

Michigan Waste Industries Association

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Good afternoon ladies and gentlemen, my name is Steve Essling, Chair of our Technical Standards Committee. With me today is Dave Rettell, President of the Michigan Waste Industries Association (MWIA). MWIA is a non-profit trade association that consists of Michigan-based private companies and publicly owned waste hauling and landfills dedicated to the safe, efficient and environmentally responsible handling of solid waste. The organization operates in accordance with its bylaws, which mandate adherence to an anti-trust agreement.

We are here today to comment on the proposed set of rules and revisions regarding characterizing various solid wastes as acceptable for land application and new criteria for adding food waste and other industrial waste to compost. MWIA believes that this proposed rule package does not go far enough. In short, the proposed rule package has the potential to create new facilities, which will have limited State oversight and have no financial assurance unlike Michigan Landfills.

The current program has actually proven far more effective than its critics will admit. MWIA believes that certain waste materials can and should be beneficially reused. The MDNRE has approved hundreds of wastes and sites, but has not produced a comprehensive report that details the impacts both scientifically and socially. The MDNRE waste characterization program allows waste materials to be designated as low-hazard or inert for either general or specific uses. MDNRE has approved at least several hundred of these characterizations. Rather than streamlining and modifying the current program to make it more efficient, the rules package removes required MDNRE oversight and effectively defaults to a position of, you can do whatever you want as long as you don't create a new cleanup site (facility). Once you have created a facility with no financial assurance, the citizens of Michigan have to potentially finance a cleanup.

Finally, the MWIA believes that this rules package goes beyond the statutory authority granted to the MDNRE by the Michigan Legislature. The MDNRE cannot, by fiat, take defined wastes and simply "de-list them". The Legislature authorized the MDNRE to exempt from regulation solid waste the MDNRE determines to be inert for uses and in a manner approved by the MDNRE. If MDNRE is going to authorize wastes for beneficial reuse, it must provide oversight. The current rule system does just that. These proposed rules take the MDNRE out of the process of reviewing and approving the inertness designation, and out of the process of determining if the use and manner of use are protective of the environment. This was not authorized by the Legislature.

For the inertness portion of the rules: Companies producing waste streams that are truly inert or allowed for beneficial reuse should have access to a process enabling them to secure an inertness classification that allows for their beneficial reuse. The Michigan Legislature passed legislation years ago creating a process for wastes to be declared inert and reused with appropriate controls to ensure that the residents and the environment of the State is protected. The Department has attempted to perform an end run around this process by chopping the term "approved" from the rules package and has replaced that designation with, "the plan is otherwise protective of human health, safety, welfare and the environment." This new term is found 15 times in the proposed rule document.

We recognize the evolution in technology and science has permitted certain standards to be relaxed and still be environmentally protective under Part 201 standards. This rule package goes beyond that by allowing waste to be placed on the ground, without statutory controls. Further, there are whole categories of wastes that these rules do not require to be tested at all; so long as the generator says he "knows" what's in the waste. There is limited protection for the residents or the environment of the State of Michigan.

This rule package would allow wastes, by definition, to no longer be deemed wastes; they would now be "industrial by-products". An example of this, "administrative" reclassification is R299.4122 Criteria for Designating Low Hazard Waste. Rule 122: The title itself for this sub-rule is, "Criteria for designating low-hazard waste." We feel that there is no "scientific criteria"; this is being done purely by administrative fiat. As example, In Rule 122(g) "Street cleanings, there is no actual scientific criteria for making a waste a low-hazard industrial waste.

For the compost portion of the rules: MWIA believes that Class One and Class Two, compost sites are actually landfills on the top of the ground. Adding defined "solid waste" under the guise of "beneficial reuse" or organic solid waste to compost piles heightens the potential for compost facility operations to adversely affect surface water, groundwater, wetlands, critical habitat and air quality.

Compost facilities, regardless of size, should be licensed, regulated by the department and subject to solid waste fees to pay for regulatory oversight. Quarterly monitoring, surface water run on and run off controls, leachate management plans, liners, groundwater discharge permits, finished product testing and compliance with specific operating standards should be required to ensure accountability. Similar to other engineered facilities designed to manage or process materials that could adversely impact the environment, compost sites should be subject to financial assurance requirements.