Title 11: Mississippi Department of Environmental Quality

Part 1: Administrative Regulations

Part 1, Chapter 1: Mississippi Commission on Environmental Quality Regulations
Regarding the Delegation of Authority to the Executive Director of the Mississippi Department of
Environmental Quality (Adopted May 24, 2001; Amended March 27, 2003)

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Rule 1.1 Delegations

Introduction: Statutes regarding environmental and natural resources issues in Mississippi
grant the Mississippi Commission on Environmental Quality ("Commission") broad discretion to
delegate many of its statutory authorities to the Executive Director of the Mississippi Department
of Environmental Quality ("MDEQ"). Since the creation of the Commission and its predecessor
bodies, the Mississippi Air and Water Pollution Control Commission and the Mississippi
Commission on Natural Resources, the Commission has delegated certain authorities to the
Executive Director by agency action reflected in the minutes of the Commission. The
Commission now consolidates these delegations, adds additional delegations, and promulgates
these delegations as a regulation pursuant to the Mississippi Administrative Procedures Law.

The chart below describes specific delegations of authority and lists the most pertinent statutory
authorization for the delegation. The Commission, however, also is given a broad general
authority to delegate its authority by Miss. Code Ann. § 49-17-17(o). That section authorizes the
Commission "to delegate in such manner as it sees fit the duties and powers relating to air and
water quality and pollution control to the agency members presently engaged in the several fields of
water or air control or pollution." Miss. Code Ann. § 49-17-17(n) authorizes the Commission to
"exercise all incidental powers necessary to carry out the purposes of Sections 49-17-1 through 49-
17-43 and Sections 17-17-1 through 17-17-47." The Commission interprets these statutes to allow
the delegation of authority to the Executive Director to perform all actions within the jurisdiction of
the Commission required to protect the quality and quantity of the state's water resources and the
quality of the state's ambient air and to regulate solid nonhazardous and hazardous waste within the
State. This delegation authority by definition allows delegation of authorities related to the three
offices of MDEQ created by statute: The Office of Geology and Energy Resources, the Office of

The Commission also interprets these statutes as allowing the delegation to the Executive
Director of authorities necessary to perform the day-to-day functions of MDEQ through the
Office of Administrative Services, as created by Miss. Code Ann. § 49-2-17. Additionally, Miss.
Code Ann. § 53-7-19(p) allows the Commission to authorize the director "to discharge or exercise any power or duty granted to the commission by the provisions" of the Surface Mining and Reclamation Law. This regulatory action is not intended to revoke any authorization previously granted to the Executive Director and not listed in this regulation.

The delegation of authority to the Executive Director does not require the Executive Director to exercise the authority delegated. The Executive Director may determine, on a case-by-case basis, that a decision within his or her authority to make should be referred to the Commission for consultation and/or decision.

**Rule 1.1 Delegations:** The Commission delegates the following powers to the Executive Director of MDEQ:

A. To Employ Qualified Professional Personnel and Technical and Clerical Staff as may be Required for the Operation of the Department.

B. To Organize the Administrative Units of the Department and Alter Such Organizational Structure and Reassign Responsibilities as he or she May Deem Necessary to Carry out the Policies of the Commission Within the Limits of Section 49-2-7.¹

C. To Delegate the Authority to Sign Commission Orders to the Head of the Office of Pollution Control, and the Head of the Office of Geology and Energy Resources, the Head of the Office of Land and Water and Water Resources and the General Counsel of MDEQ to the Extent that the Executive Director is Allowed to Issue Orders Pursuant to Miss. Code Ann. § 49-2-13(j).

D. To Issue Orders in Accordance with Section 17-17-227 Approving or Denying in Whole or in Part Solid Waste Management Plans and/or Amendments thereof.

E. To Issue Administrative Orders:

(1) To Prohibit, Control or Abate Discharges of Contaminants and Wastes into the Air and Waters of the State.

(2) To Require Appropriate Remedial Measures to Prevent, Control or Abate Air and Water Pollution or to Cause the Proper Management of Solid Wastes.

(3) To Impose Penalties Which the Respondent Agrees to Pay.

(4) To Require Compliance with Permits and Regulations.

¹ Authorities listed in this rule are not inclusive and are in addition to authorities listed in the Introduction; Title 11, Part I, Chapter 1.
(5) To Issue Emergency Orders Pursuant to Section 49-17-27.

F. To Execute All Orders Required by the Brownfields Statute that are not Specifically Required by Statute and/or Regulation to be Issued by the Full Commission.

G. To Issue Cease Pumping Orders and Orders Conditioning Permitted Water Withdrawal to Issue Cease and Desist Orders to Surface Mining Operators who are Mining Without the Required Permit or Notice of Intent to Mine or Who are Otherwise Operating in Violation of Mississippi Law.

H. To Make Preliminary Determinations Necessary to File Suit, File Suit, Conduct Litigation, and Settle all Litigation Matters on Behalf of the Commission.

I. To Enter Into All Contracts, Grants and Cooperative Agreements Allowed by 49-2-9(e).

J. To Delegate Signature Authority for Agency Contracts, Purchase Orders, Travel Reimbursement Authorizations, Requisitions, Personnel Forms, and Similar Documents to the Head of the Office of Administrative Services and/or to the Division Chiefs within that Office.

K. To Grant Continuances for Scheduled Formal Hearings; To Issue Nondispositive Rulings Regarding Contested Matters (Such as, Scheduling Orders and Decisions on Interlocutory Motions), and to Stay pending Evidentiary Hearing on the Effectiveness of a Commission Order Upon a Showing of Good Cause by Any Party.

L. To Issue Asbestos Certifications and Approve Asbestos Abatement Training Programs.

M. To Issue UST Certifications to Individuals Authorized to Install, Alter and/or Close USTs.

N. To Issue Landfill (Solid Waste) Operator Certifications.

O. To Issue Wastewater Operator Certifications and Approve Wastewater Training Programs.

P. To Issue Water Well Driller Licenses.

Q. To Issue Lead Certifications and Approve Lead-Based Paint Activities Training Programs.

R. To Issue Waste Tire Transporter Certificates.

S. To Requisition and Use Funds in the Pollution Emergency Fund, Solid Waste Corrective Action Trust Fund, and All Other Funds Created by Title 17 and Title 49 and Within the Jurisdiction of the Commission for the Statutory Purposes Allowed by the Code.
T. To Discharge or Exercise Any Power or Duty Granted to the Commission by the Provisions of the Surface Mining and Reclamation Law.

U. To Execute Reciprocity Agreements with Other States Whose Lead Based Paint Program Requirements Meet or Exceed the Commission’s Requirements.

V. To Waive the Late Penalty for Failure to Pay UST Fee Upon Sufficient Demonstration that Failure to Pay Timely was Unavoidable Due to Financial Hardship or Otherwise Beyond the Control of the Owner.

W. To Compile and Publish Compilations of the Regulations of the Commission and Permit Board.


Source: Miss. Code Ann. §§ 21-27-207, 21-27-211, 49-2-5 (3), 49-2-9(e) and (f), 49-2-13 (c), (e), (j) and (k), 49-2-17, 49-17-17 (c), (n), and (o), 49-17-23, 49-17-44.1, 49-17-43(d), 49-17-68, 49-17-421, 49-17-429, 49-17-507, 49-17-531, 49-35-11(4), 17-17-63, 17-17-65, 17-17-227, 17-17-407(b), 17-17-425, 51-3-7, 53-7-19(l), (m) and (p), 37-138-9, 51-5-1(1) and (5), 49-31-1, et seq., 49-2-1, et seq., 49-17-1, et seq., 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq. and 17-17-501, et seq.