



House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

SEWER OVERFLOWS; REPORTING REQUIREMENTS

Senate Bill 1201 (Substitute H-1)
Sponsor: Sen. Shirley Johnson

Senate Bill 1216 (Substitute H-1)
Sponsor: Sen. Ken Sikkema

**House Committee: Conservation and
Outdoor Recreation**
**Senate Committee: Natural Resources and
Environmental Affairs**

First Analysis (5-30-00)

THE APPARENT PROBLEM:

Part 31 of the Natural Resources and Environmental Protection Act (NREPA), which governs water resources protection, contains provisions that have been used to deal with the problem of sewage discharges from combined sewer systems. Combined sewer systems are those that carry both municipal waste and storm water in a single conduit, or pipe, to a wastewater treatment facility. The pollution problem occurs frequently in areas of the state -- primarily large urban centers -- that lack sewer systems able to handle both storm water and wastewater safely. When heavy rain or melted snow fills these systems to capacity, the storm water "combines" with the sanitary sewage in the pipes, and, if the combined volumes of storm water and sanitary sewage exceed the capacity of the municipal treatment plant, the excess volume is diverted away from the plant and "overflows" untreated and is discharged into lakes and streams. Along with raw sewage, these overflows dump pesticides, fertilizers, oil and grease, and untreated toxic substances into Michigan waters. The current law requires a municipality that discharges sewage from a combined sewer system that has not received all treatment that is available and utilized under ordinary dry weather conditions to notify the Department of Environmental Quality (DEQ) of the circumstances of the discharge. The municipality is also required to notify local health departments and daily newspapers of general circulation in the counties in which the municipality -- and others whose waters may be affected -- are located. The accountable municipality must make these notifications immediately, or at least within 24 hours after the discharge began. The act also requires that the responsible permittee must have the affected waters

tested for *E. Coli* each time a discharge of untreated sewage from a combined sewer system occurs and provide the results to the affected local county health departments.

Many people feel that these provisions have worked extremely well in encouraging parties that are responsible for combined sewer discharges to make improvements. It is believed that the negative publicity that comes from being publicly identified as having been responsible for a release of sewage into the waters of the state has a motivating impact on the parties who are responsible, and encourages them to make changes to improve the situation. Recent reports that certain sanitary sewer systems have also been discharging sewage into the state's waters have led to the suggestion that these provisions should be expanded to apply to all sewers.

THE CONTENT OF THE BILLS:

The bills would amend Part 31 (Water Resources Protection) of the Natural Resources and Environmental Protection Act (NREPA) to apply the sewage discharge notification requirements to the discharge of untreated or partially treated sewage from any sewage system, rather than just from a combined sewer system; expand the information that must be included in the notification; and require the Department of Environmental Quality (DEQ) to compile and maintain a list of occurrences of discharges of untreated or partially treated sewage from sewer systems into state waters. (Both bills would use the following definitions: "Partially treated sewage" would

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mean any sewage, sewage and storm water, or sewage and wastewater, from domestic or industrial sources that was not treated to national secondary treatment standards for wastewater or that was treated to a level less than that required by a National Pollutant Discharge Elimination System permit. "Sewer system" would mean a system designed and used to convey sanitary sewage and/or storm water.)

Senate Bill 1216 would amend Part 31 of NREPA (MCL 324.3112c) to require the DEQ to compile and maintain a list of those discharges of untreated or partially treated sewage from sewer systems onto land or into the waters of this state that were reported to or were otherwise known to the department.

The list would have to be made available on the department's website on an ongoing basis. In addition, the DEQ would have to publish the list annually and make it available to the general public. The list would have to include the entity responsible for the discharge; the waters and/or land area receiving the discharge; the volume and quality of the discharge; the time the discharge began and ended; a description of the actions the DEQ had taken to address the discharge; whether the entity responsible for the discharge was subject to a schedule of compliance approved by the DEQ; and any other information that the DEQ considered relevant.

Senate Bill 1216 would not take effect unless Senate Bill 1201 was also enacted.

Senate Bill 1201 would amend Part 31 of NREPA (MCL 324.3112a) to apply the sewage discharge notification requirements to the discharge of untreated or partially treated sewage from any sewage system, rather than just from a combined sewer system.

The bill would require that if untreated or partially treated sewage is discharged onto the land or into waters of the state, the responsible municipality must notify the DEQ, local health departments, and daily newspapers. The bill would allow for these notifications to occur by telephone or another manner required by the department.

Current law also requires that a writing be provided after the conclusion of the discharge. The bill would allow the information provided at the conclusion of the discharge to be in writing or another manner required by the department. In addition to the information that is currently required in that notice (the reason for the discharge, the time the discharge began and when it ended, and the volume of the discharge), the bill would

require the notice to include the waters or land area, or both, receiving the discharge. Also, the notification currently must contain the amount of the discharge as measured pursuant to procedures approved by the DEQ. The bill, instead, would refer to the *volume and quality* of the discharge as measured pursuant to procedures *and analytical methods* approved by the DEQ.

In addition, the bill would require the DEQ to promptly post notification on its website upon being notified of an untreated or partially treated sewage discharge.

HOUSE COMMITTEE ACTION:

The House Committee on Conservation and Outdoor Recreation adopted substitutes for both bills to apply to sewer overflows onto land, in addition to those into water. Further, the substitute limited Senate Bill 1216 to listing those occurrences that were reported to the DEQ or that were otherwise known to the department, and added the tie-bar language.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

Sewer overflows not only threaten water quality, but also affect fish, wildlife habitat, human health, and property values. Many communities lose tourist revenues when beaches are closed, and they maintain that those responsible for allowing sewage to be discharged on the land or into the waters of this state should take responsibility for such situations.

Experience with the current law has shown that when the public is made aware of these occurrences, that knowledge leads to pressure to cure the situation. Unfortunately, the current law's effectiveness is limited because it applies only to sewer overflows from combined sewers. Recent reports have indicated that the discharge of sewage from sanitary sewer systems is also a serious problem and could be improved should be addressed. (For example, it was reported that Clinton township has been responsible for the release of some 230 million gallons of raw sewage into the Clinton River over the past 20 years).

By expanding the law to encompass all types of sewer overflows, the public notice provisions will help encourage the same kinds of improvement for other

sewer overflows, as has occurred with combined sewers.

POSITIONS:

The Department of Environmental Quality supports the bills. (5-25-00)

Michigan United Conservation Clubs supports the bills. (5-26-00)

The Michigan Environmental Council supports the bills. (5-26-00)

Analyst: W. Flory

■ 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.