

SCR20, As Adopted by Senate, October 27, 2011

Senators Meekhof, Green, Casperson, Jones, Kowall, Brandenburg, Proos and Walker offered the following concurrent resolution:

Senate Concurrent Resolution No. 20.

A concurrent resolution to memorialize the United States Congress to enact legislation that classifies forestry management activities as nonpoint sources under the federal Clean Water Act.

Whereas, Under the federal Clean Water Act, "point sources" that discharge pollutants into waters of the United States are required to obtain National Pollutant Discharge Elimination System (NPDES) permits. The Environmental Protection Agency (EPA) administers this program directly in four states and has delegated authority to the other 46 states to run the program. "Nonpoint sources" are managed using best management practice (BMP) under state programs; and

Whereas, Since the enactment of the Clean Water Act in 1972, the EPA has designated forest management activities as nonpoint sources of water pollution most effectively regulated under state-specific BMPs. Recent studies have shown that these BMPs are effective and are followed by the forestry industry even in states where they are not mandatory. According to EPA statistics, forestry is a minor contributor to water pollution; and

Whereas, Recent court decisions are threatening the nonpoint source status of forestry activities. The U.S. Court of Appeals for the 9th Circuit ruled this year that the construction and use of forest roads fall within the meaning of industrial activity and are point sources requiring an NPDES permit. Many people believe this goes beyond the intent of Congress with regard to forestry and agricultural activity. There are indications that in response, the EPA may change or eliminate its longstanding regulatory interpretation that forest management activities are nonpoint sources of water pollution; and

Whereas, Changing or eliminating the nonpoint source status of forestry activities threatens forests and the jobs they provide. It jeopardizes the sustainability of private forests by imposing significant new paperwork and monitoring costs on forest owners and exposing forest owners to citizen lawsuits for the first time. These requirements will hit hardest in areas already decimated by the economic downturn and encourage the conversion of private forestlands to nonforestry uses, an outcome that runs counter to the goals of maintaining healthy working forests and enhancing rural economic development through sustaining and creating job opportunities in Michigan and across the country; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we memorialize the United States Congress to enact legislation that classifies forestry management activities as nonpoint sources under the federal Clean Water Act; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.