


MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE COMMUNICATION

EXECUTIVE ORDER 1995-18
DELEGATION LETTER

Letter No.: WHMD-111-03
Former Letter No.: WMD-111-03
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 – Disposal Fees and Financial Assurance

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. Certify accuracy of generator fee exemptions.	MCL 324.11108(5)	Environmental Science and Services Division (ESSD)
2. Take enforcement action against generators falsely certified.	MCL 324.11108(5)	Waste and Hazardous Materials Division (WHMD) Chief
3. Provide form for land disposal fee.	MCL 324.11108(6) and (7)	ESSD
4. Receive certifications and refund land disposal fee based on adequate certifications.	MCL 324.11108(7) and (9)	ESSD

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
5. Approval of closure and postclosure financial assurance mechanisms for owner/operators.	MCL 324.11141; R 299.9703(2) and (8); R 299.9704(1); R 299.9705(1), (2)(b), and (9); R 299.9706(1) and (7); R 299.9707(3); R 299.9708(1)(a) and (9)(a); R 299.9709(3)(a), (7), (8), (10), and (10)(c); and R 299.9710(10)(h)	WHMD Chief
6. Direction of funds in closure or postclosure financial assurance mechanisms (includes releasing and withholding funds and approving increases or decreases in mechanisms).	R 299.9703(3); R 299.9704(5)-(8); R 299.9705(5), (7)(b), and (8); R 299.9706(5) and (8)(b); R 299.9707(3) and (6)-(9); R 299.9708(5), (6), (10), (11), and (12)(b); and R 299.9709(9)(b)	WHMD Chief
7. Notification to owner/operator regarding release from closure or postclosure financial assurance requirements.	R 299.9522(2), R 299.9613(4) and (5), R 299.9703(5), R 299.9704(9), R 299.9705(7)(b) and (8), R 299.9706(8)(b), R 299.9707(9), R 299.9708(12)(b), and R 299.9709(9)(b)	WHMD Chief
8. Determine if closure or postclosure care expenditures are per approved plans or are otherwise justified.	R 299.9704(6) and R 299.9708(6)	Hazardous Waste Section (HWS) Chief
9. Have reason to believe cost of closure or postclosure will be significantly greater than value of financial assurance mechanisms.	R 299.9704(7) and R 299.9708(6)	HWS Chief
10. Termination or cancellation of closure or postclosure financial assurance mechanisms for owner/operators. Note that this action is just acceptance of a closure certification or alternate mechanism in most cases.	R 299.9704(9), R 299.9705(7), R 299.9706(8), and R 299.9708(7) and (12)	WHMD Chief
11. Issue Notice of Violation (NOV) or other order alleging violation of closure or of postclosure plans.	R 299.9704(10) and R 299.9705(3)(b)	WHMD Chief
12. Issue NOV or other order rendering surety liable for bond obligation.	R 299.9705(9) and R 299.9708(10)	WHMD Chief

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
13. Approve certificate of deposit or time deposit account that is not insured by an agency of the United States government.	R 299.9707(1)	WHMD Chief
14. Execute agreement with owner/operator identifying reasons for cashing certificate of deposit or time deposit account.	R 299.9707(3)	WHMD Chief
15. Deem facility abandoned.	R 299.9708(9)(c)(i)	WHMD Chief
16. Receive closure or postclosure assurance funds per request.	R 299.9708(10)	WHMD Chief
17. Request and evaluate financial information from company.	R 299.9709(7)	WHMD Chief
18. Disallow use of financial test for owner/operators.	R 299.9709(8)	WHMD Chief
19. Approve adjustments of liability coverage for owner/operators.	R 299.9710(15)	WHMD Chief
20. Approval of liability mechanisms for owner/operators.	R 299.9710(6)(b) and (d); (9)(b)(v) and (c); (10)(c), (e)(ii)(D), and (h); (11)(d); and (17)	WHMD Chief
21. Notification to owner/operator regarding release from liability requirements.	R 299.9522(2) and R 299.9710(9)(f)(ii), (10)(d)(ii) and (f)(ii), (11)(e)(ii), (14), and (16)	WHMD Chief
22. Request signed duplicate original of insurance policy for liability coverage for owner/operators.	R 299.9710(6)(b)	HWS Chief
23. Notification to guarantor regarding failure to meet requirements.	R 299.9710(9)(b)(vi)	WHMD Chief
24. Termination of liability mechanisms for owner/operators. Note that this action is just acceptance of a closure certification or alternate mechanism in most cases.	R 299.9710(9)(f); (10)(d), (e)(ii)(C), and (f); and (11)(c)(iii) and (e)	WHMD Chief
25. Notification to trustee regarding drawing on Letter of Credit and deposition of proceeds into standby trust fund.	R 299.9710(10)(h)	WHMD Chief
26. Have reason to believe closure was not done per approved closure plan.	R 299.9710(16)	HWS Chief
27. Approval of liability mechanisms for transporters.	R 299.9711(2)(d), (4)(a)(i) and (b), (6), (7), and (9)	WHMD Southeast Michigan District Supervisor for Hazardous Waste Program or WHMD District Staff designated by this District Supervisor

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
28. Request signed duplicate of original insurance policy for liability coverage for transporters.	R 299.9711(4)(b)	WHMD Southeast Michigan District Supervisor for Hazardous Waste Program or WHMD District Staff designated by this District Supervisor
29. Disallow use of financial test for transporters operating a transfer facility or facilities and evaluate other qualifications on an individual basis.	R 299.9711(9)	WHMD Southeast Michigan District Supervisor for Hazardous Waste Program or WHMD District Staff designated by this District Supervisor
30. Have reason to believe corrective action not done per approved corrective action program and provide owner/operator with written statement.	R 299.9713(5)	HWS Chief
31. Release owner/operators from financial assurance requirements for corrective action.	R 299.9613(4) and (5) and R 299.9713(2) and (5)	WHMD Chief
32. Approve reductions in financial assurance for corrective action.	R 299.9713(3)	WHMD Chief
33. Issue NOV or other order alleging violation of corrective action program.	R 299.9713(4)	WHMD Chief
34. Administer the Hazardous Waste Service Fund and authorize expenditures upon a finding of actual or potential environmental damage caused by hazardous waste or that the treatment, storage, and disposal facility is not adequately maintaining closure/postclosure financial assurance.	MCL 324.11143(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. Request the Michigan Department of Attorney General to begin proceedings to recover expenditures from the Hazardous Waste Service Fund. [MCL 324.11143(3)]
2. Determine the remedy for failure to pay the closure or postclosure insurance premium. [R 299.9708(7)]
3. Order a facility closed. [R 299.9708(9)(c)(iii)]

4. Access closure or postclosure financial assurance mechanisms to correct violations, complete closure or postclosure, and maintain a facility. Note: Only the Director may access funds held under Part 7 of the administrative rules promulgated pursuant to Part 111. [R 299.9704(10), R 299.9705(3)(b) and (9), R 299.9706(6) and (7), R 299.9707(7) and (8), and R 299.9708(9)(a) and (10)]
5. Access funds to correct corrective action and maintain a facility. [R 299.9713(4)]

This delegation is in effect until further notice.