

Legislative Analysis



GIVE DEQ AND HEALTH OFFICERS INSPECTION AUTHORITY; BAN MORE MATERIALS FROM INCINERATORS; AMEND DEFINITIONS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4485

Sponsor: Rep. Mark Meadows

Committee: Great Lakes and Environment

Complete to 3-28-07

A SUMMARY OF HOUSE BILL 4485 AS INTRODUCED 3-20-07

The bill would amend Part 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act (NREPA) in the following ways:

- Definitions. The bill would amend and create new definitions pertaining to solid waste and landfills. The definitions are discussed in more detail below.
- Applications for landfill operating licenses would include documentation of waste received during the past license term or expected to be received during the new term, whichever is greater. In addition to all other requirements, an applicant would have to provide an "estimate of landfill disposal capacity, and documentation on the amount of waste received at the disposal area during the term of the previous license or expected to be received during the term of the license for which the application is being filed, whichever is greater." [Section 11512(3)]
- Type II landfill fees calculations. Section 11512(7) sets forth the applicable fee that must accompany a Type II landfill operating license, ranging from \$250 for landfills receiving less than 100 tons of waste per day to \$30,000 for landfills receiving more than 3,000 tons of waste per day. The licenses are good for 5 years. Under the bill, Type II landfill operating license fees would no longer be based on the "projected" amount of waste to be received daily by the landfill during the 5-year term of the license, or, in the case of renewals, on the average amount of waste received in the previous year. The fee would presumably now be calculated on the basis of the documentation required under Section 11512(3). At the next license renewal, a landfill operator could be charged a supplemental fee or be given a credit if it turns out that the landfill accepted more or less waste than the amount on which the fee was based.
- Elimination of "discounts" for early submission of Type II license renewal applications. Under the existing Section 11512(e), a Type II landfill operator's license fee is reduced by 50 percent if the renewal application is submitted at least one year before expiration of the license; under Section 11512(f), the fee is reduced by 25 percent if the renewal application is submitted at least 6 months before the license expires. The bill would eliminate both of these provisions.

- Extend ban on the knowing disposal of medical waste, beverage containers, tires, and yard clippings in landfills to ban the same items from going to municipal incinerators. Existing Section 11514(2) prohibits medical waste, used beverage containers, vehicle tires, and yard clippings (with some exceptions) from being knowingly delivered to or disposed of in a landfill. The bill would ban these same items from being knowingly delivered to or disposed of in a municipal solid waste incinerator. (Existing Section 11514(4), applicable to municipal incinerators, bans only yard clippings.)
- Ban used oil, lead acid batteries, low-level radioactive waste, regulated hazardous waste and most liquid wastes from municipal incinerators. Existing Section 11514(3) prohibits used oil, lead acid batteries, low-level radioactive waste, regulated hazardous waste, or most types of bulk or noncontainerized liquid waste from being landfilled (knowingly or otherwise). This section would be amended to ban these same items from municipal solid waste incinerator.
- Inspections of solid waste facilities. The bill would authorize the DEQ, a health officer, or a health officer's representative to enter private or public property required to be licensed under Part 115, public or private property or a facility exempted from licensing requirements under Section 11529, or any other facility regulated under Part 115 for the purpose of inspecting or investigating conditions relating to the storage, transfer, processing or disposal of solid waste. [Section 11515a]
- Transfer facilities that do not need construction permits or operating licenses. Under existing Section 11529, a solid waste transfer facility does not need a construction permit or operating license if *either* (1) it is not designed to accept wastes from vehicles with mechanical compaction devices, or (2) it accepts less than 200 uncompacted cubic yards per day. Under the bill, unless *both* of these conditions were met, a transfer facility would have to obtain a construction permit and operating license. Under the bill, an exempt transfer facility would still have to comply with the operating requirements of Part 115 and its rules, as is the case currently, and also would have to "be consistent with the solid waste management plan for the county where the solid waste transfer facility is located." [Section 11529(1)]
- Eliminate requirement that the DEQ promote waste-to-energy facilities. The bill would amend Section 11529(4) to eliminate the requirement that the DEQ promote policies that encourage the establishment of waste to energy facilities.
- Tie bars. The bill is tie-barred with House Bill 4486 which means that unless both bills are enacted, neither will take effect.

Definitions. The bill would amend numerous existing definitions and insert numerous new definitions into Part 115. The bill would also make numerous stylistic or grammatical changes to many definitions. New, amended, or moved, definitions would include:

- "**Agreement**" would mean "a duly executed contract." [Section 11502(1)]

- "**Captive facility**" would mean "a landfill that accepts for disposal only nonhazardous industrial waste generated by the owner of the landfill or a nonhazardous industrial waste landfill that is described in Section 11525(3). [Section 11502(6)]
- The definition of "**consistency review**" would be expanded to include an evaluation of whether the administrative and technical components of a landfill permit, application, license, or operating conditions were consistent with the applicable solid waste management plan and administrative and court orders entered under Part 115. Currently, this section only requires a review of consistency with (1) Part 115 and (2) rules promulgated under Part 115 and (3) approved plans and specifications. [Section 11502(11)]
- "**De minimis**" would refer to "a small amount of material or number of items, as applicable, commingled and incidentally disposed of with other solid waste." [Section 11503(1)] Under existing Section 11514(6), "de minimis" means "incidental disposal of small amounts of these materials that are commingled with other solid waste."
- "**Designated planning agency**" would mean an agency (other than the DEQ) responsible for preparing a solid waste management plan under Section 11533. [Section 11503(3)]
- "**Excess landfill disposal capacity**" would mean a "measure in years of any landfill disposal capacity in a county beyond the 10 years that are required to be shown in the county solid waste management plan excluding guaranteed landfill disposal capacity allocated to outside counties." [Section 11503(9)]
- "**Garbage**" would mean "rejected food wastes including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that results from the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetable matter." [Section 11503(13)]
- "**Guaranteed landfill disposal capacity**" would mean "the amount of landfill disposal capacity at specific landfills allocated to a county as assured through enforceable locally authorized or negotiated means, such as annual disposal caps and written agreements between the county and a landfill." [Section 11503(14)]
- "**Intergovernmental agreement**" would mean an agreement between 2 or more governments or levels of government. [Section 11504(4)]
- "**Landfill disposal capacity**" would mean "the volume, in cubic yards, of solid waste that can be disposed at a landfill or landfills, as applicable, calculating using the constructed capacity, minus waste in place, plus the capacity of areas permitted for constructed but not yet constructed." [Section 11504(6)]

- **"Planning committee"** would mean a planning committee provided for under Section 11534(1). [Section 11504(12)]
- **"Planning entity"** would mean a "designated planning agency or the [DEQ], whichever is responsible for preparing a solid waste management plan under Section 11533." [Section 11504(13)]
- **"Remaining landfill disposal capacity"** would mean "the number of years of disposal capacity remaining at a landfill calculated by dividing the landfill disposal capacity by the average of the amount of waste received for each of the 3 prior years as reported under Section 11507a, or for a landfill that has not been in operation for at least 3 years, by dividing the landfill disposal capacity by an annualized estimate of the amount of waste received since the landfill has been in operation." [Section 11505(3)]
- **"Scrap wood."** The bill would renumber, but not otherwise amend, the existing definition of "scrap wood" [Section 11505(8)]
- **"Solid waste boundary"** would mean "the perimeter of the solid waste deposited or to be deposited in a landfill as specified in the construction permit. If the perimeter is not specified in the construction permit for the landfill, solid waste boundary means the outermost perimeter, on the horizontal plane, of the solid waste at a landfill as it exists at completion of lawful disposal activity." [Section 11506(2)]
- **"Solid waste diversion"** would mean any of the following:
 - The treatment, processing, composting, or recycling of solid waste.
 - The recovery of resources from solid waste.
 - Resource conservation measures that reduce the amount of solid waste generated. [Section 11506(3)]
- **"Solid waste management plan"** or **"plan"** would mean "a plan prepared, approved, and updated as provided in Sections 11533 to 11539, including any amendments to that plan." [Section 11506(5)]
- **"Treated wood."** The bill would renumber, but not otherwise amend, the existing definition of "treated wood" [Section 11506(10)]
- **"Trust fund"** would mean "a trust fund held by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency." A trust fund would have to comply with Section 11523b. [Section 11506(11)]
- **"Wood."** The bill would renumber, but not otherwise amend, the existing definition of " wood" [Section 11506(10)]

FISCAL IMPACT:

The fee adjustments made through these tie-barred bills (House Bills 4485 and 4486) may affect the amount of revenue realized by the state and paid by local governments, but no significant increase or decrease in state or local revenue is expected. There would be no need to increase staff or department spending to meet administrative requirements, and local payments would not be significantly changed.

Legislative Analyst: Shannan Kane
Fiscal Analyst: Kirk Lindquist

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.