

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE COMMUNICATION

OPERATIONAL MEMO GEN-5
REVISION 1

September 3, 1997

TO: All Waste Management Division Staff

FROM: Jim Sygo, Chief, Waste Management Division

SUBJECT: Enforcement Cost Recovery

The purpose of this memorandum is to provide Waste Management Division (WMD) staff with instructions on the proper method for tracking staff time; motor transport vehicle costs; sampling costs; supply and services costs, such as printing; and travel expenses associated with escalated enforcement activities. The information provided is for the use of WMD staff for enforcement cases where WMD is the lead Division. To the extent that WMD employees are involved in providing technical or other support to another Division's enforcement efforts, enforcement cost recovery should be handled by that Division. All WMD employees are expected to conform to these procedures, and all WMD Supervisors are expected to ensure that their staff properly record their time and any other expenses associated with the enforcement activities.

Enforcement cost recovery tracking should be initiated at the inception of any escalated enforcement action. Escalated enforcement activities generally include District referrals to the Enforcement Section (ES) and the initiation of the Fast Track Order (FTO) process. Although FTOs do not recover costs, enforcement cost recovery tracking should be conducted in the event that the FTO is not executed and further civil or administrative enforcement action is needed to resolve violations. Such civil or administrative actions should seek to recover the costs accrued during the FTO process (see Operational Memos 111-17 and 111-7). Enforcement costs should continue to be tracked until termination (NOT entry) of the enforceable document (e.g., administrative documents such as Consent Orders, etc., and judicial documents, such as Consent Judgments, or Consent Decrees, etc.) is completed. This is to ensure the opportunity to recoup those costs in the event that noncompliance with the executed enforcement document warrants further escalation of enforcement.

Careful documentation of all costs the agency incurs for escalated enforcement activities is needed to: 1) recoup the actual costs incurred by the agency to resolve an enforcement action, 2) justify the cost component of the enforcement settlement, and 3) properly direct disbursements to appropriate Divisions after monies are received. All WMD staff who perform activities as part of an escalated enforcement action are responsible for tracking their costs. However, the person assigned to the enforcement case (i.e., the Case Manager) is responsible for collecting and summarizing all costs that are tracked.

Specific enforcement cost recovery documentation is explained below:

1. Establishment, Use, and Duration of an Enforcement Cost Tracking Project Number
 - a. All Enforcement Cost Tracking Project Numbers (Project Numbers) will be obtained by the ES Chief from the Administrative Support Unit Chief. For cases that are referred to the ES, staff assigned to a case shall fill out a "Request for Enforcement Cost Tracking Project Number" form, file name: s:\enforce\costrack.doc (see Attachment 1) if, based upon their review of the case file, escalated enforcement is warranted. ES staff shall also obtain Project Numbers for WMD staff assigned to FTOs, upon ES Chief concurrence that use of an FTO is appropriate. ES staff shall fill out the form and provide it to the ES Chief for review and signature. After review and signature by the ES Chief, the request shall be forwarded to the Administrative Support Unit Chief. The Administrative Support Unit Chief will notify the ES Chief when a Project Number has been established. The ES Chief will notify the appropriate staff. Upon receipt of the Project Number from the Administrative Support Unit Chief, ES staff will notify appropriate WMD Section Chiefs, District Supervisors, and the Case Manager. The Case Manager shall provide the Project Number to other staff who are or will be involved in the enforcement activities attributable to the Project Number.
 - b. Each WMD Section Chief and District Supervisor is responsible for ensuring their staff track time and costs associated with a particular enforcement action using the appropriate Project Number. **For cost recovery purposes, it is imperative to charge applicable time and cost to the Enforcement Cost Tracking Project Number for Hazardous Waste Program enforcement cases, and NOT the General Grant Project Number that is normally charged for Hazardous Waste Program work.**

The Project Number list maintained by the Administrative Support Unit indicates the Division Program associated with each enforcement case. Hazardous Waste Program enforcement case Project Numbers must always be used with a Hazardous Waste Program PCA Code. Contact the Administrative Support Unit Chief for additional information on PCA Codes.
 - c. Generally, the Project Number for an enforcement case will remain in effect until the case is closed (e.g., termination of a Consent Order, Court Order, or other dispositive action). Closure of a case shall be finalized, in writing, by a Notice of Termination, signed by the Division Chief. (For the FTO termination process, see Operational Memo 111-17. At the time an enforcement case is closed, ES staff shall prepare a "Request for Termination of Enforcement Cost Tracking Project Number" form to delete the Project Number, and forward it to the ES Chief for review and signature. Upon its approval, the ES Chief shall forward it to the

Administrative Support Unit Chief, who will then remove the Project Number from the Enforcement Cost Tracking Number List and notify the ES Chief when the Project Number has been deleted. The ES Chief will then assure that the appropriate staff are notified of the Project Number deletion.

2. Enforcement Cost Tracking Project Number List

Project Numbers that are currently assigned can be accessed via computer by Lansing WMD staff through the P:\ Drive. The file name is: **P:\SHARED\WRITE\ALLSTAFF\WMDPROJECT.xls.** WMD District staff may access this file via computer as well, by first using this path name to connect to the Lansing P:\ drive: “\\ENVS0110\all_wmd.\$.” There are two Project Number lists available on computer. One is sorted alphabetically by Project Name, and the other is sorted numerically by Project Number. This list is maintained and updated periodically by the Administrative Support Unit Chief (Attachment 2).

3. Documents on Which to Record the Enforcement Cost Tracking Project Number

Whenever work, travel, sample collection, or other activities are performed as part of an escalated enforcement action (including activities to verify compliance with the enforcement document after its entry) at a facility, WMD staff must use the Project Number assigned to the facility on all cost tracking reports. The Project Number is a six-digit number and must be entered on the appropriate reports as follows:

- a. Time Sheet - for handwritten timesheets, enter the number(s) in the Project Number column (Attachment 3A). For computerized timesheets, enter the number(s) in the Project Code section on the bottom, left-hand side of the Timesheet Data Entry Screen (Attachment 3B).
- b. Department of Environmental Quality (DEQ) Official Daily Travel Log - Enter the number(s) in the Project Number column (Attachment 4).
- c. Travel Expense Voucher - Enter the number(s) in the Grant or Project Number column (Attachment 5).
- d. Computerized Travel Expense Voucher - The Project Number field will be filled with the Project Number used on the computerized timesheet for the corresponding date. Manual adjustments will be needed if more than one Project Number was used during the course of the same day.
- e. Environmental Laboratory Analysis Request Sheet - Enter the number(s) in the Project area on the first page and provide a copy to the Case Manager (Attachment 6).

- f. Other Invoices - For other invoices that may be received pursuant to enforcement activities, the Project Number and the facility name should be clearly marked on the first page. Provide a copy to the Case Manager.

4. How to Record Multiple Project Numbers

If, in the course of a day's travel, it is necessary to track more than one Project Number, WMD staff shall record travel expenses using the Project Number for the first facility to cover all expenses incurred up until the point of departure from the first facility. All expenses incurred from the point of departure from the first facility until departure from the second facility shall be recorded using the second Project Number, and so on.

5. Activities That Should Not Be Included in Enforcement Cost Tracking

Although a facility may be the focus of enforcement activities, certain routine activities that may support the enforcement action are nonetheless considered ineligible for cost recovery purposes. An example is the costs of routine quarterly inspections of treatment, storage, and disposal facilities, since this activity is mandated by statute and funded as part of the program appropriations package. In the event of a question as to whether certain activities should be included in cost reporting for a particular facility, WMD staff should consult with their immediate Supervisors and with appropriate ES staff.

6. Summarization of Costs Incurred

The Administrative Support Unit staff will enter all hours recorded on the timesheets into Project MAIN, the State's accounting system, and calculate costs for salaries, fringes, and retirement for cost recovery purposes upon the request of the Case Manager. They will also accumulate all costs for motor transport and travel expenses for cost recovery purposes at the Case Manager's request. The Case Manager will accumulate and summarize costs provided by the Administrative Support Unit staff, as well as costs for analytical services, photos, surveying, and other services or materials obtained from other Divisions or outside suppliers as part of escalated enforcement actions. The Project Number must be used on all lab sheets, invoices, etc., and copies of all such documents must be compiled and summarized by the Case Manager for cost recovery. The District will retain the information in its case files, unless the FTO exceeds the 90-day entry time frame and is referred to the ES, or the FTO is violated. Under those circumstances, the information will be forwarded to the ES for their files.

7. Enforcement Document Coding Procedure to Assure Proper Disbursement of Monies After Receipt

When settlement of a case is imminent, the Case Manager should fill out Part 1 of the Microsoft Word Template labeled EQ1434E (Attachment 7). The template can be accessed by clicking on the "File" command of the Microsoft Word menu bar, then

OPERATIONAL MEMO GEN-5

REVISION 1

Page 5

September 3, 1997

clicking on the "New" command from the "File" pull-down menu. A "New" box should appear, with a number of "file tabs" across the top of the box. The "General" file tab should be displayed, which contains a number of "Word" icons in the scroll box, each with a different label below the icon, such as "Blank Document," etc. Scroll down to the icon labeled EQ1434E and double-click on it. This will open the template. Part 1 of the template should be filled out and forwarded by electronic mail to the DEQ Office of Financial Services, Fund Accounting Unit, per the instructions on the form. The DEQ Fund Accounting Unit will respond by providing a Payment ID Number, which must be included on the final settlement document as part of the penalty payment instructions. Shortly after entry of the Order, Part 2 of the template must be filled out and forwarded by electronic mail to the DEQ Fund Accounting Unit, per the instructions on the template.

If the template cannot be located in the "New" scroll box, the Case Manager should contact the computer microtech to install the information.

Attachments