

AMEND REQUIREMENTS RELATED TO FISH CATCH AND PURCHASE REPORTING

Phone: (517) 373-8080
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Senate Bill 441 (S-1) as reported from House committee
Sponsor: Sen. Sue Shink
**House Committee: Natural Resources, Environment,
Tourism, and Outdoor Recreation**
Senate Committee: Natural Resources and Agriculture
Complete to 11-8-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 441 would amend several sections of the Natural Resources and Environmental Protection Act (NREPA) relating to required reporting that must be done by certain individuals licensed to participate in commercial fishing and wholesale fish sales in Michigan waters. The bill would amend the following sections of NREPA:

Section 44508

The bill would amend this section by eliminating a requirement that the Department of Natural Resources (DNR) form a Catch Activity Committee (such a committee does not appear to be active, according to the DNR's website) as well as by modifying the frequency of reports that must be submitted. Specifically, the frequency would shift reporting from once per month to twice per month, and the bill would also add language to this section stating that if a consent decree, decree, federal court order, memorandum of understanding, or other legally binding agreement established a more frequent reporting timeline, then charter boat operators must adhere to that more frequent reporting timeline. The DNR would determine that manner, frequency, and information contained in a catch activity report. Presently, reports must be submitted prior to the tenth of each month and a charter boat operator must submit a report for each boat under their control during the previous month. This current provision would be eliminated by the bill.

Under the bill, if a charter boat operator failed to submit the required report within 30 days of being notified of the report being delinquent, then the DNR could revoke the state certificate of inspection issued for that vessel. Under current law, the delinquency notice for a report is issued 30 days after its due date and must be delinquent for 60 days before that action can be taken.

Section 44524

This section would be amended by adding penalties specific to a failure to submit a required catch activity report by its due date. Violations would be categorized as a state civil infraction and would carry a civil fine as follows:

- First violation during a calendar year- \$100 fine.
- Second violation and subsequent violations during a calendar year- \$200 fine.

Additionally, individuals who fail to submit reports for two or more reporting periods during a calendar year and have been cited by the DNR for failure to submit those reports would have their authorization to operate a charter boat revoked until the reports are submitted.

Section 47325

This section contains reporting requirements for individuals taking fish for market in bodies of water covered by Part 473 of NREPA (The Great Lakes and the Connecting Waters). The bill would strike those requirements from this section and replace them with language mirroring the DNR's ability to determine the necessary information for these reports that applies to reports filed by charter boat operators. The bill would also add a similar provision regarding a legally binding agreement and reports having to be filed more frequently than twice per month.

The penalties for failing to submit a required report would also mirror those that apply to charter boat operators, with a person who holds a commercial fishing license facing suspension of that license if they fail to submit reports in two or more reporting periods. If a license is suspended by the DNR, then its holder could not sell or transfer that license until the suspension is lifted.

Section 47333

This section requires any individual who deals in fish by operating a wholesale fish market or fish house, or who solicits the purchase of, or buys fish for, wholesale distribution to obtain a license from DNR. The bill would require that individuals holding this license submit reports of all fish purchases to the department twice per month in a manner prescribed by the department. Like the other reporting requirements added by the bill, if a legally binding agreement required reporting more frequently than twice per month, then that frequency would have to be followed. Penalties for failing to submit these reports as required would also follow the same penalty structure, with failure to report two or more reports cause for the department to suspend the individual's license until the delinquent reports are submitted. Two or more delinquent reports would also be cause for the DNR to deny an individual a new license application or license renewal until the outstanding reports are submitted. The department would also be prohibited from issuing a wholesale fish dealer license to a person who would occupy the same business location as a wholesale fish dealer whose license is suspended.

Section 47327

The bill would also amend section 47327 by making complementary changes that incorporate the amendments described above.

MCL 324.44508 et seq.

BACKGROUND AND BRIEF DISCUSSION:

On August 24, 2023, a consent decree between the United States government, the state of Michigan, and Michigan's five federally recognized tribes took effect. This decree updated an earlier 2000 agreement regarding fishing in waters covered by an 1836 treaty (which was itself an update to a 1985 agreement regarding hunting and fishing rights of the tribes on the lands). Those waters include portions of the Great Lakes that border Michigan¹.

Part of the consent decree requires the state of Michigan and the five tribes to share certain information about the fish caught by individuals licensed by each government. To facilitate this required information sharing, the DNR has requested statutory authority to revise the

¹ Maps of waters subject to the 1836 treaty: https://www.michigan.gov/dnr/-/media/Project/Websites/dnr/Documents/Fisheries/TCU/2023GL_Decree/AppC_Maps.pdf

reporting requirements for individuals they license who engage in commercial fishing, charter boat operations, and purchasing of fish on a wholesale level to match the provisions of the consent decree, as the tribes that are part of the consent decree are already doing.

Waters that are eligible for commercial fishing operations are broken into units, with licensees only able to fish in their assigned units, taking the specified numbers and species of fish in accordance with other conditions of their license. The consent decree contains provisions relating to which government may license individuals to fish in each unit.

While supporters of the bill say that it is a straightforward change to statute to allow the state to carry out its legal obligations under the consent decree, opponents take issue with requiring all Michigan licensees, not just those who are fishing in waters that fall under the purview of the 1836 treaty, to adhere to more frequent reporting requirements, as well as the broader authority offered to the DNR to implement reporting requirements rather than specifying that changes to reporting must only align to the consent decree.

FISCAL IMPACT:

Senate Bill 441 may increase administrative costs for the Department of Natural Resources if enforcement actions allowable under the bill are executed; the extent of this potential cost increase is likely to vary with infraction frequency. The department's FY 2023-24 budget totals \$572.2 million Gross (\$88.1 million GF/GP); Fisheries Division's FY 2023-24 budget totals \$34.5 million Gross (\$1.2 million GF/GP). The bill is unlikely to affect departmental revenues, local government costs, or local government revenues.

POSITIONS:

Representatives of the Department of Natural Resources testified in support of the bill. (10-12-23)

The Upper Peninsula Environmental Coalition indicated support for the bill. (10-26-23)

Representatives of the following entities testified in opposition to the bill (10-12-23):

- Michigan Fish Producers Association
- Michigan Charter Boat Association

Legislative Analyst: Josh Roesner
Fiscal Analyst: Austin Scott

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