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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 74 (Substitute S-1 as reported)
Sponsor: Senator Connie Binsfeld
Committee: Health Policy

Date Completed: 4-24-89

RATIONALE

Incidents of hypodermic needles and other medical waste washing up on Lake Michigan shorelines last summer raised public concern about the management and disposal of medical debris. While solid waste landfills are the ultimate disposal sites for most medical wastes, incineration and sterilization are common methods for treating medical waste prior to disposal. Regulation of the construction and operation of medical waste incinerators is the responsibility of the Department of Natural Resources' (DNR's) Air Quality Division. Prior to 1970, however, medical waste incinerators did not have to meet any air quality standards. Incinerators of all kinds, including those used to burn medical wastes, became subject to standards in the early 1970s with the enactment of the National Ambient Air Quality Standards. Since 1987, the DNR also has required permit applicants for new or modified medical waste incinerators to meet emission limits for toxic chemicals. All incinerators, including those located at health facilities, currently must receive an operating permit under the Air Quality Control Act. These permits are issued one time only and do not have to be renewed. Review of a permit is initiated only when a modification in the incinerator or its operation is proposed, or when a complaint has been filed with the DNR about the operation of an incinerator. Because these permits, in effect, are issued for a lifetime and are reviewed infrequently, some people contend that some incinerators currently in operation are out-of-date and should be upgraded or phased out. Furthermore, some

people believe that the regulatory activities of the DNR need to be strengthened in order to keep up with the changing management and disposal practices for medical waste.

CONTENT

The bill would amend the Air Pollution Act to:

- Prohibit operation of a facility that incinerates "biomedical wastes" unless the facility had been issued an operating permit by the Air Pollution Control Commission, beginning one year after the bill's effective date or upon the promulgation of rules, whichever was later.
- Require the Commission to promulgate rules to regulate facilities that incinerate biomedical or pathological wastes.
- Require the review of all operating permits in existence.
- Permit the retrofitting or upgrading of existing facilities in order to comply with the Commission's rules.
- Permit a facility to receive pathological or biomedical wastes generated off the facility's site and require records to be kept on the source and volume of wastes received.

The bill is tie-barred to Senate Bill 69, which would prescribe procedures for the containment, decontamination, transportation, and disposal of infectious and pathological wastes.

Operating Permit

An application for an operating permit would have to be submitted in the form and contain the information required by the Commission. The Commission could issue an operating permit only if the facility were in compliance with the bill and rules promulgated under the bill.

A permit would be valid for five years, and could be renewed upon expiration.

A permit could allow a facility to receive pathological or biomedical wastes that were generated off the site of the facility. The owner or operator of the facility would be required to keep monthly records of the source of the wastes and the approximate volume of the wastes received by the facility.

Review of Permits

Within two years after the effective date of the promulgated rules, the Commission would be required to review all operating permits for facilities that incinerated "biomedical waste" that were issued permits prior to the promulgation of the rules. If the Commission determined, upon review, that a facility did not meet the requirements of the rules and could not be retrofitted to comply with the rules, the Commission would be required to issue an interim operating permit that would be valid for only two years. If a facility only needed retrofitting in order to comply with the rules, the facility would have to be granted an interim permit that would be valid for only one year. The bill specifies that in either case, the facility would have to comply with the bill and all other rules promulgated under the bill for the interim period. The Commission would be required to renew a facility's operating permit only if the facility were in compliance with the bill and rules promulgated under the bill.

Rules

The Commission would be required to promulgate rules to do both of the following:

- Regulate facilities that incinerated biomedical wastes. These rules would have to cover at least all of the following areas: incinerator design and operation,

ash handling and operation, stack design, requirements for receiving wastes from generators outside the facility, air pollution control requirements, performance monitoring and testing, record-keeping and reporting requirements, and, inspection and maintenance.

- Regulate the operation of facilities that incinerate pathological waste only.

Definition

"Biomedical wastes" would mean solid, liquid, or gaseous wastes that contained pathogens with sufficient virulence and quantity such that exposure to the waste by a susceptible individual could result in an infectious disease. Biomedical wastes would include, but would not be limited to, all of the following:

- Wastes contaminated by an individual who was isolated due to communicable disease, as provided in the United States Centers for Disease Control Guidelines for isolation precautions in hospitals (July 1983).
- Cultures and stocks of infectious agents, including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, or mix cultures.
- Waste human blood and waste blood products such as serum, plasma, and other blood components.
- Infectious waste, pathological waste, and sharps, as defined in Senate Bill 69.
- Objects used in patient care that have come into contact with infectious agents.
- Contaminated carcasses, body parts, and bedding of animals that were exposed to pathogens in research, in the production of biologicals, or in the in vivo testing of pharmaceuticals.
- Other wastes determined to be infectious by the facility, which would have to be set forth in written policy.

Proposed MCL 336.5a

FISCAL IMPACT

The bill would result in an indeterminate increased cost to State government by expanding the permitting and inspection of waste incineration facilities.

According to the Department of Natural Resources (DNR), there are between 120 and 150 hospitals that incinerate their own waste. To comply with the bill, these facilities could need to upgrade their incineration operations to include more complex technology. The DNR estimates that this would in turn require additional staff and more sophisticated equipment to monitor.

ARGUMENTS

Supporting Argument

According to the Air Quality Division of the DNR, once an operating permit has been issued for an incinerator, it may be inspected by DNR officials every two to three years. If the DNR receives a complaint about an incinerator, inspectors will investigate to ensure that the facility meets present standards. Yet, current rules do not require that incinerators, regardless of the years they've been in operation, be inspected periodically and upgraded regularly to keep up with current disposal practices. Under the bill, the Air Quality Division would be required to conduct the needed reviews and periodic updates of these incinerators.

Supporting Argument

Current rules have been characterized as being generic and not specific to medical waste incinerators in that they only require that these facilities "do not create an adverse impact on human health and environment". Since it is recognized by many in the field that incineration is the preferred treatment for certain types of medical waste, especially when there are concerns about the spread of infection or the need to render body parts or fluids unrecognizable, rules governing incinerators should set standards that specifically address medical waste disposal. Senate Bill 74 (S -1) would do just that by requiring the Air Pollution Control Commission to promulgate rules to regulate facilities that incinerate biomedical or pathological wastes.

Opposing Argument

The bill specifies that a biomedical waste incinerator could not operate without having been issued a permit, beginning one year after the bill's effective date or upon the promulgation of rules, whichever was later. Concern has been expressed that this language could delay the bill's implementation, since the rule-making process often can be slow and cumbersome. The bill should specify an absolute deadline for implementation.

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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.