

SENATE BILL No. 612

June 27, 2007, Introduced by Senators BASHAM, JACOBS, ANDERSON, BRATER, SCOTT, HUNTER, THOMAS, SWITALSKI, CLARKE and SCHAUER and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 8609, 8611, 8613, 8615, 8617, 8619, and 8621.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 8609. (1) AN INDIVIDUAL SHALL NOT SUPERVISE, CONTROL, OR
2 OPERATE A CAFO UNLESS THE INDIVIDUAL HAS OBTAINED CERTIFICATION BY
3 THE DEPARTMENT OF AGRICULTURE. THE CERTIFICATION PROGRAM SHALL BE
4 DESIGNED TO PROPERLY QUALIFY INDIVIDUALS TO OPERATE 1 OR MORE TYPES
5 OF CAFOS. AS PART OF THE CERTIFICATION PROGRAM, THE DEPARTMENT
6 SHALL CONSIDER THE EXPERIENCE OF APPLICANTS. THE DEPARTMENT SHALL
7 ALSO EXAMINE THE BACKGROUND OF THE APPLICANTS TO DETERMINE ANY
8 CRIMINAL, CIVIL, OR ADMINISTRATIVE VIOLATIONS OF THIS ACT OR THE

1 ENVIRONMENTAL LAWS OF OTHER STATES, THE UNITED STATES, OR OTHER
2 COUNTRIES. THE DEPARTMENT OF AGRICULTURE SHALL ISSUE A
3 CERTIFICATION TO VERIFY THE SUCCESSFUL COMPLETION OF THE
4 CERTIFICATION PROGRAM.

5 (2) IF A PERSON OTHER THAN AN INDIVIDUAL OWNS OR OPERATES A
6 CAFO, THAT PERSON SHALL DESIGNATE AN INDIVIDUAL AS A RESPONSIBLE
7 AGENT TO BE IN CHARGE OF THE SUPERVISION, CONTROL, OR OPERATION OF
8 THE CAFO. THE RESPONSIBLE AGENT SHALL FULFILL THE CERTIFICATION
9 REQUIREMENTS OF THIS SECTION. THE RESPONSIBLE AGENT'S NAME SHALL
10 APPEAR ON ANY PERMIT REQUIRED UNDER THIS PART OR PART 31.

11 (3) THE DEPARTMENT SHALL ESTABLISH A SCHEDULE TO PHASE IN THE
12 REQUIREMENTS OF SUBSECTION (1) FOR CAFOS EXISTING WHEN RULES
13 IMPLEMENTING SUBSECTION (1) ARE PROMULGATED.

14 (4) THE DEPARTMENT OF AGRICULTURE MAY CONDUCT A PROGRAM FOR
15 TRAINING PERSONS SEEKING CERTIFICATION UNDER SUBSECTION (1). THE
16 DEPARTMENT OF AGRICULTURE MAY CHARGE A FEE BASED ON THE COSTS TO
17 THE DEPARTMENT OF OPERATING THE TRAINING PROGRAM. THE FEES SHALL BE
18 DEPOSITED IN THE CAFO CERTIFICATION AND TRAINING FUND CREATED IN
19 SUBSECTION (8).

20 (5) BEFORE OFFERING OR CONDUCTING A COURSE OF TRAINING
21 REPRESENTED TO HELP AN INDIVIDUAL MEET THE CERTIFICATION
22 REQUIREMENTS OF SUBSECTION (1), A PERSON SHALL OBTAIN APPROVAL FROM
23 THE DEPARTMENT OF AGRICULTURE.

24 (6) THE DEPARTMENT OF AGRICULTURE MAY RECOGNIZE AND APPROVE
25 TRAINING PROGRAMS CONDUCTED OR APPROVED BY OTHER STATES OR THE
26 FEDERAL GOVERNMENT.

27 (7) AFTER PROVIDING AN OPPORTUNITY FOR AN ADMINISTRATIVE

1 HEARING UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA
2 306, MCL 24.201 TO 24.328, THE DEPARTMENT OF AGRICULTURE MAY DENY,
3 SUSPEND, LIMIT, OR REVOKE A PERSON'S CERTIFICATION ISSUED UNDER
4 SUBSECTION (1) OR THE APPROVAL OF A TRAINING PROGRAM UNDER
5 SUBSECTION (5) FOR FAILURE TO MEET THE REQUIREMENTS OF RULES
6 PROMULGATED UNDER SUBSECTION (11).

7 (8) THE CAFO CERTIFICATION AND TRAINING FUND IS CREATED WITHIN
8 THE STATE TREASURY.

9 (9) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
10 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL
11 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT
12 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS. MONEY IN
13 THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND
14 AND SHALL NOT LAPSE TO THE GENERAL FUND.

15 (10) THE DEPARTMENT OF AGRICULTURE SHALL EXPEND MONEY FROM THE
16 FUND, UPON APPROPRIATION, ONLY FOR THE PURPOSE OF EXERCISING ITS
17 POWERS AND PERFORMING ITS DUTIES UNDER SUBSECTIONS (1) TO (5).

18 (11) THE DEPARTMENT MAY PROMULGATE RULES TO IMPLEMENT THIS
19 SECTION.

20 SEC. 8611. (1) BEFORE CONSTRUCTING A LARGE CAFO OR MEDIUM
21 CAFO, EXPANDING A LARGE CAFO OR MEDIUM CAFO THAT WAS IN OPERATION
22 ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
23 SECTION, OR EXPANDING A SMALL CAFO INTO A LARGE CAFO OR MEDIUM
24 CAFO, THE OWNER OR OPERATOR OF THE CAFO OR PROPOSED CAFO SHALL
25 OBTAIN ALL PERMITS REQUIRED UNDER THIS ACT AND REGISTER WITH THE
26 DEPARTMENT. THE REGISTRATION SHALL INCLUDE ALL OF THE FOLLOWING:

27 (A) THE LOCATION OF THE CAFO.

1 (B) THE SIZE OF THE CAFO, IN ACRES.

2 (C) WHETHER THE CAFO WILL BE A LARGE CAFO OR MEDIUM CAFO.

3 (D) THE TYPE OF ANIMALS THAT WILL BE STABLED OR CONFINED AT
4 THE CAFO.

5 (E) A SITE PLAN FOR THE CAFO.

6 (F) DOCUMENTATION ESTABLISHING THAT THE CAFO MEETS SITING
7 CRITERIA ESTABLISHED AS GENERALLY ACCEPTED AGRICULTURAL AND
8 MANAGEMENT PRACTICES AS DEFINED IN SECTION 2 OF THE MICHIGAN RIGHT
9 TO FARM ACT, 1981 PA 93, MCL 286.472.

10 (G) ANY OTHER RELEVANT INFORMATION REQUIRED BY THE DEPARTMENT.

11 (2) UPON RECEIPT OF A REGISTRATION UNDER SUBSECTION (1), THE
12 DEPARTMENT SHALL PROVIDE A COPY OF THE REGISTRATION TO THE TOWNSHIP
13 AND, IF APPLICABLE, THE VILLAGE, OR TO THE CITY, WHERE THE CAFO
14 WILL BE LOCATED AND TO THE COUNTY WHERE THE CAFO WILL BE LOCATED.
15 THE DEPARTMENT SHALL ALSO MAKE THE REGISTRATION AVAILABLE ON THE
16 DEPARTMENT'S WEBSITE.

17 (3) UPON THE REQUEST OF 1 OR MORE PERSONS, THE DEPARTMENT
18 SHALL HOLD AN INFORMATIONAL HEARING ON THE NATURE OF THE PROPOSED
19 NEW OR EXPANDED CAFO AND THE REGULATION OF THE CAFO UNDER THIS
20 PART.

21 SEC. 8613. (1) THE DEPARTMENT MAY DESIGNATE ANY AFO AS A CAFO
22 UPON DETERMINING THAT IT IS A SIGNIFICANT CONTRIBUTOR OF POLLUTANTS
23 TO WATERS OF THE STATE. IN MAKING THIS DESIGNATION, THE DEPARTMENT
24 SHALL CONSIDER ALL OF THE FOLLOWING:

25 (A) THE SIZE OF THE AFO AND THE AMOUNT OF PRODUCTION AREA
26 WASTE AND PROCESS WASTEWATER FROM THE AFO BEING DIRECTLY OR
27 INDIRECTLY DISCHARGED INTO WATERS OF THE STATE.

1 (B) THE LOCATION OF THE AFO RELATIVE TO WATERS OF THE STATE.

2 (C) THE MEANS OF CONVEYANCE OF PRODUCTION AREA WASTE AND
3 PROCESS WASTEWATER INTO WATERS OF THE STATE.

4 (D) SLOPE, VEGETATION, RAINFALL, AND OTHER FACTORS AFFECTING
5 THE LIKELIHOOD OR FREQUENCY OF DISCHARGE OF PRODUCTION AREA WASTE
6 AND PROCESS WASTEWATER INTO WATERS OF THE STATE.

7 (E) OTHER RELEVANT FACTORS.

8 (2) AN AFO SHALL NOT BE DESIGNATED UNDER THIS SUBSECTION
9 UNLESS THE DEPARTMENT HAS CONDUCTED AN INSPECTION OF THE OPERATION
10 AS AUTHORIZED UNDER SECTION 3105.

11 (3) AN AFO WITH NUMBERS OF ANIMALS BELOW THOSE ESTABLISHED IN
12 THE DEFINITION OF MEDIUM CAFO IN SECTION 8603 SHALL NOT BE
13 DESIGNATED AS A CAFO UNDER SUBSECTION (1) UNLESS EITHER OF THE
14 FOLLOWING OCCURS:

15 (A) POLLUTANTS ARE DISCHARGED FROM THE PRODUCTION AREA INTO
16 WATERS OF THE STATE THROUGH A MANMADE DITCH, PIPE, TILE, SWALE,
17 FLUSHING SYSTEM, OR OTHER SIMILAR MANMADE CONVEYANCE.

18 (B) POLLUTANTS ARE DISCHARGED FROM THE PRODUCTION AREA
19 DIRECTLY INTO WATERS OF THE STATE THAT ORIGINATE OUTSIDE OF THE
20 FACILITY AND PASS OVER, ACROSS, OR THROUGH THE FACILITY OR
21 OTHERWISE COME INTO DIRECT CONTACT WITH THE ANIMALS CONFINED IN THE
22 OPERATION.

23 (4) THE DESIGNATION OF A PERSON AS A CAFO SHALL BE MADE IN
24 WRITING AND PROVIDE FOR AN OPPORTUNITY FOR AN ADMINISTRATIVE
25 HEARING BEFORE THE DEPARTMENT REGARDING THAT DESIGNATION.

26 SEC. 8615. (1) CAFOS ARE POINT SOURCES THAT REQUIRE NPDES
27 PERMITS FOR DISCHARGES. EXCEPT AS OTHERWISE PROVIDED IN THIS PART,

1 A PERSON SHALL NOT OWN OR OPERATE A CAFO EXCEPT PURSUANT TO AN
2 NPDES PERMIT, AN APPROVED COMPREHENSIVE NUTRIENT MANAGEMENT PLAN,
3 AND AN APPROVED AIR EMISSIONS PLAN. IF AN OPERATION BECOMES A CAFO,
4 THEN THE NPDES REQUIREMENTS FOR CAFOS APPLY TO ALL ANIMALS IN
5 CONFINEMENT AT THE OPERATION AND ALL PRODUCTION AREA WASTE AND
6 PROCESS WASTEWATER GENERATED BY THOSE ANIMALS OR THE PRODUCTION OF
7 THOSE ANIMALS, REGARDLESS OF THE TYPE OF ANIMAL. A CAFO OWNER OR
8 OPERATOR SHALL APPLY FOR EITHER AN INDIVIDUAL NPDES PERMIT OR A
9 CERTIFICATE OF COVERAGE UNDER AN NPDES GENERAL PERMIT, UNLESS THE
10 OWNER OR OPERATOR HAS RECEIVED A DETERMINATION FROM THE DEPARTMENT,
11 MADE AFTER PROVIDING NOTICE AND OPPORTUNITY FOR PUBLIC COMMENT,
12 THAT THE CAFO HAS "NO POTENTIAL TO DISCHARGE" PURSUANT TO SECTION
13 8617. THE DISCHARGE TO WATERS OF THE STATE FROM LAND APPLICATION
14 AREAS IS A DISCHARGE FROM THE CAFO SUBJECT TO NPDES PERMIT
15 REQUIREMENTS.

16 (2) THE OWNER OR OPERATOR OF AN EXISTING CAFO SHALL APPLY FOR
17 AN NPDES PERMIT NOT LATER THAN JULY 1, 2008.

18 (3) UNTIL THE DEPARTMENT PROMULGATES RULES REGULATING THE
19 OPERATION OF NEW OR EXPANDED CAFOS, THE DEPARTMENT SHALL NOT ISSUE
20 AN NPDES PERMIT FOR A NEW CAFO OF MORE THAN 10,000 ANIMALS OR AN
21 EXPANDED CAFO COMPOSED OF MORE THAN 5,000 ANIMALS. THE DEPARTMENT
22 SHALL PROMULGATE RULES REGULATING NEW AND EXPANDED CAFOS WITHIN 24
23 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
24 THIS SECTION.

25 (4) FOLLOWING PROMULGATION OF RULES UNDER SUBSECTION (3), AN
26 AFO SHALL APPLY FOR AN NPDES PERMIT AT LEAST 180 DAYS BEFORE
27 BECOMING A CAFO.

1 (5) NOT LATER THAN 180 DAYS BEFORE THE EXPIRATION OF THE
2 PERMIT OR EQUIVALENT DOCUMENT APPROVED BY THE DEPARTMENT, THE
3 PERMITTEE SHALL SUBMIT AN APPLICATION TO RENEW ITS PERMIT. HOWEVER,
4 THE PERMITTEE NEED NOT CONTINUE TO SEEK CONTINUED PERMIT COVERAGE
5 OR REAPPLY FOR A PERMIT IF BOTH OF THE FOLLOWING CONDITIONS ARE
6 MET:

7 (A) THE FACILITY HAS CEASED OPERATION OR IS NO LONGER A CAFO.

8 (B) THE PERMITTEE HAS DEMONSTRATED TO THE SATISFACTION OF THE
9 DEPARTMENT THAT THERE IS NO REMAINING POTENTIAL FOR A DISCHARGE.

10 SEC. 8617. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
11 SECTION, A LARGE CAFO THAT HAS RECEIVED A NO-POTENTIAL-TO-DISCHARGE
12 DETERMINATION FROM THE DEPARTMENT IS NOT REQUIRED TO OBTAIN AN
13 NPDES PERMIT UNDER SECTION 8615.

14 (2) THE DEPARTMENT, UPON REQUEST, MAY MAKE A DETERMINATION
15 THAT A SPECIFIC LARGE CAFO HAS NO POTENTIAL TO DISCHARGE, SUBJECT
16 TO ALL OF THE FOLLOWING REQUIREMENTS:

17 (A) IN MAKING A NO-POTENTIAL-TO-DISCHARGE DETERMINATION, THE
18 DEPARTMENT SHALL CONSIDER THE POTENTIAL FOR DISCHARGES FROM BOTH
19 THE PRODUCTION AREA AND ANY LAND APPLICATION AREAS. THE DEPARTMENT
20 SHALL ALSO CONSIDER ANY RECORD OF PRIOR DISCHARGES BY THE CAFO. THE
21 DEPARTMENT SHALL NOT MAKE A NO-POTENTIAL-TO-DISCHARGE DETERMINATION
22 IF THE CAFO HAS HAD A DISCHARGE WITHIN 5 YEARS BEFORE THE DATE OF
23 THE REQUEST. A NO-POTENTIAL-TO-DISCHARGE DETERMINATION ONLY RELATES
24 TO DISCHARGES OF PRODUCTION AREA WASTE AND PROCESS WASTEWATER
25 COVERED BY THIS PART.

26 (B) IN REQUESTING A NO-POTENTIAL-TO-DISCHARGE DETERMINATION,
27 THE CAFO OWNER OR OPERATOR SHALL SUBMIT ANY INFORMATION THAT WILL

1 SUPPORT THE DETERMINATION. THE INFORMATION SHALL INCLUDE A COPY OF
2 AN APPROVED CNMP, ALL OF THE INFORMATION SPECIFIED IN 40 CFR
3 122.21(F) AND (I) (1) (i) TO (ix), AND DOCUMENTATION SHOWING THAT THE
4 CAFO HAS BEEN VERIFIED UNDER THE LIVESTOCK SYSTEM OF THE MICHIGAN
5 AGRICULTURE ENVIRONMENTAL ASSURANCE PROGRAM, OR SUCCESSOR PROGRAM,
6 IF SUCH A PROGRAM IS AVAILABLE. THE DEPARTMENT MAY REQUIRE
7 ADDITIONAL INFORMATION TO SUPPLEMENT THE REQUEST AND MAY ALSO
8 GATHER ADDITIONAL INFORMATION THROUGH PHYSICAL INSPECTION OF THE
9 CAFO.

10 (C) BEFORE MAKING A NO-POTENTIAL-TO-DISCHARGE DETERMINATION,
11 THE DEPARTMENT SHALL ISSUE A NOTICE TO THE PUBLIC STATING THAT A
12 REQUEST FOR A NO-POTENTIAL-TO-DISCHARGE DETERMINATION HAS BEEN
13 RECEIVED. THE NOTICE SHALL INDICATE THAT COPIES OF THE APPROVED
14 CNMP ARE AVAILABLE FROM THE DEPARTMENT AND ADVISE HOW A PERSON CAN
15 OBTAIN OR REVIEW A COPY OF THE CNMP. THE NOTICE SHALL ALSO BE
16 ACCOMPANIED BY A FACT SHEET WHICH INCLUDES THE FOLLOWING, IF
17 APPLICABLE:

18 (i) A BRIEF DESCRIPTION OF THE TYPE OF FACILITY OR ACTIVITY
19 THAT IS THE SUBJECT OF THE REQUEST FOR THE NO-POTENTIAL-TO-
20 DISCHARGE DETERMINATION.

21 (ii) A BRIEF SUMMARY OF THE FACTUAL BASIS, SET FORTH IN THE
22 REQUEST, FOR GRANTING THE NO-POTENTIAL-TO-DISCHARGE DETERMINATION.

23 (iii) A DESCRIPTION OF THE PROCEDURES FOR REACHING A FINAL
24 DECISION ON THE NO-POTENTIAL-TO-DISCHARGE DETERMINATION.

25 (D) THE DEPARTMENT SHALL BASE THE DECISION TO MAKE OR DENY A
26 NO-POTENTIAL-TO-DISCHARGE DETERMINATION ON THE ADMINISTRATIVE
27 RECORD, WHICH INCLUDES ALL INFORMATION SUBMITTED IN SUPPORT OF OR

1 AGAINST A NO-POTENTIAL-TO-DISCHARGE DETERMINATION AND ANY OTHER
2 DATA GATHERED BY THE DEPARTMENT. THE DEPARTMENT SHALL NOTIFY A CAFO
3 OWNER OR OPERATOR SEEKING A NO-POTENTIAL-TO-DISCHARGE DETERMINATION
4 OF ITS FINAL DECISION WITHIN 180 DAYS OF RECEIVING THE REQUEST.

5 (E) THE OWNER OR OPERATOR SHALL REQUEST A NO-POTENTIAL-TO-
6 DISCHARGE DETERMINATION BY THE APPLICABLE PERMIT APPLICATION DATES.
7 IF THE DEPARTMENT'S FINAL DECISION IS TO DENY THE NO-POTENTIAL-TO-
8 DISCHARGE DETERMINATION, THEN THE OWNER OR OPERATOR SHALL SEEK
9 COVERAGE UNDER A PERMIT WITHIN 30 DAYS AFTER NOTICE OF THE DENIAL.

10 (3) THE NO-POTENTIAL-TO-DISCHARGE DETERMINATION DOES NOT
11 RELIEVE THE CAFO FROM THE CONSEQUENCES OF AN ACTUAL DISCHARGE. ANY
12 UNPERMITTED CAFO THAT DISCHARGES POLLUTANTS INTO THE WATERS OF THIS
13 STATE IS IN VIOLATION OF PART 31 AND RULES PROMULGATED UNDER PART
14 31 EVEN IF IT HAS RECEIVED A NO-POTENTIAL-TO-DISCHARGE
15 DETERMINATION FROM THE DEPARTMENT. IF A CAFO HAS RECEIVED A NO-
16 POTENTIAL-TO-DISCHARGE DETERMINATION, BUT THE OWNER OR OPERATOR
17 ANTICIPATES CHANGES IN CIRCUMSTANCES THAT COULD CREATE THE
18 POTENTIAL FOR A DISCHARGE, THE OWNER OR OPERATOR SHALL CONTACT THE
19 DEPARTMENT AND APPLY FOR AND OBTAIN NPDES PERMIT AUTHORIZATION
20 BEFORE THE CHANGE OF CIRCUMSTANCES. IF A CAFO THAT HAS RECEIVED A
21 NO-POTENTIAL-TO-DISCHARGE DETERMINATION HAS UNANTICIPATED CHANGES
22 IN CIRCUMSTANCES THAT CREATE THE POTENTIAL FOR A DISCHARGE, THEN
23 THE OWNER OR OPERATOR SHALL IMMEDIATELY NOTIFY THE DEPARTMENT AND
24 SUBMIT A COMPLETE APPLICATION FOR COVERAGE UNDER AN NPDES PERMIT
25 WITHIN 30 DAYS AFTER THE CHANGE IN CIRCUMSTANCES.

26 (4) IF THE DEPARTMENT HAS MADE A NO-POTENTIAL-TO-DISCHARGE
27 DETERMINATION, THE DEPARTMENT MAY SUBSEQUENTLY REQUIRE NPDES PERMIT

1 COVERAGE IF ANY OF THE FOLLOWING APPLY:

2 (A) CIRCUMSTANCES AT THE FACILITY CHANGE.

3 (B) NEW INFORMATION BECOMES AVAILABLE.

4 (C) THERE IS ANOTHER REASON FOR THE DEPARTMENT TO DETERMINE
5 THAT THE CAFO HAS A POTENTIAL TO DISCHARGE.

6 SEC. 8619. CAFO NPDES PERMITS SHALL INCLUDE ALL OF THE
7 FOLLOWING:

8 (A) AN APPROVED COMPREHENSIVE NUTRIENT MANAGEMENT PLAN AND A
9 REQUIREMENT TO MAINTAIN AND IMPLEMENT THE PLAN.

10 (B) A REQUIREMENT THAT THE OWNER OR OPERATOR OF THE CAFO
11 MAINTAIN A COPY OF THE CAFO'S CNMP AT THE CAFO AND MAKE IT
12 AVAILABLE TO THE DEPARTMENT ON REQUEST.

13 (C) A PROHIBITION ON DRY WEATHER DISCHARGES FROM THE CAFO
14 EXCEPT IN ACCORDANCE WITH 40 CFR 412.31(A)(2) OR 40 CFR 412.46(D).
15 STORM WATER DISCHARGES FROM LAND AREAS UNDER THE CONTROL OF A CAFO
16 ARE NOT PROHIBITED IF SUCH DISCHARGES ARE AUTHORIZED BY AN NPDES
17 PERMIT, PRODUCTION AREA WASTE OR PROCESS WASTEWATER HAS BEEN
18 APPLIED IN COMPLIANCE WITH FIELD-SPECIFIC NUTRIENT MANAGEMENT
19 PRACTICES DEVELOPED UNDER R 323.2196(5)(A) OF THE MICHIGAN
20 ADMINISTRATIVE CODE, AND SUCH DISCHARGES DO NOT CAUSE OR CONTRIBUTE
21 TO A VIOLATION OF WATER QUALITY STANDARDS.

22 (D) REQUIREMENTS FOR A MANIFEST SYSTEM, AS DESCRIBED IN
23 SECTION 8625, IF APPLICABLE.

24 (E) FOR A NEW OR EXPANDED CAFO, A PROHIBITION ON LAND
25 APPLICATION OF MANURE, PROCESS WASTEWATER, OR PRODUCTION AREA
26 WASTE.

27 (F) AN APPROVED AIR EMISSIONS PLAN AND A REQUIREMENT TO

1 MAINTAIN AND IMPLEMENT THE PLAN.

2 (G) A REQUIREMENT TO MAINTAIN FINANCIAL SECURITY UNDER SECTION
3 8633.

4 (H) A REQUIREMENT THAT THE CAFO OWNER OR OPERATOR SUBMIT
5 ANNUAL REPORTS TO THE DEPARTMENT. AN ANNUAL REPORT SHALL INCLUDE,
6 BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

7 (i) THE TYPE OF ANIMALS (BEEF CATTLE, BROILERS, LAYERS, SWINE
8 WEIGHING 55 POUNDS OR MORE, SWINE WEIGHING LESS THAN 55 POUNDS,
9 MATURE DAIRY COWS, DAIRY HEIFERS, VEAL CALVES, SHEEP AND LAMBS,
10 HORSES, DUCKS, AND TURKEYS) AND NUMBER OF ANIMALS, WHETHER IN OPEN
11 CONFINEMENT OR HOUSED UNDER ROOF, OF EACH TYPE.

12 (ii) THE ESTIMATED AMOUNT OF TOTAL PRODUCTION AREA WASTE AND
13 CAFO PROCESS WASTEWATER GENERATED BY THE CAFO IN THE PREVIOUS 12
14 MONTHS, EXPRESSED IN TONS OR GALLONS.

15 (iii) THE ESTIMATED AMOUNT OF TOTAL PRODUCTION AREA WASTE AND
16 CAFO PROCESS WASTEWATER TRANSFERRED TO ANOTHER PERSON BY THE CAFO
17 IN THE PREVIOUS 12 MONTHS, EXPRESSED IN TONS OR GALLONS.

18 (iv) THE TOTAL NUMBER OF ACRES FOR LAND APPLICATION COVERED BY
19 THE CNMP.

20 (v) THE TOTAL NUMBER OF ACRES UNDER CONTROL OF THE CAFO THAT
21 WERE USED FOR LAND APPLICATION OF PRODUCTION AREA WASTE AND PROCESS
22 WASTEWATER IN THE PREVIOUS 12 MONTHS.

23 (vi) A SUMMARY OF ALL PRODUCTION AREA WASTE AND PROCESS
24 WASTEWATER DISCHARGES FROM THE PRODUCTION AREA THAT HAVE OCCURRED
25 IN THE PREVIOUS 12 MONTHS, INCLUDING DATE, TIME, AND APPROXIMATE
26 VOLUME.

27 (vii) DOCUMENTATION ESTABLISHING THAT THE CURRENT VERSION OF

1 THE CAFO'S CNMP WAS DEVELOPED OR APPROVED BY A CERTIFIED CNMP
2 PROVIDER AS REQUIRED UNDER SECTION 8621.

3 SEC. 8621. (1) AN NPDES PERMIT FOR A CAFO SHALL INCLUDE A
4 COMPREHENSIVE NUTRIENT MANAGEMENT PLAN SUBMITTED BY THE APPLICANT
5 AND DEVELOPED OR APPROVED BY A CNMP PROVIDER AND THE DEPARTMENT. A
6 CNMP SHALL INCLUDE BEST MANAGEMENT PRACTICES AND PROCEDURES
7 NECESSARY TO IMPLEMENT APPLICABLE EFFLUENT LIMITATIONS AND
8 TECHNICAL STANDARDS ESTABLISHED BY THE DEPARTMENT, INCLUDING
9 PRACTICES AND PROCEDURES TO DO ALL OF THE FOLLOWING:

10 (A) ENSURE ADEQUATE STORAGE OF PRODUCTION AREA WASTE AND
11 PROCESS WASTEWATER, INCLUDING PROCEDURES TO ENSURE PROPER OPERATION
12 AND MAINTENANCE OF THE STORAGE FACILITIES.

13 (B) ENSURE PROPER MANAGEMENT OF MORTALITIES AND ENSURE THAT
14 THEY ARE NOT DISPOSED OF IN A LIQUID MANURE, STORM WATER, OR
15 PROCESS WASTEWATER STORAGE OR TREATMENT SYSTEM.

16 (C) ENSURE CLEAN WATER IS DIVERTED FROM THE PRODUCTION AREA.

17 (D) PREVENT DIRECT CONTACT OF CONFINED ANIMALS WITH WATERS OF
18 THE STATE.

19 (E) ENSURE CHEMICALS AND OTHER CONTAMINANTS HANDLED AT THE
20 CAFO THAT ARE NOT PART OF THE NORMAL AGRICULTURAL PRACTICE AT THE
21 PRODUCTION AREA ARE NOT DISPOSED OF IN ANY PRODUCTION AREA WASTE,
22 PROCESS WASTEWATER, OR STORM WATER STORAGE OR TREATMENT SYSTEM.

23 (F) IDENTIFY SPECIFIC CONSERVATION PRACTICES TO CONTROL RUNOFF
24 OF POLLUTANTS TO WATERS OF THE STATE.

25 (G) IDENTIFY PROTOCOLS FOR TESTING OF PRODUCTION AREA WASTE,
26 PROCESS WASTEWATER, AND SOIL.

27 (H) CONDUCT A FIELD-BY-FIELD ASSESSMENT OF LAND APPLICATION

1 AREAS AND ADDRESS THE FORM, SOURCE, AMOUNT, TIMING, RATE, AND
2 METHOD OF APPLICATION OF NUTRIENTS TO DEMONSTRATE THAT LAND
3 APPLICATION OF PRODUCTION AREA WASTE OR PROCESS WASTEWATER IS IN
4 ACCORDANCE WITH FIELD-SPECIFIC NUTRIENT MANAGEMENT PRACTICES THAT
5 ENSURE PROPER AGRICULTURAL UTILIZATION OF THE NUTRIENTS IN THE
6 PRODUCTION AREA WASTE OR PROCESS WASTEWATER. THE ASSESSMENT SHALL
7 TAKE INTO ACCOUNT FIELD-SPECIFIC CONDITIONS, INCLUDING LOCATIONS OF
8 TILE OUTLETS, TILE RISERS, AND TILE DEPTH, BEFORE LAND APPLICATION
9 TO DETERMINE SUITABILITY OF LAND APPLICATION AND TO PREVENT
10 DISCHARGE OF ANY POTENTIAL POLLUTING MATERIAL.

11 (I) ENSURE PROPER LAND APPLICATION BY COMPLYING WITH ALL OF
12 THE FOLLOWING CONDITIONS:

13 (i) PRODUCTION AREA WASTE AND PROCESS WASTEWATER SHALL NOT BE
14 LAND-APPLIED ON GROUND THAT IS FLOODED, SATURATED WITH WATER,
15 FROZEN, OR SNOW-COVERED IF THE PRODUCTION AREA WASTE AND PROCESS
16 WASTEWATER COULD ENTER WATERS OF THE STATE.

17 (ii) PRODUCTION AREA WASTE AND PROCESS WASTEWATER SHALL NOT BE
18 APPLIED TO FROZEN OR SNOW-COVERED GROUND UNLESS 1 OF THE FOLLOWING
19 REQUIREMENTS IS MET:

20 (A) IT IS SUBSURFACE INJECTED AND THERE IS SUBSTANTIAL SOIL
21 COVERAGE OF THE APPLIED PRODUCTION AREA WASTE.

22 (B) IT IS SURFACE-APPLIED AND INCORPORATED WITHIN 24 HOURS.

23 (C) IT IS SURFACE-APPLIED AND THERE IS A FIELD-BY-FIELD
24 DEMONSTRATION IN THE CNMP SHOWING THAT THE APPLICATION WILL NOT
25 CREATE THE POSSIBILITY OF PRODUCTION AREA WASTE AND PROCESS
26 WASTEWATER ENTERING WATERS OF THE STATE.

27 (iii) PRODUCTION AREA WASTE AND PROCESS WASTEWATER SHALL NOT BE

1 APPLIED WHEN PRECIPITATION EXCEEDING 1/2 INCH IS FORECAST WITHIN 24
2 HOURS OR IF PRECIPITATION IS FORECAST THAT COULD CAUSE THE
3 PRODUCTION AREA WASTE AND PROCESS WASTEWATER TO ENTER WATERS OF THE
4 STATE.

5 (iv) PRODUCTION AREA WASTE AND PROCESS WASTEWATER, IF NOT
6 SUBSURFACE-INJECTED, SHALL BE INCORPORATED INTO THE SOIL WITHIN 24
7 HOURS OF APPLICATION EXCEPT ON NO-TILL FIELDS OR AS PROVIDED IN
8 SUBPARAGRAPH (ii) (C).

9 (J) IDENTIFY SPECIFIC RECORDS, INCLUDING, BUT NOT LIMITED TO,
10 MANIFESTS UNDER SECTION 8625, THAT WILL BE MAINTAINED TO DOCUMENT
11 THE IMPLEMENTATION AND MANAGEMENT OF THE CNMP.

12 (2) UPON RECEIPT OF A PROPOSED NEW OR RENEWAL CNMP OR AN
13 AMENDMENT TO A CNMP, THE DEPARTMENT SHALL DO BOTH OF THE FOLLOWING:

14 (A) FORWARD THE PROPOSED CNMP OR AMENDMENT TO THE CITY,
15 VILLAGE, TOWNSHIP, AND COUNTY IN WHICH THE CAFO IS LOCATED.

16 (B) POST A SUMMARY OF THE PROPOSED CNMP OR AMENDMENT ON ITS
17 WEBSITE. THE SUMMARY FOR AN AMENDMENT TO OR RENEWAL OF A CNMP SHALL
18 CLEARLY INDICATE ANY CHANGES FROM THE EXISTING CNMP.

19 (C) MAKE COPIES OF THE PROPOSED CNMP AVAILABLE TO THE PUBLIC.

20 (3) UPON REQUEST OF ANY PERSON, THE DEPARTMENT SHALL HOLD A
21 PUBLIC HEARING AND TAKE TESTIMONY FROM THE PUBLIC ON THE CONTENT OF
22 A PROPOSED CNMP.

23 (4) INFORMATION REQUIRED TO BE MAINTAINED UNDER A CNMP SHALL
24 BE MADE AVAILABLE TO THE DEPARTMENT AND THE DEPARTMENT OF
25 AGRICULTURE UPON REQUEST.

26 Enacting section 1. This amendatory act does not take effect
27 unless all of the following bills of the 94th Legislature are

1 enacted into law:

2 (a) Senate Bill No. 614.

3

4 (b) Senate Bill No. 613.

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6 (c) Senate Bill No. 615.

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8 (d) Senate Bill No. 616.

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10 (e) Senate Bill No. 617.

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12 (f) Senate Bill No. 618.

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14 (g) Senate Bill No. 619.

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16 (h) Senate Bill No. 620.

17