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SFA**BILL ANALYSIS**

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Senate Bill 11 (Substitute S-3 as enrolled)
Sponsor: Senator Gary Peters
Committee: Natural Resources and Environmental Affairs

VETOED

Date Completed: 4-8-02

RATIONALE

Under 1990 amendments to the Federal Clean Air Act, the U.S. Environmental Protection Agency (EPA) was required to establish standards and guidelines for all new and existing medical waste incinerators. In 1997, the EPA promulgated rules imposing the operation, testing and monitoring, and equipment inspection requirements for hospital and medical waste incinerator facilities. Despite efforts to control the emission levels, however, medical waste incinerators evidently remain a significant source of dangerous pollutants to the environment. Reportedly, medical waste incinerators are the second or third largest source of dioxin and the fourth largest source of mercury pollution of the nation's environment and food supply.

In 2001, Health Care Without Harm, a coalition designed to reform the environmental practices of the health care industry, released a report to inform health care facilities about nonincineration treatment technologies. The report states that, according to the Centers for Disease Control, not more than 2% of a typical hospital's waste stream must be incinerated to protect public health and safety. Reportedly, however, some hospitals routinely burn 75% to 100% of their medical waste. The report presents four basic incineration alternative processes: thermal, chemical, irradiative, and biological. The report concludes that these processes are safer, cleaner, and more effective than incineration.

It has been suggested that the Michigan Department of Environmental Quality (DEQ) should study these alternative medical waste disposal methods before issuing any more permits for medical incinerator facilities. In addition, since each state is responsible for

developing its own plan for implementing and enforcing the EPA's rules, some people feel that the DEQ should establish rules to limit medical waste incinerator emissions in Michigan similar to the levels put forth under the Clean Air Act.

CONTENT

The bill would amend Part 55 (Air Pollution Control) of the Natural Resources and Environmental Protection Act to do the following:

- Require the Department of Environmental Quality to submit to the Legislature a report reviewing and ranking medical waste disposal methods.**
- Prohibit the DEQ from issuing a permit for a medical waste incinerator facility until 180 days after the report was submitted.**
- Specify air pollution emission levels for a medical waste incinerator.**

Specifically, the bill would require the DEQ to provide a report reviewing all the methods for disposal of medical waste and ranking these methods based on their effect on the environment. Within 18 months after the bill's effective date, the DEQ would have to submit the report to the standing committees of the Legislature with primary responsibility for environmental quality issues.

The bill also would prohibit the DEQ from issuing a construction permit or renewing an operating permit for a facility that incinerated medical waste, beginning on the bill's effective date and until 180 days after the report was submitted.

Under the Act, the DEQ must promulgate rules to regulate facilities that incinerate medical waste. These rules must cover areas such as incinerator design and operation, ash handling and quality, stack design, receiving medical waste from outside generators, performance monitoring and testing, inspection and maintenance, and air pollution control. The bill provides that for air pollution control, at a minimum, the rules would have to limit emissions of each pollutant to the average emission levels achieved by the best performing 12% of medical waste incinerators in the United States, as specified in Section 129(a)(2) of the Clean Air Act (42 USC 7429). Notwithstanding any provision of the rules to the contrary, however, the emission levels could not exceed those specified in a construction permit for a medical waste incinerator that was in effect on the bill's effective date if those emission levels were more stringent than the emission levels specified in the rules.

MCL 325.5504

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

By requiring the DEQ to review alternative methods for the treatment and disposal of medical waste, the bill would create the opportunity to study better handling and monitoring of alternative medical waste disposal practices. In addition, the bill would prohibit the DEQ from issuing or renewing permits for medical incinerators until a report was submitted, which would allow the DEQ and the Legislature to study and analyze the issue carefully in order to determine the need for future incinerators.

Alternative treatment technologies that adequately disinfect infectious medical waste are widely available, tested by years of operation in facilities across the country, and less environmentally polluting than incineration is. Many hospitals in Michigan already have adopted alternative technologies such as autoclaving and microwaving for the disinfection of regulated medical waste. For example, Henry Ford Hospital has replaced its incinerator with an autoclave and has begun

recycling paper and cardboard used by the hospital. Treating medical waste without emitting harmful pollutants or producing harmful dioxin can be achieved with available technology, good maintenance of equipment, and prudent operating procedures. Alternative waste treatment technologies still must be independently evaluated for safety and effectiveness and developed with public health and environmental considerations in mind.

Response: The bill might not be necessary. While 30 to 40 hospitals in Michigan might have incinerated their medical waste four or five years ago, none does now, according to the DEQ.

Supporting Argument

Current regulations of medical waste incinerator facilities are inadequate. The regulations are supposed to provide protections meant to guarantee a well-operated and maintained incinerator. Incinerators that are not well-operated and maintained produce unlawful emissions of dangerous pollutants into the community. The unnecessary burning of polyvinyl chloride (PVC) plastic, paper, batteries, discarded equipment, and other noninfectious materials leads to emissions of dioxins and mercury, as well as other hazardous toxins. These chemicals have been linked to birth defects, cancer, reproductive harm, developmental disorders, and immune system damage. Effective control of these emissions, through stringent standards and effective pollution prevention measures, is vital to limit further adverse impact on the environment and endangerment of public health.

Southeastern Michigan is still adversely affected by medical waste incineration because of continued pollution from the State's only remaining commercial medical waste incinerator, in Hamtramck. The Hamtramck medical waste incinerator continues to operate under a construction permit issued by the DEQ despite warnings and violations concerning odor, equipment, and procedure; and a failure to comply with consent orders mandating pollution preventative measures such as mercury testing, mercury reduction plans, and stack tests. According to the DEQ, the Hamtramck incinerator will be required to obtain a renewable operating permit within a year, and to renew that permit after five years. Under

the bill, the Department would not be allowed to renew that permit unless it submitted the required report reviewing and ranking methods for disposal of medical waste. Furthermore, the incinerator would be subject to stringent emission level controls under the rules required by the bill.

Response: Michigan's regulations for medical waste incinerators already exceed those of the EPA, according to the DEQ.

Legislative Analyst: Nobuko Nagata

FISCAL IMPACT

The bill would result in an indeterminate, but nominal increase in the DEQ's administrative costs. The increase probably could be absorbed within existing resources.

Fiscal Analyst: Pam Graham

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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.