



Michigan Waste & Recycling Association

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WRITTEN TESTIMONY OF KEVIN KENDALL, MWRA PRESIDENT & TANISHA SANDERS, MWRA LEGISLATIVE CHAIR

HOUSE COMMITTEE ON NATURAL RESOURCES AND OUTDOOR RECREATION

PART 115 (HB 5812-5817)

JUNE 2, 2020

Good Morning Chairman Howell, and distinguished members of the House Committee.

My name is Tanisha Sanders and I am the Director of Government Affairs for Waste Management and addressing you today in my role as the Legislative Chair for the Michigan Waste and Recycling Association.

I am joined by MWRA's President, Kevin Kendall who is with Republic Waste Services and Eric Shafer who serves as MWRA's Technical standards chair, also with Waste Management.

We appreciate the opportunity to appear before you today at this important hearing on Part 115—the proposed re-write of the state's solid waste rules. The proposed rewrite provides an important and timely opportunity to update Michigan's waste rules, and our association and its members seek to be an integral part of the process.

As we begin this discussion, I want first to comment on the profound impact that the pandemic has had on us all. The waste industry provides a critical service in the health and safety of every community, every industry, every family – and we take this public role seriously.

It is also important to frame our discussion this morning in the context of the COVID era. The part 115 rewrite never envisioned these circumstances – nor the conditions under which our economy – its businesses, job providers and creators, industry sectors, and our industry – reboot and recover from the economic hit we're all enduring as a result of the pandemic. We know from experts that it will take time – several years – to recover. As we consider the provisions contained in the 115 re-write, we need to be mindful of the hurdles that Michigan's manufacturing face.

The MWRA represents businesses and municipalities that advocate and provide safe, economically sustainable and environmentally sound waste hauling, disposal, recycling, composting and landfill gas-to-energy programs.

Our membership is comprised of solid waste and recycling haulers, MSW landfills, Construction & Demolition landfills, transfer stations, Material Recovery Facilities, and compost facilities. We also retain professional members that serve as expert consultants or are affiliated with legal firms with expertise in the waste management and public policy arena.

Together, the Michigan waste industry contributes over \$990 million dollars of revenue and provides over 8,000 jobs for Michigan residents. On the environmental side, we operate more than 250 facilities, 5,000 pieces of equipment and safely and sustainably manage over \$11 million tons of waste per year in

this state. We are the essential service that keeps communities safe and clean and we take great pride in the work of our people.

Many of us in the room and on the call today have been working on Part 115 for several years. This is a top policy matter for our members. I'd like to thank the bill sponsors, members of the committee, the Department of Environment, Great Lakes and Energy (EGLE), and all of the stakeholders who were part of the Part 115 workgroup committee that worked through differences and reached some common ground to get us where we are today.

For well over the last five years, the waste industry has been actively engaged and at the table with many of you and we certainly appreciate the collaborative approach in developing this bill package.

We support the policy goals that the bill sponsors are looking to achieve through an update to the state's solid waste management plan, including the emphasis on improving Michigan's recycling rates and material reuse.

At the same time, our review of the package has identified some issues we want to flag – opportunities for improvement that we see within HB 5813, 5814 and 5817.

At this time, I'd like to turn it over to MWRA President Kevin Kendall to walk you through our priorities as an industry.

----- KENDALL -----

Good Morning Chairman Howell and members of the committee. Thank you for this opportunity on behalf of the association and its members, and thank you, Tanisha, for the introduction to our remarks today.

The waste industry realizes the importance of this legislation and is a leading proponent of sustainably managing materials in a way that benefits the economy, communities and the environment. Our members are an integral part to Michigan's material management system, and we appreciate the opportunity to provide specific comments for your consideration.

Our remarks this morning are intended to reflect our association's general consensus with the proposed bills, and also to flag areas that we believe require continued discussion and resolution. While we will touch on just a few of our top priorities during comments today, we are submitting a document we have prepared that highlights outstanding issues in further detail.

In reviewing the bill package, some of the language is specific to our industry, exclusively. In our review, we focused on HB 5813 and 5814, as well as 5817. Our focus is on the following:

- I. Landfill Gas Collection (HB 5813)
- II. Landfill Operating Fees (HB 5813)
- III. Post closure Leachate Disposal and Transportation Costs (HB 5814)
- IV. Financial Assurance/Functional Stability (HB 5814)
- V. Solid Waste Planning (HB 5817)

Landfill Gas Collection (HB 5813)

- The rewrite of 115 has presented an opportunity for us to address a key component within landfill gas infrastructure. HB 5813 contains new provisions for the installation and management of landfill gas control systems.
- Initially, the language was very prescriptive and far exceeded the existing Federal NSPS standards, which all our landfills currently operate under. MWRA has had several conversations with the department and were able to reach a compromise on many of our earlier issues. While many have been resolved, and we are thankful to the department for their partnership, there are still a few outstanding matters that remain a concern for us.
- MWRA looks forward to working with members of the committee and the department to further address these issues.

Doubling of Landfill Operating Fees (HB 5813)

- The doubling of landfill operating fees is a serious concern for our Michigan operators.
- MWRA and EGLE reached a compromise on the doubling of landfill construction permits, but we cannot support the proposed doubling of landfill operating fees. The proposal by the department is excessive and places an undue burden on facilities at this time. We are particularly concerned that the proposal for larger facilities that are responsible for the disposal of more than 3,000 tons per day, the fee doubles from \$30,000.00 to \$60,000.00.
- As Ms. Sanders expressed in her opening comments, the proposed fees are particularly concerning in light of the uncertainty of our nation's and state's economic rebound from the pandemic in the months or years ahead. Manufacturing, construction, industrial and residential customers shoulder the costs associated with every fee, surcharge, and operational change that comes with statutory change. The waste industry – our association's members—is in the customer service business and we are mindful of the challenges our customers face as we emerge from the pandemic's economic grip in the coming months. We urge you, the department and our fellow stakeholders in this process to be mindful as well.
- Landfills, like most other business sectors, saw significant revenue declines this past quarter. For us, this was due to the lack of commercial, industrial and construction activity, which brought these volumes to a near standstill. At this time, it remains uncertain as to how quickly volumes may recover; however, it is safe to say that it will be some time – perhaps as long as 24 months or more – before revenues recover and fill the gap created by the COVID period.
- These are revenues that landfills use to invest in infrastructure maintenance and upgrades, contribute to host communities, and pay state government oversight fees. We do not support the proposed fee structure at this time due to the great uncertainty that awaits all industries and would recommend revisiting the fee increase proposal.

Postclosure Increased Leachate Disposal & Transportation Costs (HB 5814)

- The language in HB 5814 increases the postclosure leachate disposal and transportation costs for determining the required minimum financial assurance by a factor of 4.
- MWRA understands that half of this increase is due to inflation since the original amounts were set, however, doubling the value again is arbitrary and excessive.

- *EGLE has stated that the current financial assurance formula for establishing post-closure costs for leachate management does not provide enough money based on their recent experiences*
- During the Part 115 workgroup process MWRA proposed a site-specific rationale for establishing the post-closure financial assurance amount for leachate disposal and transportation.
- MWRA supports having appropriate levels of financial assurance where it is needed. The costs for managing landfill leachate is site-specific and can vary significantly from site to site.
- Using site-specific information is one method of accounting for the variability between landfills.
- The proposed doubling of the current costs is arbitrary and will add significant financial assurance costs to every landfill. If a flat-rate formula is to be used, it should be adjusted consistent with the other financial assurance costs, which were adjusted for inflation.

Functional Stability/Financial Assurance (HB 5814)

- MWRA and EGLE worked collaboratively on Functional Stability language which will allow closed landfills to transition from active controls in accordance with post-closure care requirements, to passive controls under custodial care requirements using science-based environmental performance data and evaluations. The intent is to use performance-based criteria rather than an arbitrary and prescriptive time-based criterion to determine when active post-closure care can cease.
- HB 5814 also contains language that we worked closely with EGLE on regarding financial assurance, which would allow the industry to leverage a vehicle to earn interest on monies deposited.
- We appreciate the collaborative work achieved with EGLE on Functional Stability and Financial Assurance.

Contaminant of Emerging Concern (HB 5812)

- The language inserted here related to contaminants of emerging concern – PFAS – appears arbitrary and incomplete, at the very least and we recommend striking it at this time, until further discussion and work can be done to ensure the certainty of the language.
- The MWRA has been actively engaged in the PFAS issue for several years. We are receivers of PFAS containing materials for disposal. We continue to work with EGLE, local wastewater treatment facilities and leading researchers to grow understanding of these contaminants and identify and implement best management practices at our facilities. However, we believe it is premature to incorporate language in the Part 115 rewrite

Material Management Plan Update (HB 5817)

- The proposals contained in 5817 appear to considerably alter the autonomy of host communities and county solid waste planning processes.
- We continue to review areas of the bill package with our membership and will provide additional information for the committee's consideration shortly.

Summary

We appreciate the importance of your work and look forward to discussions with you to ensure this timely update to Michigan's solid waste management policy is thoughtful, practical and achievable by members of our industry working with government agencies and communities.

We believe the proposed bill package is a good first step and reflects the immense amount of work put forth by all parties. We will continue to be engaged with policy interests to be part of the process and to provide achievable, viable solutions wherever we can.

Thank you again for the time today. We welcome your questions at this time.