

MICHIGAN AGRICULTURE ENVIRONMENTAL ASSURANCE PROGRAM (MAEAP): EXTEND SUNSET OF WATER QUALITY PROTECTION FEES

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Senate Bill 494 (S-2) as passed by the Senate

Sponsor: Sen. Kevin Daley

Senate Committee: Appropriations

House Committee: Appropriations

Complete to 11-29-21

SUMMARY:

Senate Bill 494 would amend the Natural Resources and Environmental Protection Act (NREPA) to extend the sunset (expiration) date of section 8715, which provides water quality protection fees on pesticide registrations and fertilizer sales. Currently, the section will be repealed on December 31, 2021. The bill would extend this sunset date to December 31, 2025. The bill also would eliminate provisions specifically concerning specialty pesticides and would require the Environmental Assurance Advisory Council to report biannually on incentives and program modifications to increase participation in the Michigan Agriculture Environmental Assurance Program (MAEAP).

Sunset of Water Quality Protection Fees

Part 87 of NREPA deals with Groundwater and Freshwater Protection. Section 8706 indicates that “The intent of this part [Part 87] is to reduce risks to the environment and public health and promote economic development by assisting farms in achieving MAEAP standards.” Part 87 gives the Michigan Department of Agriculture and Rural Development (MDARD) authority over the programs established under the part, including the MAEAP program.

The MAEAP program is funded primarily from water quality protection fees established in section 8715 of Part 87. Section 8715 establishes water quality protections fees on pesticide registrations and fertilizer sales and earmarks fee revenue for credit to the Freshwater Protection Fund, a state restricted fund established in section 8716.

There is currently a sunset date for section 8715. Unless the sunset is lifted, section 8715, and the authority to collect water quality protection fees, will be repealed on December 31, 2021. Senate Bill 494 would extend the sunset to December 31, 2025.

“Specialty Pesticides”

Senate Bill 494 also would remove the term “specialty pesticide” from the terms defined in section 8705 for purposes of Part 87. Specialty pesticides are generally those pesticides sold to the public for household or garden use, including household disinfectants, sanitizers, germicides, biocides, or other pesticides labeled solely for use directly on humans or pets. The definition excludes pesticides labeled for use on rights-of-way or other outdoor wide-area treatments. Pesticides used in commercial agriculture are generally not specialty pesticides.

The only current use of the term in Part 87 is in section 8716, which deals with authorized uses of the Freshwater Protection Fund. Senate Bill 494 would replace language that now separately

authorizes specialty and nonspecialty pesticide disposal programs and instead include the authorization of pesticide disposal programs generally. This change would not have a material effect on the MDARD pesticide disposal programs funded through the Freshwater Protection Fund.

Biannual Report

Finally, the bill would modify reporting requirements related to the MAEAP program to require the Environmental Assurance Advisory Council to provide biannually, or at the request of the MDARD director, recommendations to the director and the legislature on incentives and program modifications to increase participation in MAEAP.

MCL 324.8705 et seq.

BACKGROUND:

Part 83 (Pesticide Control) of NREPA establishes a pesticide regulatory program and grants program authority to MDARD. Part 83 also establishes certain pesticide registration [regulatory] fees. Those fees are appropriated in the annual MDARD budget in support of the department's pesticide regulatory program.

Part 85 (Fertilizer) of NREPA establishes a fertilizer regulatory program and grants program authority to MDARD. Part 85 also establishes certain fertilizer inspection [regulatory] fees. Those fees are appropriated in the annual MDARD budget in support of the department's fertilizer regulatory program.

Section 8715 of Part 87 establishes water quality protection fees in addition to the pesticide and fertilizer regulatory fees established under Parts 83 and 85.

Section 8715 establishes a water quality protection fee assessed on pesticide registrations of \$270 per product per year. The section also establishes a water quality protection fee for fertilizer of \$1 per ton for all fertilizer sold or distributed in the state. The water quality fees established under section 8715 are credited to the Freshwater Protection Fund established under section 8716. This is a state restricted fund used to support MDARD environmental stewardship programs, including the MAEAP program.

The current water quality protection fee structure was established in 2015 PA 118.¹ Over the last five fiscal years (FYs 2016-17 through 2020-21) an average of \$6.6 million in fee revenue has been credited each year to the Freshwater Protection Fund: \$4.5 million from water quality protection fees assessed on pesticide registrations, and \$2.1 million from water quality protection fees assessed on fertilizer sales.

FISCAL IMPACT:

Senate Bill 494 is a budget implementation bill. The bill is necessary to provide continuing authority to collect water quality protection fees—fee revenue that is assumed in the enacted FY 2021-22 MDARD budget (Article 1 of 2021 PA 87). Failure to lift or extend the sunset

¹ <http://legislature.mi.gov/doc.aspx?2015-HB-4391>

would result in an annual loss of state restricted revenue of approximately \$6.6 million, revenue used in the budget to fund the MAEAP program.

Senate Bill 494 would not change the amount of water quality fees or the way those fees are assessed on pesticide registrations or fertilizer sales. The bill lifts the current December 31, 2021, sunset and provides authority to assess and collect water quality protection fees through December 31, 2025. Fee revenue, as credited to the Freshwater Protection fund, is assumed in the enacted FY 2021-22 MDARD budget.

In addition, 2015 PA 118, which amended section 8715 to establish current water quality protection fee rates, basis for fee assessment, and the December 31, 2021, sunset date, also eliminated “specialty pesticides” as a factor in the assessment of water quality protection fees.² As a result, eliminating this defined term has no impact on fee revenue.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

² <http://legislature.mi.gov/doc.aspx?2015-HB-4391>