

# MICHIGAN UNDERGROUND STORAGE TANK AUTHORITY BOARD OF DIRECTORS



## PROCEDURE FOR BOARD REVIEW OF DENIALS

### PURPOSE:

To establish procedures for the Michigan Underground Storage Tank Authority (MUSTA) Board of Directors (Board) to hear requests for review of eligibility determinations, claims, invoices, or requests for indemnification that were denied by the MUSTA Administrator (Administrator).

### AUTHORITY:

Section 21521(1) of Part 215, Underground Storage Tank Corrective Action Funding, of the Natural Resources and Environmental Protection Act, 1994 PA 451, states:

“If the administrator denies a claim, work invoice, request for indemnification, or a request for an eligibility determination under section 21510(8), the owner or operator who submitted the claim, work invoice, or request for indemnification may, within 14 days following the denial, request review by the board. However, if the administrator believes the dispute may be resolved without the board’s review, the administrator may contact the owner or operator regarding the issues in dispute and may negotiate a resolution of the dispute prior to the board’s review. The Board shall conduct a review of the denial to determine whether the claim, work invoice, or request for indemnification is payable under this part.”

### PROCEDURE:

- 1) An owner or operator whose claim, work invoice, eligibility determination, or request for indemnification was denied by the Administrator requests a review by the Board by submitting such request for review to the Administrator within 14 days of their receipt of the denial.
- 2) The Administrator works with the requestor to determine whether or not the request for review can be resolved without the Board’s review.
- 3) If the Administrator and the owner or operator are unable to resolve the issues for which the request was made, the Administrator schedules a review before the Board at the next scheduled meeting that is at least 14 calendar days after the determination that a review by the Board is necessary.

After a Board review is scheduled, the Administrator and the owner or operator shall provide the Board members and each other with documentation to support their respective positions at least 14 calendar days in advance of the scheduled Board review. The Board may consider materials submitted less than 14 days before the Board review at the Board’s discretion, but shall not accept materials submitted on the day of the Board’s review, as set forth below. Any written presentation of a party’s position to the Board must include an Executive Summary. The presentation, not

including optional attached factual documentation, tables, indexes, and appendixes, shall not exceed (10) pages. At least one-inch margins must be used, and printing shall not be smaller than 12-point type.

4) At the Board's review:

- a. An owner or operator, and the Administrator, may opt to rely on the written materials submitted. If an owner or operator, or the Administrator, chooses to present a position orally to the Board, or if the Board members ask questions of the owner or operator or the Administrator, the Board shall create an audio recording of such presentation, questions and answers. Any party seeking to have such audio recording transcribed may request such service through the Administrator, but the expense of transcribing the recording shall be borne by the requesting party. Transcriptions, if performed, shall be maintained by the Administrator for 5 years from the date of the Board meeting that was the subject of the recording.
- b. If oral presentation is sought, the owner or operator shall have up to 10 minutes to present their position. The Administrator shall have up to 10 minutes to present its case if the Administrator opts to present its position orally.
- c. If a presentation to the Board is made, the owner or operator and the Administrator may present their respective positions themselves, or may have a consultant, legal counsel, or a combination of these present their position to the Board.
- d. The Board will not accept new materials on the day of the hearing, but the Board in its discretion may opt to table a scheduled review until its next scheduled meeting if an owner or operator or the Administrator requests that the Board consider additional information not previously provided.
- e. The Board shall have 10 minutes in which to ask questions of the owner or operator and the Administrator, either at the scheduled time for the Board Review or following the presentations of the owner or operator and the Administrator, if any. The Board may in its discretion extend the period of time for questions and answers.
- f. The Board may vote to approve or deny the request for review in whole or in part, or to table the decision on the request for review to the next scheduled Board meeting. The vote is determined by a majority of votes cast.

- 5) If the denial of the owner or operator's claim, work invoice, eligibility determination, or request for indemnification is upheld by the Board, the owner or operator may appeal the decision directly to the Circuit Court as provided in MCL 324.21521(2).

APPROVED BY THE MICHIGAN UNDERGROUND STORAGE TANK AUTHORITY  
BOARD OF DIRECTORS:

November 28, 2017