

Legislative Analysis



REPEAL REQUIREMENT FOR ANNUAL WASTEWATER REPORT

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House Bill 4994 as reported without amendment

Sponsor: Rep. Eileen Kowall

Committee: Natural Resources, Tourism, and Outdoor Recreation

First Analysis (10-18-11)

BRIEF SUMMARY:

House Bill 4994 would repeal Section 3111 of the Natural Resources and Environmental Protection Act (NREPA), which requires any person doing business in Michigan that discharges wastewater that contains wastes (in addition to sanitary sewage) to the waters of the state or to any sewer system to file an annual report with the Department of Environmental Quality (DEQ).

FISCAL IMPACT:

House Bill 4994 would have no fiscal impact on the Department of Environmental Quality. The Annual Wastewater Reporting program requirements were suspended in April of 2009. According to the Department, DEQ's development of efficiencies in data management in this program area and monthly electronic reports from the business community eliminate the need for an annual wastewater report. Because House Bill 4994 eliminates a reporting requirement that the Department had already suspended, the bill would have no additional costs or savings to the DEQ.

THE APPARENT PROBLEM:

At one time the DEQ required all businesses discharging wastewater in Michigan to submit an annual report to the department, documenting the type and quantity of certain wastes. The reporting program was suspended in 2006. However, the requirement to file the report remained in statute. According to committee testimony, having to file this annual report places administrative burdens on business, especially considering the fact the information is not being utilized by the department. Testimony also indicated that the information contained in the waste water discharge report is submitted to various entities, including the DEQ, in applications for permits and in reports filed with the U.S. Environmental Protection Agency. This bill aims at eliminating a reporting requirement in statute that is not enforced by the department.

THE CONTENT OF THE BILL:

The bill would repeal Section 3111 of NREPA, which requires any person doing business in Michigan that discharges wastewater that contains wastes (in addition to sanitary

sewage) to the waters of the state or to any sewer system to file an annual report with the DEQ.

The statute requires the report to contain the following information:

- Nature of the enterprise.
- Quantities of materials used in and incidental to its manufacturing processes.
- By-products and waste products that appear on a register of critical materials compiled by the DEQ (contained in rules at R 299.9003).
- Estimated annual total number of gallons of wastewater, including process and cooling water to be discharged to the waters of the state or to any sewer system.

Under Section 3111, the DEQ can only use the information for the purposes of water pollution control and must provide proper and adequate facilities and procedures to safeguard confidential manufacturing processes. Anyone operating in violation of this section is subject to penalties as contained in the act.

R 299.9001 - 9007 of the Michigan Administrative Code has been promulgated under the authority of this section and contains additional reporting requirements. According to provisions in the Administrative Procedures Act (MCL 24.231), these rules would be automatically rescinded if this bill is enacted.

MCL 324.3111

ARGUMENTS:

For:

Supporters of this legislation points out that the DEQ no longer requires this information to be submitted. According to the department the operation of this program was suspended in 2006. Those in support see no added benefit to the state and an increased administrative cost to businesses to file a report that is not utilized by the department. Additionally, the information contained in the wastewater discharge report is duplicative and is required when applying for other permits from the department. Additionally, according to testimony, the department receives monthly release reports of waste water discharge.

Against:

Concern was expressed about what would happen if the department were to receive funding at a future date to adequately fund this reporting program. Eliminating the language for the program would make it much more difficult to re-implement the program in the future. Some see this program as the type of regulatory activity the state should be conducting, and at the very least the program should be left on the books for a time in the future when the department can actively enforce it.

POSITIONS:

The Michigan Department of Environmental Quality supports the bill. (10-11-11)

The Detroit Regional Chamber supports the bill. (10-11-11)

The Michigan Chemistry Council supports the bill. (10-4-11)

The Michigan Manufacturers Association supports the bill. (10-4-11)

A representative of EIPCA Consulting, LLC indicated opposition to the bill. (10-4-11)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.