

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4391

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8307a, 8308, 8310, 8310a, 8312, 8313, 8317, 8504, 8505, 8506, 8514, 8702, 8703, 8704, 8707, 8708, 8710, 8713a, 8715, 8716, and 8807 (MCL 324.8307a, 324.8308, 324.8310, 324.8310a, 324.8312, 324.8313, 324.8317, 324.8504, 324.8505, 324.8506, 324.8514, 324.8702, 324.8703, 324.8704, 324.8707, 324.8708, 324.8710, 324.8713a, 324.8715, 324.8716, and 324.8807), section 8307a as added and sections 8312 and 8313 as amended by 2002 PA 418, section 8310 as amended and section 8310a as added by 2008 PA 18, section 8317 as amended by 2012 PA 316, sections 8504 and 8505 as amended by 2014 PA 178, sections 8506 and 8514 as amended by 2006 PA 503, sections 8702, 8704, 8710, 8715, and 8716 as amended and section 8713a as added by 2011 PA 2, sections 8703, 8707, and

8708 as amended by 2013 PA 46, and section 8807 as amended by 2011 PA 1, and by adding sections 8506a and 8512h; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8307a. (1) Every pesticide distributed, sold, exposed, or
2 offered for sale in this state shall be registered with the
3 director pursuant to this part. The registration shall be submitted
4 on a form provided by the director and shall be renewed annually
5 before July 1. The director shall not register a pesticide under
6 this part unless the registrant has paid all ~~groundwater~~**WATER**
7 **QUALITY** protection fees and late fees required under part 87,
8 registration fees under this part, and any administrative fines
9 imposed under this part.

10 (2) A pesticide is considered distributed, sold, exposed, or
11 offered for sale in this state when the offer to sell either
12 originates within this state or is directed by the offeror to
13 persons in this state and received by those persons.

14 (3) If a registrant distributes identical pesticides under
15 more than 1 brand name, or distributes more than 1 pesticide
16 formulation, each brand or formulation shall be registered as a
17 separate product.

18 (4) A registrant shall not register a pesticide that contains
19 a substance that is required to be registered with the department
20 unless that substance is also registered with the department.

21 (5) A pesticide registration applicant shall submit to the
22 director a complete copy of the pesticide labeling and the
23 following, in a format prescribed by the director:

1 (a) The name and address of the applicant and the name and
2 address of the person whose name will appear on the label, if other
3 than the applicant.

4 (b) The full product name of the pesticide and the EPA
5 registration number.

6 (c) Other information considered necessary by the director.

7 (6) The applicant shall submit a complete formula of the
8 pesticide proposed for registration, including the active and inert
9 ingredients, when requested by the director and necessary for the
10 director to execute his or her duties under this part. The director
11 shall not use any information relative to formulas of products,
12 trade secrets, or other information obtained under this part for
13 his or her own advantage or reveal such information, other than to
14 his or her authorized representative, the EPA, the department of
15 environmental quality, the department of ~~community~~-health **AND HUMAN**
16 **SERVICES**, a court of the state in response to a subpoena, a
17 licensed physician, or in an emergency to a pharmacist or other
18 persons qualified to administer antidotes.

19 (7) **A REGISTRANT THAT OPERATES FROM A BUSINESS LOCATION**
20 **OUTSIDE THIS STATE SHALL DO EITHER OF THE FOLLOWING:**

21 (A) **CONTINUOUSLY MAINTAIN IN THIS STATE A REGISTERED OFFICE**
22 **AND A RESIDENT AGENT, WHICH AGENT MAY BE AN INDIVIDUAL RESIDENT IN**
23 **THIS STATE WHOSE BUSINESS OFFICE OR RESIDENCE IS IDENTICAL WITH THE**
24 **REGISTERED OFFICE, A DOMESTIC CORPORATION OR LIMITED LIABILITY**
25 **COMPANY, OR A FOREIGN CORPORATION OR LIMITED LIABILITY COMPANY**
26 **AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND HAVING A BUSINESS**
27 **OFFICE IDENTICAL WITH THE REGISTERED OFFICE. THE REGISTRANT SHALL**

1 FILE WITH THE DEPARTMENT THE NAME, ADDRESS, AND TELEPHONE NUMBER OF
2 THE RESIDENT AGENT AND SHALL MAINTAIN AND MAKE AVAILABLE RECORDS
3 REQUIRED BY THIS PART AND PART 87.

4 (B) MAINTAIN AND MAKE AVAILABLE TO THE DEPARTMENT RECORDS
5 REQUIRED BY THIS PART AND PART 87 AND PAY ALL COSTS INCURRED BY THE
6 DEPARTMENT IN AUDITING THE RECORDS IF THEY ARE HELD AT AN OUT-OF-
7 STATE LOCATION.

8 Sec. 8308. (1) The director may do all of the following:

9 (a) Issue an experimental permit to a person applying for that
10 permit if the director determines that the permit is necessary for
11 the applicant to accumulate information necessary to register a
12 pesticide.

13 (b) Prescribe terms, conditions, and the period of time the
14 pesticide may be used under the experimental permit, which shall be
15 under the supervision of the director.

16 (c) Revoke an experimental permit when its terms or conditions
17 are violated or its terms and conditions are inadequate to avoid
18 unreasonable adverse effects on the environment.

19 (2) THE DIRECTOR MAY CONDUCT AUDITS TO DETERMINE COMPLIANCE
20 WITH THIS PART. IN CONDUCTING AUDITS UNDER THIS PART, THE DIRECTOR
21 MAY CONTRACT FOR THE PERFORMANCE OF THE AUDIT.

22 Sec. 8310. (1) A person shall not engage in distributing,
23 selling, or offering for sale restricted use pesticides to the
24 ultimate user except as authorized under an annual license for each
25 place of business issued by the department pursuant to part 13.

26 (2) The applicant for a license under subsection (1) shall be
27 the person in charge of each business location. The applicant shall

1 demonstrate by written examination his or her knowledge of laws and
2 rules governing the use and sale of restricted use pesticides.

3 (3) A person licensed under subsection (1) ~~who~~**THAT** operates
4 from a business location outside this state shall ~~continuously~~
5 ~~maintain in this state both~~**DO EITHER** of the following:

6 ~~—— (a) A registered office.~~

7 ~~—— (b) A resident agent, which agent may be either an individual~~
8 ~~resident in this state whose business office or residence is~~
9 ~~identical with the registered office, a domestic corporation or~~
10 ~~limited liability company, or a foreign corporation or limited~~
11 ~~liability company authorized to transact business in this state and~~
12 ~~having a business office identical with the registered office. The~~
13 ~~person licensed under subsection (1) shall file with the department~~
14 ~~the name, address, and telephone number of the resident agent.~~

15 **(A) CONTINUOUSLY MAINTAIN IN THIS STATE A REGISTERED OFFICE**
16 **AND A RESIDENT AGENT, WHICH AGENT MAY BE AN INDIVIDUAL RESIDENT IN**
17 **THIS STATE WHOSE BUSINESS OFFICE OR RESIDENCE IS IDENTICAL WITH THE**
18 **REGISTERED OFFICE, A DOMESTIC CORPORATION OR LIMITED LIABILITY**
19 **COMPANY, OR A FOREIGN CORPORATION OR LIMITED LIABILITY COMPANY**
20 **AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND HAVING A BUSINESS**
21 **OFFICE IDENTICAL WITH THE REGISTERED OFFICE. THE PERSON LICENSED**
22 **UNDER SUBSECTION (1) SHALL FILE WITH THE DEPARTMENT THE NAME,**
23 **ADDRESS, AND TELEPHONE NUMBER OF THE RESIDENT AGENT AND SHALL**
24 **MAINTAIN AND MAKE AVAILABLE RECORDS REQUIRED BY THIS PART AND PART**
25 **87.**

26 **(B) MAINTAIN AND MAKE AVAILABLE TO THE DEPARTMENT RECORDS**
27 **REQUIRED BY THIS PART AND PART 87 AND PAY ALL COSTS INCURRED BY THE**

1 DEPARTMENT IN AUDITING THE RECORDS IF THEY ARE HELD AT AN OUT-OF-
2 STATE LOCATION.

3 (4) A restricted use pesticide dealer shall forward to the
4 director a record of all sales of restricted use pesticides on
5 forms provided by the director as required by rule. A restricted
6 use pesticide dealer shall keep copies of the records on file for 2
7 years. These records are subject to inspection by an authorized
8 agent of the director. The records shall, upon request, be supplied
9 in summary form to other state agencies. The summary shall include
10 the name and address of the restricted use pesticide dealer, the
11 name and address of the purchaser, the name of the pesticide sold,
12 and, in an emergency, the quantity sold. Information may not be
13 made available to the public if, in the discretion of the director,
14 release of that information could have a significant adverse effect
15 on the competitive position of the dealer, distributor, or
16 manufacturer.

17 (5) A restricted use pesticide dealer shall sell or distribute
18 restricted use pesticides for use only by applicators certified
19 under this part.

20 (6) The director may deny, suspend, or revoke a restricted use
21 pesticide dealer's license for any violation of this part or an
22 order issued under this part, or upon conviction under this part,
23 FIFRA, or a state pesticide law of a reciprocating state committed
24 by the dealer or the dealer's officer, agent, or employee. The
25 director shall inform an applicant who is denied a restricted use
26 pesticide dealer's license of the reasons why the license was
27 denied.

1 (7) A restricted use pesticide dealer shall maintain and
2 submit to the department records of all restricted use pesticide
3 sales to private applicators and the intended county of application
4 for those pesticides.

5 (8) Information collected in subsection (7) is confidential
6 business information and is not subject to the freedom of
7 information act, 1976 PA 442, MCL 15.231 to 15.246.

8 (9) A restricted use pesticide dealer ~~who~~**THAT** distributes an
9 agricultural pesticide into this state shall report to the
10 agricultural pesticide registrant all of the following information
11 concerning that distribution:

- 12 (a) The product name.
13 (b) The EPA registration number.
14 (c) The amount of pesticide sold or distributed.
15 (d) The wholesale value of pesticide sold or distributed.
16 (e) The date of sale or distribution.
17 (f) The sales or distribution invoice number.
18 (g) The name and address of the consignee.

19 Sec. 8310a. (1) A person ~~who~~**THAT** is not licensed under
20 section 8310 shall not engage in distributing, selling, or offering
21 for sale agricultural pesticides except as authorized under an
22 annual license for each place of business issued by the department
23 pursuant to part 13.

24 (2) The applicant for a license under subsection (1) shall be
25 the individual in charge of each business location.

26 (3) The application for a license under subsection (1) shall
27 be on a form provided by the director and shall contain information

1 regarding the applicant's proposed operations and other information
2 considered pertinent by the director.

3 (4) A person licensed under subsection (1) who operates from a
4 business location outside this state shall ~~continuously maintain in~~
5 ~~this state both~~ **DO EITHER** of the following:

6 ~~—— (a) A registered office.~~

7 ~~—— (b) A resident agent, which agent may be either an individual~~
8 ~~resident in this state whose business office or residence is~~
9 ~~identical with the registered office, a domestic corporation or~~
10 ~~limited liability company, or a foreign corporation or limited~~
11 ~~liability company authorized to transact business in this state and~~
12 ~~having a business office identical with the registered office. The~~
13 ~~person licensed under subsection (1) shall file with the department~~
14 ~~the name, address, and telephone number of the resident agent.~~

15 **(A) CONTINUOUSLY MAINTAIN IN THIS STATE A REGISTERED OFFICE**
16 **AND A RESIDENT AGENT, WHICH AGENT MAY BE AN INDIVIDUAL RESIDENT IN**
17 **THIS STATE WHOSE BUSINESS OFFICE OR RESIDENCE IS IDENTICAL WITH THE**
18 **REGISTERED OFFICE, A DOMESTIC CORPORATION OR LIMITED LIABILITY**
19 **COMPANY, OR A FOREIGN CORPORATION OR LIMITED LIABILITY COMPANY**
20 **AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND HAVING A BUSINESS**
21 **OFFICE IDENTICAL WITH THE REGISTERED OFFICE. THE PERSON LICENSED**
22 **UNDER SUBSECTION (1) SHALL FILE WITH THE DEPARTMENT THE NAME,**
23 **ADDRESS, AND TELEPHONE NUMBER OF THE RESIDENT AGENT AND SHALL**
24 **MAINTAIN AND MAKE AVAILABLE RECORDS REQUIRED BY THIS PART AND PART**
25 **87.**

26 **(B) MAINTAIN AND MAKE AVAILABLE TO THE DEPARTMENT RECORDS**
27 **REQUIRED BY THIS PART AND PART 87 AND PAY ALL COSTS INCURRED BY THE**

1 DEPARTMENT IN AUDITING THE RECORDS IF THEY ARE HELD AT AN OUT-OF-
2 STATE LOCATION.

3 (5) An agricultural pesticide dealer who distributes an
4 agricultural pesticide into this state shall report to the
5 agricultural pesticide registrant all of the following information
6 concerning that distribution:

7 (a) The product name.

8 (b) The EPA registration number.

9 (c) The amount of pesticide sold or distributed.

10 (d) The wholesale value of pesticide sold or distributed.

11 (e) The date of sale or distribution.

12 (f) The sales or distribution invoice number.

13 (g) The name and address of the consignee.

14 (6) The director may deny, suspend, or revoke an agricultural
15 pesticide dealer's license for any violation of this part or an
16 order issued under this part, or upon conviction under this part,
17 FIFRA, or a state pesticide law of a reciprocating state committed
18 by the dealer or the dealer's officer, agent, or employee. The
19 director shall inform an applicant who is denied an agricultural
20 pesticide dealer's license of the reasons why the license was
21 denied.

22 (7) A pesticide registrant who distributes agricultural
23 pesticides into ~~the~~**THIS** state is exempt from ~~the requirements of~~
24 subsection (1).

25 Sec. 8312. (1) To become a certified applicator, an applicant
26 must satisfactorily complete the certification requirements
27 prescribed by the director and categorized according to the various

1 types of pesticide applications prescribed by rule and consistent
2 with the regulations of the EPA.

3 (2) The application for a certified applicator certificate
4 shall contain information considered to be pertinent by the
5 director.

6 (3) A certified applicator applicant shall pay the appropriate
7 fee as provided in section 8317.

8 (4) The director shall issue a certificate to applicants that
9 successfully comply with all certification requirements under this
10 part.

11 (5) The director may restrict an applicant to use only a
12 certain type of equipment or pesticide upon finding that the
13 applicant is only qualified to use that type of equipment or
14 pesticide.

15 (6) The director may refuse to issue or renew a certificate if
16 an applicant demonstrates an insufficient knowledge of any item
17 called for in the application or has unsatisfied judgments under
18 this part or rules promulgated under this part against him or her
19 or if the equipment to be used by the applicant is unsafe or
20 inadequate to properly apply pesticides.

21 (7) The director may at any time deny, revoke, or suspend a
22 private agricultural applicator certificate or a commercial
23 applicator certificate for a violation of this part or upon
24 conviction under section 14 of FIFRA, 7 U.S.C.—**USC** 136l, or upon
25 conviction under a state pesticide law of a reciprocating state in
26 accordance with section 8320.

27 (8) The director shall inform an applicant who is denied an

1 applicator certificate **OF** the reasons why the certificate was
2 denied.

3 (9) A person shall display his or her certificate upon the
4 request of the director.

5 Sec. 8313. (1) Commercial applicators ~~who~~**THAT** hold themselves
6 out to the public as being in the business of applying pesticides
7 shall obtain a commercial applicator license for each place of
8 business.

9 (2) A commercial applicator shall be certified under section
10 8312 and shall have at least 1 of the following ~~in order~~ to qualify
11 for a license:

12 (a) Service for not less than 2 application seasons as an
13 employee of a commercial applicator or comparable education and
14 experience as determined by the director.

15 (b) A baccalaureate degree from a recognized college or
16 university in a discipline that provides education regarding pests
17 and the control of pests and 1 application season of service as an
18 employee of a commercial applicator.

19 (3) The commercial applicator license application shall be on
20 a form provided by the director and shall contain information
21 regarding the applicant's qualifications and proposed operations,
22 the type of equipment to be used by the applicant, and other
23 information considered pertinent by the director.

24 (4) An application for a commercial applicator license shall
25 be accompanied by the appropriate fee as provided in section 8317.

26 (5) An application for a commercial applicator license shall
27 be accompanied by proof of sufficient financial responsibility as

1 prescribed by rule.

2 (6) The director may restrict an applicant to use only a
3 certain type of equipment or pesticide upon finding that the
4 applicant is qualified to use only that type.

5 (7) The director may refuse to issue or renew a commercial
6 applicator license if the applicant demonstrates insufficient
7 knowledge of an item in the application, or has unsatisfied
8 judgments under this part or a rule promulgated under this part
9 against him or her, or if the equipment used by the applicant is
10 unsafe or inadequate for pesticide applications.

11 (8) The director may at any time deny, revoke, or suspend a
12 commercial applicator license for a violation of this part or a
13 violation of an order issued under this part, or upon conviction
14 under this part, FIFRA, or a state pesticide law of a reciprocating
15 state in accordance with section 8320.

16 (9) The director shall inform an applicant ~~who~~**THAT** is denied
17 a commercial applicator license **OF** the reasons why the license was
18 denied.

19 (10) A person subject to the licensing requirements in this
20 section shall only apply pesticides that are registered with **THE**
21 **UNITED STATES EPA**, or subject to ~~—~~either **THE** United States **EPA**
22 **EPA'S** or this state's laws and rules.

23 (11) A person subject to the licensing requirements in this
24 section shall not represent that a pesticide application has
25 characteristics, ingredients, uses, benefits, or qualities that it
26 does not have.

27 (12) A person subject to the licensing requirements in this

1 section shall not represent that a pesticide application is
2 necessary to control a pest ~~when~~ IF the pest is not present or
3 likely to occur.

4 (13) A COMMERCIAL APPLICATOR THAT OPERATES FROM A BUSINESS
5 LOCATION OUTSIDE THIS STATE SHALL DO EITHER OF THE FOLLOWING:

6 (A) CONTINUOUSLY MAINTAIN IN THIS STATE A REGISTERED OFFICE
7 AND A RESIDENT AGENT, WHICH AGENT MAY BE AN INDIVIDUAL RESIDENT IN
8 THIS STATE WHOSE BUSINESS OFFICE OR RESIDENCE IS IDENTICAL WITH THE
9 REGISTERED OFFICE, A DOMESTIC CORPORATION OR LIMITED LIABILITY
10 COMPANY, OR A FOREIGN CORPORATION OR LIMITED LIABILITY COMPANY
11 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND HAVING A BUSINESS
12 OFFICE IDENTICAL WITH THE REGISTERED OFFICE. THE COMMERCIAL
13 APPLICATOR SHALL FILE WITH THE DEPARTMENT THE NAME, ADDRESS, AND
14 TELEPHONE NUMBER OF THE RESIDENT AGENT AND SHALL MAINTAIN AND MAKE
15 AVAILABLE RECORDS REQUIRED BY THIS PART AND PART 87.

16 (B) MAINTAIN AND MAKE AVAILABLE TO THE DEPARTMENT RECORDS
17 REQUIRED BY THIS PART AND PART 87 AND PAY ALL COSTS INCURRED BY THE
18 DEPARTMENT IN AUDITING THE RECORDS IF THEY ARE HELD AT AN OUT-OF-
19 STATE LOCATION.

20 Sec. 8317. (1) An application submitted under this part shall
21 be accompanied by the following application fee:

22 (a) For a commercial applicator certification, \$75.00.

23 (b) For a private agricultural applicator certification,
24 \$50.00. ~~until September 30, 2015 and \$10.00 after September 30,~~
25 ~~2015.~~

26 (c) For a commercial registered applicator, \$45.00.

27 (d) For a private registered applicator, \$50.00. ~~until~~

1 ~~September 30, 2015 and \$10.00 after September 30, 2015.~~

2 (2) Certificates for commercial applicators, private
3 agricultural applicators, and registered applicators ~~shall be~~ **ARE**
4 valid for a period of ~~time of~~ not less than 3 years to be
5 established by rule by the director.

6 (3) The license application fee for a commercial applicator
7 license is \$100.00. The license expires annually on December 31.

8 (4) The registration application fee for the registration of
9 pesticides sold, offered for sale, exposed for sale, or distributed
10 is ~~\$40.00~~ **\$100.00** per product. **HOWEVER, IF THE PESTICIDE**
11 **REGISTRATION FEE IS RECEIVED BY THE DEPARTMENT AFTER JUNE 30, THE**
12 **REGISTRANT SHALL PAY AN ADDITIONAL LATE FEE OF \$100.00 FOR EACH**
13 **PESTICIDE.**

14 (5) The license application fee for a restricted use pesticide
15 dealer's license is \$100.00. The license expires annually on
16 December 31.

17 (6) The license application fee for an agricultural pesticide
18 dealer's license is \$100.00. The license expires annually on
19 December 31.

20 (7) Application fees submitted under this section are not
21 refundable.

22 (8) Notwithstanding any other provision of subsection (1)(b)
23 and (d), the department shall waive any fee otherwise required
24 under subsection (1)(b) and (d) if the individual responsible for
25 paying the fee is, and provides proof satisfactory to the
26 department that he or she is, an honorably discharged veteran of
27 the armed forces of the United States.

1 (9) The department shall deposit **APPLICATION**, license,
2 **REGISTRATION**, and administrative fees and administrative, civil,
3 and noncriminal fines received, as well as any payment for costs or
4 reimbursement to the department for investigation, under this part
5 in the agriculture licensing and inspection fees fund created in
6 section 9 of the insect pest and plant disease act, 1931 PA 189,
7 MCL 286.209, to be used, pursuant to appropriation, by the director
8 in administering and carrying out those duties required by law
9 under this part.

10 Sec. 8504. (1) A person shall not manufacture or distribute
11 fertilizer in this state, except specialty fertilizer and soil
12 conditioners, until the appropriate ~~groundwater~~**WATER QUALITY**
13 protection fee provided in section 8715 has been submitted, and
14 except as authorized by a license to manufacture or distribute
15 issued by the department pursuant to part 13. An application for a
16 license shall be accompanied by a fee of \$100.00 for each of the
17 following:

18 (a) Each fixed location at which fertilizer is manufactured in
19 this state.

20 (b) Each mobile unit used to manufacture fertilizer in this
21 state.

22 (c) Each location out of this state that applies labeling
23 showing an out-of-state origin of fertilizer distributed in this
24 state to nonlicensees.

25 (2) An application for a license to manufacture or distribute
26 fertilizer shall include all of the following:

27 (a) The name and address of the applicant.

1 (b) The name and address of each bulk distribution point in
2 ~~the~~ **THIS** state not licensed for fertilizer manufacture or
3 distribution. The name and address shown on the license shall be
4 shown on all labels, pertinent invoices, and bulk storage for
5 fertilizers distributed by the licensee in this state.

6 (3) If the fertilizer is a beneficial use by-product intended
7 for beneficial use 3 under part 115, the application shall also
8 include the information identified in section 11551(7).

9 (4) The licensee shall inform the director in writing of
10 additional distribution points established during the period of the
11 license.

12 (5) A distributor is not required to obtain a license if the
13 distributor is selling fertilizer of a distributor or a
14 manufacturer licensed under this part.

15 (6) All licenses to manufacture or distribute fertilizer
16 expire on December 31 of each year.

17 **(7) A PERSON LICENSED UNDER THIS SECTION THAT OPERATES FROM A**
18 **BUSINESS LOCATION OUTSIDE THIS STATE SHALL DO EITHER OF THE**
19 **FOLLOWING:**

20 **(A) CONTINUOUSLY MAINTAIN IN THIS STATE A REGISTERED OFFICE**
21 **AND A RESIDENT AGENT, WHICH AGENT MAY BE AN INDIVIDUAL RESIDENT IN**
22 **THIS STATE WHOSE BUSINESS OFFICE OR RESIDENCE IS IDENTICAL WITH THE**
23 **REGISTERED OFFICE, A DOMESTIC CORPORATION OR LIMITED LIABILITY**
24 **COMPANY, OR A FOREIGN CORPORATION OR LIMITED LIABILITY COMPANY**
25 **AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND HAVING A BUSINESS**
26 **OFFICE IDENTICAL WITH THE REGISTERED OFFICE. THE PERSON LICENSED**
27 **UNDER THIS SECTION SHALL FILE WITH THE DEPARTMENT THE NAME,**

1 ADDRESS, AND TELEPHONE NUMBER OF THE RESIDENT AGENT AND SHALL
2 MAINTAIN AND MAKE AVAILABLE RECORDS REQUIRED BY THIS PART AND PART
3 87.

4 (B) MAINTAIN AND MAKE AVAILABLE TO THE DEPARTMENT RECORDS
5 REQUIRED BY THIS PART AND PART 87 AND PAY ALL COSTS INCURRED IN
6 AUDITING THE RECORDS IF THEY ARE HELD AT AN OUT-OF-STATE LOCATION.

7 Sec. 8505. (1) A person shall not distribute a specialty
8 fertilizer or soil conditioner unless it is registered with the
9 department. An application for registration listing each brand and
10 product name of each grade of specialty fertilizer or soil
11 conditioner shall be made on a form furnished by the director. An
12 application shall be accompanied with the fees described in
13 subsection (4) for each brand and product name of each grade.
14 Labels for each brand and product name of each grade shall
15 accompany the application.

16 (2) If the specialty fertilizer or soil conditioner is a
17 beneficial use by-product intended for beneficial use 3 under part
18 115, the application shall also include the information identified
19 in section 11551(7).

20 (3) Upon approval of an application by the director, a copy of
21 the registration approval shall be furnished to the applicant. All
22 registrations expire on December 31 of each year.

23 (4) A person applying for a registration under subsection (1)
24 shall pay the following annual fees for each brand and product name
25 of each grade:

26 (a) Registration fee of \$25.00.

27 (b) Appropriate ~~groundwater~~ **WATER QUALITY** protection fee

1 provided for in section 8715.

2 (5) A distributor is not required to register a brand of
3 fertilizer that is registered under this part by another person, if
4 the label does not differ in any respect.

5 (6) A manufacturer or distributor of custom blend specialty
6 fertilizers for home lawns, golf courses, recreational areas, or
7 other nonfarm areas is not required to register each grade
8 distributed but shall license their firm on an application
9 furnished by the director for an annual fee of \$100.00 and shall
10 label the fertilizer as provided in section 8502. The label of each
11 fertilizer distributed under this subsection shall be maintained by
12 the manufacturer or distributor for 1 year for inspection by the
13 director.

14 (7) A manufacturer or distributor of soil conditioners blended
15 according to specifications provided to a blender or blended as
16 specifically requested by the consumer prior to blending shall
17 either register each brand or blend distributed or license its firm
18 on an application furnished by the director for an annual fee of
19 \$100.00 and shall label the soil conditioner as provided in section
20 8502. The label of each soil conditioner distributed under this
21 subsection shall be maintained by the manufacturer or distributor
22 for 1 year for inspection by the director.

23 **(8) A REGISTRANT THAT OPERATES FROM A BUSINESS LOCATION**
24 **OUTSIDE THIS STATE SHALL DO EITHER OF THE FOLLOWING:**

25 **(A) CONTINUOUSLY MAINTAIN IN THIS STATE A REGISTERED OFFICE**
26 **AND A RESIDENT AGENT, WHICH AGENT MAY BE AN INDIVIDUAL RESIDENT IN**
27 **THIS STATE WHOSE BUSINESS OFFICE OR RESIDENCE IS IDENTICAL WITH THE**

1 REGISTERED OFFICE, A DOMESTIC CORPORATION OR LIMITED LIABILITY
2 COMPANY, OR A FOREIGN CORPORATION OR LIMITED LIABILITY COMPANY
3 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND HAVING A BUSINESS
4 OFFICE IDENTICAL WITH THE REGISTERED OFFICE. THE REGISTRANT SHALL
5 FILE WITH THE DEPARTMENT THE NAME, ADDRESS, AND TELEPHONE NUMBER OF
6 THE RESIDENT AGENT AND SHALL MAINTAIN AND MAKE AVAILABLE RECORDS
7 REQUIRED BY THIS PART AND PART 87.

8 (B) MAINTAIN AND MAKE AVAILABLE TO THE DEPARTMENT RECORDS
9 REQUIRED BY THIS PART AND PART 87 AND PAY ALL COSTS INCURRED BY THE
10 DEPARTMENT IN AUDITING THE RECORDS IF THEY ARE HELD AT AN OUT-OF-
11 STATE LOCATION.

12 Sec. 8506. (1) An inspection fee of ~~10~~35 cents per ton shall
13 be paid to the department for all fertilizers or soil conditioners
14 sold or distributed in this state. For peat or peat moss, the
15 inspection fee shall be 2 cents per cubic yard. This fee ~~shall~~DOES
16 not apply to registered specialty fertilizers or soil conditioners
17 sold or distributed only in packages of 10 pounds or less.

18 (2) Payment of the inspection fee shall be made on the basis
19 of tonnage reports setting forth the number of tons of each grade
20 of fertilizer and soil conditioner and the number of cubic yards of
21 peat or peat moss sold or distributed in this state. The reports
22 shall cover the periods of the year and be made in a manner
23 specified by the director in rules, and shall be filed with the
24 department not later than 30 days after the close of each period.
25 The time may be extended for cause for an additional 15 days only
26 on written request to, and approval by, the department. Remittance
27 to cover the inspection fee shall accompany each tonnage report.

1 Payments due of less than \$5.00 are waived, and refunds of less
2 than \$5.00 will not be processed, unless requested in writing. For
3 any report not filed with the department by the due date, a penalty
4 of \$50.00 or 10% of the amount due, whichever is greater, shall be
5 assessed. Unpaid fees and penalties constitute a debt and become
6 the basis of a judgment against the licensee. Records upon which
7 the statement of tonnage is based, **INCLUDING THOSE DESCRIBED IN**
8 **THIS SECTION AND SECTION 8715**, are subject to department audit.

9 (3) When more than 1 person is involved in the distribution of
10 fertilizer or soil conditioners, the last person who is licensed or
11 has the fertilizer or soil conditioner registered and who
12 distributes to a nonlicensee or nonregistrant is responsible for
13 reporting the tonnage and paying the inspection fee.

14 (4) **MONEY COLLECTED BY THE DEPARTMENT UNDER THIS SECTION SHALL**
15 **BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.**

16 **SEC. 8506A. THE DIRECTOR MAY CONDUCT AUDITS TO DETERMINE**
17 **COMPLIANCE WITH THIS PART. IN CONDUCTING AUDITS UNDER THIS PART,**
18 **THE DIRECTOR MAY CONTRACT FOR THE PERFORMANCE OF THE AUDIT.**

19 **SEC. 8512H. (1) THE FERTILIZER ADVISORY COMMITTEE IS CREATED**
20 **WITHIN THE DEPARTMENT. THE COMMITTEE SHALL BE COMPOSED OF THE**
21 **FOLLOWING MEMBERS:**

22 (A) **THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE AND RURAL**
23 **DEVELOPMENT.**

24 (B) **TWO MEMBERS REPRESENTING THE FERTILIZER INDUSTRY.**

25 (C) **ONE MEMBER REPRESENTING THE SPECIALTY FERTILIZER INDUSTRY.**

26 (D) **FOUR MEMBERS REPRESENTING FARMERS AND OTHER AGRICULTURAL**
27 **ORGANIZATIONS.**

1 (E) ONE MEMBER FROM THE UNITED STATES DEPARTMENT OF
2 AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE.

3 (F) ONE MEMBER WHO IS A CERTIFIED CROP ADVISOR.

4 (G) ONE MEMBER REPRESENTING CONSERVATION DISTRICTS.

5 (H) THE DIRECTOR OF MICHIGAN STATE UNIVERSITY AGBIORESEARCH.

6 (I) ONE MEMBER REPRESENTING THE LARGEST STATEWIDE LAND
7 CONSERVANCY IN THIS STATE.

8 (2) THE MEMBERS OF THE COMMITTEE MAY DESIGNATE AN AUTHORIZED
9 REPRESENTATIVE OR SUBSTITUTE TO REPRESENT THEM ON THE COMMITTEE. OF
10 THE MEMBERS FIRST APPOINTED BY THE DIRECTOR, 4 SHALL SERVE FOR 1
11 YEAR, 4 FOR 2 YEARS, AND 4 FOR 3 YEARS. THEREAFTER, AN APPOINTMENT
12 SHALL BE FOR 3 YEARS. THE DIRECTOR SHALL REMOVE ANY MEMBER WHO IS
13 ABSENT, EITHER PERSONALLY OR THROUGH A DESIGNATED REPRESENTATIVE OR
14 SUBSTITUTE, FOR 4 OR MORE CONSECUTIVE MEETINGS. VACANCIES SHALL BE
15 FILLED FOR THE BALANCE OF AN UNEXPIRED TERM. THE COMMITTEE SHALL
16 MEET ON THE CALL OF THE DIRECTOR, WHO SHALL SERVE AS CHAIRPERSON.
17 THE DIRECTOR SHALL CALL A MEETING OF THE COMMITTEE UPON REQUEST OF
18 2 OR MORE MEMBERS. A MAJORITY OF THE MEMBERS OF THE COMMITTEE
19 CONSTITUTE A QUORUM.

20 (3) THE COMMITTEE SHALL ADVISE THE DIRECTOR ON THE RESEARCH
21 FUNDED UNDER SECTION 8514(4)(C).

22 (4) ALL MEETINGS OF THE COMMITTEE SHALL BE CONDUCTED PURSUANT
23 TO THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

24 (5) AS USED IN THIS SECTION, "COMMITTEE" MEANS THE FERTILIZER
25 ADVISORY COMMITTEE CREATED IN SUBSECTION (1).

26 Sec. 8514. (1) The fertilizer control fund is created within
27 the state treasury.

1 (2) The state treasurer shall receive for deposit in the fund
2 all fees, administrative or civil fines, and payments for the costs
3 of investigations incurred by the department collected under this
4 part. In addition, the state treasurer may receive money or other
5 assets from any source for deposit into the fund. The state
6 treasurer shall direct the investment of the fund. The state
7 treasurer shall credit to the fund interest and earnings from fund
8 investments.

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

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

13 (a) The administration and enforcement of this part.

14 (b) The development of training programs to ensure the proper
15 use and storage of fertilizer.

16 **(C) FOR RESEARCH NECESSARY TO ENSURE THE ADOPTION AND**
17 **IMPLEMENTATION OF PRACTICES THAT OPTIMIZE NUTRIENT USE EFFICIENCY,**
18 **ENSURE SOIL FERTILITY, AND ADDRESS ENVIRONMENTAL CONCERNS WITH**
19 **REGARD TO FERTILIZER USE. UNTIL DECEMBER 31, 2019, NOT LESS THAN**
20 **40% OF THE INSPECTION FEES COLLECTED WITH SECTION 8506(1) SHALL BE**
21 **USED FOR PURPOSES OF THIS SUBDIVISION.**

22 **(5) THE DEPARTMENT SHALL NOT PROVIDE GRANTS WITH MONEY FROM**
23 **THE FUND TO LOCAL GOVERNMENT AGENCIES, INSTITUTIONS OF HIGHER**
24 **EDUCATION, OR NONPROFIT ORGANIZATIONS UNLESS THE DEPARTMENT**
25 **PROVIDES NOTICE OF THE GRANT TO THE SENATE AND HOUSE APPROPRIATIONS**
26 **SUBCOMMITTEES AND THE SENATE AND HOUSE FISCAL AGENCIES AT LEAST 10**
27 **DAYS BEFORE THE GRANT IS ISSUED.**

1 Sec. 8702. (1) "Activity plan" means a plan for a specific
2 location that identifies all environmental risks and includes a
3 time frame for implementation of conservation practices to address
4 the environmental risks.

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

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

8 (b) For fertilizers, the application of fertilizer
9 contaminated materials at rates not to exceed those recommended by
10 the Michigan ~~state university extension~~, **STATE UNIVERSITY**
11 **EXTENSION**, taking all available sources of nutrients into account.

12 (3) "Analyte" or "analytes" means the material or materials
13 that an analysis is designed to detect either qualitatively or
14 quantitatively.

15 (4) "Conservation plan" means that term as it is defined in
16 part 82.

17 (5) "Conservation practices" means that term as it is defined
18 in part 82.

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

25 (7) "Contaminant" means any pesticide or fertilizer originated
26 chemical, radionuclide, ion, synthetic organic compound,
27 microorganism, or other waste that does not occur naturally or that

1 naturally occurs at a lower concentration than detected.

2 (8) "Contamination" means the direct or indirect introduction
3 into the environment of any contaminant caused in whole or in part
4 by human activity.

5 (9) **"COUNCIL" MEANS THE ENVIRONMENTAL ASSURANCE ADVISORY**
6 **COUNCIL CREATED IN SECTION 8708.**

7 (10) ~~(9)~~"Demonstration project" means a project designed to
8 illustrate the implementation and impact of alternate conservation
9 practices.

10 (11) ~~(10)~~"Department" means the department of agriculture and
11 rural development.

12 (12) ~~(11)~~"Director" means the director of the department or
13 his or her designee.

14 Sec. 8703. (1) "Envelope monitoring" means monitoring of
15 groundwater in areas adjacent to properties where groundwater is
16 contaminated to determine the concentration and spatial
17 distribution of the contaminant in the aquifer.

18 ~~—— (2) "Environmental assurance advisory council" means the~~
19 ~~environmental assurance advisory council established under section~~
20 ~~8708.~~

21 (2) ~~(3)~~"Farm" means that term as it is defined in section 2
22 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

23 (3) ~~(4)~~"Farmer" means a person who owns or operates a farm.

24 (4) ~~(5)~~"Fertilizer" means a fertilizer as defined in part 85.

25 (5) ~~(6)~~"Fund" means the freshwater protection fund created in
26 section 8716.

27 (6) ~~(7)~~"General screening" means monitoring of groundwater

1 for the purpose of determining the presence and concentration of
2 analytes.

3 (7) ~~(8)~~—"Groundwater" means underground water within the zone
4 of saturation.

5 (8) ~~(9)~~—"MAEAP" or "Michigan agriculture environmental
6 assurance program" means the Michigan agriculture environmental
7 assurance program provided for in section 8710.

8 (9) ~~(10)~~—"MAEAP standards" means all of the following as
9 adopted by the commission of agriculture and rural development for
10 the purpose of implementing the Michigan agriculture environmental
11 assurance program:

12 (a) Conservation practices.

13 (b) Site-specific nutrient management plan requirements.

14 (c) Emergency protocols.

15 (d) Completed environmental risk and benefit assessments.

16 (e) ~~United States department of agriculture natural resources~~
17 ~~conservation service~~ **DEPARTMENT OF AGRICULTURE NATURAL RESOURCES**
18 **CONSERVATION SERVICE** practice standards.

19 (f) Generally accepted agricultural and management practices
20 developed under the right to farm act, 1981 PA 93, MCL 286.471 to
21 286.474.

22 (g) Other standards considered appropriate by the director.

23 (10) ~~(11)~~—"MAEAP-verified farm" means a farm determined by the
24 department as meeting applicable MAEAP standards through an on-site
25 evaluation.

26 (11) ~~(12)~~—"Maximum contaminant level" means that term as it is
27 defined in title XIV of the public health service act, chapter 373,

1 88 Stat. 1660, and regulations promulgated under that act.

2 (12) ~~(13)~~—"Method detection limit" means the minimum
3 concentration of a substance that can be measured and reported with
4 99% confidence that the analyte concentration is greater than 0 and
5 is determined from analysis of a sample in a given matrix that
6 contains the analyte.

7 (13) ~~(14)~~—"Monitoring" means sampling and analysis to
8 determine the levels of pesticides or their breakdown products;
9 fertilizers or their residues; or other analytes as determined by
10 the director.

11 Sec. 8704. ~~(1) "Nitrogen fertilizer" means a fertilizer that~~
12 ~~contains nitrogen as a component.~~

13 (1) ~~(2)~~—"On-site evaluation" means a specific set of criteria
14 used to voluntarily evaluate a farmer's property with regard to
15 determination of potential environmental risks.

16 (2) ~~(3)~~—"Pesticide" means that term as it is defined in part
17 83.

18 Sec. 8707. (1) The director, in conjunction with Michigan
19 ~~state university extension~~ **STATE UNIVERSITY EXTENSION** and the
20 ~~Michigan state university agricultural experiment station,~~ **MICHIGAN**
21 **STATE UNIVERSITY AGBIORESEARCH**, and in cooperation with the United
22 States ~~department of agriculture natural resources conservation~~
23 ~~service,~~ **DEPARTMENT OF AGRICULTURE NATURAL RESOURCES CONSERVATION**
24 **SERVICE**, the department of environmental quality, and other
25 professional and industry organizations, shall develop conservation
26 practices for approval by the commission of agriculture and rural
27 development and upon approval shall promote their implementation.

1 (2) The director, in conjunction with Michigan ~~state~~
2 ~~university, STATE UNIVERSITY,~~ the department of environmental
3 quality, and other persons the director considers appropriate,
4 shall develop protocols for voluntary on-site evaluations. The on-
5 site evaluations shall be designed to do all of the following:

6 (a) Provide farmers with the ability to voluntarily determine
7 the relative risk of current practices in relation to sources of
8 contamination.

9 (b) Provide farmers with the ability to determine the degree
10 to which farm operations are in accord with MAEAP standards and
11 applicable law.

12 (c) Prioritize operational changes on farms to protect
13 groundwater and surface waters from sources of contamination.

14 (d) Guide farmers to appropriate technical and educational
15 materials.

16 (e) Provide farmers with the opportunity for verification.

17 (f) Provide landowners with the ability to voluntarily assess
18 the value of managing areas of the land that are not utilized for
19 traditional or production agriculture practices for environmental,
20 ecological, and economic benefits.

21 (3) The director, in conjunction with the ~~environmental~~
22 ~~assurance advisory council,~~ shall review and evaluate the
23 effectiveness of conservation practices approved under subsection
24 (1).

25 Sec. 8708. (1) The director shall establish an environmental
26 assurance advisory council composed of all of the following:

27 (a) The director of the department of agriculture and rural

1 development.

2 (b) The director of the department of environmental quality.

3 (c) The director of the Michigan ~~state university~~

4 ~~extension~~. **STATE UNIVERSITY EXTENSION.**

5 (d) The director of the Michigan ~~state university agricultural~~

6 ~~experimentation station~~. **STATE UNIVERSITY AGBIORESEARCH.**

7 (e) Representatives of all of the following as appointed by

8 the director to serve terms of 3 years:

9 (i) The United States ~~department of agriculture farm service~~

10 ~~agency~~. **DEPARTMENT OF AGRICULTURE - FARM SERVICE AGENCY.**

11 (ii) The United States ~~department of agriculture natural~~

12 ~~resources conservation service~~. **DEPARTMENT OF AGRICULTURE NATURAL**

13 **RESOURCES CONSERVATION SERVICE.**

14 (iii) Conservation districts.

15 (iv) Farmers and other agricultural organizations.

16 (v) Nongovernmental conservation and environmental
17 organizations.

18 (vi) Regulated agricultural industries.

19 (vii) A private consulting forester.

20 (viii) A member of the forest products industry.

21 (ix) A member of the logging profession.

22 (x) Other persons as determined by the director.

23 (xi) A member representing each regional environmental
24 assurance team established under section 8709.

25 (2) The ~~environmental assurance advisory council~~ shall be co-
26 chaired by the representative from Michigan ~~state university~~

27 ~~extension~~. **STATE UNIVERSITY EXTENSION** and a representative from 1 of

1 the farmers and other agricultural organizations.

2 (3) The ~~environmental assurance advisory council~~ shall advise
3 the director on **TOPICS INCLUDING**, but not limited to, the
4 following:

5 (a) MAEAP standards.

6 (b) On-site evaluations for verification of specific aspects
7 of a farming operation.

8 (c) Water quality and environmental monitoring.

9 (d) Protocols for verification and revocation of verification.

10 (e) MAEAP activities.

11 (f) Interagency coordination of conservation programs.

12 (g) The use of money in the clean water fund created in
13 section 8807 and other funding sources to promote MAEAP and
14 activities to encourage more MAEAP-verified farms.

15 (h) Options to increase assistance to assist small- and
16 medium-sized farms in achieving MAEAP standards.

17 (i) The creation of subcommittees as needed to address
18 emerging and ongoing issues.

19 (j) On-site evaluations of potential environmental,
20 ecological, and economic benefits that can be realized by managing
21 areas of the land that are not utilized for traditional or
22 production agriculture practices.

23 (4) The ~~environmental assurance advisory council~~ shall do all
24 of the following:

25 (a) Annually provide recommendations to the director on MAEAP
26 standards and protocols for verification and revocation of
27 verification for consideration by the commission of agriculture and

1 rural development.

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

5 ~~—— (c) Not later than September 30, 2014, submit to the director~~
6 ~~a comprehensive report detailing program achievements under the~~
7 ~~Michigan agricultural environmental assurance program.~~

8 ~~—— (d) Not later than 1 year after the effective date of the 2013~~
9 ~~amendatory act that amended this section, submit to the director a~~
10 ~~recommendation for an assessment tool designed to assist landowners~~
11 ~~to voluntarily assess the value of managing areas of the land that~~
12 ~~are not utilized for traditional or production agriculture~~
13 ~~practices for environmental, ecological, and economic benefits. The~~
14 ~~assessment tool shall assess, at a minimum, all of the following:~~

15 ~~—— (i) Forest management for timber, habitat development, or~~
16 ~~both.~~

17 ~~—— (ii) Wetland restoration development potential.~~

18 ~~—— (iii) Habitat restoration development.~~

19 (C) PROVIDE RECOMMENDATIONS TO THE DIRECTOR ON THE CREATION OF
20 A TIERED RECOGNITION PROGRAM FOR FARMS WORKING TOWARD MAEAP
21 VERIFICATION. TO QUALIFY FOR THE RECOGNITION PROGRAM, FARMERS MUST
22 HAVE COMPLETED EDUCATIONAL PROGRAMS, CONDUCTED APPROPRIATE FARM
23 ASSESSMENTS, AND IMPLEMENTED CONSERVATION PRACTICES AS APPROVED BY
24 THE DIRECTOR. THE TIERS MAY BE USED TO RECOGNIZE A FARM'S MOVEMENT
25 TOWARD MAEAP VERIFICATION.

26 (D) PROVIDE RECOMMENDATIONS TO THE DIRECTOR AND THE
27 LEGISLATURE ON INCENTIVES TO INCREASE PARTICIPATION IN MAEAP.

1 **(E) ANNUALLY PROVIDE RECOMMENDATIONS TO THE DIRECTOR ON**
2 **FUNDING FOR RESEARCH PROJECTS THAT ADDRESS IMPEDIMENTS TO**
3 **VERIFICATION AND IMPROVE MAEAP PRACTICE STANDARDS.**

4 Sec. 8710. (1) The director, in consultation with the
5 ~~environmental assurance advisory council~~, shall implement a
6 Michigan agriculture environmental assurance program designed to
7 promote natural resources conservation through education, technical
8 assistance, and verification. The MAEAP shall be a voluntary
9 program that is available to farms throughout the state.

10 (2) A farmer who desires to have his or her farm MAEAP-
11 verified shall do all of the following:

12 (a) Complete educational requirements authorized by the
13 department.

14 (b) Develop and implement 1 or more conservation plans as
15 approved by the director.

16 (c) Upon completion of subdivisions (a) and (b), contact the
17 department to arrange for an on-site evaluation.

18 (3) If the department conducts an on-site evaluation and
19 determines that a farm is meeting MAEAP standards, the department
20 shall issue a MAEAP verification. **A MAEAP VERIFICATION THAT IS IN**
21 **EFFECT ON SEPTEMBER 30, 2015 IS VALID FOR 5 YEARS FROM THE ORIGINAL**
22 **ISSUE DATE. BEGINNING OCTOBER 1, 2015, A NEW MAEAP verification OR**
23 **REVERIFICATION** is valid for ~~3-5~~ years.

24 (4) A farm is eligible for reverification if **THE DEPARTMENT**
25 **DETERMINES** ~~it is determined to be~~ **IS** meeting MAEAP standards
26 through an on-site evaluation conducted by the department or its
27 designee.

1 (5) ~~Beginning in the state fiscal year ending September 30,~~
2 ~~2013, the~~ **THE** department shall provide MAEAP verification signs to
3 each MAEAP-verified farm.

4 (6) A farm that allows its verification to lapse or whose
5 verification is revoked under subsection (7) shall forfeit its
6 verification sign and all other benefits that are provided to
7 MAEAP-verified farms under this act.

8 (7) The director may revoke verification of a MAEAP-verified
9 farm if any of the following apply:

10 (a) The department, in consultation with the department of
11 environmental quality, determines with scientific evidence provided
12 by water quality data that the MAEAP-verified farm caused an
13 exceedance of water quality standards as a result of nonconformance
14 with MAEAP standards.

15 (b) The MAEAP-verified farm fails to conform to MAEAP
16 standards as a result of gross negligence.

17 (c) The MAEAP-verified farm fails to comply with protocols for
18 verification as approved by the commission of agriculture and rural
19 development.

20 (d) Upon advice from the interagency technical review panel
21 provided for in ~~section 8710,~~ **SUBSECTION (11)**, the director
22 determines that the MAEAP-verified farm is responsible for a
23 pattern of repeated violations of environmental laws, rules,
24 regulations, permit conditions, settlement agreements, orders of
25 consent, or judicial orders that were due to separate and distinct
26 events.

27 (8) A farmer ~~shall not be~~ **IS NOT** liable for groundwater

1 contamination on a MAEAP-verified farm for activities on the MAEAP-
2 verified farm unless he or she was grossly negligent or in
3 violation of state or federal law or failed to comply with the
4 MAEAP standards. This part does not modify or limit any obligation,
5 responsibility, or liability imposed by any other provision of
6 state law.

7 (9) The department shall establish a MAEAP grants program.
8 Grants issued under the MAEAP grants program are limited to
9 availability of funds collected pursuant to this part. Grants shall
10 be available for all of the following:

11 (a) Technical assistance.

12 (b) Promotion of the MAEAP.

13 (c) Educational programs related to the MAEAP.

14 (d) Demonstration projects to implement conservation
15 practices.

16 (e) Removal of potential sources of contamination.

17 (f) Other purposes considered appropriate by the director.

18 (10) **FOLLOWING REVIEW OF THE PROPOSED TIERED RECOGNITION**
19 **PROGRAM SUBMITTED TO THE DIRECTOR BY THE COUNCIL UNDER SECTION**
20 **8708, THE DIRECTOR SHALL APPROVE AND IMPLEMENT A TIERED RECOGNITION**
21 **PROGRAM. AS PART OF THE TIERED RECOGNITION PROGRAM, THE DEPARTMENT**
22 **SHALL PROVIDE A CERTIFICATE OF PROGRESS TO A FARM PARTICIPATING IN**
23 **MAEAP RECOGNIZING EACH TIME A NEW TIER IS ACHIEVED. THE CERTIFICATE**
24 **OF PROGRESS SHALL SUMMARIZE CONSERVATION PRACTICES IMPLEMENTED BY**
25 **THE FARM AND THE ENVIRONMENTAL IMPACTS OF THE IMPLEMENTED**
26 **CONSERVATION PRACTICES. THE CERTIFICATE OF PROGRESS SHALL RECOGNIZE**
27 **THE FARM FOR ITS ACHIEVEMENT AND ENCOURAGE THE FARM TO COMPLETE THE**

1 REMAINING CONSERVATION PRACTICES NECESSARY FOR VERIFICATION. A
2 CERTIFICATE OF PROGRESS IS VALID FOR 5 YEARS FROM THE DATE OF
3 MAILING. UPON WRITTEN CONFIRMATION BY THE FARMER AND THE MAEAP
4 TECHNICIAN UPDATING ANY NEW CONSERVATION PRACTICES AND CONFIRMING
5 THAT ALL PREVIOUS APPLICABLE CONSERVATION PRACTICES ARE STILL BEING
6 IMPLEMENTED, THE DEPARTMENT SHALL REISSUE A CERTIFICATE OF PROGRESS
7 FOR ADDITIONAL 5-YEAR PERIODS, AS APPROPRIATE, UNTIL THE FARM
8 BECOMES MAEAP-VERIFIED IN THE APPLICABLE SYSTEM OR THE FARMER
9 CEASES IMPLEMENTATION OF THE CONSERVATION PRACTICES. INFORMATION
10 COLLECTED UNDER THIS SECTION IS NOT SUBJECT TO THE FREEDOM OF
11 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

12 (11) ~~(10)~~—The department and the department of environmental
13 quality shall enter into a memorandum of understanding to formalize
14 a commitment to promote the MAEAP and to clarify the application of
15 state and federal environmental laws to farms. In addition, the
16 memorandum of understanding shall provide for all of the following:

17 (a) An ongoing interagency technical review panel for MAEAP-
18 verified farms that discharge in violation of state or federal law
19 to determine enforcement action.

20 (b) Preference for funding for nonpoint source pollution -
21 funds for farms seeking MAEAP verification.

22 (c) Considerations for reverification of a farm with revoked
23 MAEAP verification status.

24 (d) Integration of the MAEAP into pollution prevention
25 activities of both agencies.

26 (e) Clarification of the consultation process in part 88 to
27 ensure that the department of agriculture and rural development has

1 meaningful input into the establishment of the grants program and
2 the issuance of grants.

3 (12) BEGINNING DECEMBER 1, 2016 AND EVERY DECEMBER 1
4 THEREAFTER, THE DEPARTMENT SHALL PUBLISH A REPORT ON MAEAP THAT
5 INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

6 (A) COUNTY AND STATEWIDE TOTALS FOR THE PREVIOUS FISCAL YEAR
7 OF ALL OF THE FOLLOWING:

8 (i) CONSERVATION PRACTICES IMPLEMENTED.

9 (ii) ENVIRONMENTAL IMPACTS OF PRACTICES IMPLEMENTED.

10 (iii) NUMBER OF NEW VERIFICATIONS AND REVERIFICATIONS.

11 (iv) NUMBER OF UNIQUE FARMS VERIFIED.

12 (v) NUMBER OF FARMS IN TIERED RECOGNITION SYSTEM.

13 (vi) TOTAL AREA AND PERCENTAGE OF THIS STATE'S FARMLAND
14 INVOLVED.

15 (B) COUNTY AND STATEWIDE PROGRAM TO-DATE TOTALS OF ALL OF THE
16 FOLLOWING:

17 (i) CONSERVATION PRACTICES IMPLEMENTED.

18 (ii) ENVIRONMENTAL IMPACTS OF PRACTICES IMPLEMENTED.

19 (iii) NUMBER OF NEW VERIFICATIONS AND REVERIFICATIONS.

20 (iv) NUMBER OF UNIQUE FARMS VERIFIED.

21 (v) NUMBER OF FARMS IN TIERED RECOGNITION SYSTEM.

22 (vi) TOTAL AREA AND PERCENTAGE OF THIS STATE'S FARMLAND
23 INVOLVED.

24 (C) A SUMMARY OF EDUCATIONAL AND MAEAP VERIFICATION STANDARDS
25 CHANGES FOR EACH SYSTEM TOOL AND AN OVERVIEW OF THE REASONS FOR THE
26 CHANGES.

27 (D) A SUMMARY OF EACH SYSTEM SUBCOMMITTEE'S WORK BEYOND THE

1 STANDARDS CHANGES, INCLUDING IDENTIFICATION OF ONGOING AND EMERGING
2 ISSUES.

3 (13) THE DEPARTMENT SHALL MAKE AVAILABLE A CONSENT FORM FOR
4 COMPLETION BY FARMERS IMPLEMENTING CONSERVATION PRACTICES THAT
5 INCLUDES BOTH OF THE FOLLOWING:

6 (A) PERMISSION FOR THE DEPARTMENT TO ASSOCIATE THE FARMER'S
7 NAME, FARM LOCATION, AND MAILING ADDRESS WITH CONSERVATION
8 PRACTICES IMPLEMENTED ON THAT FARM.

9 (B) A STATEMENT BY THE FARMER THAT CONSERVATION PRACTICES
10 BEING IMPLEMENTED ON THE FARM ARE FOR THE PURPOSE OF WORKING TOWARD
11 MAEAP VERIFICATION.

12 (14) THE DEPARTMENT SHALL PROVIDE FOR THE CONSENT FORMS
13 DESCRIBED IN SUBSECTION (13) TO BE AUTHENTICATED. THE DEPARTMENT
14 MAY USE A COMPLETED CONSENT FORM IN THE RECOGNITION PROGRAM
15 DESCRIBED IN SUBSECTION (10). INFORMATION COLLECTED UNDER THIS
16 SUBSECTION IS NOT SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976
17 PA 442, MCL 15.231 TO 15.246.

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. 8715. (1) In addition to the fees provided for in part
7 83, a registrant shall pay an annual ~~groundwater~~ **WATER QUALITY**
8 protection fee for each product to be registered. The ~~specialty~~
9 ~~pesticide groundwater~~ **WATER QUALITY** protection fee is ~~\$100.00~~
10 **\$270.00** per product. ~~Groundwater protection fees for all other~~
11 ~~pesticides are 0.75% of the wholesale value of the previous~~
12 ~~registration year's product sales for use in this state, with a~~
13 ~~\$150.00 minimum groundwater protection fee. The minimum groundwater~~
14 **WATER QUALITY** protection fee is due in the office of the director
15 before July 1. ~~A sales based groundwater protection fee greater~~
16 ~~than the \$150.00 minimum is due in the office of the director~~
17 ~~before October 1 of the following registration year.~~

18 (2) An additional late fee of \$100.00 shall be paid by the
19 registrant for each pesticide if the pesticide registration is a
20 renewal registration and the ~~minimum groundwater~~ **WATER QUALITY**
21 protection fee is received by the department after June 30.

22 (3) A person required to pay a specialty fertilizer or soil
23 conditioner registration fee under section 8505 shall pay an
24 additional \$100.00 ~~groundwater~~ **WATER QUALITY** protection fee for
25 each brand and product name of each grade registered.

26 (4) All fertilizer manufacturers or distributors licensed
27 under part 85, except specialty fertilizer and soil conditioner

1 registrants, shall pay an ~~additional groundwater~~ **THE FOLLOWING:**

2 **(A) UNTIL DECEMBER 31, 2015, A WATER QUALITY** protection fee of
3 1-1/2 cents per percent of nitrogen in the fertilizer for each ton
4 of fertilizer sold.

5 **(B) BEGINNING JANUARY 1, 2016, \$.0005 PER POUND OF FERTILIZER**
6 **SOLD.**

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

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

15 **(7) THE DEPARTMENT MAY AUDIT, OR MAY CONTRACT FOR AUDITS OF**
16 **RECORDS THAT ARE THE BASIS FOR FEES LEVIED UNDER THIS SECTION.**

17 **(8) ~~(7)~~**—This section is repealed December 31, ~~2015-2021~~.

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

20 (2) The state treasurer may receive money or other assets from
21 any source for deposit into the fund, including general fund
22 general purpose appropriations, gifts, grants, and bequests. The
23 director shall annually seek matching general fund general purpose
24 appropriations in amounts equal to the ~~groundwater~~ **WATER QUALITY**
25 protection fees collected under section 8715 that are deposited
26 into the fund pursuant to this part. The state treasurer shall
27 direct the investment of the fund. The state treasurer shall credit

1 to the fund interest and earnings from fund investments.

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

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

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

8 (a) Direct assistance.

9 (b) Indirect assistance.

10 (c) Emergency response and removal of potential sources of
11 water contamination. Expenditures pursuant to this subdivision
12 shall not exceed \$15,000.00 per location.

13 (d) Natural resources protection.

14 (e) Administrative costs. Expenditures pursuant to this
15 subdivision shall not exceed 20% of the annual appropriations from
16 the fund.

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

19 (7) Notwithstanding section 8715, if at the close of any
20 fiscal year the amount of money in the fund exceeds ~~\$3,500,000.00,~~
21 **\$5,000,000.00**, the department shall not collect a ~~groundwater~~**WATER**
22 **QUALITY** protection ~~fee~~**FEES** for the following year. After the
23 ~~groundwater~~**WATER QUALITY** protection fees have been suspended under
24 this subsection, the fees shall only be reinstated if, at the close
25 of any succeeding fiscal year, the amount of money in the fund is
26 less than ~~\$1,000,000.00.~~**\$2,000,000.00.**

27 (8) The department of treasury shall, before November 1 of

1 each year, notify the department of the balance in the fund at the
2 close of the preceding fiscal year.

3 (9) As used in this section:

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

6 (i) Groundwater monitoring for pesticides and fertilizers.

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

9 (iii) Coordination of programs under this part with the United
10 States ~~environmental protection agency~~ **ENVIRONMENTAL PROTECTION**
11 **AGENCY** and other state programs with environmental protection
12 responsibilities.

13 (iv) **COORDINATION OF PROGRAMS UNDER THIS PART WITH THE UNITED**
14 **STATES DEPARTMENT OF AGRICULTURE NATURAL RESOURCES CONSERVATION**
15 **SERVICE AND STATE PROGRAMS WITH NONPOINT SOURCE POLLUTION**
16 **PREVENTION AND CONSERVATION PRACTICE RESPONSIBILITIES.**

17 (v) ~~(iv)~~ Management of pesticide sales information.

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

20 (i) Provision of alternate noncommunity water supplies.

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

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

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

27 (v) Specialty and nonspecialty pesticide disposal programs.

1 (vi) Programs devoted to integrated natural resources
2 conservation that encourage the judicious use of pesticides and
3 fertilizers and other agricultural inputs and practices that are
4 protective of water quality through targeted systems approach to
5 management decisions.

6 (vii) Incentive and cost share programs to assist farmers in
7 achieving MAEAP standards.

8 (viii) Incentive and cost share programs for MAEAP-verified
9 farms with potential sources of contamination on their property.

10 (ix) Monitoring of private well water for pesticides,
11 fertilizers, and other contaminants.

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

15 (xi) MAEAP grants pursuant to section 8710.

16 (xii) Programs that enhance investment of private and federal
17 funds in conservation.

18 (xiii) Verification.

19 (xiv) Other programs established pursuant to this part.

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

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

25 (ii) Educational programs.

26 (iii) Technical assistance programs.

27 (iv) The promotion and implementation of on-site evaluation

1 systems, conservation practices, and the MAEAP.

2 (v) Research programs. ~~for determination of the impacts of~~
3 ~~alternate management practices.~~

4 ~~(vi) Research program for determination of natural resources~~
5 ~~sensitivity and vulnerability to contamination.~~

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

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

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

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

18 (a) To implement the programs described in the department's
19 document entitled "A ~~strategic environmental quality monitoring~~
20 ~~program~~ **STRATEGIC ENVIRONMENTAL QUALITY MONITORING PROGRAM** for
21 Michigan's ~~surface waters~~", **SURFACE WATERS**", dated January 1997. In
22 implementing these programs, the department may contract with any
23 person.

24 (b) ~~Monitor~~ **NOT MORE THAN \$100,000.00 OF THE TOTAL ANNUAL**
25 **APPROPRIATIONS FROM THE FUND TO MONITOR** and benchmark the
26 effectiveness of conservation practices and MAEAP standards in
27 cooperation with participating farmers.

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

3 (d) Water pollution control activities.

4 (e) Wellhead protection activities.

5 (f) Storm water treatment projects and activities.

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

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

10 Enacting section 1. This amendatory act takes effect October
11 1, 2015.