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House Bill 5148 (Substitute H-2 as passed by the House)
House Bill 5149 (Substitute H-4 as passed by the House)
Sponsor: Representative Phil Pavlov (House Bill 5148)
Representative Daniel Acciavatti (House Bill 5149)
House Committee: Natural Resources, Great Lakes, Land Use, and Environment
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 10-10-05

CONTENT

House Bills 5148 (H-2) and 5149 (H-4) would amend Part 115 (Solid Waste Management) and Part 117 (Septage Waste Servicers), respectively, of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Allow for the permitting and operation of Landfill Research, Development and Demonstration Projects (RDDPs), which would generally be subject to the same requirements as other Type II landfills, with some additional requirements.**
- Allow the Department of Environmental Quality (DEQ) to authorize the addition of liquids such as septage waste or other liquid waste to RDDPs to accelerate or enhance the biostabilization of the solid waste.**
- Redefine "receiving facility" to include a structure designed to receive waste for treatment at an RDDP.**

The bills are tie-barred to each other and to Senate Bill 747, which would amend Part 115 to allow the disposal of liquid waste in landfills under certain conditions, remove a provision requiring a task force to make recommendations regarding the disposal of green glass in landfills, and retain the June 1, 2007, effective date on the prohibition against the disposal of green glass in landfills.

House Bill 5148 (H-2)

Under the bill, a person would be able to apply for a construction permit, or the renewal or modification of a construction permit, authorizing the person to establish an RDDP. Except as provided in the bill, an RDDP would be subject to the same requirements as apply to other Type II landfill units or landfill units under Part 115 and the rules promulgated under it, including requirements for permitting, construction, licensing, operation, closure, postclosure, financial assurance, and fees.

The bill would define "RDDP" as a research, development, and demonstration project for a new or existing type II landfill unit or for a lateral expansion of a type II landfill unit. (The administrative code defines a Type II landfill as a landfill that receives household waste or municipal solid waste, and that is not a land application unit, surface impoundment, injection well, or waste pile.)

Part 13 (Permits) states that the DEQ may extend the processing period for a permit by a maximum of 20% if requested by the permit applicant. Under the bill, an extension of the processing period for a permit would not be subject to the 20% limitation.

An RDDP construction permit application would have to include, in addition to the required information for other Type II landfill construction permit applications, all of the following:

- A description of the goals of the RDDP.
- Details of the design, construction, and operation of the RDDP as necessary to ensure protection of human health and the environment. The design would have to be at least as protective of human health and the environment as other designs are required to be under Part 115.
- A list and discussion of the types of waste that would be disposed of, excluded, or added, including the types and amounts of liquids that would be added and how their addition would benefit the RDDP.
- A list and discussion of the types of compliance monitoring and operational monitoring that would be performed.
- Specific means to address potential nuisance conditions, such as odors and health concerns that could occur as a result of human contact.

The DEQ could authorize the addition of liquids, including septage waste or other liquid waste, to solid waste in an RDDP if the applicant had shown that the addition was necessary to accelerate or enhance the biostabilization of the solid waste. The DEQ could set as a condition that the added septage or other liquid waste originate in the county where the RDDP was located and any contiguous county.

If an RDDP were intended to accelerate or enhance biostabilization of solid waste, the construction permit application also would have to include all of the following:

- An evaluation of the potential for a decreased slope stability of the waste caused by the increased presence of liquids, the accelerated degradation of the waste, increased gas pressure buildup, or other factors.
- An operations management plan that would include: a description of and the proportion and expected quantity of all components needed to accelerate or enhance biostabilization of the waste; a description of any solid or liquid waste that could be detrimental to the biostabilization of the solid waste or to the RDDP goals; and an explanation of how such detrimental waste would be kept out of the RDDP.
- Parameters such as moisture content, stability, gas production, and settlement, to be used by the DEQ to determine when it would authorize postclosure of the RDDP.

In addition, an RDDP permit application would have to include information to ensure that the RDDP would meet all of the following requirements:

- Ensure that added liquids were evenly distributed and that side slope breakout of liquids was prevented.
- Ensure that daily cover practices or disposal of low permeability solid wastes did not adversely affect the free movement of liquids and gases within the waste mass.
- Include a means to monitor the moisture content and temperature within the waste
- Include a secondary liner and leachate collection system to monitor the effectiveness or the primary liner. The leachate collection system would have to be of adequate size for the anticipated increased liquid production rates, and the design factor of safety would have to take into account the anticipated increased operational temperatures and other appropriate factors.
- Include a means of monitoring the depth of leachate on the liner.
- Include an integrated active gas collection system of adequate size for the anticipated methane production rates and to control odors. The gas collection system would have to

be operational before the addition of any material to accelerate or enhance biostabilization of the solid waste.

At least every 12 months the owner or operator of an RDDP would have to submit to the Director of the DEQ a report on the progress in achieving the goals of the RDDP, including a summary of all monitoring and testing results, as well as any other information specified by the Director.

A permit for an RDDP would have to specify its term, which could not exceed three years. The owner or operator of an RDDP could apply for an extension of the term of the permit, subject to the following requirements:

- The DEQ would have to receive the application at least 90 days before the permit's expiration date.
- The application would have to include a detailed assessment showing the progress of the RDDP in achieving its goals, a list of problems with the RDDP and progress toward resolving them, and other information that the DEQ Director determined was necessary.
- If the DEQ failed to make a final decision within 90 days of receiving an administratively complete application, the term of the permit would be considered to be extended for three years.
- An extension could not exceed three years, and the total term of the permit with all extensions could not exceed 12 years.

The Director of the DEQ could order immediate termination of all or part of the operations of an RDDP or order other corrective measures if he or she determined that the overall goals, including protection of human health or the environment, were not being achieved.

The postclosure period for an RDDP would begin when the DEQ determined that the unit or portion of the unit where the RDDP was authorized had reached a condition similar to that which non-RDDP landfills would reach before postclosure. The permit would have to specify the parameters, such as moisture, content, stability, gas production, and settlement, to attain this condition. The perpetual care fund required under Section 11525 would have to be maintained for the period after final closure of the landfill as specified in that section. (Section 11525 requires a landfill owner or operator to establish and maintain a perpetual care fund for 30 years after final closure. The owner or operator must deposit into the fund a specified amount per ton of solid waste or certain other materials disposed of in the landfill.)

The Director could authorize the conversion of an RDDP to a full-scale operation if the owner or operator of the RDDP demonstrated to the Director's satisfaction that the goals of the RDDP had been met and the authorization did not constitute a less stringent permitting requirement than otherwise would be required under Federal law.

House Bill 5149 (H-4)

Part 117 defines "receiving facility" as a structure designed to receive septage waste for treatment at a wastewater treatment plant to which the structure is directly connected, and that is available for that purpose as provided for in an ordinance of the local unit of government that operates the wastewater treatment plant or in an operating plan. Under the bill, a receiving facility would be located either at a wastewater treatment plant or at a research, development, and demonstration project (as proposed under House Bill 5148). The bill would require that a receiving facility be provided for in an ordinance of the local unit of government where the structure was located or in an operating plan.

Under the bill, the septage waste servicing license and septage waste vehicle license requirements under Part 117 would not apply to RDDPs.

Part 117 requires that, before beginning construction of a receiving facility, the owner have a permit authorizing the construction of the facility. Under the bill, if the proposed receiving facility would be part of an RDDP that would be permitted under Part 115, then the permit issued under that part would satisfy the permitting requirement.

Proposed MCL 324.11511b (H.B. 5148)
MCL 324.11701 et al. (H.B. 5149)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bills would result in negligible administrative costs to the State. The Department would be required to review and address permit applications for landfill demonstration projects and provide for inspections and enforcement actions in the same manner as required for full-scale landfills. Existing resources would be used to cover the additional expenses.

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.