



**House
Legislative
Analysis
Section**

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SCRAP TIRES AS FUEL SOURCE

House Bill 5890 as passed by the House
First Analysis (11-20-90)

Sponsor: Rep. James M. Middaugh
Committee: Conservation, Recreation, &
Environment

THE APPARENT PROBLEM:

The state is continuously seeking new ways to divert waste from its waste stream as a solution to the environmental pollution problem. Tires are a large portion of the waste stream and pose special environmental problems. For example, tire fires created by the haphazard storage of tires can cause special problems for waste regulators because the fires are extremely difficult to extinguish and have been known to burn for several days. In addition, tires are difficult to landfill. Their buoyancy often allows them to rise to the top of landfills and break the landfill cap. Further, they take up much more landfill space than conventional garbage because of their shape, and tires are breeding grounds for mosquitoes. Public Act 133 of 1990 was recently enacted to establish stringent storage procedures for scrap tires to address part of the tire problem. Further, Public Act 2 of 1989 was enacted to reduce the amount of waste in the waste stream by requiring public utilities to buy electricity from municipal garbage incinerators. However, many feel that because of the special problems associated with the disposal of tires, additional waste reduction measures should be developed to address the disposal of tires and the reduction of waste in the waste stream by incinerating tires.

THE CONTENT OF THE BILL:

The public utilities act requires utilities with more than 500,000 customers (Consumers Power and Detroit Edison) to purchase electrical capacity and energy from resource recovery facilities that process qualified solid waste (municipal solid waste generated within the state). Under the bill, utilities could also enter into agreements with resource recovery facilities that processed scrap tires. The bill would amend the act to define the term "resource recovery facility" to include a facility that uses 90 percent of its total annual fuel input in the form of scrap tires, excluding start-up and shut-down. If a resource recovery facility incinerated non-Michigan scrap tires or other tires obtained from outside the state, the public utility would not be obligated by the bill to purchase the facility's capacity and energy. This would also be the case if more than 50.1 percent of the scrap tires or other tires were obtained outside the public utility service area.

The bill would require a resource recovery facility that incinerated at least 90 percent of its total annual fuel input as scrap tires to accept all tires that became scrap in Michigan and that were delivered to the facility by a scrap tire processor or a scrap tire hauler. The facility would charge haulers a rate not greater than \$34.50 per ton for the first 6 million of the tires delivered to the facility each year. (The \$34.50/ton rate is the avoidance cost of dumping the tires in a landfill, e.g. landfills charge haulers \$34.50 per ton to dump tires.) This rate would be increased each calendar quarter beginning July 1, 1990, by an amount equal to the increase in the all items version of the consumer price index for urban wage earners and clerical workers during the prior calendar quarter.

The provisions of the bill and the act regarding power purchase agreements would not apply to more than the first 30 megawatts of scrap tire-fueled resource recovery facility capacity in the state that had been contracted and entered in commercial operation. The legislature and the Michigan Public Service Commission would receive an annual accounting from facilities which incinerated scrap tires to ensure compliance with the provisions of the bill. The accounting would include the total amount of scrap tires incinerated at the facility and the percentage of the scrap tires that prior to incineration were used within the state for their original intended purpose.

MCL 460.60

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal implications for the state. (11-7-90)

ARGUMENTS:

For:

The bill provides an efficient and effective environmental cleanup program and develops a market for waste. According to the Department of Natural Resources, the state's citizens generate approximately 7-8 million scrap tires each year, and each year the state cleans up 3 million scrap tires from existing piles of scrap tires. Therefore, approximately 10 million scrap tires have to be disposed of each year. The incineration of 10 million tires would result in the production of 30 megawatts of scrap tire fueled resource recovery facility capacity. Thus, by limiting the power purchase agreement to 30 megawatts of scrap tire fueled resource recovery facility capacity, the bill provides a way to address Michigan's waste problem but does not encourage incineration of out-of-state tires. In addition, the bill encourages economic development in Michigan. The Oxford Energy Co. is expected to build a 30 megawatt resource recovery facility in Michigan that would be worth millions of dollars and generate electricity at a fair and economic rate to be purchased by utilities for their customers.

Against:

Although some have suggested that the bill will address Michigan's scrap tire problem while also encouraging economic development, there are no guarantees that the bill will result in the incineration of Michigan's scrap tires. The bill requires utilities to enter into agreements for the purchase of capacity and energy from facilities that process scrap tires. Although it does not require the utilities to enter into agreements if out-of-state tires are used by the facility, a utility may enter into such an agreement if it so chooses. According to some, that distinction is very important because Consumers Power Company is a subsidiary of CMS Energy which holds a majority

equity in Oxford Energy (the company that will build the resource recovery facility), and Consumers Power Company has stated that it needs capacity. Therefore, it is likely that Consumers will purchase energy and capacity from its resource recovery facility even if out-of-state tires are used by the facility. Some have suggested that it is very likely that out-of-state tires will be used because Consumers can charge haulers of out-of-state tires a higher rate than that established in the bill for in-state tires. Further, it would be very difficult to restrict out-of-state used tires from being accepted at the facility because a restriction without proof of danger to the public's health, safety, or welfare would be a violation of the interstate commerce clause of the U.S. Constitution.

POSITIONS:

Consumers Power Company supports the bill. (11-6-90)

The Department of Natural Resources supports the bill. (11-20-90)

The Michigan Public Service Commission does not oppose the bill. (11-6-90)

Detroit Edison supports the concept of paying for capacity and energy, but it takes no position regarding the incineration of solid waste or scrap tires as a waste management option. (11-5-90)