

**Solid Waste Advisory Committee (SWAC)
Meeting Summary
March 5, 2010**

Participants		
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- 1) Welcome and introductions.

Overview of agenda

- Handouts:
 - Agenda
 - Draft January 8, 2010 Meeting Summary
 - SWAC Legislation Table
 - Solid Waste Policy Tracking Table
 - 2008/2009 Michigan Industrial By-Products Reuse
 - Solid Waste Data Measurement System Operation Request for Proposal with Estimate of Costs

Update on the combination of the Department of Environmental Quality and the Department of Natural Resources into the new Department of Natural Resources and Environment (DNRE). It appears that the Waste and Hazardous Materials Division (WHMD) will become part of the new Groundwater Division. The Department's Fiscal Year 2011 budget, HB1192, has been introduced. The WHMD budget is wrongly included in the Remediation Division budget; the final bill should include WHMD in Groundwater Division. The Stewardship Deputy Director position will be announced soon, and then interviews will be conducted for the remaining division chief positions, which should be announced by the end of March. Then interviews will begin to fill assistant division chief positions and the two remaining regional director positions. The organizational chart will be completed as soon as possible.

The Environmental Advisory Council (EAC) is looking at program integration/program collaboration and how stakeholder groups such as the SWAC can be used. WHMD plans on offering the SWAC as a prime example of how well advisory committees can work (e.g., program priorities and funding needs exercise completed by SWAC).

The long term funding options discussion that has taken place at the past few meetings will be tabled until we have more clarity on the budget situation and how the DNRE will approach the agency's long-term funding needs. Money from the state Perpetual Care Account (PCA) is being used to "fill the gap" in our current FY10 budget. The DNRE will need to use additional PCA funds for FY11 to keep current programs going.

2) Approve draft meeting summary.

Members requested that the agendas for future meetings be sent out at least a week beforehand.

No changes were made to the January 8, 2010 meeting summary. The DRAFT heading will be removed from the summary on the Web site.

3) Standing Agenda Items:

Legislative Update:

- a) Bills highlighted include "grass to gas" legislation (HB 5334/SB 725) - a workgroup has been established to move the bills more toward a pilot program. Committee members had no update on the workgroup. DNRE staff is not involved in this workgroup. Also noted; Planning Lite draft bills continue to circulate for staff review and comment.

Highlights of the WHMD solid waste legislative priorities: One priority is to introduce bills to amend Part 115 to require all solid waste landfill reporting be in tons instead of cubic yards.

Another legislative priority is to introduce amendments to create equity between Type II and Type III financial assurance requirements, which would make the requirements more effective and efficient. For example, Type III landfill post-closure rates remain at 1996 rates; Type II rates are adjusted for inflation each year. Committee members expressed concern with the timing of reporting vs. PCF funds due- letters are being sent indicating PCF funds are low when they are not. Committee members also expressed concern for using state PCA funds to supplement operational funding (funding SW program).

The discussion then turned towards post closure costs at yard waste facilities and other sites where waste is beneficially reused. For example, shingle recyclers that accumulate exempt materials and do not require a license to operate. Should these sites be bonded for post-closure activities if the owner walks away? Some committee members expressed a desire to “follow the waste” for solid waste processing for siting, permits, post-closure, etc. If the burden is spread across all the sources, it will be a lower cost for everyone. Other committee members argued that the DNRE shouldn't lose sight that there are fundamental reasons fees are not necessarily charged on materials, but charged on certain activities. If fee structures are going to be suggested, it should be noted that charging a fee may dissuade an activity, while incentives may encourage other activities. Committee members asked what the cost is to the DNRE for some of these activities- if the goal is to encourage innovation it might be beneficial to incorporate a varied fee structure based on the activity. The DNRE does not have a vigorous beneficial reuse program- most of the program resources are dedicated to landfills. The Division's ability to promote beneficial reuse and to follow up on approvals is limited.

It was also suggested that fees would be based on how long the DNRE will be responsible for one ton of a specific material? For example, the DNRE would be responsible for one ton of waste disposed of in a landfill for an extremely long time. However, the DNRE would be responsible for a pile of shingles only as long as they are being stored (one or two years). Once the shingle is incorporated as part of a road, it is a product, the DNRE is not responsible. Similarly, the DNRE would be responsible for material at a yard waste site until it becomes finished compost, which may vary from site to site. It was also noted that financial assurance requirements for licensed disposal areas can be viewed as covering the costs of long-term responsibility for wastes, although those financial assurances do not fund DNRE oversight.

A committee member offered that the legislature will most likely pass legislation to allow the DNRE the authority to put bonds on some of the other processing facilities. Fees are much less likely. As financial assurance “fixes” are advanced, the DNRE may want to ask for bonding authority for these sites.

- b) Rules Update: Open burning rules: the draft rules have been approved by the State Office of Administrative Hearings and Rules (SOAHR), and notification of the public comment period will be released shortly. There will be 3 public hearings, one in Marquette, Gaylord, and Lansing in May. The education and outreach committee has met to devise strategy for informing local officials and public. We will keep the SWAC updated on upcoming comment periods. The effective date of the rules is April 1, 2011, which originally was intended to be at least a year until after rules are promulgated. Michigan Townships Association and Michigan Municipal League will work with groups to educate local officials.

Compost and Inert Rules: the draft rules will be sent over to SOAHR in early April. Upon approval, will set up public comment period, aiming for July, 2010. Staff noted that groundwater standards are one of the reasons these rules have been developed. The current version of the draft rules collect data from some of the largest facilities to develop standards on how groundwater is impacted.

- c) Operational memo update: Several operational memos are in the process of being updated such as waste pile regulations, yard waste variances (variances under 115 for accumulation time period, volumes, etc), use of yard clippings at landfills, and changes to the financial assurance for corrective action have been shared with MWIA technical standards committee.
- d) E-waste update: There are currently 59 registered manufacturers and 10 registered recyclers. This list can be found on the [e-waste website](#). Manufacturers and recyclers have been informed of their registration status (complete vs. incomplete). Scanned registrations are included on the website so that the take back programs can be viewed. Retailers cannot sell TVs or computers after 4/1/10 unless the manufacturer is registered in the state- they are being notified of the list of registered manufacturers.

There is still some confusion about who is required to do what- some local programs were under assumption that retailer is required to take e-waste back- it is the manufacturer that is required to have a free and convenient take back program. Statute has not established definition for "free and convenient." Local e-waste recycling programs were discussed, and it was asked if these collection programs could close because of the take back programs created by the legislation and direct residents to send material back the manufacturer? No, but local programs will inform citizens of new law and other possible options. One member characterized the legislation as a "paper tiger" because it does not have an incentive to establish a take-back program.

Part 173 also creates an E-Waste Advisory Council (EWAC). The Governor has identified representatives, Senate Majority leader identified reps, and House has not. The first meeting must be called by the Senate and House leaders. Many issues with the legislation should be clarified in the EWAC.

Part 173 does not have incentives such as binding goal; the law states the program must take everything, not just their own brand. No incentive for a good program- if a manufacturer creates a good program they will also get everyone else's products. Who is in charge of Part 173 enforcement? The program is not staffed – no major enforcement expected from the Department.

- e) Status of Policy Tracking Table: Tracking is available on [Google docs](#). SWAC members are invited to fill in information pertaining to the goals of the Solid Waste Policy. Becky provided an overview of the fields that have been completed, and highlighted some of the goals such as the 2012 goal of residents having access to recycling programs, or the 2015 goal of utilizing 50% of municipal waste.
- 4) Solid Waste Management Program Update: Wanda Williams has retired, and the DNRE is not filling the position. The duties of her position have been spread across other staff: Margie Ring has been assigned bonds, Becky Kocsis has been assigned PCF, and Christina Miller has been assigned solid waste surcharge monitoring. These continued pressures on staffing compel the DNRE to pursue legislation to streamline the program, such as the financial assurance requirements.
- 5) Update on Federal Rules Development
- a) Margie Ring provided an update on the regulation of Coal Combustion Waste: In December the EPA announced they are deferring a decision about the possible regulation of coal combustion waste as a hazardous waste until April. The EPA has been inventorying coal ash disposal areas in the country, none of the high or significant risk areas are in Michigan. The Department does not support the move to regulation as hazardous waste. Committee members asked if existing coal ash facilities need to close and begin sending coal ash to hazardous waste sites. If it is considered hazardous waste, would it end the beneficial reuse of fly ash?

Committee members asked if any analysis of the 90% reduction of mercury requirement by 2015 has been done as it pertains to coal ash. How much will end up in ash and what will that mercury level do to the waste? If coal combustion waste is reclassified as hazardous waste, it would no longer be allowed in Michigan, as Part 111 does not allow for the beneficial re-use of hazardous waste.
 - b) Duane Roskoskey provided an update on the definition of Secondary Materials that are solid waste when combusted: EPA was sued because of facilities burning various materials in industrial boilers. It is much more expensive to burn solid waste, as opposed to "other materials." For example, if blast furnace slag is considered solid waste, an industrial boiler attempting to burn it will be considered a solid waste facility. Some factors being looked at to decide if a material is solid waste or not: is it discarded or usable? BTU value? Example: stockpiled tires- if a facility is burning

stockpiled tires, they may have to be regulated as a solid waste facility, however if a facility is burning newly generated used tires it might not be regulated as solid waste sites. If scrap wood is considered a solid waste, the wood fired power plants would need to be regulated as solid waste sites. Environmental Council of States (ECOS) is working on a resolution to exempt whole tires from being considered solid waste.

A member asked what the impact will be on stockpiled tires in the state since Dundee cement kiln is closing. This item was discussed at the Scrap Tire Advisory Committee- doesn't seem to be a problem. They took many out of state tires and newly scrapped tires, those tires are still being sent to other TDF uses.

Duane provided a handout that shows Michigan Industrial By-products reuse. Bold numbers are updated for this year.

- 6) Update from Measurement Subcommittee: Measurement system request for proposals have been reviewed, Emerge Technologies has been selected. Next step is the Operational RFP. A draft has been included. Comments to Rhonda oyerr@michigan.gov by Friday, March 12. Then the RFP will be released with a few weeks for responses. It was also noted that the subcommittee continues to attempt to define utilization. Attempting to "fill in gaps" of utilization data.
- 7) Landfill disposal prohibitions and generator obligations: There is concern with the prohibited items in Part 115 and outlining what cannot go to a landfill; the burden is on the hauler and the landfill, not the generator. The discussion began with the mercury products ban; the majority of material is in small containers; haulers and landfills need to be able to tell homeowners not to put mercury in the garbage. If there isn't an easy alternative, the homeowner will just throw it in the garbage anyway. Currently Part 115 requires landfills to send a list of prohibited items to customers. Some members would like to see future legislation include a generator ban. Alternatives in place would be crucial to a generator ban on materials. It was noted that if the understanding is that haulers cannot pick up certain materials that are banned, why not extend it to the generators? It was also noted that if items are banned, "teeth" are put into legislation; the disposal systems should follow naturally. Would all banned items be treated equally under any generator ban? Committee members do not believe items such as beverage containers and items such as medical waste will be viewed as the same by homeowners. It was asked if bans should be based on risks posed, or on economic reasons.

It was noted that we have had these discussions before when developing the Solid Waste Policy. Is this particular discussion generator vs. landfill responsibility diverting attention to our goal of access to recycling by 2012? It would not detract from other issues if we acknowledge the preference to include generator responsibility in future legislation banning items. Issue is more of a consistency problem- need to be consistent in asking for generator bans on newly banned products. It was suggested that we add amendment to Part 115 Section 14 pertaining to generator responsibility. It was also

suggested that a proposed amendment be added to the Solid Waste Policy, adopt a new amendment; policy 1b. Ask new governor to adopt new policy.

8) Next Meeting Date: Friday, May 7, 2010 from 9:00 am – 12:00pm

Remaining FY 2010 Meeting dates:

May 7, July 9, September 10, November 12 from 9:00am – 12:00pm