

	OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION POLICY AND PROCEDURE		DEPARTMENT OF ENVIRONMENTAL QUALITY
Original Effective Date: November 2, 2012 Revised Date: Reformatted Date:	Subject: RAP Processing and Tracking for Part 115 RAPS	Division/Office and Program Names: OWMRP-Solid Waste and Land Application Section	Category: <input checked="" type="checkbox"/> Internal/Administrative <input type="checkbox"/> External/Non-Interpretive <input type="checkbox"/> External/Interpretive
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A Department of Environmental Quality (DEQ) Policy and Procedure cannot establish regulatory requirements for parties outside of the DEQ. This document provides direction to DEQ staff regarding the implementation of rules and laws administered by the DEQ. It is merely explanatory; does not affect the rights of, or procedures and practices available to, the public; and does not have the force and effect of law.

INTRODUCTION, PURPOSE, OR ISSUE:

The purpose of this procedure is to determine processing and tracking of Remedial Action Plans (RAPs) to ensure consistency among staff processing and reviewing these submittals.

AUTHORITY:

Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

POLICY:

Section 20114b(3) of Part 201, Environmental Remediation, of the NREPA, specifies that the DEQ must review a proposed response activity plan and either approve or deny the plan within 150 days after receiving all information required by the DEQ to make its decision regarding approval. If the plan requires public participation, the DEQ shall respond within 180 days. It is recommended that RAPs submitted under Part 115 will be subject to the same review timeframe. An extension of time may be granted by mutual consent of both parties. A consent order could authorize a different timeframe for submittal and approval. A denial of a RAP must include the reason for denial, including a description of conditions or requirements necessary to obtain approval.

This procedure applies to RAPs that are submitted to the DEQ that contain all information required by the DEQ to make a decision as to its adequacy. The RAPs that are submitted only for technical/conceptual approval, and do not include all the information required by the DEQ to make a decision regarding RAP approval, are not subject to the 150 day review period required by Section 20114b(3) of Part 201.

Since the Office of Waste Management and Radiological Protection (OWMRP) staff must complete various activities during this six-month RAP review period, the following procedures are to be implemented. These procedures specify the RAP logging, notifying and tracking requirements for the OWMRP staff; the elements and content needed in a complete RAP, the

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procedures for convening both a Remedial Action Team (RAT) meeting, and the applicable public participation and other follow-up requirements given in Part 201 and the promulgated Rules. This procedure applies to all complete RAPs pursuant to Part 115 where compliance with Part 201 is needed.

PROCEDURES:

Who	Does What
Person Proposing the Plan (PPP)	1. Submits RAP to appropriate district office.
District Supervisor (DS)	2. WITHIN 14 DAYS OF RAP RECEIPT: Sends Acknowledgment of Receipt letter (ACKN_RAP.DOC_Appendix A) to the PPP within 14 days of receipt of the RAP. Also sends a note to the RAT chairperson, and to the chiefs of the Solid Waste Section (SWS), Enforcement Section, and Field Operations Section.
District Staff (Staff)	3. WITHIN 30 DAYS OF RAP RECEIPT: Reviews the RAP. If the RAP is lacking any information necessary or required for the DEQ to make a decision regarding RAP approval, notifies and discusses with DS. Proceed to step 4. If the RAP contains the necessary information to make a decision, initiates the 150 to 180-day review clock with the receipt date of the RAP. Proceed to step 5.
DS	4. WITHIN 30 DAYS OF RAP RECEIPT: Drafts the Insufficient Information RAP letter (INSF_RAP.DOC - Attachment B) and sends to PPP. Note: district staff does NOT need to consult with central staff to make this determination. Begin process at step 1 upon receipt of resubmitted RAP.
Staff	5. If the RAP is sufficient to make a decision, submits the appropriate components of the RAP to the OWMRP technical staff (geologists, toxicologists, mixing zones determination requests and Enforcement Staff) for review, also, the following will be submitted: financial assurance calculations to SWS engineer and geologist specialists; financial assurance mechanism to SWS financial specialist; consent order or other enforceable mechanism to the OWMRP Enforcement Section; restrictive covenant document to SWS engineer; and institutional control to a Remediation and Redevelopment Division Specialist.

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Who	Does What
Staff	<p>6. Geologists, Toxicologists, Engineers, Enforcement Staff, and Financial Specialist, review selected components of the RAP and provide comments to district staff within 30 days of receipt of the information from the district staff. The comments should indicate whether the item reviewed is acceptable. For items determined to be not acceptable, the comments should provide a list of specific information needed to make the item acceptable.</p>
Staff	<p>7. WITHIN 90 DAYS OF RAP RECEIPT: Reviews the RAP including comments from the geologists, toxicologists, Engineers, Enforcement staff and a determination that groundwater is not in an aquifer. Staff prepares the site background portion of the RAP Approval and Tracking form and Part 201 RAP Worksheets (S:\RMD_All\Activities\Committees\Remediation Advisory Team\RAT Forms and Guidance.)</p> <p>Schedules RAT meeting to determine if the RAP complies with the requirements of the Act and Rules and identifies any policy or technical issues related to the RAP that should be included in the RAT meeting.</p>
Staff	<p>8. WITHIN 120 DAYS OF RAP RECEIPT: Attend the RAT meeting and discuss the details of the RAP being considered. The RAT gives guidance on whether the RAP can be approved or denied. The Staff can return to the RAT as many times as needed to obtain input on a pending RAP.</p> <p>For all RAPs the DS will decide whether the RAP meets any of the following criteria for public noticing the RAP approval: (1) significant public interest exists; (2) the RAP will be implemented with state funds; (3) the RAP falls into a Limited or Site Specific Category; or (4) a waiver of R 299.5705(5) and/or R 299.5705(6) of Part 201 is requested as part of the RAP.</p>

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Who	Does What
DS	<p>9. WITHIN 130 DAYS OF RAP RECEIPT: If the recommendation is to approve the RAP and it meets any of the criteria for public noticing, prepares the public notice (draft at S:\RMD_All\Activities\Committees\Remediation Advisory Team\Examples\Public Notice) and calendar notice documents. Also if public hearing/meeting is required, prepares model public hearing statement (draft at S:\RMD_All\Sections\STSW\Part 115 Permits and Licenses_Part 115 Forms\Part 115 Submittal Documents\Model Public Hearing Statement- vsw-8-7-2007.doc) and makes meeting arrangements.</p>
Staff	<p>10. For RAPs that meet the requirements for full approval, if public participation requirements have been met, Staff should draft the appropriate approval letter for Office Chief signature (RES.APV-Attachment C or LIMITED.APV-Attachment D). If public participation requirements have not been completed an immediate assessment must be made whether they can be completed within the six-month time frame or whether a time extension should be requested for completion.</p> <p>For RAPs that are recommended for denial, and public participation requirements were deemed appropriate and have been completed, Staff drafts a letter for the Office Chief's signature which denies approval of the RAP and outlines the rules or subrules which the RAP fails to address, or inadequacies of the RAP that need to be addressed to make the RAP approvable. (DENIAL.DOC – Attachment E) For denials where public participation was necessary but the requirements have not been completed, a decision is to be made whether:</p> <ul style="list-style-type: none"> (a) they can be completed within the appropriate time frame; or (b) a time extension request is appropriate; or (c) whether anything further needs to be done pursuant to public participation given the fact the RAP is to be denied. Upon receipt of additional information the 150 to 180-day review clock and process begins again.

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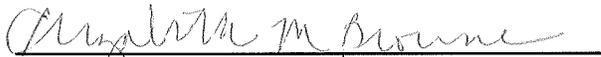
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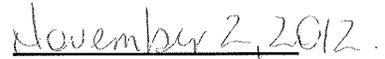
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APPENDICES:
Appendices A - E

OFFICE CHIEF APPROVAL:



Elizabeth M. Browne, Chief
Office of Waste Management and Radiological Protection



Date

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ACKN_RAP.DOC

[INSERT APPROPRIATE LETTERHEAD]

RAP ACKNOWLEDGMENT OF RECEIPT

[Date]

[Facility]
[Address of Facility]
[City, ST ZIP]

Dear [Mr., Ms., Mrs., Messrs.] [Last Name(s)]:

SUBJECT: Acknowledgment of Receipt of A Remedial Action Plan for the [site name] Site,
[County] County, Michigan.

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), has received a Remedial Action Plan (RAP) dated [date] for the [facility or site name] facility [or site]. The [District] District Office received this RAP on [date].

Section 20114b(3) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), states that the DEQ shall either approve or deny the response activity plan within 150 days of the submittal of the information necessary or required for the DEQ to make its decision regarding approval. Staff from the [District] District office will review the above-mentioned RAP within 150 days from the date of receipt of the RAP in the [District] District Office. If the plan requires public participation, the Department shall respond within 180 days. If information necessary or required for the DEQ to make its decision regarding RAP approval has not been submitted with the RAP, a letter will be sent requesting the missing necessary or required element[s]. In this case, the 150 to 180 day period mentioned in Section 20114b(3) will begin on the date that the missing necessary or required element[s] [is/are] received in the [District] District Office.

Should you require further information, please contact me at the number below; [DISTRICT SUPERVISOR E-MAIL ADDRESS]; or DEQ, [DISTRICT ADDRESS].

Sincerely,

[District Supervisor], Supervisor
[District Office]
Office of Waste Management and Radiological
Protection
[phone #]

cc: Enforcement, DEQ
SWS, DEQ

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INSF_RAP.DOC

[INSERT APPROPRIATE LETTERHEAD]

RAP INSUFFICIENT INFORMATION

[Date]

[Name of Facility]
[Address of Facility]
[City, ST ZIP]

Dear [Mr., Ms., Mrs., Messrs.] [Last Name(s)]:

SUBJECT: Incomplete Remedial Action Plan for the [site name] Site, [County]
County, Michigan.

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection, has reviewed the Remedial Action Plan (RAP) dated [date] for the [facility or site name] facility [or site]. The [District] District Office received this RAP on [date].

Section 20114b(3) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, states that the DEQ shall either approve or deny the response activity plan within 150 days of the submittal of the information necessary or required for the DEQ to make its decision regarding approval.

The above-subject RAP has been reviewed by staff from the [District] District office and has been found to be lacking some necessary or required information for the DEQ to make a decision. Specifically, since the above-mentioned RAP is classified as a [insert land use closure category; e.g. limited industrial] RAP, the following items are required and will need to be submitted to the [District] District Office before the DEQ can make a decision regarding RAP approval:

- [insert list of items required but not submitted for the particular category RAP to be considered complete and include statutory references - see page one of the RAP approval procedure. Attach any necessary model documents.]

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Please submit the above-mentioned elements to the **[District]** District Office to continue the RAP approval process. A final decision regarding RAP approval will be reached within 6 months of the date that the above-mentioned RAP elements are received in the **[District]** District Office.

Should you require further information, please contact me at the number below; **[DISTRICT SUPERVISOR E-MAIL ADDRESS]**; or DEQ, **[DISTRICT ADDRESS]**.

Sincerely,

[District Supervisor], Supervisor
[District Office]
Office of Waste Management and
Radiological Protection
[phone #]

Enclosures

cc: Enforcement Section, DEQ
SWS, DEQ

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RES.APV

[INSERT APPROPRIATE LETTERHEAD]

NOTICE OF APPROVAL-RESIDENTIAL or NON RESIDENTIAL REMEDIAL ACTION PLAN

[Date]

[Name of Facility]
[Address of Facility]
[CITY, ST ZIP]

Dear [Mr., Ms., Mrs., Messrs.] [Last Name(s)]:

SUBJECT: Notice of Approval of a Residential or Non Residential Remedial Action Plan for the [insert site name], [County], Michigan

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection, has reviewed the Remedial Action Plan (RAP) submitted by [consultant name] on [date], [include any correspondence which may have modified the RAP], for a remedial action plan pursuant to Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.20101, et seq.

Based upon our evaluation of the submittals, your remedial action plan for a residential or nonresidential closure for the [site name] has been approved.

The DEQ expresses no opinion as to other contaminants beyond those identified and remediated as a part of the approved RAP. The DEQ also makes no warranty as to the fitness of this site for any general or specific use and prospective purchasers or users are advised to use due diligence prior to acquiring or using this site.

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Should you require further information, please contact me at the number below;
[DISTRICT SUPERVISOR E-MAIL ADDRESS]; or DEQ, [DISTRICT ADDRESS].

Sincerely,

[Office Chief], Chief
Office of Waste Management and Radiological
Protection
[phone #]PHONE

cc: Enforcement Section, DEQ
SWS, DEQ

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LIMITED.APV

NOTICE OF APPROVAL OF A LIMITED RESIDENTIAL OR LIMITED NON
RESIDENTIAL REMEDIAL ACTION PLAN

[Date]

[Name of Facility]
[Address of Facility]
[City, ST ZIP]

Dear [Mr., Ms., Mrs., Messrs.] [Last Name(s)]:

SUBJECT: Notice of Intent to Approve a Limited or Site Specific-Based Criteria **[insert limited or site specific closure category]** Remedial Action Plan for the **[insert site name]**, [County], Michigan

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection, has reviewed the Remedial Action Plan (RAP) submitted by **[consultant name]** on **[date]**, **[include any correspondence which may have modified the RAP]**, for a limited remedy pursuant to Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.20101, et seq.

Based upon our evaluation of the submittals, the limited **[residential or non residential]** RAP for the **[site name]** has been approved subject to completion of the following:

1. The DEQ's review of public comment on the proposed RAP
2. Receipt of a certified copy of an DEQ-approved restrictive covenant which includes the liber and page number as recorded in the **[county]** County Register of Deeds.

A person who implements a remedial action that includes land use restrictions must provide notice of the land use restrictions required by the RAP to the zoning authority for the local unit of government in which the facility is located within 30 days of approval of the RAP.

The DEQ expresses no opinion as to other contaminants beyond those identified and remediated as a part of the approved RAP. The DEQ also makes no warranty as to the

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fitness of this site for any general or specific use and prospective purchasers or users are advised to use due diligence prior to acquiring or using this site.

Should you require further information or have any questions, please contact **[DISTRICT SUPERVISOR]**, Supervisor, **[DISTRICT NAME]** at **[PHONE#]**; **[DISTRICT SUPERVISOR E-MAIL ADDRESS]**; or DEQ, **[DISTRICT ADDRESS]**.

Sincerely,

[Office Chief], Chief
Resource Management Division
[phone #]PHONE

cc: Enforcement Section, DEQ
SWS,DEQ
[District Supervisor], DEQ

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DENIAL.DOC

RAP DENIAL

[Date]

[Name of Facility]
[Address of Facility]
[City, ST, ZIP]

Dear **[Mr., Ms., Mrs., Messrs.] [Last Name(s)]**:

SUBJECT: Remedial Action Plan for **[Facility or site name]**, **[County]** County,
Michigan

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection, has reviewed the Remedial Action Plan (RAP) for the **[facility or site name]** submitted by **[consultants name]** on **[date]**. The RAP is denied for the following reasons:

- **[insert RAP elements identified with RAT reviews as denied, explain conditions or requirements necessary to make RAP approvable.]**
- **[e.g. #1: The characterization of shallow groundwater contamination is inadequate. Although this groundwater is considered to be “perched”, it must meet groundwater cleanup criteria if it is in communication with a deeper aquifer. There is insufficient data to support a conclusion that there is hydraulic isolation between the shallow groundwater and the deeper aquifer. There is also insufficient information to conclusively demonstrate the flow direction for the shallow groundwater. The DEQ requests the installation of at least two additional monitor wells in the shallow aquifer to accurately determine flow direction and monitor groundwater quality. The bottom of the first saturated zone should be verified at both well locations. Additionally, a staff gauge should be installed and surveyed in the retention pond to aid in evaluation of the connection between the pond and the shallow aquifer.]**
- **[e.g #2: If you wish to pursue developing a background based groundwater criteria for the site, a monitor well should be constructed in the deeper aquifer at a location upgradient of the facility. Well construction procedures should**

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be designed to prevent communication between saturated zones. After representative background groundwater quality data is obtained, the appropriate background criteria can be developed. The publication ASTM D 18.21.12 , Guide for Developing Appropriate Statistical Approaches to Ground Water Detection Programs, can provide assistance in the correct methods for this determination.]

- **[e.g. #3: A contingency plan must be provided that outlines the steps that will be taken in the event that monitoring determines groundwater contamination in excess of criteria threatens to migrate beyond the monitoring network.]**
- **[e.g #4: The restrictive covenant for the property should specifically address the asbestos buried in the sand and debris area. The area should be identified and the boundaries surveyed. The cover over the area must be maintained to prevent exposure to airborne asbestos. In the event of future excavation of the area, procedures must follow the applicable asbestos regulations in place at that time, including precautions to prevent exposure. The language for site use restrictions in the restrictive covenants will need some modification, and can be negotiated at a later date. Please note that approval from the landowner(s) will be necessary for the restrictive covenant on the cemetery property.]**

All information and determinations presented by the DEQ in this letter are based on information currently known to DEQ staff. Additional work may be required as a result of the above comments. Additional review comments may arise upon review of the data generated if additional work is necessary to address the above comments. The discovery of new information regarding environmental conditions or regarding regulated substances at the facility that is not known to the DEQ as of the date of this letter may result in a request by the DEQ for additional response activities.

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Should you require further information or have any questions, please contact
[DISTRICT SUPERVISOR], Supervisor, **[DISTRICT NAME]** at **[PHONE#]**; **[DISTRICT
SUPERVISOR E-MAIL ADDRESS]**; or DEQ, **[DISTRICT ADDRESS]**.

Sincerely,

[Office Chief], Chief
Office of Waste Management and Radiological
Protection
[Phone #]

Enclosures

cc: Enforcement, DEQ
SWS, DEQ
[District Supervisor], DEQ