

SENATE BILL No. 1069

February 23, 2006, Introduced by Senators SWITALSKI, BRATER, JACOBS, THOMAS, LELAND and SCHAUER and referred to the Committee on Agriculture, Forestry and Tourism.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 86.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 86. CONCENTRATED ANIMAL FEEDING OPERATIONS

SEC. 8601. AS USED IN THIS PART:

(A) "AIR EMISSIONS PLAN" MEANS AN AIR EMISSIONS PLAN AS
DESCRIBED UNDER SECTION 8631.

(B) "ANIMAL FEEDING OPERATION" OR "AFO" MEANS A LOT OR
FACILITY, OTHER THAN AN AQUACULTURE FACILITY REGISTERED UNDER THE
MICHIGAN AQUACULTURE DEVELOPMENT ACT, 1996 PA 199, MCL 286.871 TO
286.884, WHERE ANIMALS HAVE BEEN, ARE, OR WILL BE STABLED OR
CONFINED AND FED OR MAINTAINED FOR A TOTAL OF 45 DAYS OR MORE IN
ANY 12-MONTH PERIOD. AFO DOES NOT INCLUDE A LOT OR FACILITY IF

1 CROPS, VEGETATION, FORAGE GROWTH, OR POST-HARVEST RESIDUES ARE
2 SUSTAINED OVER ANY PORTION OF THE LOT OR FACILITY IN THE NORMAL
3 GROWING SEASON.

4 (C) "ANIMAL WASTE HANDLER" MEANS A COMMERCIAL ANIMAL WASTE
5 HANDLER OR A PRIMARY ANIMAL WASTE HANDLER.

6 (D) "COMMERCIAL ANIMAL WASTE HANDLER" MEANS A PERSON WHO, FOR
7 CONSIDERATION, HANDLES OR DISPOSES OF OR OFFERS TO HANDLE OR
8 DISPOSE OF MANURE, PRODUCTION AREA WASTE, OR PROCESS WASTEWATER
9 FROM AN ANIMAL FEEDING OPERATION OWNED OR OPERATED BY ANOTHER
10 PERSON.

11 (E) "COMPREHENSIVE NUTRIENT MANAGEMENT PLAN" OR "CNMP" MEANS A
12 COMPREHENSIVE NUTRIENT MANAGEMENT PLAN AS DESCRIBED UNDER SECTION
13 8621.

14 (F) "CONCENTRATED ANIMAL FEEDING OPERATION" OR "CAFO" MEANS A
15 LARGE CAFO, MEDIUM CAFO, OR SMALL CAFO. FOR THE PURPOSES OF
16 DETERMINING THE NUMBER OF ANIMALS AT AN OPERATION, 2 OR MORE AFOS
17 UNDER COMMON OWNERSHIP ARE CONSIDERED TO BE A SINGLE AFO IF THEY
18 ADJOIN EACH OTHER OR IF THEY USE A COMMON AREA OR SYSTEM FOR THE
19 DISPOSAL OF WASTES.

20 (G) "CNMP PROVIDER" MEANS A PERSON CERTIFIED BY THE UNITED
21 STATES DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION
22 SERVICE, TO PREPARE CNMPS.

23 (H) "DEPARTMENT" MEANS THE DIRECTOR OF THE DEPARTMENT OF
24 ENVIRONMENTAL QUALITY OR HIS OR HER DESIGNEE TO WHOM THE DIRECTOR
25 DELEGATES A POWER OR DUTY BY WRITTEN INSTRUMENT.

26 (I) "DISCHARGE" MEANS ANY DIRECT OR INDIRECT DISCHARGE OF ANY
27 WASTE, WASTE EFFLUENT, WASTEWATER, POLLUTANT, OR ANY COMBINATION

1 THEREOF INTO ANY OF THE WATERS OF THE STATE OR, EXCEPT AS OTHERWISE
2 PROVIDED IN THIS SUBDIVISION, UPON THE GROUND. DISCHARGE DOES NOT
3 INCLUDE LAND APPLICATION, BUT DOES INCLUDE RUNOFF INTO SURFACE
4 WATERS FROM LAND APPLICATION.

5 SEC. 8603. AS USED IN THIS PART:

6 (A) "FEDERAL ACT" MEANS THE CLEAN WATER ACT, 33 USC 1251 TO
7 1387, AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER.

8 (B) "GENERAL PERMIT" MEANS A NATIONAL PERMIT ISSUED
9 AUTHORIZING A CATEGORY OF SIMILAR DISCHARGES.

10 (C) "LAND APPLICATION AREA" MEANS LAND UNDER THE CONTROL OF AN
11 AFO OWNER OR OPERATOR, WHETHER IT IS OWNED, RENTED, LEASED, OR
12 SUBJECT TO AN ACCESS AGREEMENT, TO WHICH PRODUCTION AREA WASTE OR
13 PROCESS WASTEWATER IS OR MAY BE APPLIED. LAND APPLICATION AREA
14 INCLUDES LAND NOT OWNED BY THE AFO OWNER OR OPERATOR BUT ON WHICH
15 THE AFO OWNER OR OPERATOR HAS CONTROL OF THE LAND APPLICATION OF
16 PRODUCTION AREA WASTE OR CAFO PROCESS WASTEWATER.

17 (D) "LARGE CAFO" IS AN AFO THAT STABLES OR CONFINES 1 OR MORE
18 OF THE FOLLOWING:

19 (i) 700 OR MORE MATURE DAIRY COWS, WHETHER MILKED OR DRY.

20 (ii) 1,000 OR MORE VEAL CALVES.

21 (iii) 1,000 OR MORE CATTLE OTHER THAN MATURE DAIRY COWS OR VEAL
22 CALVES. AS USED IN THIS SUBPARAGRAPH, "CATTLE" INCLUDES HEIFERS,
23 STEERS, BULLS, AND COW/CALF PAIRS.

24 (iv) 2,500 OR MORE SWINE EACH WEIGHING 55 POUNDS OR MORE.

25 (v) 10,000 OR MORE SWINE EACH WEIGHING LESS THAN 55 POUNDS.

26 (vi) 500 OR MORE HORSES.

27 (vii) 10,000 OR MORE SHEEP OR LAMBS.

(viii) 55,000 OR MORE TURKEYS.

(ix) 30,000 OR MORE LAYING HENS OR BROILERS, IF THE AFO USES A LIQUID MANURE HANDLING SYSTEM.

(x) 125,000 OR MORE CHICKENS (OTHER THAN LAYING HENS), IF THE AFO USES OTHER THAN A LIQUID MANURE HANDLING SYSTEM.

(xi) 82,000 OR MORE LAYING HENS, IF THE AFO USES OTHER THAN A LIQUID MANURE HANDLING SYSTEM.

(xii) 30,000 OR MORE DUCKS, IF THE AFO USES OTHER THAN A LIQUID MANURE HANDLING SYSTEM.

(xiii) 5,000 OR MORE DUCKS, IF THE AFO USES A LIQUID MANURE HANDLING SYSTEM.

(xiv) ANY ANIMALS OF A TYPE NOT LISTED IN THIS SUBDIVISION, OR ANY COMBINATION OF TYPES OF ANIMALS, IN SUCH NUMBERS AS WILL PRODUCE AN AMOUNT OF WASTE EQUIVALENT TO THAT PRODUCED BY ANIMALS DESCRIBED IN ANY OTHER SUBPARAGRAPH OF THIS SUBDIVISION.

(E) "MANURE" INCLUDES MANURE, BEDDING, COMPOST, AND RAW MATERIALS OR OTHER MATERIALS COMMINGLED WITH MANURE OR SET ASIDE FOR DISPOSAL.

(F) "MEDIUM CAFO" MEANS AN AFO THAT MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

(i) ONE OR MORE OF THE FOLLOWING REQUIREMENTS ARE MET:

(A) THE AFO HAS BEEN DESIGNATED BY THE DEPARTMENT AS A CAFO UNDER SECTION 8613.

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

(C) POLLUTANTS ARE DISCHARGED FROM THE PRODUCTION AREA

1 DIRECTLY INTO WATERS OF THE STATE WHICH ORIGINATE OUTSIDE OF THE
2 FACILITY AND PASS OVER, ACROSS, OR THROUGH THE FACILITY OR
3 OTHERWISE COME INTO DIRECT CONTACT WITH THE ANIMALS CONFINED IN THE
4 OPERATION.

5 (D) POLLUTANTS ARE DISCHARGED FROM THE AFO'S LAND APPLICATION
6 AREA INTO WATERS OF THE STATE.

7 (ii) THE AFO STABLES OR CONFINES 1 OR MORE OF THE FOLLOWING:

8 (A) 200 TO 699 MATURE DAIRY COWS, WHETHER MILKED OR DRY.

9 (B) 300 TO 999 VEAL CALVES.

10 (C) 300 TO 999 CATTLE OTHER THAN MATURE DAIRY COWS OR VEAL
11 CALVES. AS USED IN THIS SUB-SUBPARAGRAPH, "CATTLE" INCLUDES
12 HEIFERS, STEERS, BULLS, AND COW/CALF PAIRS.

13 (D) 750 TO 2,499 SWINE EACH WEIGHING 55 POUNDS OR MORE.

14 (E) 3,000 TO 9,999 SWINE EACH WEIGHING LESS THAN 55 POUNDS.

15 (F) 150 TO 499 HORSES.

16 (G) 3,000 TO 9,999 SHEEP OR LAMBS.

17 (H) 16,500 TO 54,999 TURKEYS.

18 (I) 9,000 TO 29,999 LAYING HENS OR BROILERS, IF THE AFO USES A
19 LIQUID MANURE HANDLING SYSTEM.

20 (J) 37,500 TO 124,999 CHICKENS (OTHER THAN LAYING HENS), IF
21 THE AFO USES OTHER THAN A LIQUID MANURE HANDLING SYSTEM.

22 (K) 25,000 TO 81,999 LAYING HENS, IF THE AFO USES OTHER THAN A
23 LIQUID MANURE HANDLING SYSTEM.

24 (L) 10,000 TO 29,999 DUCKS, IF THE AFO USES OTHER THAN A
25 LIQUID MANURE HANDLING SYSTEM.

26 (M) 1,500 TO 4,999 DUCKS, IF THE AFO USES A LIQUID MANURE
27 HANDLING SYSTEM.

1 (N) ANY ANIMALS OF A TYPE NOT LISTED IN THIS SUBPARAGRAPH, OR
2 ANY COMBINATION OF TYPES OF ANIMALS, IN SUCH NUMBERS AS WILL
3 PRODUCE AN AMOUNT OF WASTE EQUIVALENT TO THAT PRODUCED BY ANIMALS
4 DESCRIBED IN ANY OTHER SUB-SUBPARAGRAPH OF THIS SUBPARAGRAPH.

5 SEC. 8605. AS USED IN THIS PART:

6 (A) "NO-POTENTIAL-TO-DISCHARGE DETERMINATION" MEANS A
7 DETERMINATION BY THE DEPARTMENT THAT THERE IS NO POTENTIAL FOR ANY
8 PRODUCTION AREA WASTE OR PROCESS WASTEWATER FROM A PARTICULAR CAFO
9 TO BE ADDED TO WATERS OF THE STATE UNDER ANY CIRCUMSTANCE OR
10 CLIMATIC CONDITION.

11 (B) "NPDES" MEANS THE NATIONAL POLLUTANT DISCHARGE ELIMINATION
12 SYSTEM ESTABLISHED BY THE FEDERAL ACT.

13 (C) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, ASSOCIATION,
14 CORPORATION, INDUSTRY, OR PUBLIC BODY.

15 (D) "POLLUTANT" INCLUDES, BUT IS NOT LIMITED TO, MANURE AND
16 PRODUCTION AREA WASTE.

17 (E) "PRIMARY ANIMAL WASTE HANDLER" MEANS THE INDIVIDUAL OWNING
18 AND OPERATING A SPECIFIC CAFO OR EMPLOYED BY A SPECIFIC CAFO WHO IS
19 DESIGNATED AS BEING PRIMARILY RESPONSIBLE FOR THE HANDLING OF
20 MANURE, PRODUCTION AREA WASTE, OR PROCESS WASTEWATER.

21 (F) "PROCESS WASTEWATER" MEANS ANY OF THE FOLLOWING:

22 (i) SPILLAGE OR OVERFLOW OF WATER USED FOR CAFO ANIMAL OR
23 POULTRY WATERING SYSTEMS.

24 (ii) WATER DIRECTLY OR INDIRECTLY USED AT A CAFO FOR WASHING,
25 CLEANING, OR FLUSHING PENS, BARNs, MANURE PITS, OR OTHER
26 FACILITIES; FOR DIRECT CONTACT SWIMMING, WASHING, OR SPRAY COOLING
27 OF ANIMALS; OR FOR DUST CONTROL.

(iv) ANY WATER THAT COMES INTO CONTACT WITH, OR IS A
CONSTITUENT OF, ANY CAFO RAW MATERIALS, PRODUCTS, OR BYPRODUCTS,
INCLUDING MANURE, LITTER, FEED, MILK, EGGS, OR BEDDING.

(G) "PRODUCTION AREA" MEANS THAT PART OF AN AFO THAT INCLUDES
ANIMAL CONFINEMENT AREA, MANURE STORAGE AREA, RAW MATERIALS STORAGE
AREA, WASTE CONTAINMENT AREAS, ANY EGG WASHING OR EGG PROCESSING
FACILITY, AND ANY AREA USED IN THE STORAGE, HANDLING, TREATMENT, OR
DISPOSAL OF MORTALITIES. AS USED IN THIS SUBDIVISION:

(i) "ANIMAL CONFINEMENT AREA" INCLUDES OPEN LOTS, HOUSED LOTS,
FEEDLOTS, CONFINEMENT HOUSES, STALL BARNS, FREE STALL BARNS, MILK
ROOMS, MILKING CENTERS, COWYARDS, BARNYARDS, MEDICATION PENS,
WALKERS, ANIMAL WALKWAYS, AND STABLES.

(ii) "MANURE STORAGE AREA" INCLUDES LAGOONS, RUNOFF PONDS,
STORAGE SHEDS, STOCKPILES, UNDERHOUSE OR PIT STORAGES, LIQUID
IMPOUNDMENTS, STATIC PILES, AND COMPOSTING PILES.

(iii) "RAW MATERIALS STORAGE AREA" INCLUDES FEED SILOS, SILAGE
BUNKERS, AND BEDDING MATERIALS.

(iv) "WASTE CONTAINMENT AREA" INCLUDES SETTLING BASINS AND
AREAS WITHIN BERMS AND DIVERSIONS THAT SEPARATE UNCONTAMINATED
STORM WATER.

(H) "PRODUCTION AREA WASTE" MEANS MANURE OR ANY WASTE FROM THE
PRODUCTION AREA AND ANY PRECIPITATION, INCLUDING, BUT NOT LIMITED
TO, RAIN OR SNOW, THAT COMES INTO CONTACT WITH, OR IS CONTAMINATED
BY, MANURE OR ANY OF THE COMPONENTS LISTED IN THE DEFINITION OF
PRODUCTION AREA. PRODUCTION AREA WASTE DOES NOT INCLUDE WATER FROM
LAND APPLICATION AREAS.

(I) "SMALL CAFO" MEANS AN AFO THAT IS DESIGNATED A CAFO BY THE

1 DEPARTMENT UNDER SECTION 8613 AND IS NOT A MEDIUM CAFO.

2 (J) "STORM WATER" MEANS STORM WATER RUNOFF, SNOWMELT RUNOFF,
3 AND SURFACE RUNOFF AND DRAINAGE.

4 (K) "WASTEWATER" MEANS LIQUID WASTE DISCHARGES DISCHARGED
5 DIRECTLY OR INDIRECTLY INTO THE WATERS OF THE STATE THAT RESULT
6 FROM INDUSTRIAL AND COMMERCIAL PROCESSES AND MUNICIPAL OPERATIONS,
7 INCLUDING LIQUID OR WATER-CARRIED PROCESS WASTE, COOLING AND
8 CONDENSING WATERS, AND SANITARY SEWAGE.

9 (L) "WATERS OF THE STATE" MEANS THAT TERM AS DEFINED IN SECTION
10 3101.

11 SEC. 8607. 40 CFR 412 IS ADOPTED BY REFERENCE EXCEPT THAT THE
12 DEFINITION FOR "LAND APPLICATION AREA" SHALL BE AS DEFINED IN
13 SECTION 8603 AND EXCEPT TO THE EXTENT OF ANY OTHER CONFLICT WITH
14 THIS PART.

15 Enacting section 1. This amendatory act does not take effect
16 unless all of the following bills of the 93rd Legislature are
17 enacted into law:

18 (a) Senate Bill No. 1072.

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20 (b) Senate Bill No. 1065.

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22 (c) Senate Bill No. 1066.

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24 (d) Senate Bill No. 1063.

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26 (e) Senate Bill No. 1068.

1 (f) Senate Bill No. 1067.

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3 (g) Senate Bill No. 1071.

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5 (h) Senate Bill No. 1070.

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