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BILL ANALYSIS



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Senate Bill 725 (as introduced 8-5-09)  
Sponsor: Senator Patricia L. Birkholz  
Committee: Energy Policy and Public Utilities

Date Completed: 10-21-09

### **CONTENT**

**The bill would amend Part 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act to do the following:**

- **Allow yard clippings to be disposed of in a landfill energy production facility.**
- **Require the facility to meet requirements for a landfill gas collection system and the recovery and use of gas production as a source of energy.**
- **Require the facility owner or operator to submit an annual report on the amount of landfill gas recovered and how it was managed.**

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. If a landfill's operating license made that designation, yard clippings could be disposed of at the landfill in landfill cells served by a landfill gas collection system.

A landfill's operating license would have to designate the landfill as a landfill energy production facility if it met the following requirements:

- The landfill had a landfill gas collection system that was capable of recovering landfill gas from landfill cells receiving yard clippings, and installation of the system was documented in the landfill's operating record.
- At least every other year, the facility recovered and beneficially used at least 70% of the annual gas production from the landfill as a source of energy.

The gas would have to be used as an energy source for one or more of the following:

- The generation of electricity, a direct fuel use, or any other use as a substitute for conventional fuels.
- Flaring during testing, maintenance, or unplanned interruption of the landfill gas collection system or of an on-site or off-site energy use; planning, construction, or proving capacity for an intended on- or off-site energy use; or a similar reason.

Flaring could not be used for more than a total of two continuous years, although the Department of Environmental Quality (DEQ) would have to approve a request to extend flaring if the landfill owner or operator submitted a schedule for the use of landfill gas for the generation of electricity, a direct fuel use, or any other use as a substitute for conventional fuels.

The percentage of landfill gas recovered would have to be calculated by dividing the amount of gas recovered by the total annual landfill energy production facility gas generation estimation, based on either the U.S. Environmental Protection Agency Landfill Gas Emission Model (LANDGEM) using specified Clean Air Act default values for the methane generation rate and the potential methane generation capacity, or a site-specific gas generation estimation proposed by the landfill owner or operator and approved by the DEQ, and multiplying the quotient by 100.

If a facility failed to meet the requirements for recovery and use of the landfill gas, the DEQ, after notice and opportunity for an evidentiary hearing, could revoke, suspend, or modify the landfill's designation as an energy production facility, in addition to imposing other sanctions for a violation of Part 115.

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 landfill gas recovered at the facility during the year, as determined by metering or another approved method, and how the gas was managed.

MCL 324.11504 et al.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would allow some landfills to operate as landfill energy production facilities, which would authorize them to accept yard clippings as part of their normal trash pickup service. This would likely cause a shift in yard clipping collection from compost facilities to landfills, causing more tonnage to be assessed the seven-cents-per-yard solid waste surcharge. The surcharge is collected and deposited into the Solid Waste Program Fund and used exclusively for the solid waste management program.

Fiscal Analyst: Josh Sefton

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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.