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BILL ANALYSIS



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Senate Bill 864 (Substitute S-1)
Sponsor: Senator Patricia L. Birkholz
Committee: Energy Policy and Public Utilities

Date Completed: 6-12-08

CONTENT

The bill would amend Part 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act to allow yard clippings to be disposed of in a landfill that was a landfill energy production facility, and require the owner or operator of such a facility to submit an annual report on the amount of gas recovered and its uses.

Part 115 prohibits a person from knowingly delivering to a landfill for disposal, and prohibits a landfill owner or operator from knowingly permitting disposal in the landfill of, more than a de minimis amount of yard clippings, unless they are diseased or infested, or composed of invasive species. Under the bill, this prohibition would not apply if the landfill were a landfill energy production facility.

The bill would define "landfill energy production facility" as a landfill designated as a landfill energy production facility in its operating license. A landfill's operating license would have to designate it as a landfill energy production facility and authorize the disposal of yard clippings in landfill cells if a gas collection system existed or were planned for one or more landfill cells, and the installation of the system were documented in the landfill's operating record. Additionally, landfill gas recovered or to be recovered from the existing or planned collection system would have to be used as a source of energy for one or more of the following:

- Electricity generation, a direct fuel use, or any other use as a substitute for conventional fuels.
- Flaring for system testing, system maintenance, or proving capacity for an intended energy use; because of system malfunction; or for a similar reason.

Flaring could not be used for more than a total of two years.

At least every other year, a landfill energy production facility would have to recover at least 70% of the annual gas production from the specified cells. The percentage of gas recovered would have to be calculated by dividing the amount of gas recovered as reported for those cells by the total annual facility gas generation estimation for them, based on the U.S. Environmental Protection Agency Landfill Gas Emission Model (LANDGEM) using Clean Air Act inventory default values, and multiplying the quotient by 100. If a facility failed to meet this requirement, in addition to other sanctions for a violation of Part 115, the Department of Environmental Quality, after notice and opportunity for an evidentiary hearing, could revoke, suspend, or modify the landfill's designation as an energy production facility.

Part 115 requires a landfill owner or operator to submit an annual report to the State and the county and municipality in which the landfill is located. The report must contain information on the amount of solid waste the landfill received during the year itemized, to the extent possible, by county, state, or country of origin; and the amount of remaining disposal capacity at the landfill. Under the bill, if the landfill were an energy production facility, the report also would have to include the amount of gas recovered during the year, as determined by metering or another approved method, and how the gas was used.

MCL 324.11504 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Currently, yard clippings must be separated from other types of solid waste and may not be disposed of in landfills. They are transported to recycling and composting facilities for disposal. Under the bill, yard clippings could be disposed of in landfills that were also landfill energy production facilities. Some of the major landfills in Michigan could qualify for this designation. Since individuals and solid waste haulers would no longer have to separate solid waste, it is likely that the recycling and composting facilities would no longer receive any yard clippings, which is a significant portion of their businesses. Business tax collections would not be significantly affected since the yard clippings would be going to different businesses. Composting facilities would be operating on a much smaller scale with less revenue received and lower taxes paid, while certain landfills would generate additional revenue and pay additional taxes. Business tax revenue is deposited into the General Fund.

Since landfills would be accepting a greater amount of waste, the surcharge of seven cents per cubic yard on solid waste that is paid by landfills would generate additional revenue. Revenue from the surcharge is deposited into the Solid Waste Program Fund and used exclusively for the solid waste management program.

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.