STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

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March 13, 2007

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The Honorable Rebekah Warren, Chair
House Great Lakes and Environment Committee
State Capitol
Post Office Box 30014
Lansing, Michigan 48909-7514

Dear Representative Warren:

Thank you for the opportunity to provide an overview of the Department of Environmental Quality's (DEQ) recommendations to improve solid waste planning at the March 7, 2007, meeting of the House Great Lakes and Environment Committee. One question that arose at that meeting concerned the process and timing by which the DEQ initiates the solid waste planning cycle under Part 115, Solid Waste, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). We would like to correct and clarify the information that we provided in response to that question.

First, the last planning cycle was initiated in 1997. The first of the plan updates were prepared by counties, submitted to the DEQ, and approved in 1999. Through 2001, the DEQ had received and approved 61 plans. An additional 16 plans were submitted and approved in 2002. It was not until 2003 that the remaining 6 plans were submitted to the DEQ and approved. Thus, it took six years to complete the update cycle and it has been less than five years since that cycle was completed.

Second, the obligation to conduct a planning cycle falls directly upon each county. Section 11533(2) of the NREPA provides "an initial solid waste management plan shall be prepared and approved under this section and shall be submitted to the director not later than January 5, 1984. Following submittal of the initial plan, the solid waste management plan shall be reviewed and updated every 5 years."

There is no explicit language in Part 115 that requires the DEQ to initiate the planning cycle. Rather, the DEQ has assumed this obligation because the planning process includes a potential for a county to decline to prepare a plan. Under Section 11533(4) of the NREPA, the county exercises this option by "failing to file a notice of intent [to prepare the plan] with the department within the prescribed time." The notice of intent is to be filed "within 4 months following notification by the department..." However, there is no explicit statutory requirement for the DEQ to notify counties of the need to file the notice of intent and thus no operative time frame obligating DEQ actions. The DEQ has done its best to administer this provision consistent with the legislative intent that the planning cycle occur on a five-year schedule. However, this is clearly impossible

if the planning cycle applies to all counties and the cycle takes six years to complete.

As outlined on March 7, 2007, the DEQ recommends that Part 115 be amended to address this problem. The amendments necessary to address this problem include:

1. The planning cycle should be established as a rolling process with 20 percent of counties initiating the amendment process each year.

2. The DEQ should develop a specific schedule within this five-year cycle for each county to begin its process.

3. The DEQ should be explicitly authorized to initiate the planning cycle for each county.

4. The local approval process should be modified to provide specific time frames for completion of the planning cycle.

I understand a bill will be introduced shortly to address these and other suggested amendments to the Part 115 planning process.

I trust this information will assist the committee in its consideration of the need to improve the solid waste planning process. Please feel free to contact me if you have questions or if I can be of further assistance.

Sincerely,

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cc: Mr. Steven E. Chester, Director, DEQ
Mr. Jim Sygo, Deputy Director, DEQ
Ms. Carol Linteau, Legislative Liaison, DEQ
Mr. George Bruchmann, DEQ