


MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE COMMUNICATION

EXECUTIVE ORDER 1995-18
DELEGATION LETTER

Letter No.: WHMD-111-02
Former Letter No.: WMD-111-02
Effective Date: October 1, 1995
Revised: January 20, 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 – Compliance and Enforcement

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. Determination that a unit meets the definition of a "boiler."	R 299.9101(z)	Hazardous Waste Section (HWS) Staff
2. Prohibit wastes from management in a corrective action management unit (CAMU).	R 299.9102(u)(ii)	Waste and Hazardous Materials Division (WHMD) Chief
3. Maintain facility mailing list.	R 299.9103(s)	HWS Secretary
4. Issue site identification number.	MCL 324.11104(2), MCL 324.11153(1), R 299.9107(s), R 299.9206(5)(b), and R 299.9303(1) and (2)	HWS Staff
5. Designate staging piles.	R 299.9107(bb)	HWS Chief
6. Receive used oil management activities written notifications.	R 299.9109(t) and R 299.9811(2)(b)	HWS Staff

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
7. Approve equivalent testing or analytical method and request additional information as needed.	R 299.9103(i), R 299.9212(1)(a)(iv) and (c) and (8)(c), R 299.9215(1) and (3), R 299.9216(1), R 299.9302(1)(b)(i), R 299.9506(2)(a)(iii)(B) and (6)(b)(i)(C) and (D), and R 299.9621(1)(c)(vi)	HWS Chief
8. Have reason to believe material is a hazardous waste.	R 299.9201(1)	HWS Chief
9. Determine recycled materials are not wastes.	R 299.9202(6) and (7)	HWS Chief
10. Receive, review, approve, and reject (and provide notification of rejection) sampling and analysis plans associated with facilities that chose to measure concentration levels to claim certain hazardous waste exemptions.	R 299.9203(1)(c)(i), (ii), (vi), and (vii)	HWS Chief
11. Receive notification and certification of exclusion of nonwastewater residues from high temperature metals recovery processing of K061, K062, and F006.	R 299.9203(4)(c)(iii)	HWS Staff
12. Determine that debris is no longer contaminated with hazardous waste.	R 299.9203(6)(b)	HWS Chief
13. Receive exclusion notification for wood preserving wastewaters and spent wood preserving solutions and evaluate and approve reinstatements of exclusion.	R 299.9204(1)(u)(v)(A) and (C)	HWS Chief
14. Determine that select spent materials may be placed on a pad rather than in tanks, containers, or buildings.	R 299.9204(1)(v)(iv)(I) and (v)	HWS Chief
15. Receive notifications and annual reports regarding hazardous secondary materials used to make zinc micronutrient fertilizers.	R 299.9204(1)(x)(ii)(A) and (1)(x)(iii)(B) and (D)	HWS Staff
16. Receive notifications from persons accumulating waste from conditionally exempt small quantity generators in excess of the specified accumulation limits.	R 299.9205(4)(a)(xiv) and (b)(vi)	HWS Staff or WHMD District Staff
17. Receive written notification of hazardous waste electric lamp storage activity.	R 299.9206(5)(a)	HWS Staff or WHMD District Staff

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
18. Identify and define characteristics of hazardous waste.	R 299.9208(1) and (2)	WHMD Chief
19. Evaluate petition to exclude waste produced at a particular facility, take all steps necessary to approve or deny petition, and amend or revoke petition, as appropriate.	R 299.9211(1)(a)-(c) and (c)(iii) and (2)	WHMD Chief
20. Evaluate need to add a waste to, or remove a waste from, the state hazardous waste listing and initiate all steps necessary to see that they are added to, or deleted from, the lists.	R 299.9209(1)-(3), R 299.9210(1) and (2), R 299.9212(4), R 299.9213(1)(b) and (d), and R 299.9214(4)	HWS Chief
21. Determine a sample to be representative.	R 299.9212(7)	HWS Staff
22. Evaluate and grant/deny a petition to add a hazardous waste or category of hazardous waste to the list of universal wastes and initiate all steps necessary to see that they are added to the list.	R 299.9229(1) and (3)	WHMD Chief
23. Receive notices regarding comparable and syngas fuels exemption.	R 299.9230(2), which adopts by reference Title 40 of the Code of Federal Regulations (CFR), Section 261.38(c)(1)(i)(A)	HWS Staff
24. Approve format and content of manifest forms.	MCL 324.11135(7)	WHMD Chief
25. Receive executed copies of manifests and related notifications and request copies of executed manifests.	R 299.9304(2)(b) and (c), R 299.9308(5), R 299.9608(1) and (2), and R 299.9610(2)	HWS Staff
26. Determination of proper labeling and containerization for generators.	MCL 324.11138(1)(b)	WHMD District Staff
27. Grant extension to generator accumulation periods.	R 299.9306(3), (6), (9), and (10)	WHMD District Supervisors
28. Request generator to submit evaluation reports.	R 299.9307(2)	WHMD District Supervisors or HWS Staff
29. Request generator to retain other reports in addition to biennial reports and exception reports.	R 299.9307(4)	WHMD Chief
30. Approve format and content of data reporting forms.	R 299.9308(1) and R 299.9610(1)	HWS Chief
31. Receive data submittals to be used for preparation of documentation for the U.S. Environmental Protection Agency (U.S. EPA).	R 299.9308(1) and R 299.9610(1)	HWS Staff

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
32. Require periodic reports of hazardous waste generated, stored, treated, or disposed of, or transported for treatment, storage, or disposal.	MCL 324.11138(1)(h) and R 299.9308(4)	WHMD District Supervisors or HWS Chief
33. Review and inspect generator records.	MCL 324.11138(1)(f)	WHMD District Staff
34. Request extension of record retention periods.	MCL 324.11132a(1)(h), MCL 324.11135(12), MCL 324.11136(2), MCL 324.11137(e), MCL 324.11138(1)(g), R 299.9306(1)(a)(i), R 299.9307(6), R 299.9409(4), and R 299.9609(3)	WHMD District Supervisors or HWS Chief
35. Review and inspect transporter's manifests.	MCL 324.11136(2)	WHMD District Staff
36. Receive exception reports from exporters.	MCL 324.11135(11) and R 299.9309(3)	HWS Staff
37. Approve or disapprove site-specific variances from the applicable land disposal restriction treatment standards.	R 299.9311, R 299.9413, and R 299.9627, which adopt by reference 40 CFR, Section 268.44(h)	WHMD Chief
38. Approve alternate well installation and decommissioning plan procedures.	R 299.9506(2)(a)(v) and (b), R 299.9612(1)(b), and R 299.9629(6)	HWS Chief
39. Grant exemption from specified sole-source aquifer location standards.	R 299.9603(1)(d)	WHMD Chief
40. Grant exemption from specified floodplain location standards.	R 299.9603(4)	WHMD Chief
41. Grant exemption from the specified six meters of soil location standard.	R 299.9603(5)	WHMD Chief
42. Grant exemption from specified facility design and operating standards with regard to runoff and runoff controls.	R 299.9604(2)	WHMD Chief
43. Receive copy of notification of waste from a foreign source via adoption of 40 CFR, Section 264.12(a)(1).	R 299.9605(1)	WHMD District Supervisors
44. Approve alternate location for maintaining operating record.	R 299.9609(1)	HWS Chief
45. Receive copy of records of waste disposal locations and quantity.	R 299.9609(4)	HWS Staff or WHMD District Staff
46. Approve unmanifested waste report form.	R 299.9610(2)	HWS Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
47. Approve monthly operating report (MOR) form.	R 299.9610(3)	HWS Chief
48. Receive MORs.	R 299.9610(3)	HWS Staff
49. Approve ambient air monitoring program or waive ambient air monitoring program requirements.	R 299.9611(2)(c) and (4)	WHMD Chief
50. Waive groundwater monitoring requirements.	R 299.9611(3), (3)(a)(ii) and (iii), (3)(b), and (4) and R 299.9612(1)(h)	WHMD Chief
51. Require more intensive or extensive monitoring programs.	R 299.9611(5)	WHMD Chief
52. Extend point of compliance into groundwaters other than the uppermost aquifer.	R 299.9612(1)(a)	Hazardous Waste Technical Support Unit (HWTSU) Chief
53. Require sampling and analysis for secondary groundwater monitoring parameters.	R 299.9612(1)(c)	HWTSU Chief
54. Receive notifications regarding statistically significant increase in primary/secondary monitoring parameters.	R 299.9612(1)(c)(iii)	HWS Staff or WHMD District Staff
55. Approve statistical test with regard to groundwater monitoring.	R 299.9612(1)(e)	HWS Chief
56. Specify mean value of one year's initial sampling for each well.	R 299.9612(1)(e)(ii)	WHMD Chief
57. Require compliance groundwater monitoring and corrective action for groundwater.	R 299.9612(1)(f)	WHMD Chief
58. Receive notice of date of partial/final closure beginning and closure and postclosure certifications.	R 299.9101(l) and R 299.9613(2), (3), and (5)	HWS Staff
59. Request additional information in closure and postclosure certifications.	R 299.9613(4) and (5)	HWS Staff
60. Waive interim secondary containment requirements for certain tank systems, wastewater treatment units, and elementary neutralization units.	R 299.9615(2) and (6)	WHMD Chief
61. Determine that contaminated soils cannot be practicably removed.	R 299.9616(3)(b)(i)	WHMD Chief
62. Approve alternate design or operating practices for leachate collection and removal system received by HWS staff.	R 299.9619(5)	WHMD Chief
63. Grant owner/operator exemption from specified gas venting system requirements.	R 299.9619(6)(c)	WHMD Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
64. Approve alternative design and maintenance practices relative to closure and postclosure care period.	R 299.9619(7)	WHMD Chief
65. Approve alternate design for waste pile and landfill base floors.	R 299.9620(4)	WHMD Chief
66. Approve nondestructive testing of all field seams of synthetic liners.	R 299.9621(1)(d)(iii)	HWS Chief
67. Inspect quality control programs for landfills, surface impoundments, and waste piles.	R 299.9621(2)	HWS Staff or WHMD District Staff
68. Receive notice of contamination detected in leak detection system.	R 299.9622(2)(a)	HWS Staff or WHMD District Staff
69. Grant exemption from leak detection system requirements.	R 299.9622(3)	WHMD Chief
70. Authorize filling, grading, excavating, building, drilling, or mining on property following completion of a landfill.	MCL 324.11139(2)	HWS Chief
71. Require a trial operation of incinerator and submittal of trial operations plan.	R 299.9623(7) and (7)(d)	WHMD Chief
72. Specify principal organic hazardous constituents.	R 299.9623(10)	HWS Chief
73. Approve a corrective action program or modification thereto.	R 299.9629(1)	WHMD Chief (final remedy selection) HWS Chief (approvals other than final remedy selection)
74. Determine if there has been a release.	MCL 324.11115a(2)	WHMD Chief
75. Approve a demonstration that an owner/operator is unable to obtain the necessary permission to undertake corrective action beyond the facility boundary.	MCL 324.11115a(2)(c) and R 299.9629(2)	WHMD Chief
76. Specify in an operating license, postclosure operating license, or consent order the following: schedules of compliance for corrective action, assurances of financial responsibility for completing corrective action, and other requirements.	MCL 324.11115a(2), (2)(a) and (b), (4), and (4)(a) and (b) and R 299.9629(3)(a) and (b)	WHMD Chief
77. Specify the time period after a groundwater protection standard exceedance that groundwater corrective action shall begin.	R 299.9629(5)	WHMD Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
78. Approve groundwater surface water interface (GSI) compliance monitoring wells.	R 299.9629(7)	WHMD Chief
79. Receive notification of exceedance of GSI standards based on acute toxicity.	R 299.9629(7)(a)	HWS Staff or WHMD District Staff
80. Approve extension of submittal or implementation deadline regarding GSI exceedances.	R 299.9629(7)(b) and (c)	WHMD Chief
81. Approve new GSI compliance monitoring point and schedule for construction, if appropriate.	R 299.9629(7)(b)(ii) and (c)	WHMD Chief
82. Approve site-specific GSI standard.	R 299.9629(7)(b)(iii) and (c)	WHMD Chief
83. Receive report on effectiveness of corrective action program.	R 299.9629(10)	HWS Staff
84. Review and inspect manifests and reports at facilities.	MCL 324.11137(e)	WHMD District Staff
85. Inspect and file written reports of licensed facilities not less than four times per year.	MCL 324.11144(1)	WHMD District Staff
86. Receive applications for CAMUs.	R 299.9635(2)	HWS Chief
87. Designate a facility or hazardous waste management unit (HWMU) as a CAMU.	R 299.9635(2), (3), (8), and (11)	WHMD Chief
88. Prohibit the placement of waste into a CAMU.	R 299.9635(4)	WHMD Chief
89. Receive information regarding waste that has not been managed in accordance with the land disposal treatment standards or certain other requirements.	R 299.9635(4)	HWS Chief
90. Ensure CAMU meets all of the specified criteria.	R 299.9635(10)	WHMD Chief
91. Specify information in a license or order for a CAMU.	R 299.9635(12)	WHMD Chief
92. Consider and approve alternate design requirements.	R 299.9635(12)(c)	WHMD Chief
93. Make determinations regarding principal hazardous constituents and the adjustment of treatment levels and testing protocol.	R 299.9635(12)(d) and (d)(ii) and (v), (13), (13)(e)(iii) and (v), and (14) and R 299.9639(1)(b)	HWS Chief
94. Receive proper notification regarding groundwater monitoring and corrective action to provide proper notification to the MDEQ.	R 299.9635(12)(e)(iii)	HWS Chief
95. Determine what information is necessary for closure of a CAMU.	R 299.9635(12)(f) and (f)(iii)	HWS Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
96. Establish a time limit in which a CAMU used for storage or treatment only may be operated.	R 299.9635(15)(b)	WHMD Chief
97. Provide for public notice and comment regarding a CAMU.	R 299.9635(17)	HWS Chief
98. Impose additional requirements for CAMUs as necessary to protect human health and the environment.	R 299.9635(18)	WHMD Chief
99. Incorporate requirements for a CAMU into an existing license.	R 299.9635(19)	WHMD Chief
100. Designate a temporary unit.	R 299.9636(1)	WHMD Chief
101. Consider specified factors in establishing standards for temporary units.	R 299.9636(1)	WHMD Chief
102. Allow the use of alternate design, operating, and closure standards for temporary units.	R 299.9636(2)	WHMD Chief
103. Specify information in a license or order for each temporary unit.	R 299.9636(3) and (5)	WHMD Chief
104. Extend the operational period of a temporary unit.	R 299.9636(4)	WHMD Chief
105. Document the rationale for designating a temporary unit and granting any time extensions and make available.	R 299.9636(6)	WHMD Chief
106. Designate a staging pile.	R 299.9638(2)	WHMD Chief
107. Approve placement of CAMU-eligible waste in a hazardous waste landfill.	R 299.9639(1) and (2)	WHMD Chief
108. Provide for public notice and comment regarding placement of CAMU-eligible waste in a hazardous waste landfill, receive public comments, and extend public comment period.	R 299.9639(3) and (5)(b) and (c)	HWS Chief
109. Receive notification from hazardous waste landfill regarding intent to receive CAMU-eligible waste.	R 299.9639(5)(a)	HWS Chief
110. Object to placement of CAMU-eligible waste in a hazardous waste landfill and notify the owner or operator of objection.	R 299.9639(5)(c), (d), and (e)	WHMD Chief
111. Modify, reduce, or eliminate the notifications requirements.	R 299.9639(5)(f)	WHMD Chief
112. Approve startup, shutdown, and malfunction plan and receive related notification.	R 299.9640(2)(b)	WHMD Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
113. Determine if persons accumulating or storing recyclable materials from which precious metals are reclaimed should be regulated under R 299.9206(1) and complete steps necessary to render that decision.	R 299.9803(5), (6), (6)(a), and (6)(b)	WHMD Chief
114. Determine whether or not hazardous waste significantly affects the residue by evaluating conformance with the criteria in 40 CFR, Section 266.112(b)(1) and (2).	R 299.9808(9)(b)	HWS Chief
115. Receive used oil biennial reports.	R 299.9813(3), which adopts by reference 40 CFR, Section 279.57(b)	HWS Staff
116. Receive written notification of low-level mixed waste (LLMW) storage and treatment conditional exemption.	R 299.9822(4)(a)	WHMD Chief
117. Receive written reports and notifications regarding failure to comply with conditions for LLMW storage and treatment conditional exemption and steps taken to regain the exemption. This includes the ability to request additional information.	R 299.9822(5)(b) and (8)(b) and (b)(iv)	WHMD Chief
118. Receive oral notification that failure to meet LLMW storage and treatment exemption conditions may endanger human health or the environment.	R 299.9822(6)	WHMD Chief
119. Terminate LLMW storage and treatment conditional exemption or require additional conditions to claim exemption.	R 299.9822(7), (9), and (10)	WHMD Chief
120. Receive written notification of LLMW transportation and disposal conditional exemption.	R 299.9823(4)(a)	WHMD Chief
121. Receive written reports and notifications regarding failure to comply with conditions for LLMW transportation and disposal conditional exemption and steps taken to regain the exemption. This includes the ability to request additional information.	R 299.9823(6)(a), (9), and (9)(b) and (b)(iv)	WHMD Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
122. Receive oral notification that failure to meet LLMW transportation and disposal exemption conditions may endanger human health or the environment.	R 299.9823(7)	WHMD Chief
123. Terminate LLMW transportation and disposal conditional exemption or require additional conditions to claim exemption.	R 299.9823(8), (10), and (11)	WHMD Chief
124. Register citizen complaint or allegation of violation.	MCL 324.11144(2)	WHMD District Staff or HWS Staff
125. Record complaint and order inspection within five business days of receipt.	MCL 324.11144(3)	WHMD District Supervisors, Hazardous Waste Management Unit (HWMU) Chief, or HWTSU Chief
126. Determine if complaint or allegation is of a highly serious nature requiring inspection as quickly as possible.	MCL 324.11144(3)	WHMD District Supervisors, HWMU Chief, or HWTSU Chief
127. Provide written report to municipality within 15 days following investigation of complaint or allegation.	MCL 324.11144(4)	WHMD District Supervisors, HWMU Chief, or HWTSU Chief
128. Authority to request information from facilities.	MCL 324.11146(1)	WHMD Section Chiefs and WHMD District Supervisors
129. Authority to enter, inspect, and obtain samples at facilities that generate, transport, treat, store, or dispose of hazardous waste.	MCL 324.11146(2) and R 299.9621(2)	WHMD Staff
130. Issue Order of Noncompliance.	MCL 324.11150(1)	WHMD Chief
131. Send written verification of compliance.	MCL 324.11150(1)	WHMD Chief
132. Determine failure to make reasonable and continuous efforts to comply.	MCL 324.11150(2)	WHMD Chief
133. Issue second or subsequent Order of Noncompliance.	MCL 324.11150(4)(a)	WHMD Chief
134. Finding of violation.	MCL 324.11151(1) and R 299.9612(1)(g)	HWS Staff and WHMD District Staff
135. Issue Notice of Violation with draft Consent Order.	MCL 324.11151(1) and R 299.9612(1)(g)	WHMD Chief
136. Declare and terminate a "hazardous waste emergency."	R 299.9901 and R 299.9902(1) and (2)	WHMD Chief
137. Maintain records detailing expenditures from the Hazardous Waste Service Fund created under MCL 324.11143.	R 299.9905	WHMD Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
138. Consider and evaluate an application for local health department certification.	R 299.11101	WHMD Chief
139. Determine other pertinent information that must be included in an application for local health department certification.	R 299.11102(1) and (2)	WHMD Chief
140. Negotiate performance contracts with regard to local health department certification.	R 299.11102(3) and (4)	WHMD Chief
141. Approve, review annually, and rescind local health department certification as appropriate.	R 299.11102(3) and (5), R 299.11103, and R 299.11107(3)	WHMD Chief
142. Designate services to be provided by certified local health departments.	R 299.11104(3) and (3)(m) and R 299.11107(3)	WHMD Chief
143. Request and review reports from certified local health departments.	R 299.11105(2)	WHMD Chief
144. Redistribute funds from grants to certified local health departments.	R 299.11107(2)	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. Enter into a legally binding agreement authorizing hazardous waste operations. [R 299.9102(z)]
2. Request Governor to petition U.S. EPA Regional Administrator to add a waste to federal hazardous waste listing. [R 299.9209(3)(b)]
3. Establish environmental protection standards. [R 299.9613(6); R 299.9629(3)(a), (3)(a)(ii)-(iv), (3)(b), (3)(b)(ii)-(iv), (4), (5), (6), (7), (7)(b)(i), (ii)(A) and (G), and (iii)(C), (8), (8)(c), and (9); and R 299.9635(13)(b) and (20)]
4. Issue corrective action orders or orders suspending or restricting facilities' licenses. [MCL 324.11115a(2) and (4) and MCL 324.11150(3) and (4)(b)]
5. Determine the probable cause of the violations, search without a warrant, and seizing property. [MCL 324.11146(3)]
6. Consult with the Director of the Michigan Department of Community Health regarding imminent and substantial hazards and to take appropriate action as a result of a determination that an imminent and substantial hazard does exist. [MCL 324.11148(1)]
7. Request the Michigan Department of Attorney General to institute appropriate legal action. [MCL 324.11148(1)(b)]
8. Authority to promulgate administrative rules. [MCL 324.11127, MCL 324.11128, and R 299.9215(3)]

This delegation is in effect until further notice.