

Act No. 123  
Public Acts of 2021  
Approved by the Governor  
December 16, 2021  
Filed with the Secretary of State  
December 17, 2021  
EFFECTIVE DATE: December 17, 2021

**STATE OF MICHIGAN  
101ST LEGISLATURE  
REGULAR SESSION OF 2021**

Introduced by Senators Daley, McBroom, Outman, Victory, Lauwers and Bizon

## **ENROLLED SENATE BILL No. 494**

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 protect the people’s right to hunt and fish; 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 8705, 8708, 8715, and 8716 (MCL 324.8705, 324.8708, 324.8715, and 324.8716), section 8705 as amended by 2011 PA 2 and sections 8708, 8715, and 8716 as amended by 2015 PA 118.

*The People of the State of Michigan enact:*

Sec. 8705. (1) “Registrant” means that term as defined in part 83.

(2) “Restricted use pesticide” means that term as defined in part 83.

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

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

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

(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 under 40 CFR part 156.

(5) “Technical assistance” means direct on-site assistance provided to individuals that is designed to achieve MAEAP standards.

(6) “Use” means the loading, mixing, applying, storing, transporting, or disposing of a pesticide or fertilizer.

(7) “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.

(8) “Water monitoring” means monitoring of water in areas adjacent to properties to determine the concentration and spatial distribution of contaminants.

Sec. 8708. (1) The director shall establish 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 environment, Great Lakes, and energy.
- (c) The director of the Michigan State University Extension.
- (d) The director of the Michigan State University AgBioResearch.
- (e) Representatives of all of the following as appointed by the director to serve terms of 3 years:
  - (i) The United States Department of Agriculture, Farm Service Agency.
  - (ii) The United States Department of Agriculture Natural Resources Conservation Service.
  - (iii) Conservation districts.
  - (iv) Farmers and other agricultural organizations.
  - (v) Nongovernmental conservation and environmental organizations.
  - (vi) Regulated agricultural industries.
  - (vii) A private consulting forester.
  - (viii) A member of the forest products industry.
  - (ix) A member of the logging profession.
  - (x) Other individuals as determined by the director.
  - (xi) A member representing each regional environmental assurance team established under section 8709.

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

(3) The council shall advise the director on topics including, but not limited to, the following:

- (a) MAEAP standards.
- (b) On-site evaluations for verification of specific aspects of a farming operation.
- (c) Water quality and environmental monitoring.
- (d) Protocols for verification and revocation of verification.
- (e) MAEAP activities.
- (f) Interagency coordination of conservation programs.
- (g) The use of money in the clean water fund created in section 8807 and other funding sources to promote MAEAP and activities to encourage more MAEAP-verified farms.
- (h) Options to increase assistance to assist small- and medium-sized farms in achieving MAEAP standards.
- (i) The creation of subcommittees as needed to address emerging and ongoing issues.
- (j) On-site evaluations of potential environmental, ecological, and economic benefits that can be realized by managing areas of the land that are not utilized for traditional or production agriculture practices.

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

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

(b) Annually submit a report to the department that outlines activities, accomplishments, and emerging issues. The department shall share this report with the agriculture community.

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

(d) Beginning April 1, 2022, provide biannually, or at the request of the director, recommendations to the director and the legislature on incentives and program modifications to increase participation in MAEAP.

(e) Annually provide recommendations to the director on funding for research projects that address impediments to verification and improve MAEAP practice standards.

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

(2) A registrant shall pay an additional late fee of \$100.00 for each pesticide if the pesticide registration is a renewal registration and the water quality protection fee is received by the department after June 30.

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

(4) All fertilizer manufacturers or distributors licensed under part 85, except specialty fertilizer and soil conditioner registrants, shall pay the following:

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

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

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

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

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

(8) This section is repealed December 31, 2025.

Sec. 8716. (1) The freshwater protection 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, including general fund general purpose appropriations, gifts, grants, and bequests. The director shall annually seek matching general fund general purpose appropriations in amounts equal to the water quality protection fees collected under section 8715 that are deposited into the fund under this part. 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 remains in the fund and does not lapse to the general fund.

(4) The department is the administrator of the fund for auditing purposes.

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

(a) Direct assistance.

(b) Indirect assistance.

(c) Emergency response and removal of potential sources of water contamination. Expenditures under this subdivision must not exceed \$15,000.00 per location.

(d) Natural resources protection.

(e) Administrative costs. Expenditures under this subdivision must not exceed 20% of the annual appropriations from the fund.

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

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

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

(9) As used in this section:

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

(i) Groundwater monitoring for pesticides and fertilizers.

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

(iii) Coordination of programs under this part with the United States Environmental Protection Agency and other state programs with environmental protection responsibilities.

(iv) Coordination of programs under this part with the United States Department of Agriculture Natural Resources Conservation Service and state programs with nonpoint source pollution prevention and conservation practice responsibilities.

(v) Management of pesticide sales information.

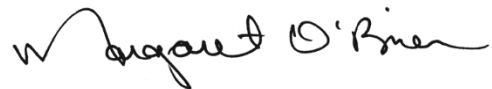
(b) "Direct assistance" includes, but is not limited to, programs that will provide for any of the following:

(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 pesticide containers.
- (iv) Pesticide disposal programs.
- (v) Programs devoted to integrated natural resources conservation that encourage the judicious use of pesticides and fertilizers and other agricultural inputs and practices that are protective of water quality through targeted systems approach to management decisions.
- (vi) Incentive and cost share programs to assist farmers in achieving MAEAP standards.
- (vii) Incentive and cost share programs for MAEAP-verified farms with potential sources of contamination on their property.
- (viii) Monitoring of private well water for pesticides, fertilizers, and other contaminants.
- (ix) Removal of soils and waters contaminated by pesticides and fertilizers and the land application of those materials at agronomic rates.
- (x) MAEAP grants under section 8710.
- (xi) Programs that enhance investment of private and federal funds in conservation.
- (xii) Verification.
- (xiii) Other programs established under 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 pesticide container recycling and environmentally sound disposal methods.
  - (ii) Educational programs.
  - (iii) Technical assistance programs.
  - (iv) The promotion and implementation of on-site evaluation systems, conservation practices, and the MAEAP.
  - (v) Research programs.

This act is ordered to take immediate effect.




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Secretary of the Senate




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Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor