

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE COMMUNICATION

**EXECUTIVE ORDER 2011-1
DELEGATION LETTER**

Former Letter No.: WMD-111-03
Effective Date: October 1, 1995

Former Letter No.: WHMD-111-03
Revised Date: January 20, 2009

Former Letter No.: ERMD-111-03
Revised Date: September 9, 2010

Former Letter No.: OWMRP-111-03
Revised Date: October 1, 2012
Revised Date: March 11, 2015

Current Letter No.: WMRPD-111-03
Revised Date: April 19, 2018

TO: All Unit Supervisors

FROM: C. Heidi Grether, Director

SUBJECT: Delegation to the Waste Management and Radiological Protection Division Pursuant to Executive Order 2011-1 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 the environment deputy director of the Michigan Department of Environmental Quality (MDEQ) and not delegated are at the end of this document.

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. Receive fees assessed on hazardous waste disposed of in landfill or received at a solidification facility.	MCL 324.11108(1), (2), and (6)	Accounting Services Center
2. Certify accuracy of generator fee exemptions.	MCL 324.11108(5)	Waste Management and Radiological Protection Division (WMRPD), Administration Section (AS)
3. Take enforcement action against generators falsely certified.	MCL 324.11108(5)	WMRPD Director
4. Take enforcement action to collect fees referenced in Item 1 above.	MCL 324.11108(5)	WMRPD Director
5. Provide form for land disposal and solidification fees.	MCL 324.11108(6) and (7)	WMRPD AS
6. Receive certifications, refund fees based on adequate certifications, and maintain appropriate documentation.	MCL 324.11108(7) and (9)	WMRPD AS
7. Approval of closure and postclosure financial assurance mechanisms for owner/operators.	MCL 324.11141; R 299.9522(2); 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)	WMRPD Director
8. 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)	WMRPD Director
9. 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)	WMRPD Director

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
10. 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) Manager
11. 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 Manager
12. 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)	WMRPD Director
13. Issue Violation Notice (VN) or other order alleging violation of closure or of postclosure plans.	R 299.9704(10) and R 299.9705(3)(b)	HWS Staff (VNs) Division Director (Orders)
14. Issue VN or other order rendering surety liable for bond obligation.	R 299.9705(9) and R 299.9708(10)	HWS Manager (VNs) WMRPD Director (Orders)
15. Approve certificate of deposit or time deposit account that is not insured by an agency of the United States government.	R 299.9707(1)	WMRPD Director
16. Execute agreement with owner/operator identifying reasons for cashing certificate of deposit or time deposit account.	R 299.9707(3)	WMRPD Director
17. Deem facility abandoned.	R 299.9708(9)(c)(i)	WMRPD Director
18. Receive closure or postclosure assurance funds per request.	R 299.9708(10)	WMRPD Director
19. Request and evaluate financial information from company.	R 299.9709(7)	HWS Staff
20. Disallow use of financial test for owner/operators.	R 299.9709(8)	WMRPD Director
21. Approve adjustments of liability coverage for owner/operators.	R 299.9710(15)	WMRPD Director
22. Approval of liability mechanisms for owner/operators.	R 299.9522(2) and R 299.9710(6)(b) and (d); (9)(b)(v) and (c); (10)(c), (e)(ii)(D), and (h); (11)(d); and (17)	WMRPD Director
23. 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)	WMRPD Director
24. Request signed duplicate original of insurance policy for liability coverage for owner/operators.	R 299.9710(6)(b)	HWS Staff

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
25. Notification to guarantor regarding failure to meet requirements.	R 299.9710(9)(b)(vi)	WMRPD Director
26. 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)	WMRPD Director
27. Notification to trustee regarding drawing on Letter of Credit and deposition of proceeds into standby trust fund.	R 299.9710(10)(h)	WMRPD Director
28. Have reason to believe closure was not done per approved closure plan.	R 299.9710(16)	HWS Staff
29. Approval of liability mechanisms for transporters.	R 299.9711(2)(d), (4)(a)(i) and (b), (6), (7), and (9)	WMRPD Southeast Michigan (SEMI) District Supervisor for Hazardous Waste Program (HWP) or WMRPD District Staff designated by this District Supervisor
30. Request signed duplicate of original insurance policy for liability coverage for transporters.	R 299.9711(4)(b)	WMRPD SEMI District Supervisor for HWP or WMRPD District Staff designated by this District Supervisor
31. 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)	WMRPD SEMI District Supervisor for HWP or WMRPD District Staff designated by this District Supervisor
32. 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 Staff
33. Release owner/operators from financial assurance requirements for corrective action.	R 299.9613(4) and (5) and R 299.9713(2) and (5)	WMRPD Director
34. Approve reductions in financial assurance for corrective action.	R 299.9713(3)	WMRPD Director
35. Issue VN or other order alleging violation of corrective action program.	R 299.9713(4)	HWS Manager (VNs) WMRPD Director (Orders)
36. Receive notification of commencement of bankruptcy proceeding naming owner/operator as debtor.	R 299.9713(6)	Enforcement Section Manager

Description of Authority or Responsibility	Authority	Authority or Responsibility Delegated To:
37. Administer the Hazardous Waste Service Fund (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)	WMRPD Director

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 Fund. [MCL 324.11143(3)]
2. Promulgate rules to define hazardous waste emergency and establish method of payment from the Fund. [MCL 324.11143(4)]
3. Determine the remedy for failure to pay the closure or postclosure insurance premium. [R 299.9708(7)]
4. Order a facility closed. [R 299.9708(9)(c)(iii)].
5. Access closure or postclosure financial assurance mechanisms to correct violations, complete closure or postclosure, and maintain a facility. Note: Only the MDEQ 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)]
6. Access funds to correct corrective action and maintain a facility. [R 299.9713(4)]

This delegation is in effect until further notice.