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Senate Bill 1063 (Substitute S-3 as passed by the Senate)
Sponsor: Senator Michael Switalski
Committee: Natural Resources and Environmental Affairs

Date Completed: 12-18-08

RATIONALE

The Natural Resources and Environmental Protection Act requires the person responsible for a sewer system to report any discharge of untreated or partially treated sewage to certain entities, including local health departments and municipalities that request notification. It has been suggested that a local health department should be required to compile information on all of the discharges into a comprehensive annual report and give the report to the other entities that must be notified, as well as municipalities within its jurisdiction. Additionally, it was suggested that certain authorized discharges should be exempt from an E. coli testing requirement if the discharges were within limits established in a facility's permit.

CONTENT

The bill would amend Part 31 (Water Resources Protection) of the Natural Resources and Environmental Protection Act to do the following:

- Require a local health department to give certain entities an annual report summarizing information about discharges during the previous year.**
- Provide an exemption from an E. coli testing requirement for a sewage discharge from a wastewater treatment plant or an authorized combined sewer overflow.**
- Revise the definition of "partially treated sewage".**

Under Part 31, if untreated or partially treated sewage is discharged directly or indirectly from a sewer system onto land or

into the waters of the State, the person responsible for the system immediately, within 24 hours, must give notice of the discharge to the Department of Environmental Quality (DEQ), local health departments, a daily newspaper of general circulation in the county or counties in which a notified municipality is located, and a daily newspaper of general circulation in the county in which the discharge is occurring. This notice must be given promptly after the discharge starts, by telephone or in another manner required by the DEQ.

At the conclusion of the discharge, the responsible person must give those entities notice, in writing or in another manner required by the DEQ, of the volume and quality of the discharge, the reason for it, the waters and/or land area receiving it, the time it began and ended, and verification of the person's compliance status with the requirements of its National Pollutant Discharge Elimination System (NPDES) permit or groundwater discharge permit and applicable State and Federal statutes, rules, and orders.

The bill would require a local health department, by February 1 of each year, to compile and post on its website or provide to each entity that is required to be notified of a discharge, and to each municipality within the local health department's jurisdiction, an annual report summarizing and providing a total amount of reported discharge during the previous calendar year.

Under Part 31, each time a discharge to surface waters occurs, the person responsible for the sewer system also must

test the affected waters for E. coli to assess the risk to the public health as a result of the discharge and provide the test results to the affected local county health departments and to the DEQ. The testing must be done at locations specified by each affected local county health department, but may not exceed 10 tests for each separate discharge event. The affected local county health department may waive the testing requirement if it determines that the testing is not needed to assess the risk to the public health. Under the bill, the E. coli testing provisions would not apply to a discharge of treated wastewater from a wastewater treatment plant or a combined sewer overflow authorized by a wastewater discharge permit issued under Part 31 if the discharge were in compliance with the final effluent limits for microorganisms in the facility's permit.

(The bill would define "combined sewer overflow" as a release of untreated or partially treated sewage from a combined sewer system, designed to carry both sanitary sewage and stormwater.)

Currently, "partially treated sewage" means any sewage, sewage and storm water, or sewage and wastewater, from domestic or industrial sources that meets one or more of the following:

- Is not treated to national secondary treatment standards for wastewater or is treated to a level less than that required by the person's NPDES permit.
- Is treated to a level less than that required by the person's groundwater discharge permit.
- Is found on the ground surface.

Under the bill, the term would mean any sewage, sewage and storm water, or sewage and wastewater, from domestic or industrial sources that meets one or more of the following:

- Is a treated combined sewer overflow.
- Is a discharge to surface water from a wastewater stabilization lagoon during a period that the lagoon is not authorized to discharge.
- Is found on the ground surface, unless the situation is part of a disposal practice authorized in a wastewater discharge permit issued under Part 31.

- Is a discharge from a wastewater treatment facility permitted under Part 31 or Part 41 (Sewerage Systems) if the discharge does not receive treatment though all wastewater treatment units that are installed to provide treatment.

In applying the last condition, treatment units that were designed and installed for redundancy could not be considered. Treatment units that were designed and installed to be operated only during part of the year to meet more restrictive seasonal permit effluent limits could not be considered unless the discharge occurred during the part of the year that the units were designed to be operated.

"Wastewater stabilization lagoon" would mean a type of treatment system constructed of ponds or basins designed to receive, hold, and treat sanitary wastewater for a predetermined amount of time through a physical, biological, or chemical process, or any combination of those processes.

MCL 324.3112a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Currently, the owner or operator of a sewage system must notify local health departments of sewage discharges, as well as municipalities that wish to be notified. The bill simply would require health departments to compile this information and provide it to municipalities on an annual basis. A comprehensive annual report would increase public awareness of discharges, help identify where system corrections or improvements could be made, and further encourage system operators to try to limit discharges. Because the discharge data already are being submitted, and a local health department could fulfill the bill's requirement by posting the annual report on its website, the additional costs imposed by the bill should be minimal.

Supporting Argument

If a sewage discharge meets the E. coli standards set forth in its NPDES permit, it is unnecessary to test the affected waters for that organism. The elimination of the

testing requirement under these circumstances would not have a negative impact on water quality or public health.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have a minimal fiscal impact on local units of government that operate sewer systems. The local units would be required to compile previously reported data into one report.

Fiscal Analyst: Jessica Runnels

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.