December 28, 2017

**Michigan Department of Environmental Quality**
Solid Waste Management
attn.: Solid Waste and Recycling Advisors (SWRA)
525 W. Allegan Street, Lansing, MI 48933

**Re: Part 115 Solid Waste Management Regulations - DRAFT**

*To Whom It May Concern,*

Thank you for the opportunity to provide comments on the Part 115 Solid Waste Management regulations. The Southeast Michigan Council of Governments (SEMCOG) is a regional planning partnership that supports coordinated local planning with technical data and intergovernmental resources to over 170 units of local government across 7 counties in Southeast Michigan (Washtenaw, Livingston, Oakland, Wayne, Macomb, St. Clair, and Monroe Counties).

As a Council of Governments, the Metropolitan Planning Organization, and the Designated Air and Water Quality Management Agencies for the region, SEMCOG’s plans improve the quality of the region’s environmental resources, make the transportation system safer and more efficient, revitalize communities, and encourage economic development. SEMCOG is looking forward to increasing its role in helping facilitate Materials Management Planning in Southeast Michigan at the local, county, and regional levels.

SEMCOG’s priorities for the Part 115 Update include: 1) Planning process, 2) Funding and financing to support planning and implementation, and 3) General permit requirements. The format of this letter includes a brief priority description followed by line item submitted by others.

**General Comments**

Updates to the Part 115 should not create a regulatory burden for private industry and local government but instead should incentivize investment in new facilities for materials utilization and conversion, the development and implementation of more recycling programs, and support the development of new markets for recycled materials. In order to achieve these goals, definitions need to be clarified, and should be simplified to reduce any regulatory burden that might be imposed as a result of new material management programs in Michigan.

* P 23 Line 1: Strike all of (C). Permitted facilities should have no limits to the amount of food waste they accept and manage. General permit requirements should take care of the problems. Agree (DR) Patrick Cullen, Division Director – Wayne County Solid Waste Planning)
* It is important that general permit requirements address nuisance odor issues.
* P 24 Line 20: Categorizing all facilities under the heading materials management facilities makes for some problematic distinctions later in the document. We will point these out later. Waste conversion to energy was discussed at length but is not included here, it will require a definition and we think should be a category.( Patrick Cullen, Division Director – Wayne County Solid Waste Planning)
* Page 24, line 24: Utilization facilities should be deemed Material Utilization Facilities to recognize that they accept marketable commodities, not waste. (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)
* P 25 Line 21: Using the arbitrary measure of 15% to identify the purpose of a facility is problematic. MRFs are not in complete control of the material received and those thresholds can move depending on the education, changes to program and other factors. We are primarily trying to make the distinction here between a MRF and a mixed waste processor. That distinction can be made by reporting the inbound stream (i.e. recyclables or solid waste) and the intent of the facility. MRFs will have to manage residuals at whatever levels they are encountered and are financially incentivized to develop relationships to reduce residuals. Also we would suggest that MRFs are industrial facilities that do not pose the kinds of issues that landfills and compost sites may. Additionally MRFs are regulated in many other ways. We should consider a different oversight pathway for MRFs (new vs. existing) maybe a general permit to allow for inspection but no financial assurance requirement etc.
* Page 27, line 15: Include conversion facilities. Means any other waste utilization or conversion facility that converts solid. (Mike Csapo, RRRASOC)
* P 27 Line 16: We don’t believe the production of usable products and the production of energy as equally beneficial activities and that there should be some distinction in their value. Waste utilization vs. waste conversion. Patrick Cullen, Division Director – Wayne County Solid Waste Planning)
* Page 39, line 16: Waste Utilization should be called Material Utilization and include MRFs and Compost Facilities. A new category called Waste Conversion Facilities should be established and include anaerobic digesters, gasification plants, and pyrolysis facilities. (Mike Csapo, RRRASOC)
* P 39 Line 17: Not making a distinction between waste utilization and waste conversion and lumping these in one category gets problematic. Again, the distinction between a product and energy produced. (Patrick Cullen, Division Director – Wayne County Solid Waste Planning)
* P 39 Line 27: We don’t believe the production of usable products and the production of energy as equally beneficial activities and that there should be some distinction in their value. (Patrick Cullen, Division Director – Wayne County Solid Waste Planning)

**Clarifying regulations on biosolids composting**

Biosolids are nutrient-rich materials that are produced as a result of wastewater treatment. Biosolids can be utilized to create fertilizers or can be converted into energy. Since biosolids produced at wastewater treatment plants are subject to regulations through the Water Resources Division (WRD), it is important for the Solid Waste Division to collaborate with the WRD to clarify how biosolids that are composted will be regulated under Part 115 versus existing water programs.

**Planning Process**

SEMCOG supports that local control over materials management planning and implementation will be held at the County and local levels. To plan and implement the updated Part 115 regulation successfully, coordination between local units of government will be essential to ensuring county planning is in alignment with local master plans and zoning ordinances.

SEMCOG also appreciates the ability for local governments to collaborate regionally to meet capacity requirements and supports the intent of the Part 115 regulation update to include different types of materials management facilities; such as materials utilization and conversion, in regional capacity considerations. While collaboration across multiple counties is key to regional success on materials management, it is important that there are mechanisms put in place to address any deficiencies in multi-county or regional plans and that all parties understand who is responsible for addressing deficiencies from a managerial, operational, and financial standpoint. Additionally, it is important that rural and urban materials management needs are prioritized equally and that implementation of programs in less dense areas are not significantly delayed.

* P 125 Line 8: Does this include closed facilities? Does this require the appointment of members from Canadian municipalities? In Wayne County, this provision as written would result in the addition of at least 6 members to the planning committee. Suggest limiting this provision to apply only to landfills instead of all material management facilities. (Patrick Cullen, Division Director – Wayne County Solid Waste Planning)
* P 126 Line 23-24: Deficiency’s in a multi-county plan would be resolved by which county? Suggest striking the language about notifying the County or having the County address the deficiencies since most Counties will likely be the planning entity. (Patrick Cullen, Division Director – Wayne County Solid Waste Planning)
* Page 151, lines 23-26: would recommend some clarifying language that if this is done at the county level the county works with local municipalities within the county to implement. (Tom Frazier, MTA.)
* Page 156, after line 3: We need to determine whether the local zoning process needs to take into consideration concerns regarding facilities located within 2 miles or 1 mile of adjacent communities. This issue needs clarification and further discussion. (Tom Frazier, MTA.)
* Page 157, line 5: we need to add another subsection to include going through the MPP amendment process to have a disposal area or waste utilization facility approved. (Tom Frazier, MTA.)

Additionally, resolving challenges related to zoning while materials management plans are being developed will be important to ensure that certain facilities are not zoned out of counties entirely. Since counties will be required to demonstrate that they have the capacity available to support materials management needs, collaborating regionally will help facilitate siting of facilities and help overcome any challenges related to zoning that prohibits facilities from being built.

**Funding & financing to support planning and implementation**

Presently, the proposed regulation is silent on dedicated funding sources that will be available to local units of government to implement any new regulatory requirements. While some options are highlighted, it is important that any new laws be supported by a dedicated funding source for local governments to implement any newly mandated programs. Funding should be allocated in a manner to support development of any new programs in lieu of any type of competitive grant or reimbursement approach.

Since concrete funding mechanisms have not been identified, it is challenging to provide comprehensive comments on this draft legislation. Understanding the true cost impact to counties, municipalities, and private facilities is important to understand the feasibility of implementing materials management programs in Michigan. Relying on financial options that require local governments to adopt new fees or taxes to pass the costs down to residents is not a sustainable or appropriate mechanism to support new program development– especially considering that the MDEQ is also proposing new infrastructure rules that will have significant financial impacts to local government operations. Balancing the needs of multiple programs and considering local government funding needs holistically is important to long-term environmental and fiscal sustainability in Michigan. Identifying funding to support initial and ongoing planning updates - is equally important. Direct pass- through funding is needed to support materials management planning and implementation.

* 162 Line 8: (Not sure if this is the right section for this comment) We want to create a direct funding pass through to counties/communities that have planned and reached their goals to be able to use the direct funding at their discretion. (Wayne County seconds this) ( Patrick Cullen, Division Director – Wayne County Solid Waste Planning)
* Funding to develop training and professional certification programs should be considered as Michigan’s Materials Management Planning program is expanded and implemented.
* Funding to support public education programs is vital to meeting Michigan’s materials management goals. Residents will need to be educated on what materials are suitable for materials utilization versus conversion and also on what materials can be composted, verses disposed of in a traditional manner. This public education will help Michigan achieve its materials management goals, while reducing residuals at materials utilization facilities.
* Funding to support the development of required operations plans, and support tracking, monitoring, benchmarking, and reporting requirements is vital. These mandated efforts not only cost money to perform, but the staff time required to complete these activities is also costly.

**General Permit Requirements**

Any new permit requirements associated with the Part 115 update should not conflict with or duplicate existing MDEQ permit requirements. In this draft, there are multiple monitoring requirements suggested for composting including keeping track of the turnover rate of composted material, as well as its chemical composition and temperature. Stormwater and groundwater requirements have also been suggested. Coordination between MDEQ’s Solid Waste and Water Resources Division (WRD) early in the program planning process to understand water-related permit requirements for materials management facilities, as well as monitoring and reporting needs related to stormwater and groundwater permit requirements is essential to not duplicating regulatory programs or burdening local governments. If facilities have existing industrial stormwater or groundwater permits, additional regulatory burden or requirements related to water in Part 115 might be unnecessary and will likely result in higher implementation costs.

Overall, SEMCOG supports Michigan’s effort to evolve historical solid waste planning to develop a culture of materials management that is focused on reducing the amount of materials disposed in landfills and incinerators by implementing waste diversion, utilization, and conversion programs. Developing new materials management plans and implementing programs will not be possible without identifying a dedicated, long-term funding source that is independent of fees or taxes imposed on residents by local governments to support local programming. In addition to pinpointing funding and financing; more work is needed to make sure that local participation in planning does not add additional staffing burdens to local governments or thwart private investment and development of new facilities. Furthermore, efforts to clarify definitions, simplify, and ensure that new regulations are not burdensome to local governments is important. Similarity, ensuring that new general permit requirements are not duplicative of other permit requirements or overly cost prohibitive is integral to the long-term environmental and economic sustainability of local government operations and Michigan’s Materials Management program.

Thank you for taking the time to review SEMCOG’s comments and consider how we can work to make Michigan’s Materials Management program feasible for local governments to plan for and implement.

Sincerely,



Amy Mangus

Deputy Executive Director, SEMCOG