

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 87

GROUNDWATER AND FRESHWATER PROTECTION

324.8701 Meanings of words and phrases.

Sec. 8701. For purposes of this part, the words and phrases defined in sections 8702 to 8705 have the meanings ascribed to them in those sections.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA

324.8702 Definitions; A to D.

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

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

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

(b) For fertilizers, the application of fertilizer contaminated materials at rates not to exceed those recommended by the Michigan State University Extension, taking all available sources of nutrients into account.

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

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

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

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

(7) "Contaminant" means any pesticide or fertilizer originated chemical, radionuclide, ion, synthetic organic compound, microorganism, or other waste that does not occur naturally or that naturally occurs at a lower concentration than detected.

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

(9) "Council" means the environmental assurance advisory council created in section 8708.

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

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

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2015, Act 118, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

324.8703 Definitions; E to M.

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

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

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

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

(5) "Fund" means the freshwater protection fund created in section 8716.

(6) "General screening" means monitoring of groundwater for the purpose of determining the presence and concentration of analytes.

(7) "Groundwater" means underground water within the zone of saturation.

(8) "MAEAP" or "Michigan agriculture environmental assurance program" means the Michigan agriculture environmental assurance program provided for in section 8710.

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

- (a) Conservation practices.
- (b) Site-specific nutrient management plan requirements.
- (c) Emergency protocols.
- (d) Completed environmental risk and benefit assessments.
- (e) United States Department of Agriculture Natural Resources Conservation Service practice standards.
- (f) Generally accepted agricultural and management practices developed under the right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

(g) Other standards considered appropriate by the director.

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

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

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

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 61, Imd. Eff. May 24, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2013, Act 46, Imd. Eff. June 6, 2013;—Am. 2015, Act 118, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

324.8704 Definitions; O, P.

Sec. 8704. (1) "On-site evaluation" means a specific set of criteria used to voluntarily evaluate a farmer's property with regard to determination of potential environmental risks.

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2015, Act 118, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

324.8705 Definitions; R to W.

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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2021, Act 123, Imd. Eff. Dec. 17, 2021.

Popular name: Act 451

Popular name: NREPA

324.8706 Purpose of part.

Sec. 8706. The intent of this part is to reduce risks to the environment and public health and promote economic development by assisting farms in achieving MAEAP standards.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011.

Popular name: Act 451

Popular name: NREPA

324.8707 Conservation practices; on-site evaluations; review and evaluation.

Sec. 8707. (1) The director, in conjunction with Michigan State University Extension and Michigan State University AgBioResearch, and in cooperation with the United States Department of Agriculture Natural Resources Conservation Service, the department of environmental quality, and other professional and industry organizations, shall develop conservation practices for approval by the commission of agriculture and rural development and upon approval shall promote their implementation.

(2) The director, in conjunction with Michigan State University, the department of environmental quality, and other persons the director considers appropriate, shall develop protocols for voluntary on-site evaluations. The on-site evaluations shall be designed to do all of the following:

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

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

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

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

(e) Provide farmers with the opportunity for verification.

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

(3) The director, in conjunction with the council, shall review and evaluate the effectiveness of conservation practices approved under subsection (1).

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2000, Act 100, Imd. Eff. May 19, 2000;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2013, Act 46, Imd. Eff. June 6, 2013;—Am. 2015, Act 118, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

324.8708 Environmental assurance advisory council.

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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2013, Act 46, Imd. Eff. June 6, 2013;—Am. 2015, Act 118, Eff. Oct. 1, 2015;—Am. 2021, Act 123, Imd. Eff. Dec. 17, 2021.

Compiler's note: For abolishment of the groundwater advisory council and transfer of its powers and duties to the department of agriculture, see E.R.O. No. 2007-5, compiled at MCL 324.99907.

Popular name: Act 451

Popular name: NREPA

324.8709 Environmental assurance teams.

Sec. 8709. (1) The director may establish regional environmental assurance teams composed of departmental, educational, and technical assistance personnel, and other persons as determined necessary by the director, or the team, or both for implementation of programs developed under this part.

(2) The environmental assurance teams established under subsection (1) are responsible for implementation of programs developed under this part, including, but not limited to, all of the following:

- (a) Providing access to educational opportunities including direct educational assistance and consulting programs; demonstration projects; educational programs; and tours, workshops, and conferences.
- (b) Providing access to technical assistance related to any of the following:
 - (i) On-site evaluation of practices that may impact natural resources.
 - (ii) The development and implementation of conservation plans.
 - (iii) The development and implementation of activity plans for persons making conservation practice changes.
 - (iv) On-site evaluation 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.
- (c) Evaluating, as available, grants to persons implementing activity plans and conservation practices required to achieve MAEAP standards.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2013, Act 46, Imd. Eff. June 6, 2013.

Popular name: Act 451

Popular name: NREPA

324.8710 Michigan agriculture environmental assurance program.

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

throughout the state.

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

(a) Complete educational requirements authorized by the department.

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

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

(3) If the department conducts an on-site evaluation and determines that a farm is meeting MAEAP standards, the department shall issue a MAEAP verification. A MAEAP verification that is in effect on September 30, 2015 is valid for 5 years from the original issue date. Beginning October 1, 2015, a new MAEAP verification or reverification is valid for 5 years.

(4) A farm is eligible for reverification if the department determines it is meeting MAEAP standards through an on-site evaluation conducted by the department or its designee.

(5) The department shall provide MAEAP verification signs to each MAEAP-verified farm.

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

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

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

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

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

(d) Upon advice from the interagency technical review panel provided for in subsection (11), the director determines that the MAEAP-verified farm is responsible for a pattern of repeated violations of environmental laws, rules, regulations, permit conditions, settlement agreements, orders of consent, or judicial orders that were due to separate and distinct events.

(8) A farmer is not liable for groundwater contamination on a MAEAP-verified farm for activities on the MAEAP-verified farm unless he or she was grossly negligent or in violation of state or federal law or failed to comply with the MAEAP standards. This part does not modify or limit any obligation, responsibility, or liability imposed by any other provision of state law.

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

(a) Technical assistance.

(b) Promotion of the MAEAP.

(c) Educational programs related to the MAEAP.

(d) Demonstration projects to implement conservation practices.

(e) Removal of potential sources of contamination.

(f) Other purposes considered appropriate by the director.

(10) Following review of the proposed tiered recognition program submitted to the director by the council under section 8708, the director shall approve and implement a tiered recognition program. As part of the tiered recognition program, the department shall provide a certificate of progress to a farm participating in MAEAP recognizing each time a new tier is achieved. The certificate of progress shall summarize conservation practices implemented by the farm and the environmental impacts of the implemented conservation practices. The certificate of progress shall recognize the farm for its achievement and encourage the farm to complete the remaining conservation practices necessary for verification. A certificate of progress is valid for 5 years from the date of mailing. Upon written confirmation by the farmer and the MAEAP technician updating any new conservation practices and confirming that all previous applicable conservation practices are still being implemented, the department shall reissue a certificate of progress for additional 5-year periods, as appropriate, until the farm becomes MAEAP-verified in the applicable system or the farmer ceases implementation of the conservation practices. Information collected under this section is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

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

- (b) Preference for funding for nonpoint source pollution – funds for farms seeking MAEAP verification.
 - (c) Considerations for reverification of a farm with revoked MAEAP verification status.
 - (d) Integration of the MAEAP into pollution prevention activities of both agencies.
 - (e) Clarification of the consultation process in part 88 to ensure that the department of agriculture and rural development has meaningful input into the establishment of the grants program and the issuance of grants.
- (12) Beginning December 1, 2016 and every December 1 thereafter, the department shall publish a report on MAEAP that includes, but is not limited to, all of the following:
- (a) County and statewide totals for the previous fiscal year of all of the following:
 - (i) Conservation practices implemented.
 - (ii) Environmental impacts of practices implemented.
 - (iii) Number of new verifications and reverifications.
 - (iv) Number of unique farms verified.
 - (v) Number of farms in tiered recognition system.
 - (vi) Total area and percentage of this state's farmland involved.
 - (b) County and statewide program to-date totals of all of the following:
 - (i) Conservation practices implemented.
 - (ii) Environmental impacts of practices implemented.
 - (iii) Number of new verifications and reverifications.
 - (iv) Number of unique farms verified.
 - (v) Number of farms in tiered recognition system.
 - (vi) Total area and percentage of this state's farmland involved.
 - (c) A summary of educational and MAEAP verification standards changes for each system tool and an overview of the reasons for the changes.
 - (d) A summary of each system subcommittee's work beyond the standards changes, including identification of ongoing and emerging issues.
- (13) The department shall make available a consent form for completion by farmers implementing conservation practices that includes both of the following:
- (a) Permission for the department to associate the farmer's name, farm location, and mailing address with conservation practices implemented on that farm.
 - (b) A statement by the farmer that conservation practices being implemented on the farm are for the purpose of working toward MAEAP verification.
- (14) The department shall provide for the consent forms described in subsection (13) to be authenticated. The department may use a completed consent form in the recognition program described in subsection (10). Information collected under this subsection is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2015, Act 118, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

324.8711 Designation of pesticide as restricted use; establishment of groundwater resource protection levels.

Sec. 8711. (1) Pesticides containing ingredients that have been confirmed in groundwater at a level above their groundwater resource response level or pesticides for which a state management plan is required shall be registered as restricted use pesticides pursuant to part 83. The director, by rule promulgated pursuant to part 83, shall establish criteria for designating a pesticide a restricted use pesticide due to groundwater concerns.

(2) The director of the department of public health shall establish groundwater resource protection levels and promulgate groundwater resource protection levels for all pesticides that do not have a federally established maximum contaminant level or a health advisory level and for which monitoring occurs.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA

324.8712 Program to track restricted use pesticides to county of application; additional information required; confidentiality.

Sec. 8712. (1) The director shall establish and implement a program to track restricted use pesticides to their county of application.

(2) The director may require additional information for more refined tracking in specific areas determined

through groundwater impact potential estimation to be highly vulnerable to groundwater contamination for those pesticides in which the United States environmental protection agency has required a state management plan.

(3) Information collected in subsection (2) is confidential business information and is not subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA

324.8713 Water quality monitoring program.

Sec. 8713. (1) The director, in conjunction with the department of environmental quality and the department of community health, shall develop and establish priorities, procedures, and protocols for the implementation of a water quality monitoring program to do all of the following:

- (a) Provide general screening of groundwater or surface water, or both.
- (b) Determine the relative risk of groundwater contamination at different locations.
- (c) Perform envelope monitoring.

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

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

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

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

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

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

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011.

Popular name: Act 451

Popular name: NREPA

324.8713a Surface water quality monitoring program.

Sec. 8713a. (1) The director, in consultation with the council, may develop and establish priorities, procedures, and protocols for the implementation of a surface water quality monitoring program to do both of the following:

- (a) Promote voluntary water quality monitoring by farms.
- (b) Monitor and benchmark the effectiveness of conservation practices and MAEAP standards in cooperation with participating farmers.

(2) Water quality information collected under this section by the department in cooperation with farmers shall be aggregated and made available to the commission of agriculture and rural development. Specific locations or persons involved in water quality information collection are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2015, Act 118, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

324.8714 Confirmation of adverse impact on groundwater; powers and authority of director.

Sec. 8714. (1) Upon confirmation of an adverse impact on groundwater, the director may, upon reasonable notice, require a person to furnish any information that the person may have relating to the identification, nature, and quantity of pesticides and fertilizers that are or have been used on a particular site and to current

or past production practices that may have impacted groundwater quality. This information shall be treated as confidential business information and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011.

Popular name: Act 451

Popular name: NREPA

***** 324.8715 THIS SECTION IS REPEALED BY ACT 123 OF 2021 EFFECTIVE DECEMBER 31, 2025

324.8715 Fees; repeal of section.

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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 61, Imd. Eff. May 24, 1995;—Am. 2000, Act 100, Imd. Eff. May 19, 2000;—Am. 2008, Act 18, Imd. Eff. Feb. 29, 2008;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2015, Act 118, Eff. Oct. 1, 2015;—Am. 2021, Act 123, Imd. Eff. Dec. 17, 2021.

Popular name: Act 451

Popular name: NREPA

324.8716 Freshwater protection fund.

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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2003, Act 163, Imd. Eff. Aug. 12, 2003;—Am. 2007, Act 174, Imd. Eff. Dec. 21, 2007;—Am. 2011, Act 2, Imd. Eff. Mar. 9, 2011;—Am. 2015, Act 118, Eff. Oct. 1, 2015;—Am. 2021, Act 123, Imd. Eff. Dec. 17, 2021.

Popular name: Act 451

Popular name: NREPA

324.8717 Rules.

Sec. 8717. The department may promulgate rules as it considers necessary or advisable to implement this part.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA