



Ensuring the Waters of the Great Lakes Basin Are Healthy, Public, and Protected for All

June 8, 2023

Honorable Laurie Pohutsky, Chair
House Committee on Natural Resources,
Environment, Tourism and Outdoor Recreation

Re: SB 14 Sen. McCann Administrative procedure; rules; prohibition on adoption of rules by state agencies from being more stringent than federal regulations; eliminate.

Dear Chair Pohutsky and members of the House Committee on Natural Resources,
Environment, Tourism and Outdoor Recreation:

On behalf of For Love of Water (“FLOW”), a Great Lakes water law and policy center, I am submitting written testimony in support of [Senate Bill 14](#), repealing the No Stricter than Federal law. Our mission is to ensure the waters of the Great Lakes basin are healthy, public, and protected for all, and SB 14 will facilitate that.

As you know, environmental laws are administered in Michigan under a system of “shared federalism” where EGLE may implement state laws in lieu of federal law only when the state can show, and the Attorney General certifies, that Michigan’s laws are “at least as stringent” as federal law. Federal environmental laws are meant to set minimum standards - to set the floor and decidedly not the ceiling. The recent SCOTUS decision, *Sackett v. EPA*, illustrates why state sovereignty to create and implement state laws are so vital to the long-term protection of Michigan’s extraordinary natural resources.

Our Great Lakes hold 95 percent of all fresh surface waters in the United States. We sit at the heart of the most extraordinary - and certainly most valuable - natural resource endowment in the world. Our specialized watersheds, our globally-unique coastal dunes, and our distinct ecological systems are singularly unique natural features. Science affirms that our inland lakes, rivers, streams, and wetlands are an integrated, interconnected, mutually dependent hydrologic system providing immeasurable services and benefits to all citizens. In all, Michigan’s natural resources are magnificent, unparalleled and sublime – a natural endowment demanding extraordinary legislative safeguarding. The existing No Stricter than Federal law undermines Michigan’s values, laws and environmental legacy.

By repealing this law, the Michigan Legislature will meet its responsibilities under Michigan’s Constitution, which explicitly defines the primary duty legislators have to protect Michigan’s natural resources. Article 4, Section 52 of Michigan’s Constitution states: “The conservation and

development of the natural resources of the state are hereby declared to be of **paramount** public concern in the interest of the health, safety and general welfare of the people. The legislature **shall** provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.”

Complementing this constitutional mandate is the Public Trust Doctrine, embodying a set of foundational principles, long recognized by law, that require proper stewardship of Great Lakes resources. The doctrine creates a fiduciary responsibility of stewardship on the part of government for the preservation of these resources and for the benefit of the public.

In conclusion, For Love of Water (FLOW) commends and supports SB 14 and the repeal of this detrimental legislation. The repeal of the No Stricter than Federal law will greatly benefit the citizens of Michigan by enabling responsible and reasonable government action based on the best available science. With the reinstatement of Michigan’s existing authority, the state can fulfill its duties and step up to protect our citizens.

We urge you to approve SB 14. Thank you for this opportunity to submit our public comments.

Sincerely Yours,

A handwritten signature in cursive script that reads "Liz Kirkwood". The signature is written in black ink and is positioned to the left of the typed name and title.

Liz Kirkwood
Executive Director