To : MDEQ and Solid Waste and Recycling Advisors (SWRA)

December 28, 2017

The Michigan Chemistry Council provides these comments on behalf of our members. Our member companies nationwide and in Michigan are the manufacturers of plastic resins, and strive to promote innovative plastics recycling and energy recovery programs. We support the SWSAP’s stated goal of “sustainable materials management,” which incorporates life-cycle thinking and a holistic approach to evaluate the full range of potential environmental impacts. Unfortunately, the proposed drafts of Michigan’s Part 1115 Solid Waste statute would actually be counterproductive to this goal with respect to certain facilities and processes that can help divert materials from landfills into more sustainable uses.

Specifically, the draft legislation would unnecessarily and inappropriately impose significant new regulatory burdens on potential facilities that could convert non-recycled materials (like plastics) into fuels, chemicals, or energy. For the purposes of this draft, such facilities would include pyrolysis facilities and some gasification facilities (those using source-separated materials). Such facilities are not incinerators or disposal sites, and are in many ways akin to manufacturing facilities. Hence, they should be regulated by the State as manufacturing facilities, rather than as waste facilities under this new and vastly expanded scope of MDEQ’s waste program. [[1]](#footnote-1) While such facilities may indeed present technical and economic challenges, they are generally considered to be environmentally beneficial from a life cycle[[2]](#footnote-2) and emissions[[3]](#footnote-3) standpoint. They also do not result in adverse local impacts.

Under the current Part 115 statute, such facilities would be exempt from solid waste regulation, and there is no empirical evidence or justification at this time to vastly increase their regulation as waste facilities. Please see below our specific comments for suggestions to address these problems in the draft legislation.

* Page 18, Lines 20-27: We suggest combining the General Permit Tier 1 and General Permit Tier 2 categories into one, as there does not seem to be much differentiation in requirements. (John Dulmes – MI Chem Council)
* Page 24, Line 24: Rename “Waste Utilization” to “Materials Utilization” or something similar, as such facilities don’t actually manage waste as defined in this legislation. “Waste utilization” is an archaic, inaccurate, and disparaging term. (John Dulmes – MI Chem Council)
* Page 33, Line 10: Important to note that “source separated materials” continue to be defined as not being “solid waste.” (John Dulmes – MI Chem Council)
* Page 35, Line 24 to Page 36, Line 12: Again, important to note that “source separated materials” are not considered “solid waste” and are intended for conversation into raw materials or new products, not simply for energy or disposal. (John Dulmes – MI Chem Council)
* Page 39, Lines 15-16: Again, rename “Waste Utilization” to “Materials Utilization” or similar. Also, re-examine definition to compare to earlier language for source-separated materials. This definition should be consistent and should include not only energy production, but also conversion to raw materials and new products.
* Page 39, Line 17: As throughout this legislation, rename “Waste Utilization”, for reasons expressed above. (John Dulmes – MI Chem Council)
* Page 41, Lines 11-13: We understand the recycling goal that the state has set, but we continue to encourage the consideration of broader goals, consistent with the idea of “sustainable materials management” that goes beyond merely the quantity of materials recycled as the primary metric. (John Dulmes – MI Chem Council)
* Page 61, Lines 20-24: “Waste Utilization Facilities,” including pyrolysis or gasification facilities, which manage “source separated materials” should be exempt from requirement for a general permit (“Registration” level or reporting of volumes would be acceptable).   
  Note that “Source separated materials” are by definition not solid wastes. Also, such facilities would convert otherwise-landfilled materials into usable products, like fuels or chemicals, and should therefore appropriately be regulated as manufacturing facilities. Such facilities would already be subject to all relevant air and water permits and enforcement. Such facilities are also predicated upon producing a usable product, rather than simply collecting tipping fees or disposing of wastes, and are therefore inherently motivated to manage their feedstocks and reduce their residuals.   
  Like MRFs, such facilities are essentially industrial operations that do not have the same adverse external impacts as landfills, incinerators, and poorly run compost sites. The MDEQ should not take the position of regulating any facility as a “waste” facility simply because it uses materials diverted from the waste stream. (John Dulmes – MI Chem Council)
* Page 146, Lines 9: It seems like this section is proposing to allow adjacent municipalities to comment on the development of a “waste utilization” facility. What is the purpose and justification for providing comment on development (often by a private investor) of facilities like a MRF, pyrolysis, gasification, or biodigester? Suggest removing “waste utilization facilities” from this section. (John Dulmes – MI Chem Council)
* Page 147, Line 15-17: Suggest the concept of “exempt” rather than “automatically consistent” for certain facilities and materials management plans. What does “automatically consistent” mean in practical terms? (John Dulmes – MI Chem Council)
* Page 152, Lines 1-9: Re-examine or eliminate the subjective phrase “unless the purpose of the measure is to increase the recovery of managed materials and waste utilization in the planning area.” This could be interpreted or applied in many potentially counterproductive ways. (John Dulmes – MI Chem Council)
* Page 152, Lines 16-23: Re-examine the provision for flow control to publicly owned facilities. Seems like this allowance could potentially interfere with the ability of individual generators to find potentially higher-value uses for their materials. (John Dulmes – MI Chem Council)
* Page 155, Line 14 – Page 157, Line 18: We have major concerns with the proposed siting process, and would prefer clearer “exemptions” for “waste utilization facilities” rather than the proposed “automatically consistent” scheme. MRFs, pyrolysis and gasification facilities, and biodigesters would already have to follow local zoning requirements and site plan approval.   
  While it is beneficial for communities to better identify in MMP’s all possible uses for generated wastes, it is inappropriate and unnecessary to allow for local comment and approval on the development of such facilities, which are often privately owned. Economic development and construction of such facilities should not be subject to these potentially unwieldy and political local planning processes. (John Dulmes – MI Chem Council)
* Page 200, Lines 2-5: Inquiry - Clarify reference to “consistent with the approved materials management plan” – does this refer to the local plan or the permit requirements? (John Dulmes – MI Chem Council)
* Page 200, Lines 14-15: Eliminate reference/ 15% limit of solid waste residuals for “waste utilization facilities”. This is an arbitrary, unnecessary, inappropriate, and potentially counterproductive requirement. Such facilities recover otherwise-landfilled materials, and so any amount of materials recovered would be considered beneficial. Additionally, such facilities already have an inherent economic incentive to reduce their wastes, which are often influenced by factors outside of the operator’s control. It’s unclear why 15% is the right number, how this number would be calculated, or how it would be enforced. (John Dulmes – MI Chem Council)
* Page 204, Lines 9 - 20: Again, “waste Utilization Facilities,” including pyrolysis or gasification facilities, which manage “source separated materials” should be exempt from requirement for a general permit (“Registration” or reporting of volumes would be acceptable). (John Dulmes – MI Chem Council)

1. A helpful resource is a 2015 document, “[Regulatory Treatment of Plastics-to-Fuel Facilities](https://plastics.americanchemistry.com/Product-Groups-and-Stats/Plastics-to-Fuel/Regulatory-Treatment-of-Plastics-to-Fuel-Facilities.pdf),” prepared by the American Chemistry Council [↑](#footnote-ref-1)
2. Argonne National Laboratory Analysis: ["Life-Cycle Analysis of Fuels from Post-use Non-recycled Plastics"](http://www.sciencedirect.com/science/article/pii/S0016236117304775?_cldee=Y3JhaWdfY29va3NvbkBhbWVyaWNhbmNoZW1pc3RyeS5jb20%3d&recipientid=contact-5797f9ae644be41199400050568134c0-d6d13496bda24e5db146d315d04324b0&esid=86023508-b039-e711-9046-0050568134c0&urlid=1) [↑](#footnote-ref-2)
3. 2017 report, “[Comparison of Plastics-to-Fuel and Petrochemistry Manufacturing Emissions to Common Manufacturing Emissions"](https://plastics.americanchemistry.com/Plastics-to-Fuel-Manufacturing-Emissions-Study.pdf?_cldee=am9obkBtaWNoaWdhbmNoZW1pc3RyeS5jb20%3d&recipientid=contact-931d8df2c1a7e4118b880050568134c0-d402f1cf6ecf43e0968cfb9af88c6c8e&esid=9f839405-3e71-e711-89d2-0050568134c0&urlid=2) [↑](#footnote-ref-3)