General concerns:

The funding mechanism(s) have not been identified. Since the impact of the funding mechanism is unknown, complete comments on the draft legislation are not possible. It is necessary to understand the cost impact on municipalities and recycling facilities in order to fully assess the proposed legislation.

The proposed regulations treat those facilities that do not have negative external impacts similar to those facilities that have negative external impacts. I’m challenged to understand how imposing additional regulations and costs on recycling facilities will increase recycling capacity in the state.

In general, there should be new categories called “material utilization” and “waste conversion” facilities to differentiate between those facilities that create products for continued reuse and those facilities that generate energy.

Within those categories, facilities should be differentiated based on their potential for negative impact on the surrounding area. I’ve included comments below on specific sections as it relates to this concept but the authors should rewrite the entire document to be more specific instead of repeatedly using “waste utilization” as a generic category.

The sections on planning contain a number of concerns. I’ve only included a handful of items since it is my understanding that the MDEQ has been working on a rewrite of these sections. As such, I’m not inclined to spend a significant amount of time commenting on sections that apparently are undergoing a substantial rewrite.

Specific comments and questions are below. However, there are a number of items that require clarification before addition comments and/or language recommendations can be made. Those items are highlighted in yellow.

- Mike Csapo, RRRASOC

Page 18, line 25: What level of detail will be required for the operations plan? Mike Csapo, RRRASOC

Page 22, line 9:

40 CFR 258.74 states *“[t]he mechanisms used to demonstrate financial assurance under this section must ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever they are needed.*”

40 CFR 258.74 (d) refers to post closure insurance, which should not be required when a financial assurance bond is also required, such as referenced in 40 CFR 258.74 (b) and required per Draft 3 on page 85, line 21, et al. Also, a letter of credit, such as that referenced in 40 CFR 258.74 (c), should be permitted.

Page 22, line 13, recommended language:

an operating license**,** ~~GENERAL PERMIT TIER 1, OR GENERAL PERMIT TIER 2~~shall submit evidence of the required coverage by submitting both... Mike Csapo, RRRASOC

Page 23, line 1: Strike line since there should be no limits on the amount of food waste a facility accepts as long as it does not cause a nuisance. Mike Csapo, RRRASOC

Page 24, line 24: Utilization facilities should be deemed Material Utilization Facilities to recognize that they accept and process marketable commodities, not waste.

(B) A ~~WASTE~~ MATERIAL UTILIZATION FACILITY. Mike Csapo, RRRASOC

Page 24, line 25: add (c) Waste Conversion facility and renumber remaining lines to ensure a differentiation between facilities that recycle materials and those that convert waste to energy. Mike Csapo, RRRASOC

Page 25, lines 20 - 22: The continued reliance on a residue percentage as a way to differentiate between solid waste processing facilities and source separated MRFs is an inaccurate and unnecessary way to characterize a facility.

The issue is to differentiate those solid waste processing facilities (aka dirty MRFs) that accept solid waste (and remove some recyclables from that waste stream) from those facilities (source-separated MRFs) that accept recyclable material and remove some non-recyclable material from that material stream as they separate the stream into different marketable commodities.

Source separated MRFs receive material from routes designed to collect only recyclables.  That fact can be affirmed by an operator’s documentation and confirmed by facility inspections. Such facilities are completely different in character and impact than those facilities that accept waste for processing.

A source-separated facility's residue rate may exceed a certain percentage due to poor compliance by homeowners on those routes or by short-term market conditions that leave no outlet for commodities other than disposal.  Both of those circumstances are largely outside of the operator’s control and neither of those conditions changes the basic character of the source-separated MRF, as one that “receives primarily source separated or recyclable material, or both.” (Page 25, line 16)

~~C) ON AN ANNUAL BASIS, DOES NOT RECEIVE A VOLUME OF SOLID~~

~~WASTE RESIDUALS EQUAL TO OR GREATER THAN 15% OF THE TOTAL VOLUME OF MATERIAL RECEIVED BY THE FACILITY.~~  Mike Csapo, RRRASOC

Page 26, line 6: Strike line since there should be no limits on the amount of food waste a facility accepts as long as it does not cause a nuisance. Mike Csapo, RRRASOC

Page 27, line 15: Include conversion facilities.

MEANS ANY OTHER ~~WASTE~~ **MATERIAL** UTILIZATION **OR WASTE CONVERSION** FACILITY THAT CONVERTS SOLID... Mike Csapo, RRRASOC

Page 31, line 23: Strike the percentage limitation. Mike Csapo, RRRASOC

Page 39, line 9: Strike line. Mike Csapo, RRRASOC

Page 39, line 16: Waste Utilization should be called Material Utilization and include MRFs, Compost Facilities, and Anaerobic Digesters. A new category called Waste Conversion Facilities should be established and include gasification plants and pyrolysis facilities. Mike Csapo, RRRASOC

Page 61, line 20: General Permit requirements should be specified in more detail. The original draft GP document contained unnecessary and impractical requirements. Mike Csapo, RRRASOC

Page 62, line 6 and Page 85 line 22: Why only a bond as a means of financial assurance? See comments related to Page 22, line 9. Mike Csapo, RRRASOC

Page 62, line 25: Why are fees deposited to the perpetual care fund? Mike Csapo, RRRASOC

Page 79, line 19: Place a period after report and delete the remainder of the sentence. A local unit of government hosting a waste management facility should not have to pay for the inspection report. Mike Csapo, RRRASOC

Page 105, lines 12-13: Language requiring landfills to pay a surcharge should be maintained. Under no circumstances should the MWRA notion of charging a surcharge at all managed material facilities be adopted. Surcharges on landfills are a well-established policy tool based on sound economic theory. Establishing similar charges on facilities that do not have similar environmental impacts runs counter to standard regulatory and economic principles. The “playing field” is already not level and favors landfills, which, according to studies, fail to adequately account for their negative external impacts. Adding additional charges in a blanket fashion to all MMFs further tips the scale in favor of landfilling and away from more productive activities such as recycling.

Page 113, line 8: This changes responsibility from ensuring the use of licensed facilities to the use of facilities in compliance. That puts municipalities and counties in the position of having to ensure compliance, which is outside their purview. Language similar to the original requirement should remain. Mike Csapo, RRRASOC

Page 125, line 8: Lumps all MMFs together, allowing for adjacent communities within 2 miles to be on Planning Committee. This shouldn’t apply to MRFs, since they do not have a potential negative impact on the surrounding communities. Mike Csapo, RRRASOC

Page 137, line 26, et al and page 138, line 22, et al: Is identified as a management option and inventoried as a facility how a facility is going to be considered consistent with a plan? What if a facility is NOT included in a plan but is consistent with Page 155, line 23, et al? Mike Csapo, RRRASOC

Page 144, line 9: It is unclear what “accepted responsibility” means and it is unclear what mechanisms exist to ensure municipalities assume any responsibilities or how they may receive non-local funding to encourage taking on new programming obligations. Mike Csapo, RRRASOC

Page 146, line 9: same concern as above for Page 125, line 8. Mike Csapo, RRRASOC

Page 148, line 23: Drop offs are required if multi family residents don’t have onsite recycling but what is the connection of the county level requirement to the municipal responsibility? How is the requirement calculated? For example, is the number of units based on local government boundaries county boundaries? How are requirements imposed? How are they funded? Mike Csapo, RRRASOC

Page 149, line 4 combined with page 150, line 8: This reads like a recipe for the county making municipalities responsible and then asserting that the municipalities can just raise local taxes to pay for it. Clarification is needed. Mike Csapo, RRRASOC

Page 152, line 1, et al: This interferes with local zoning and home rule authority. While local zoning should not prohibit a particular use, it should be able to regulate its location and impose other reasonable, site specific conditions. Mike Csapo, RRRASOC

Page 152, line 4, recommended language.

IF IT PROHIBITS ~~OR REGULATES THE LOCATION OR~~ **THE** DEVELOPMENT OF A , Mike Csapo, RRRASOC

Page 152, line 16 et al: As written, this section allows certain public entities that are not owners of a facility to flow control and/or restrict the use of an existing facility. It also impedes upon a municipality’s home rule authority. It should be completely removed. Mike Csapo, RRRASOC

Suggested replacement language:

“A public entity may adopt requirements controlling the flow of materials to a facility owned by that entity, provided, however, that such requirements do not adversely impact contracts, agreements, or facilities in operation at the time of the adoption of such requirements.” Mike Csapo, RRRASOC

Page 155, line 14: Will operating licenses be issued to existing facilities prior to the planning process being completed? Mike Csapo, RRRASOC

Page 155, line 24: This should not include all “waste utilization” facilities. Rather, it should only include specific “material utilization” facilities that do not pose a potential for negative impact on the surrounding communities.

Page 166, line 14 et al: Will these programs be typical MDEQ grant programs? It would be useful to have “pass through” funds available for use by municipalities, who then have to demonstrate that the funds were used for purposes identified in this section. Mike Csapo, RRRASOC

Page 200, line 14: Eliminate the 15% residual limit. See previous comments.

**Additional comments/questions from Tim Sikma, City of Wixom, DPW Director.** The City has a wastewater treatment plant located on the same public services campus as a compost facility operated by Spurt Industries.

How will the regulations is to coexist with the part 31 rules and regulations? It seems that these rules should not conflict.  Proposed Part 115 seem to conflict in a couple of areas.

1.      Hydrologic Plan requirements should only be based on current ground and surface water regulations.

2.      The intermingling Biosolids with Compost will require a special permit that has no requirements.   503 regulations allow the decompositions of Biosolids for public use based on the process of the treatment plant, vector and pathogen reduction, temperature of the material during the process along with sampling to prove the process has been completed satisfactorily.   Part 115 should not conflict with these rules.   This should get worked out before the regulations are promulgated.

3.      The sale of intermingled solids should be allowed for sale based on some kind of categorical system.