

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2006-61
June 14, 2006

SUBJECT: Delegation and Transfer of Authority pursuant to D.C. Law 16-51, the District Department of the Environment Establishment Act of 2005.

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No 93-198, D.C. Official Code § 1-204.22(6) (2001), and by the District Department of the Environment Establishment Act of 2005, effective February 15, 2006, (D.C. Law 16-51) ("Act"), it is here **ORDERED** that:

I. PURPOSE:

The District Department of the Environment ("DDOE") was created to "establish a single executive agency to protect human health and the environment. . . and to streamline the administration of District environmental law and programs" currently in other agencies, as provided by section 102 of the Act.

II. FUNCTIONS:

Section 103 of Act authorizes the Mayor to transfer to DDOE existing authority and resources, including staff, vested in other agencies currently performing duties related to the protection of the environment.

III. ADMINISTRATION:

The authority vested in the Mayor, which may be delegated to an agency of an executive department, is delegated to DDOE as follows:

1. The following authority, functions, duties, staff, resources, and funding are transferred to the District Department of the Environment (DDOE), pursuant to §§ 103(b) and 105 of the Act:
 - a. The policy functions of the Tree Management Administration in the District Department of Transportation, established in § 5 of the Department of Transportation Establishment Act of 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.03.04(5)), including those related to the Urban Forest Preservation Act of 2002, effective June 12, 2003 (D.C. Law 14-309; D.C. Official Code §§ 8-651.01 *et seq.*);

- b. The authority found in § 4902(a)(3) of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(a)(3)) with the exception of the lead poison program implementation, the authority to establish fees to implement subsection § 4902(a)(3), pursuant to subsection (c), disbursements of fund balances in the Regulatory Enforcement Fund established by § 4903 totaling the amount of fines and fees deposited in connection with enforcement and regulation of the activities listed in § 4902(a)(3), and the authority to issue rules pursuant to § 4908 (D.C. Official Code § 7-737) in connection with the authority transferred;
 - c. The staff, resources, funding, and authority of the Office of Energy, including all authority vested in the Office of Energy pursuant to the District of Columbia Office of Energy Act of 1980, effective March 4, 1981 (D.C. Law 3-132; D.C. Official Code §§ 2-901 *et seq.*);
 - d. The staff, resources, funding, and authority of the Storm Water Administration, as established by the Storm Water Permit Compliance Amendment Act of 2000, effective June 9, 2001 (D.C. Law 13-311; D.C. Official Code §§ 34-2202.06a *et seq.*); and
 - e. The authority vested in the Department of Consumer and Regulatory Affairs pursuant to § 10 of the District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D.C. Law 8-36; D.C. Official Code § 8-109.09).
2. The Director of the DDOE is delegated the interpretative authority of all District laws, rules, regulations, and standards relating to the environment, as provided by § 103(b)(1)(B)(iii) of the Act.
3. The Director of the DDOE is delegated the authority to promulgate rules as provided by § 110 of the Act.
4. DDOE shall be the lead agency, as that term is used in § 8 of the District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D.C. Law 8-36; D.C. Official Code § 8-109.07), as required by § 103(b)(1)(C) of the Act.
5. The following statutory authority vested in the Environmental Health Administration (EHA) by statute is delegated and transferred from the EHA to the Director of the DDOE:

- a. Membership on the Storm Water Advisory Panel, pursuant to § 206c of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.06c);
 - b. Membership on the Solid Waste Facility Permit Panel, pursuant to § 11b of the Solid Waste Facility Permit Act of 1995, effective February 27, 1996 (D.C. Law 11-94; D.C. Official Code § 8-1062);
 - c. All authority granted to EHA by the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code § 8-631.01); and
 - d. All authority granted to EHA by the Uniform Environmental Covenants Act of 2006, effective May 12, 2006 (D.C. Law 16-95).
6. The Director, DDOE, is delegated the authority vested in the Mayor by the following:
- a. The Alternative Fuels Technology Act of 1990, effective March 8, 1991 (D.C. Law 8-243; D.C. Official Code §§ 50-701 *et seq.*);
 - b. The Water Quality Standards Approval Act of 1977, effective February 17, 1977 (D.C. Law 2-28; 21 DCMR §§ 508-515);
 - c. Commissioner's Order No. 54-576, dated March 16, 1954 at 21 DCMR §§ 600-699; and
 - d. The Soil Erosion and Sedimentation Control Amendment Act of 1994 (D.C. Law 10-166; 21 DCMR §§ 500-507).
7. Paragraph 1 of Mayor's Order 2003-41, dated April 11, 2003 (50 DCR 2829); "Delegation of Authority pursuant to D.C. Law 13-312, the Brownfield Revitalization Amendment Act of 2000", is amended by striking the phrase "Department of Health" and inserting the phrase "District Department of the Environment" in its place.
8. Paragraph 2 of Mayor's Order 87-48, dated February 17, 1987, "Delegation of Authority under D.C. Law 6-155, the Phosphate Soaps and Detergent Restriction Act of 1985", is amended to read as follows:

2. The Directors of the Department of Consumer and Regulatory Affairs (“DCRA”), Department of Health, DPW, and the District Department of the Environment, and the Chief, Department of Fire and Emergency Medical Services, are delegated the authority to inspect waste facilities and undertake any other actions necessary to implement section 7 of the Act.
9. Mayor’s Order 98-46, dated April 15, 1998 (45 DCR 2691), “Delegation of Authority pursuant to D.C. Law 1-64, the District of Columbia Applications Insurance Implementation Act”, is amended by striking the phrase “Department of Health” and inserting the phrase “District Department of the Environment” in its place.
10. Paragraph 1 of Mayor’s Order 98-85, dated May 29, 1998 (45 DCR 3979), “Appointment – Interstate Commission on the Potomac River Basin”, is amended to read as follows:
 1. The Director of the Department of the Environment is appointed to serve as a Commissioner on the Interstate Commission on the Potomac River Basin.
11. Mayor’s Order 99-139, dated September 2, 1999 (46 DCR 8307), “Establishment – Lead Poisoning Prevention Taskforce”, is amended as follows:
 - a. Title V is amended by adding the “District Department of the Environment” to the list of agencies;
 - b. Title VI is amended by striking the phrase “Deputy Director, Environmental Health Administration, Department of Health” and inserting the phrase, “Director, Department of Health” in its place; and
 - c. Title VII is amended by striking the phrase “Environmental Health Administration of the Department of Health” and inserting the phrase “Department of Health” in its place.
12. Section 3 of Mayor’s Order 96-160, dated October 31, 1996, “Delegation of Authority Pursuant to the Illegal Dumping Enforcement Act of 1994”, as amended by Mayor’s Order 2000-54, dated April 12, 2000 (47 DCR 4734), is amended to read as follows:
 3. The Director of the District Department of the Environment is delegated the authority vested in the Mayor in the Act to conduct civil enforcement activities and promulgate rules as necessary pertaining to the unauthorized disposal of hazardous waste.

13. Paragraph 1 of Mayor's Order 94-114, dated May 20, 1994 (41 DCR 2863), "Delegation of Authority Under D.C. Law 9-183, the D.C. Radon Proficiency Act of 1992" is amended by striking the phrase "Department of Consumer and Regulatory Affairs" and inserting the phrase "District Department of the Environment" in its place.

14. Mayor's Order 98-166, dated October 28, 1999 (45 DCR 8190), "Delegation of Authority Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) and the Superfund Amendments and Authorization Act of 1986" is amended by striking the phrase "Department of Health" and inserting the phrase "District Department of the Environment" in its place.

15. Mayor's Order 98-12, dated August 7, 1998 (45 DCR 6386), "Delegation of Authority Pursuant to D.C. Law 11-221, the Lead-Based Paint Abatement and Control Act of 1996" is amended as follows:

a. Paragraph 1 is amended to read as follows:

1. The Director, District Department of the Environment, is delegated all authority vested in the Mayor to implement the Act.

b. Paragraph 2 is rescinded.

16. Mayor's Order 98-86, dated May 29, 1998 (45 DCR 3980), "Delegation of Authority Pursuant to D.C. Law 8-36, the District of Columbia Environmental Policy Act of 1989" is amended by striking the phrase "Department of Health" and inserting the phrase "District Department of the Environment" in its place.

17. Mayor's Order 98-58, dated April 17, 1998 (45 DCR 2871), "Delegation of Authority Pursuant to the D.C. Law 8-242, the District of Columbia Underground Storage Tank Management Act of 1990" is amended as follows:

a. Paragraph 1 is amended to read as follows:

1. The Director, Department of the Environment is delegated all authority under the Act.

b. Paragraphs 2 and 3 are rescinded.

18. Mayor's Order 98-44, dated April 10, 1998 (45 DCR 2689), "Delegation of Authority Pursuant to D.C. Law 5-165, the District of Columbia Air Pollution Control Act of 1984" is amended by striking the phrase "Department of Health" and inserting the phrase "District Department of the Environment" in its place.
19. Mayor's Order 98-45, dated April 10, 1998 (45 DCR 2690), "Delegation of Authority – Mayor's Designee for Submission of State Implementation Plan (SIPS) for Environmental Programs" is amended by striking the phrase "Department of Health" and inserting the phrase "District Department of the Environment" in its place.
20. Mayor's Order 98-47, dated April 15, 1998 (45 DCR 2692), "Delegation of Authority pursuant to D.C. Law 2-70, the District of Columbia Pesticide Operations Act of 1977" is amended by striking the phrase "Department of Health" and inserting the phrase "District Department of the Environment" in its place.
21. Mayor's Order 98-50, dated April 15, 1998 (45 DCR 2696), "Delegation of Authority pursuant to D.C. Law 5-188, the Water Pollution Control Act of 1984", is amended by striking the phrases "Department of Health" and the "Department of Public Works" and inserting the phrase "District Department of the Environment" in their place.
22. Paragraph 1 of Mayor's Order 98-51, dated April 15, 1998 (45 DCR 2697), "Delegation of Authority pursuant to D.C. Law 8-116, the Asbestos Licensing and Control Act of 1990" is amended to read as follows:
 1. The Director of the District Department of the Environment is delegated all authority vested in the Mayor to implement the Act.
23. Mayor's Order 98-52, dated April 15, 1998 (45 DCR 2698), "Delegation of Authority pursuant to D.C. Law 8-226, the District of Columbia Low-Level Radioactive Waste Generator Regulatory Policy Act of 1990", is amended by striking the phrase "Department of Health" and inserting the phrase "District Department of the Environment" in its place.
24. Mayor's Order 98-53, dated April 15, 1998 (45 DCR 2700), "Delegation of Authority pursuant to D.C. Law 11-94, the District of Columbia Solid Waste Facility Permit Act of 1995", is amended by striking the phrase "Department of Health" and inserting the phrase "District Department of the Environment" in its place.
25. Paragraph 1 of Mayor's Order 2001-03, dated January 5, 2001, is amended to read as follows:

1. The Director is appointed to serve as a member of the Ozone Transport Commission as the designee of the Mayor, and shall serve at the pleasure of the Mayor.

26. Paragraph 5 of Mayor's Order 2005-33, dated March 18, 2005 (52 DCR 2854) "Delegations of Authority Under Title II of D.C. Act 15-630, the Child and Youth, Safety and Health Omnibus Emergency Amendment Act of 2004 and any Similar Succeeding Legislation" is amended by inserting in the list of agencies the following: "District Department of the Environment".

27. Paragraph 4 of Mayor's Order 2003-146, dated October 16, 2003 (50 DCR 9970), "Establishment – Mayor's Environmental Task Force for the District of Columbia", is amended by inserting in the list of officers the following: "The Director of the Department of the Environment".

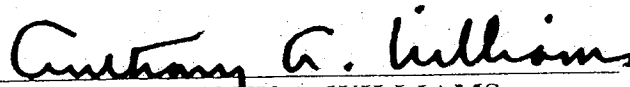
28. Mayor's Order 2005-70, dated April 19, 2005 (52 DCR 5495), "Delegation of Authority pursuant to D.C. Law 2-64, the District of Columbia Hazardous Waste Management Act of 1997", is amended by striking the phrase "Department of Health" and inserting the phrase "District Department of the Environment" in its place.

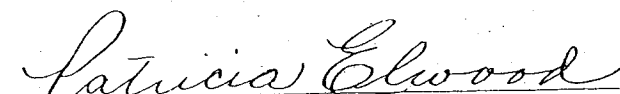
29. Mayor's Order 2004-46, dated March 22, 2004 (51 DCR 4128), "Delegation of Authority Pursuant to D.C. Law 6-42, the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985" is amended by striking paragraphs 2 and 3 and inserting paragraphs 2, 3 and 4 to read as follows:
 2. The Directors of the Department of Health and the District Department of the Environment are delegated the authority to perform the following functions under the Act as they pertain to laws administered by the respective Department:
 - a. Prepare and periodically amend a schedule of fines to be imposed under the Act and impose civil fines, penalties, and costs for adjudicated infractions pursuant to section 104 of the Act (D.C. Official Code § 2-1801.04);
 - b. Issue rules necessary to carry out the purposes of the Act and agency programs pursuant to section 105 of the Act (D.C. Official Code § 2-1801.05);
 - c. Take summary action pursuant to section 106 of the Act (D.C. Official Code § 2-1801.06); and

- d. Serve notices of infraction to and enter final orders to pay fines, penalties, or costs as a judgment against a respondent and enforce that judgment pursuant to section 201 of the Act (D.C. Official Code § 2-1802.01).
3. For the purpose of this Mayor's Order, the laws administered by the Department of Health include the following:
 - a. The Pharmacist and Pharmacy Regulation Act of 1980, effective September 16, 1980 (D.C. Law 3-98; D.C. Official Code §§ 47-2885.01 *et seq.*);
 - b. The Smoking Restriction Act of 1979, effective September 28, 1979 (D.C. Law 3-22; D.C. Official Code §§ 7-1701 *et seq.*);
 - c. The District of Columbia Tissue Bank Act, approved September 10, 1962 (76 Stat. 535; D.C. Official Code §§ 7-1541.01 *et seq.*);
 - d. The District of Columbia Drug Manufacture and Distribution Licensure Act of 1990, effective June 12, 1990 (D.C. Law 8-137; D.C. Official Code §§ 48-701 *et seq.*);
 - e. The Youth Residential Facilities Licensure Act of 1986, effective August 13, 1986 (D.C. Law 6-139; D.C. Official Code §§ 7-2101 *et seq.*);
 - f. The Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*);
 - g. The Clinical Laboratory Act of 1988, effective March 16, 1989 (D.C. Law 7-182; D.C. Official Code §§ 44-201 *et seq.*);
 - h. The District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §§ 48-901.02 *et seq.*);
 - i. The District of Columbia Child Placing Authority Act of 1979, effective August 23, 1980 (D.C. Law 3-59; D.C. Official Code §§ 4-1401 *et seq.*);
 - j. An Act Relating to the adulteration of foods and drugs in the District of Columbia, approved February 17, 1898 (30 Stat. 247; D.C. Official Code §§ 48-104 *et seq.*);

- k. The Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215; D.C. Official Code §§ 7-2031 *et seq.*);
 - l. The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01);
 - m. The Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code §§ 8-1801 *et seq.*);
 - n. The Rodent Control Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code §§ 8-2103.01 *et seq.*); and
 - o. All of the functions named in section 4902 of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731), except as provided in section 4 of this Order.
4. For the purposes of this Mayor's Order, the laws administered by the District Department of the Environment include the following:
- a. The Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.01 *et seq.*);
 - b. The Pesticide Operations Act of 1977, effective April 18, 1977 (D.C. Law 2-70; D.C. Official Code §§ 8-401 *et seq.*);
 - c. The Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; D.C. Official Code §§ 8-1301 *et seq.*);
 - d. The District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242; D.C. Official Code §§ 8-113.01 *et seq.*);
 - e. The Asbestos Licensing and Control Act of 1990, effective May 1, 1990 (D.C. Law 8-116; D.C. Official Code §§ 8-111.01 *et seq.*);
 - f. The Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.04 *et seq.*);
 - g. The Lead-Based Paint Abatement and Control Act of 1996, effective April 9, 1997 (D.C. Law 11-221; D.C. Official Code §§ 8-115.01 *et seq.*);

- h. Section 4902(a)(3), of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731); and
 - i. Any other statutory enforcement authority transferred or delegated to the District Department of the Environment that provides that fines or penalties are to be issued and adjudicated pursuant to the Act.
30. The Director of DDOE may further delegate any of the authority delegated under this Order to any subordinates within DDOE.
31. All adjudicated cases involving enforcement authority delegated or transferred to DDOE pursuant to this Order under the jurisdiction of the Office of Administrative Hearings prior to this Mayor's Order shall continue to be within the jurisdiction of the Office of Administrative Hearings, pursuant to the Office of Administrative Hearings Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code §§ 2-1831.01 *et seq.*).
32. Mayor's Order 99-141, dated September 2, 1999, is hereby rescinded.
33. This Order supersedes any previous Mayor's Orders to the extent of any inconsistency.
34. **EFFECTIVE DATE:** This Order shall be effective as follows:
- a. Except as provided in section b, this order shall be effective immediately.
 - b. Paragraph 1, section d, shall be effective February 15, 2007.


ANTHONY A. WILLIAMS
MAYOR

ATTEST: 
PATRICIA ELWOOD
INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA