THAT TERM AS IT IS DEFINED IN SECTION 2 OF**
17 **THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.**

18 (3) **"FARMER" MEANS A PERSON WHO OWNS OR OPERATES A FARM.**

19 (4) ~~(2)~~—"Fertilizer" means a fertilizer as defined in part 85.

20 (5) ~~(3)~~—"Fund" means the freshwater protection fund created in
21 section 8716.

22 (6) ~~(4)~~—"General screening" means monitoring of groundwater
23 for the purpose of determining the presence and concentration of
24 analytes.

25 (7) ~~(5)~~—"Groundwater" means underground water within the zone
26 of saturation.

27 ~~——(6) "Groundwater advisory council" means the groundwater~~

~~advisory council established in section 8708.~~

~~—— (7) "Groundwater impact potential" means the potential for
contamination of groundwater as a result of pesticide or nitrogen
fertilizer use.~~

~~—— (8) "Groundwater protection rule" means a groundwater
protection rule promulgated under part 83 or part 85, or both.~~

~~—— (9) "Groundwater resource protection level" means a maximum
contaminant level, health advisory level, or, if the United States
environmental protection agency has not established a maximum
contaminant level or a health advisory level, a level established
by the director of public health using a risk assessment protocol
established by rule under this part.~~

~~—— (10) "Groundwater resource response level" means 20% of the
groundwater resource protection level. In cases where 20% of the
groundwater resource protection level is less than the method
detection limit, the method detection limit shall serve as the
groundwater resource response level.~~

~~—— (11) "Groundwater stewardship practices" means any of a set of
voluntary practices adopted by the commission of agriculture
pursuant to section 8707 and designed to protect groundwater from
contamination by pesticides and fertilizers.~~

**(8) "MAEAP" OR "MICHIGAN AGRICULTURE ENVIRONMENTAL ASSURANCE
PROGRAM" MEANS THE MICHIGAN AGRICULTURE ENVIRONMENTAL ASSURANCE
PROGRAM PROVIDED FOR IN SECTION 8710.**

**(9) "MAEAP STANDARDS" MEANS 1 OR MORE OF THE FOLLOWING AS
ADOPTED BY THE COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT FOR
THE PURPOSE OF IMPLEMENTING THE MICHIGAN AGRICULTURE ENVIRONMENTAL**

1 ASSURANCE PROGRAM:

2 (A) CONSERVATION PRACTICES.

3 (B) SITE-SPECIFIC NUTRIENT MANAGEMENT PLAN REQUIREMENTS.

4 (C) EMERGENCY PROTOCOLS.

5 (D) COMPLETED ENVIRONMENTAL RISK ASSESSMENTS.

6 (E) UNITED STATES DEPARTMENT OF AGRICULTURE NATURAL RESOURCES
7 CONSERVATION SERVICE PRACTICE STANDARDS.

8 (F) GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES
9 DEVELOPED UNDER THE RIGHT TO FARM ACT, 1981 PA 93, MCL 286.471 TO
10 286.474.

11 (G) OTHER STANDARDS CONSIDERED APPROPRIATE BY THE DIRECTOR.

12 (10) "MAEAP-VERIFIED FARM" MEANS A FARM DETERMINED BY THE
13 DEPARTMENT AS MEETING MAEAP STANDARDS THROUGH AN ON-SITE
14 EVALUATION.

15 (11) ~~(12)~~—"Maximum contaminant level" means that term as it is
16 defined in title XIV of the public health service act, chapter 373,
17 88 Stat. 1660, and regulations promulgated under that act.

18 (12) ~~(13)~~—"Method detection limit" means the minimum
19 concentration of a substance that can be measured and reported with
20 99% confidence that the analyte concentration is greater than 0 and
21 is determined from analysis of a sample in a given matrix that
22 contains the analyte.

23 (13) ~~(14)~~—"Monitoring" means sampling and analysis to
24 determine the levels of pesticides or their breakdown products;
25 fertilizers or their residues; or other analytes as determined by
26 the director.

27 Sec. 8704. (1) "Nitrogen fertilizer" means a fertilizer that

1 contains nitrogen as a component.

2 (2) "On-site evaluation" ~~system~~ means a specific set of
3 criteria used to voluntarily evaluate a ~~person's~~ **FARMER'S** property
4 with regard to determination of potential ~~sources of contamination~~
5 **ENVIRONMENTAL RISKS.**

6 (3) "Pesticide" means that term as it is defined in part 83.

7 Sec. 8705. (1) "Registrant" means ~~a person who is subject to~~
8 ~~the registration requirements of~~ **THAT TERM AS IT IS DEFINED IN** part
9 83.

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

12 (3) **"SITE-SPECIFIC NUTRIENT MANAGEMENT PLAN" MEANS A PLAN**
13 **DESIGNED TO ASSIST FARMERS IN ACHIEVING MAEAP STANDARDS THAT**
14 **INCLUDES BOTH OF THE FOLLOWING:**

15 (A) **CONSERVATION PRACTICES AND NUTRIENT MANAGEMENT ACTIVITIES**
16 **THAT, WHEN IMPLEMENTED AS PART OF A CONSERVATION SYSTEM, WILL HELP**
17 **TO ENSURE THAT BOTH PRODUCTION AND NATURAL RESOURCES PROTECTION**
18 **GOALS ARE ACHIEVED.**

19 (B) **PROPOSED ACTIONS TO ADDRESS SOIL EROSION, MANURE, AND**
20 **ORGANIC BY-PRODUCTS AND THEIR POTENTIAL IMPACT ON WATER QUALITY.**

21 (4) ~~(3)~~ "Specialty pesticide" means a disinfectant, sanitizer,
22 germicide, biocide, or other pesticide labeled solely for use
23 directly on humans or pets, or other pesticides labeled solely for
24 use in areas associated with the household or home life including
25 garden and ornamental uses or on institutional or industrial
26 premises, but excludes pesticides labeled for use on rights-of-way,
27 or other outdoor wide-area treatments.

(5) ~~(4)~~ "State management plan" means a plan for the protection of groundwater as required by the United States environmental protection agency's labeling requirements for pesticides and devices pursuant to 40 C.F.R. ~~CFR~~ part 156.

~~(5) "Stewardship plan" means a set of practices, activities, or procedures developed and implemented pursuant to this part to provide operations that are in accord with groundwater stewardship practices.~~

(6) "Technical assistance" means direct on-site assistance provided to individuals that is designed to ~~improve implementation of groundwater stewardship practices or groundwater protection rules~~ **ACHIEVE MAEAP STANDARDS.**

(7) "Use" means the loading, mixing, applying, storing, transporting, or disposing of a pesticide or fertilizer.

(8) "VERIFICATION" MEANS THE ON-SITE EVALUATION PERFORMED BY THE DEPARTMENT IN ACCORDANCE WITH PROTOCOLS ADOPTED BY THE COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT TO DETERMINE IF MAEAP STANDARDS HAVE BEEN MET.

(9) "WATER MONITORING" MEANS MONITORING OF WATER IN AREAS ADJACENT TO PROPERTIES TO DETERMINE THE CONCENTRATION AND SPATIAL DISTRIBUTION OF CONTAMINANTS.

Sec. 8706. The intent of this part is to reduce risks to the environment and public health **AND PROMOTE ECONOMIC DEVELOPMENT** by ~~preventing groundwater contamination from pesticides and fertilizers~~ **ASSISTING FARMS IN ACHIEVING MAEAP STANDARDS.**

Sec. 8707. (1) The director, in conjunction with Michigan state university extension and the Michigan state university

1 agricultural experiment station, and in cooperation with the United
 2 States department of agriculture natural resources conservation
 3 service, the department of environmental quality, and other
 4 professional and industry organizations, shall develop ~~groundwater~~
 5 ~~stewardship~~ **CONSERVATION** practices for approval by the commission
 6 of agriculture **AND RURAL DEVELOPMENT** and upon approval shall
 7 promote their implementation.

8 (2) The director, in conjunction with Michigan state
 9 university, the department of environmental quality, and other
 10 persons the director considers appropriate, shall develop a
 11 **PROTOCOLS FOR** voluntary on-site ~~evaluation system for pesticide or~~
 12 ~~nitrogen fertilizer use~~ **EVALUATIONS**. The on-site ~~evaluation system~~
 13 **EVALUATIONS** shall be designed to do all of the following:

14 (a) Provide ~~persons~~ **FARMERS** with the ability to voluntarily
 15 determine the relative ~~groundwater impact potential posed by their~~
 16 ~~use of pesticides and nitrogen fertilizers~~ **RISK OF CURRENT**
 17 **PRACTICES IN RELATION TO SOURCES OF CONTAMINATION**.

18 (b) Provide ~~persons~~ **FARMERS** with the ability to determine the
 19 degree to which **FARM** operations are in accord with ~~groundwater~~
 20 ~~stewardship practices~~ **MAEAP STANDARDS** and applicable ~~groundwater~~
 21 ~~protection rules~~ **LAW**.

22 (c) Prioritize operational changes ~~at the site level intended~~
 23 ~~to protect groundwater~~ **ON FARMS TO PROTECT GROUNDWATER AND SURFACE**
 24 **WATERS FROM SOURCES OF CONTAMINATION**.

25 (d) Guide ~~persons~~ **FARMERS** to appropriate technical and
 26 educational materials.

27 **(E) PROVIDE FARMERS WITH THE OPPORTUNITY FOR VERIFICATION.**

(3) The director, in conjunction with the ~~groundwater~~
ENVIRONMENTAL ASSURANCE advisory council, shall review and evaluate
the effectiveness of ~~groundwater stewardship~~ **CONSERVATION** practices
~~adopted~~ **APPROVED** under subsection (1).

Sec. 8708. (1) The director shall establish a ~~groundwater~~ **AN**
ENVIRONMENTAL ASSURANCE advisory council composed of all of the
following:

(a) The director of the department of agriculture **AND RURAL**
DEVELOPMENT.

(b) The director of the department of ~~natural resources~~
ENVIRONMENTAL QUALITY.

~~—— (c) The director of public health.~~

(C) ~~(d)~~ The director of the Michigan state university
~~cooperative extension service.~~

(D) ~~(e)~~ The director of the Michigan state university
agricultural experimentation station.

(E) ~~(f)~~ Representatives of all of the following as appointed
by the director **TO SERVE TERMS OF 3 YEARS**:

(i) The United States department of agriculture - ~~stabilization~~
~~and conservation service~~ **FARM SERVICE AGENCY**.

(ii) The United States department of agriculture ~~soil~~ **NATURAL**
RESOURCES conservation service.

~~—— (iii) The United States geological survey.~~

(iii) ~~(iv)~~ Soil and water conservation **CONSERVATION** districts.

(iv) ~~(v)~~ Agricultural producers **FARMERS AND OTHER AGRICULTURAL**
ORGANIZATIONS.

(v) ~~(vi)~~ Nongovernmental **CONSERVATION AND** environmental

1 organizations.

2 (vi) ~~(vii)~~ Regulated agricultural industries.

3 ~~—— (viii) Right of way applicators.~~

4 (vii) ~~(ix)~~ Other persons as determined by the director.

5 (viii) A MEMBER REPRESENTING EACH REGIONAL ENVIRONMENTAL
6 ASSURANCE TEAM ESTABLISHED UNDER SECTION 8709.

7 (2) THE ENVIRONMENTAL ASSURANCE ADVISORY COUNCIL SHALL BE CO-
8 CHAIRED BY THE REPRESENTATIVE FROM MICHIGAN STATE UNIVERSITY
9 EXTENSION AND A REPRESENTATIVE FROM 1 OF THE FARMERS AND OTHER
10 AGRICULTURAL ORGANIZATIONS.

11 (3) ~~(2)~~ The ~~groundwater~~ ENVIRONMENTAL ASSURANCE advisory
12 council shall advise the director on, but not limited to, the
13 following:

14 (a) ~~Groundwater stewardship practices~~ MAEAP STANDARDS.

15 (b) ~~On-site evaluation system~~ EVALUATIONS FOR VERIFICATION OF
16 SPECIFIC ASPECTS OF A FARMING OPERATION.

17 ~~—— (c) Groundwater protection rules established under part 83.~~

18 (C) ~~(d)~~ Water quality and environmental monitoring.

19 (D) PROTOCOLS FOR VERIFICATION AND REVOCATION OF VERIFICATION.

20 (e) ~~Stewardship program~~ MAEAP activities.

21 (f) Interagency coordination of ~~groundwater~~ CONSERVATION
22 programs.

23 (g) ~~Prioritizing the activities of the groundwater stewardship~~
24 ~~teams based on detections of pesticides in groundwater, nitrogen~~
25 ~~concentrations in groundwater, groundwater impact potential~~
26 ~~estimation, or other factors as determined by the director.~~ THE USE
27 OF MONEY IN THE CLEAN WATER FUND CREATED IN SECTION 8807 AND OTHER

1 FUNDING SOURCES TO PROMOTE MAEAP AND ACTIVITIES TO ENCOURAGE MORE
2 MAEAP-VERIFIED FARMS.

3 (H) THE CREATION OF SUBCOMMITTEES AS NEEDED TO ADDRESS
4 EMERGING AND ONGOING ISSUES.

5 (4) THE ENVIRONMENTAL ASSURANCE ADVISORY COUNCIL SHALL DO ALL
6 OF THE FOLLOWING:

7 (A) ANNUALLY PROVIDE RECOMMENDATIONS TO THE DIRECTOR ON MAEAP
8 STANDARDS AND PROTOCOLS FOR VERIFICATION AND REVOCATION OF
9 VERIFICATION FOR CONSIDERATION BY THE COMMISSION OF AGRICULTURE AND
10 RURAL DEVELOPMENT.

11 (B) ANNUALLY SUBMIT A REPORT TO THE DEPARTMENT THAT OUTLINES
12 ACTIVITIES, ACCOMPLISHMENTS, AND EMERGING ISSUES. THE DEPARTMENT
13 SHALL SHARE THIS REPORT WITH THE AGRICULTURE COMMUNITY.

14 (C) NOT LATER THAN SEPTEMBER 30, 2014, SUBMIT TO THE DIRECTOR
15 A COMPREHENSIVE REPORT DETAILING PROGRAM ACHIEVEMENTS UNDER THE
16 MICHIGAN AGRICULTURAL ENVIRONMENTAL ASSURANCE PROGRAM.

17 Sec. 8709. (1) The director ~~shall~~**MAY** establish regional
18 ~~groundwater stewardship-ENVIRONMENTAL ASSURANCE~~ teams composed of
19 departmental, educational, and technical assistance personnel, and
20 other persons as determined necessary by the director, **OR THE TEAM,**
21 **OR BOTH** for implementation of programs developed under this part.

22 (2) The ~~groundwater stewardship-ENVIRONMENTAL ASSURANCE~~ teams
23 **ESTABLISHED UNDER SUBSECTION (1)** are responsible for implementation
24 of programs developed under this part, including, but not limited
25 to, ~~the provision of~~ all of the following:

26 (a) ~~Educational-PROVIDING ACCESS TO EDUCATIONAL~~ opportunities
27 including direct educational assistance and consulting programs;

1 demonstration projects; educational programs; and tours, workshops,
2 and conferences.

3 ~~(b) Technical assistance for persons making changes consistent~~
4 ~~with groundwater stewardship practices or groundwater protection~~
5 ~~rules, on-site evaluation of practices that may impact groundwater,~~
6 ~~the development and implementation of stewardship plans, and the~~
7 ~~development and implementation of activity plans. PROVIDING ACCESS~~
8 ~~TO TECHNICAL ASSISTANCE RELATED TO ANY OF THE FOLLOWING:~~

9 (i) ON-SITE EVALUATION OF PRACTICES THAT MAY IMPACT NATURAL
10 RESOURCES.

11 (ii) THE DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS.

12 (iii) THE DEVELOPMENT AND IMPLEMENTATION OF ACTIVITY PLANS FOR
13 PERSONS MAKING CONSERVATION PRACTICE CHANGES.

14 ~~(c) Private well sampling, grants in aid for persons in the~~
15 ~~stewardship program, emergency response, and land application of~~
16 ~~pesticide and fertilizer contaminated materials. EVALUATING, AS~~
17 ~~AVAILABLE, GRANTS TO PERSONS IMPLEMENTING ACTIVITY PLANS AND~~
18 ~~CONSERVATION PRACTICES REQUIRED TO ACHIEVE MAEAP STANDARDS.~~

19 Sec. 8710. (1) The director, in consultation with the
20 ~~groundwater ENVIRONMENTAL ASSURANCE~~ advisory council, shall
21 ~~establish a groundwater stewardship IMPLEMENT A MICHIGAN~~
22 ~~AGRICULTURE ENVIRONMENTAL ASSURANCE~~ program designed to promote the
23 ~~protection of groundwater NATURAL RESOURCES CONSERVATION~~ through
24 education, technical assistance, and ~~grants VERIFICATION. THE MAEAP~~
25 ~~SHALL BE A VOLUNTARY PROGRAM THAT IS AVAILABLE TO FARMS THROUGHOUT~~
26 ~~THE STATE.~~

27 (2) A person ~~FARMER~~ who has ~~completed an on-site evaluation~~

1 ~~with technical assistance personnel is eligible to participate in~~
2 ~~the groundwater stewardship program. Participants in the~~
3 ~~groundwater stewardship program shall develop and implement a~~
4 ~~stewardship plan approved by the director.~~ DESIRES TO HAVE HIS OR
5 HER FARM MAEAP-VERIFIED SHALL DO ALL OF THE FOLLOWING:

6 (A) COMPLETE EDUCATIONAL REQUIREMENTS AUTHORIZED BY THE
7 DEPARTMENT.

8 (B) DEVELOP AND IMPLEMENT 1 OR MORE CONSERVATION PLANS AS
9 APPROVED BY THE DIRECTOR.

10 (C) UPON COMPLETION OF SUBDIVISIONS (A) AND (B), CONTACT THE
11 DEPARTMENT TO ARRANGE FOR AN ON-SITE EVALUATION.

12 ~~—— (2) The department may provide grants to persons participating~~
13 ~~in the groundwater stewardship program in accordance with~~
14 ~~procedures established by the department. Grants shall be available~~
15 ~~for making changes consistent with groundwater stewardship~~
16 ~~practices, groundwater protection rules, and the removal of~~
17 ~~potential sources of contamination and other purposes considered~~
18 ~~suitable by the director.~~

19 (3) IF THE DEPARTMENT CONDUCTS AN ON-SITE EVALUATION AND
20 DETERMINES THAT A FARM IS MEETING MAEAP STANDARDS, THE DEPARTMENT
21 SHALL ISSUE A MAEAP VERIFICATION. A VERIFICATION IS VALID FOR 3
22 YEARS.

23 (4) A FARM IS ELIGIBLE FOR REVERIFICATION IF IT IS DETERMINED
24 TO BE MEETING MAEAP STANDARDS THROUGH AN ON-SITE EVALUATION
25 CONDUCTED BY THE DEPARTMENT OR ITS DESIGNEE.

26 (5) BEGINNING IN THE STATE FISCAL YEAR ENDING SEPTEMBER 30,
27 2013, THE DEPARTMENT SHALL PROVIDE MAEAP VERIFICATION SIGNS TO EACH

1 MAEAP-VERIFIED FARM.

2 (6) A FARM THAT ALLOWS ITS VERIFICATION TO LAPSE OR WHOSE
3 VERIFICATION IS REVOKED UNDER SUBSECTION (7) SHALL FORFEIT ITS
4 VERIFICATION SIGN AND ALL OTHER BENEFITS THAT ARE PROVIDED TO
5 MAEAP-VERIFIED FARMS UNDER THIS ACT.

6 (7) THE DIRECTOR MAY REVOKE VERIFICATION OF A MAEAP-VERIFIED
7 FARM IF ANY OF THE FOLLOWING APPLY:

8 (A) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
9 ENVIRONMENTAL QUALITY, DETERMINES WITH SCIENTIFIC EVIDENCE PROVIDED
10 BY WATER QUALITY DATA THAT THE MAEAP-VERIFIED FARM CAUSED AN
11 EXCEEDANCE OF WATER QUALITY STANDARDS AS A RESULT OF NONCONFORMANCE
12 WITH MAEAP STANDARDS.

13 (B) THE MAEAP-VERIFIED FARM FAILS TO CONFORM TO MAEAP
14 STANDARDS AS A RESULT OF GROSS NEGLIGENCE.

15 (C) THE MAEAP-VERIFIED FARM FAILS TO COMPLY WITH PROTOCOLS FOR
16 VERIFICATION AS APPROVED BY THE COMMISSION OF AGRICULTURE AND RURAL
17 DEVELOPMENT.

18 (D) THE MAEAP-VERIFIED FARM IS RESPONSIBLE FOR A PATTERN OF
19 CONTINUOUS REPEATED VIOLATIONS OF ENVIRONMENTAL LAWS, RULES,
20 REGULATIONS, PERMIT CONDITIONS, SETTLEMENT AGREEMENTS, ORDERS OF
21 CONSENT, OR JUDICIAL ORDERS THAT WERE DUE TO SEPARATE AND DISTINCT
22 EVENTS.

23 (8) ~~(3) Liability~~ A FARMER SHALL NOT BE LIABLE for groundwater
24 contamination shall not be imposed on a person in the groundwater
25 stewardship program under this part A MAEAP-VERIFIED FARM FOR
26 ACTIVITIES ON THE MAEAP-VERIFIED FARM unless he or she was grossly
27 negligent or in violation of state or federal law or failed to

1 comply with the ~~provisions of the applicable groundwater~~
2 ~~stewardship program or plan~~ **MAEAP STANDARDS**. ~~Nothing in this part~~
3 ~~shall~~ **THIS PART DOES NOT** modify or limit any obligation,
4 responsibility, or liability imposed by any other provision of
5 state law.

6 (9) THE DEPARTMENT SHALL ESTABLISH A MAEAP GRANTS PROGRAM.
7 GRANTS ISSUED UNDER THE MAEAP GRANTS PROGRAM ARE LIMITED TO
8 AVAILABILITY OF FUNDS COLLECTED PURSUANT TO THIS PART. GRANTS SHALL
9 BE AVAILABLE FOR ALL OF THE FOLLOWING:

10 (A) TECHNICAL ASSISTANCE.

11 (B) PROMOTION OF THE MAEAP.

12 (C) EDUCATIONAL PROGRAMS RELATED TO THE MAEAP.

13 (D) DEMONSTRATION PROJECTS TO IMPLEMENT CONSERVATION
14 PRACTICES.

15 (E) REMOVAL OF POTENTIAL SOURCES OF CONTAMINATION.

16 (F) OTHER PURPOSES CONSIDERED APPROPRIATE BY THE DIRECTOR.

17 (10) ~~(4) Technical assistance programs and grants provided~~
18 ~~under this section are limited to availability of funds collected~~
19 ~~pursuant to this part.~~ **THE DEPARTMENT AND THE DEPARTMENT OF**
20 **ENVIRONMENTAL QUALITY SHALL ENTER INTO A MEMORANDUM OF**
21 **UNDERSTANDING TO FORMALIZE A COMMITMENT TO PROMOTE THE MAEAP AND TO**
22 **CLARIFY THE APPLICATION OF STATE AND FEDERAL ENVIRONMENTAL LAWS TO**
23 **FARMS. IN ADDITION, THE MEMORANDUM OF UNDERSTANDING SHALL PROVIDE**
24 **FOR ALL OF THE FOLLOWING:**

25 (A) AN ONGOING INTERAGENCY TECHNICAL REVIEW PANEL FOR MAEAP-
26 VERIFIED FARMS THAT DISCHARGE IN VIOLATION OF STATE OR FEDERAL LAW
27 TO DETERMINE ENFORCEMENT ACTION.

1 (B) PREFERENCE FOR FUNDING FOR NONPOINT SOURCE POLLUTION -
2 FUNDS FOR FARMS SEEKING MAEAP VERIFICATION.

3 (C) CONSIDERATIONS FOR REVERIFICATION OF A FARM WITH REVOKED
4 MAEAP VERIFICATION STATUS.

5 (D) INTEGRATION OF THE MAEAP INTO POLLUTION PREVENTION
6 ACTIVITIES OF BOTH AGENCIES.

7 (E) CLARIFICATION OF THE CONSULTATION PROCESS IN PART 88 TO
8 ENSURE THAT THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT HAS
9 MEANINGFUL INPUT INTO THE ESTABLISHMENT OF THE GRANTS PROGRAM AND
10 THE ISSUANCE OF GRANTS.

11 Sec. 8713. (1) The director, in conjunction with the
12 department of ~~natural resources~~ **ENVIRONMENTAL QUALITY** and the
13 department of ~~public~~ **COMMUNITY** health, shall develop and establish
14 priorities, procedures, and protocols for the implementation of a
15 groundwater monitoring program to do all ~~BOTH~~ of the following:

16 (a) Provide general screening of groundwater **OR SURFACE WATER,**
17 **OR BOTH.**

18 (b) Determine the relative risk of groundwater contamination
19 at different locations.

20 ~~— (c) Perform envelope monitoring.~~

21 (2) The director shall, in a timely manner, notify affected
22 well owners of their monitoring results from the monitoring
23 conducted pursuant to this section, including the method detection
24 limits and associated water resource protection levels.

25 (3) The monitoring program conducted pursuant to this section
26 may provide for modifications of sampling density and analytes to
27 reflect regional groundwater impact potential.

1 (4) The monitoring conducted pursuant to this section shall be
2 conducted utilizing generally accepted scientific practices.

3 (5) The department shall establish a method detection limit
4 goal for monitoring conducted pursuant to this section set at 10%
5 of a compound's groundwater resource response level.

6 (6) Agencies conducting monitoring for pesticides or
7 fertilizers pursuant to this section shall notify the director, on
8 forms provided by or in a format approved by the director, of the
9 location, procedure, and concentration of all pesticide detections
10 or nitrate concentrations in excess of 10 parts per million.
11 Information received by the director shall be evaluated based upon
12 accepted protocols and procedures established under this part.

13 (7) The director shall establish by rule laboratory
14 confirmation mechanisms used under this part.

15 (8) The director shall establish by rule risk assessment
16 protocols for the development of groundwater resource protection
17 levels.

18 **SEC. 8713A. (1) THE DIRECTOR, IN CONSULTATION WITH THE**
19 **ENVIRONMENTAL ASSURANCE ADVISORY COUNCIL, MAY DEVELOP AND ESTABLISH**
20 **PRIORITIES, PROCEDURES, AND PROTOCOLS FOR THE IMPLEMENTATION OF A**
21 **SURFACE WATER QUALITY MONITORING PROGRAM TO DO BOTH OF THE**
22 **FOLLOWING:**

23 (A) PROMOTE VOLUNTARY WATER QUALITY MONITORING BY FARMS.

24 (B) MONITOR AND BENCHMARK THE EFFECTIVENESS OF CONSERVATION
25 PRACTICES AND MAEAP STANDARDS IN COOPERATION WITH PARTICIPATING
26 FARMERS.

27 (2) WATER QUALITY INFORMATION COLLECTED UNDER THIS SECTION BY

1 THE DEPARTMENT IN COOPERATION WITH FARMERS SHALL BE AGGREGATED AND
2 MADE AVAILABLE TO THE COMMISSION OF AGRICULTURE AND RURAL
3 DEVELOPMENT. SPECIFIC LOCATIONS OR PERSONS INVOLVED IN WATER
4 QUALITY INFORMATION COLLECTION ARE EXEMPT FROM DISCLOSURE UNDER THE
5 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

6 Sec. 8714. (1) Upon confirmation of an adverse impact on
7 groundwater, the director may, upon reasonable notice, require a
8 person to furnish any information that the person may have relating
9 to the identification, nature, and quantity of pesticides and
10 fertilizers that are or have been used on a particular site and to
11 current or past production practices that may have impacted
12 groundwater quality. This information shall be treated as
13 confidential business information and is not subject to the freedom
14 of information act, ~~Act No. 442 of the Public Acts of 1976, being~~
15 ~~sections 15.231 to 15.246 of the Michigan Compiled Laws 1976 PA~~
16 **442, MCL 15.231 TO 15.246.**

17 (2) The director may, upon written request, authorize persons
18 to land-apply materials contaminated with pesticides or fertilizers
19 at agronomic rates. This authorization shall prescribe appropriate
20 operational control activities to protect the application location
21 and shall identify both the location of remediation and the
22 location or locations where such a land application will take
23 place.

24 Sec. 8715. (1) In addition to the fees provided for in part
25 83, a registrant shall pay an annual groundwater protection fee for
26 each product to be registered. The specialty pesticide groundwater
27 protection fee is \$100.00 per product. Groundwater protection fees

1 for all other pesticides are 0.75% of the wholesale value of the
2 previous registration year's product sales for use in this state,
3 with a \$150.00 minimum groundwater protection fee. The minimum
4 groundwater protection fee is due in the office of the director
5 before July 1. A sales based groundwater protection fee greater
6 than the \$150.00 minimum is due in the office of the director
7 before October 1 of the following registration year.

8 (2) An additional late fee of \$100.00 shall be paid by the
9 registrant for each pesticide if the pesticide registration is a
10 renewal registration and the minimum groundwater protection fee is
11 received by the department after June 30.

12 (3) A person required to pay a specialty fertilizer or soil
13 conditioner registration fee under section 8505 shall pay an
14 additional \$100.00 groundwater protection fee for each brand and
15 product name of each grade registered.

16 (4) All fertilizer manufacturers or distributors licensed
17 under part 85, except specialty fertilizer and soil conditioner
18 registrants, shall pay an additional groundwater protection fee of
19 1-1/2 cents per percent of nitrogen in the fertilizer for each ton
20 of fertilizer sold.

21 (5) The fees collected under this part, including any interest
22 or dividends earned, shall be transmitted to the state treasurer,
23 who shall credit the money received to the fund.

24 (6) Upon the expenditure or appropriation of money raised in
25 this section for any purpose other than those specifically listed
26 in this part, authorization to collect fees in this section shall
27 be suspended until the money expended or appropriated for purposes

1 other than those listed in this part are returned to the fund.

2 (7) This section is repealed December 31, ~~2013~~2015.

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

5 (2) The state treasurer may receive money or other assets from
6 any source for deposit into the fund, including general fund
7 general purpose appropriations, gifts, grants, and bequests. The
8 director shall annually seek matching general fund general purpose
9 appropriations in amounts equal to the groundwater protection fees
10 collected under section 8715 that are deposited into the fund
11 pursuant to this part. The state treasurer shall direct the
12 investment of the fund. The state treasurer shall credit to the
13 fund interest and earnings from fund investments.

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

16 (4) The department shall be the administrator of the fund for
17 auditing purposes.

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

20 (a) Direct assistance.

21 (b) Indirect assistance.

22 (c) Emergency response and removal of potential sources of
23 ~~groundwater~~**WATER** contamination. Expenditures pursuant to this
24 subdivision shall not exceed \$15,000.00 per location.

25 (d) ~~Groundwater~~**NATURAL RESOURCES** protection. and ~~groundwater~~
26 ~~regulatory program.~~

27 (e) Administrative costs. Expenditures pursuant to this

1 subdivision shall not exceed 20% of the annual appropriations from
2 the fund.

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

5 (7) Notwithstanding section 8715, if at the close of any
6 fiscal year the amount of money in the fund exceeds \$3,500,000.00,
7 the department shall not collect a groundwater protection fee for
8 the following year. After the groundwater protection fees have been
9 suspended under this subsection, the fees shall only be reinstated
10 if, at the close of any succeeding fiscal year, the amount of money
11 in the fund is less than \$1,000,000.00.

12 (8) The department of treasury shall, before November 1 of
13 each year, notify the department of the balance in the fund at the
14 close of the preceding fiscal year.

15 (9) As used in this section:

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

18 (i) Groundwater monitoring for pesticides and fertilizers.

19 (ii) Development and enforcement of ~~groundwater~~ **NATURAL**
20 **RESOURCES** protection rules.

21 (iii) Coordination of programs under this part with the United
22 States environmental protection agency and other state programs
23 with ~~groundwater and pesticide management~~ **ENVIRONMENTAL PROTECTION**
24 responsibilities.

25 (iv) Management of pesticide sales information.

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

(i) Provision of alternate noncommunity water supplies.

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

(iii) The environmentally sound disposal or recycling of specialty pesticide containers.

(iv) The environmentally sound disposal or recycling of nonspecialty pesticide containers.

(v) Specialty and nonspecialty pesticide ~~pickup~~ **DISPOSAL** programs. ~~for pesticides not currently registered for use.~~

(vi) Programs devoted to integrated ~~pest and crop management~~ **NATURAL RESOURCES CONSERVATION** that ~~strive to encourage the~~ judicious use of pesticides and fertilizers **AND OTHER AGRICULTURAL INPUTS AND PRACTICES THAT ARE PROTECTIVE OF WATER QUALITY** through targeted ~~applications as part of a systems approach to pest control~~ and related ~~crop management~~ decisions.

(vii) Incentive and cost share programs ~~for persons in the groundwater stewardship program for implementation of groundwater stewardship practices or groundwater protection rules~~ **TO ASSIST FARMERS IN ACHIEVING MAEAP STANDARDS.**

(viii) Incentive and cost share programs for ~~persons who notify the director of~~ **MAEAP-VERIFIED FARMS WITH** potential sources of ~~groundwater~~ contamination on their property.

(ix) Monitoring of private well water for pesticides, ~~and~~ fertilizers, **AND OTHER CONTAMINANTS.**

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

(xi) ~~Groundwater stewardship program~~ **MAEAP** grants pursuant to section 8710.

(xii) **PROGRAMS THAT ENHANCE INVESTMENT OF PRIVATE AND FEDERAL FUNDS IN CONSERVATION.**

(xiii) **VERIFICATION.**

(xiv) ~~(xii)~~ Other programs established pursuant to this part.

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

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

(ii) Educational programs. ~~for pesticide and fertilizer end users.~~

(iii) Technical assistance programs. ~~for pesticide and fertilizer end users.~~

(iv) The promotion and implementation of on-site evaluation systems, ~~and groundwater stewardship~~ **CONSERVATION** practices, **AND THE MAEAP.**

(v) Research programs for determination of the impacts of alternate ~~pesticide and fertilizer~~ management practices.

(vi) Research program for determination of ~~aquifer~~ **NATURAL RESOURCES** sensitivity and vulnerability to contamination. ~~by pesticides and fertilizers.~~

Enacting section 1. This amendatory act does not take effect unless Senate Bill No.____ or House Bill No.____ (request no. 01045'11 *) of the 96th Legislature is enacted into law.