


MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE COMMUNICATION

EXECUTIVE ORDER 1995-18  
DELEGATION LETTER

Letter No.: WHMD-111-01  
Former Letter No.: WMD-111-01  
Effective Date: October 1, 1995  
Revised: January 14, 2009

TO: All Unit Supervisors

FROM: Steven E. Chester, Director 

SUBJECT: Delegation Pursuant to Executive Order 1995-18 and Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as Amended – Permitting and Licensing of Hazardous Waste Treatment, Storage, and Disposal Facilities

I hereby delegate all statutory authority, powers, duties, functions, and responsibilities of Part 111, as outlined below, unless circumstances in individual cases warrant a decision at a higher level. The powers and duties are delegated for the purposes of administering the program pursuant to statute and rules. Authorities, powers, duties, functions, and responsibilities of Part 111 that are reserved for the Director or a Deputy Director of the Michigan Department of Environmental Quality (MDEQ) and not delegated are listed below.

This delegation includes anyone acting in the capacity of the position named in the delegation below. Any authority or power delegated to a subordinate position may be exercised by a position higher in that position's chain of command on a case-by-case basis, as circumstances warrant.

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
1. Approve Part A withdrawal.	MCL 324.11115a(3) and R 299.9629(1)(b)	Waste and Hazardous Materials Division (WHMD) Chief
2. Provide construction permit application form.	MCL 324.11118(1) and R 299.9509(1)	Hazardous Waste Section (HWS) Chief
3. Receive notification of compliance with Title 40 of the Code of Federal Regulations (CFR), Part 63, Subpart EEE, and apply referenced subrules.	R 299.9504(4), R 299.9623(2), R 299.9640(2), and R 299.9808(4)	HWS Chief
4. Determine provisions necessary to ensure compliance with 40 CFR, Section 264.345(a) and (c), and whether to apply Subrule (4) for collecting information.	R 299.9504(4)	HWS Chief

<b>Description of Authority or Responsibility</b>	<b>Authority</b>	<b>Authority or Responsibility Delegated To:</b>
5. Determine informational needs for applications for incineration or thermal treatment of hazardous waste and approve applications without a trial burn plan.	R 299.9504(4) and (4)(b) and R 299.9508(1)(b)	HWS Chief
6. Determine if 40 CFR, Part 63, Subpart EEE, standards alone are protective and require additional information or assessments.	R 299.9504(20)	HWS Chief
7. Begin processing construction permit application.	R 299.9509(2)	HWS Staff
8. Notify local unit of government that a construction permit has been filed.	MCL 324.11117(3) and MCL 324.11119(1)(a)	WHMD Chief
9. Notify construction permit applicant with respect to application completeness.	R 299.9509(4) and (5)	HWS Chief
10. Commence public participation process for construction permit application.	MCL 324.11119(1)(d) and (5), R 299.9509(7) and (8), and R 299.9511(7) and (9)	HWS Chief
11. Review construction permit applications to determine technical completeness and compliance with Part 111 and all other required permits.	MCL 324.11119(1)(b) and (c) and R 299.9517(2)(b)	HWS Staff or WHMD District Staff
12. Refer construction permit application to the Site Review Board (SRB) or notify construction permit applicant of intent to deny application.	MCL 324.11119(2) and (3)	WHMD Chief
13. Provide copies of construction permit application, staff report, summary of comments and associated response, and draft construction permit to each SRB member.	MCL 324.11119(3)	HWS Chief
14. Make staff available to assist the SRB.	MCL 324.11117(5)	WHMD Chief
15. Administer SRB fund, maintain records, and provide public notice form for newspaper publication.	MCL 324.11118(8) and (9)	HWS Chief
16. Prepare draft construction permit.	R 299.9509(8) and R 299.9511(7), (7)(a), (8) and (9)	HWS Staff
17. Public notice reconvening SRB and respond to comments received per this action.	R 299.9515(2)-(5)	WHMD Chief

<b>Description of Authority or Responsibility</b>	<b>Authority</b>	<b>Authority or Responsibility Delegated To:</b>
18. Grant construction permit extensions.	R 299.9516(2)	WHMD Chief
19. Issue limited storage facility operating license.	MCL 324.11104(1) and MCL 324.11122(1) and (7)	WHMD Chief
20. Provide limited storage facility or other type of facility operating license application form.	MCL 324.11122(2), R 299.9502(7), R 299.9508(1)(a), R 299.9510(2), and R 299.9519(12)	HWS Staff
21. Establish and adjust schedule requiring persons to submit an operating license application, request submittal of the applications, and receive applications.	MCL 324.11123(4) and (5)(a), R 299.9502(2)(c) and(3)(b), R 299.9510(1), R 299.9519(12), R 299.9520(2), and R 299.9640(3)	WHMD Chief
22. Issue an enforceable document in place of an operating license for the postclosure period.	R 299.9502(12)	WHMD Chief
23. Provide for meaningful public participation for enforceable documents issued in lieu of an operating license for the postclosure period. This public participation may be delayed or lessened if implementation of the remedy is necessary to protect human health or the environment or for acceptable remediation initiated prior to October 22, 1998, respectively.	R 299.9502(12) and (12)(a) and (b)	HWS Chief
24. Grant extensions to operating license application submittal date.	R 299.9510(5)	HWS Chief
25. Inspect facility for which an operating license application has been submitted.	MCL 324.11124	HWS Staff
26. Begin processing operating license application.	R 299.9510(3)	HWS Staff
27. Waive certain operating license application requirements.	R 299.9504(19) and R 299.9508(1)(b)	HWS Chief
28. Waive hydrogeological report requirements for nonland-based units in certain situations.	R 299.9508(2)	HWS Chief
29. Allow substitution of, or approve submittal waiver for, hydrogeological report information.	R 299.9506(2)(f) and (7)	HWS Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
30. Require that other information pertinent to the evaluation of a facility be included in the operating license application.	R 299.9508(1)(a) and (3)	HWS Chief
31. Request updated construction permit and operating license application submittals from the facility.	R 299.9520(2)	HWS Chief
32. Approve demonstrations that restrictions and notifications have been recorded on the property deed or other suitable document.	MCL 324.11139(1)	WHMD Chief
33. Approve demonstrations that restrictive covenants have been imposed.	MCL 324.11139(2) and R 299.9508(1)(a)	WHMD Chief
34. File restrictive covenant with Office of the Registrar of Deeds in the county where disposal facility is located.	MCL 324.11139(2)	HWS Staff
35. Make reasonable judgments whether operating license should be granted.	R 299.9518(2)(c)	WHMD Chief
36. Require additional information to establish operating license conditions.	R 299.9504(18)	HWS Chief
37. Draft operating license and conditions therein.	R 299.9511(7), (7)(a), (8), and (9) and R 299.9521(1)(c), (2), and (3)(a)	HWS Chief
38. Extend operating license final decision deadline.	R 299.9510(7)	WHMD Chief
39. Issue, reissue, or modify operating license.	MCL 324.11104(1); MCL 324.11123(1); MCL 324.11125(1); R 299.9502(3)-(5); R 299.9510 (6), (7), and (9); R 299.9516(4); R 299.9519(1), (2), (6)(a) and (b), and (7); R 299.9520(1)-(3); and R 299.9521(1)(b)(iii)	WHMD Chief
40. Provide written approval of technology changes needed to meet 40 CFR, Part 63, Subpart EEE.	R 299.9519(5)(k)	WHMD Chief
41. Provide written approval of waiver of operating and emission limits.	R 299.9519(5)(l)	WHMD Chief

<b>Description of Authority or Responsibility</b>	<b>Authority</b>	<b>Authority or Responsibility Delegated To:</b>
42. Approve or deny permit or license modification request associated with maximum achievable control technology performance testing and possible waiver of certain limits.	R 299.9519(5)(l)(iv)	WHMD Chief
43. Establish permit or license conditions in addition to those under 40 CFR, Part 63, Subpart EEE, or applicable requirements of Parts 6 and 8 of the Part 111 Rules.	R 299.9521(3)(c)	WHMD Chief
44. Determine need for permit or license conditions that minimize emissions from startup, shutdown, or malfunction events.	R 299.9640(1) and (3)	HWS Chief
45. Determine which hazardous wastes are to be covered in a research, development, and demonstration operating license; specify other requirements and conditions with which compliance will be required per license; modify or waive license application requirements; and issue or terminate license.	R 299.9501(4), (4)(b) and (c), and (5)	WHMD Chief
46. Issue or terminate a temporary emergency operating license.	R 299.9501(3) and (5)	WHMD Chief
47. Require additional certifications periodically during the operation and closure of a facility.	MCL 324.11122(6) and MCL 324.11123(3)	HWS Chief
48. Develop facility mailing list and inform public about the list.	R 299.9513(3) and (4) and R 299.9519(6)(b)	HWS Staff
49. Determine if additional newspaper publications are necessary and advise construction permit or operating license applicant.	R 299.9511(1)(c)(ii)(A)	HWS Chief
50. Approve use of another medium for noticing preapplication meeting.	R 299.9511(1)(c)(ii)	HWS Chief

<b>Description of Authority or Responsibility</b>	<b>Authority</b>	<b>Authority or Responsibility Delegated To:</b>
51. Provide mailing list and appropriate units of state and local government with notice that application has been submitted and place application and supporting documents in a location accessible to the public in the vicinity of the facility and at an appropriate office of the MDEQ.	R 299.9511(3)(a) and (b)	HWS Staff
52. Assess need for information repository and the information to be included therein, the appropriate location thereof as necessary, and the length of time it is to be maintained.	R 299.9511(5) and (5)(b)(i)-(iii)	HWS Chief
53. Require construction permit and operating license applicants to provide notice of information repository to the mailing list.	R 299.9511(5)(c)	HWS Chief
54. Commence public participation for operating license application.	R 299.9510(7)	WHMD Chief
55. Determine if specified criteria have been met such that a public meeting is necessary.	R 299.9514(2)(a)-(c)	HWS Staff
56. Determine appropriate locations for posting public notices regarding final construction permit and operating license decisions.	R 299.9513(1)(e)	HWS Staff
57. Prepare fact sheet.	R 299.9511(7)(b)	HWS Chief
58. Schedule, public notice, and hold public hearing regarding final construction permit or operating license decision or a major modification of either a permit or license.	MCL 324.11125(1); R 299.9511(7), (7)(c) and (d), and (9); and R 299.9514(2) and (5)	HWS Staff
59. Review comments on final operating license decision that were received during the public participation process.	R 299.9515(1)	HWS Staff
60. Issue response to comments.	R 299.9515(4)	HWS Chief
61. Render final decision on major operating license modifications.	R 299.9511(7)	WHMD Chief
62. Approve deviations (modifications) from conditions of operating license or from approved plans.	R 299.9519(1), (3)(d), (4), (5), (6)(a), (6)(a)(i), (6)(b), (7), and (9)(a) and R 299.9521(1)(b)(iii)	WHMD Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
63. Provide notice to licensee of intent to inspect and inspect modified facility to determine compliance with operating license conditions.	R 299.9521(1)(b)(ii)(A) and (B)	HWS Staff or WHMD District Staff
64. Charge for program information costs via request per mailing list notice.	MCL 324.11118(7)	HWS Chief
65. Notify regulated person of request for public record.	MCL 324.11129(2)	HWS Chief
66. Approve demonstration that information meets requirements for "confidential" designation.	MCL 324.11129(2)	WHMD Chief
67. Release any information obtained under Part 111 to the U.S. Environmental Protection Agency.	MCL 324.11129(4)	HWS Chief and WHMD District Supervisor
68. Issue emergency operating license.	R 299.9501(3)	WHMD Chief
69. Approve a closure plan.	R 299.9503(4)(a)(ii) and (b)	WHMD Chief
70. Evaluate, process, and approve or deny a petition demonstrating compliance with 40 CFR, Part 264, closure-by-removal standards.	R 299.9502(8), (8)(a) and (b), (9), (9)(d), and (10)	WHMD Chief
71. Grant exemption from construction permit and operating license requirements.	R 299.9503(4)	WHMD Chief

**Exceptions to delegation:**

**The following authorities, powers, duties, functions, and responsibilities are not delegated and are reserved for the Director of the MDEQ, unless otherwise indicated:**

1. Finding of an imminent and substantial endangerment to human health and the environment. [MCL 324.11148(1), R 299.9501(3), and R 299.9612(1)(g)]
2. Authority to convene the SRB, select members of the SRB, and refer permit applications and other matters to the SRB. [MCL 324.11117, MCL 324.11119(1)(a), and MCL 324.11120]
3. Authority to issue, deny, and revoke treatment, storage, and disposal facility construction permits and to make related determinations. [MCL 324.11118(1) and (6), MCL 324.11119(2)-(5), MCL 324.11120(1), MCL 324.11122(7), MCL 324.11148(1)(c), R 299.9501(1), R 299.9504(4)(b), R 299.9507(3), R 299.9509(6) and (8), R 299.9517(1)-(3), R 299.9519(4), R 299.9520(1)-(3), R 299.9521(1)(b)(i), and R 299.9616(3)(b)(ii)]
4. Authority to deny or revoke operating licenses. [MCL 324.11125; MCL 324.11148(1)(c); R 299.9518(1) and (2); R 299.9519(1), (2), (6)(a) and (b), and (7); and R 299.9520(1)-(3)]

5. Upon revocation of a construction permit or operating license, the authority to order the owner/operator to close the facility and cease all activities subject to construction permit or operating license requirements, except those necessary for closure. [R 299.9520(4)]
6. Authority to promulgate rules under Part 111. [MCL 324.11127, MCL 324.11128, and R 299.9215(3)]

This delegation is in effect until further notice.