



REMEDIATION AND REDEVELOPMENT POLICY AND PROCEDURE

Peer Review Procedure RRD-15

Original Effective Date: August 31, 2013

Last Revision Date: September 1, 2020

Distribution: All RRD Employees

PURPOSE

One of the principal functions of the Remediation and Redevelopment Division (RRD) is to provide compliance monitoring and assistance to parties performing response activities under Part 201, Environmental Remediation, and Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). This is most often accomplished when RRD staff (Environmental Quality Analysts, Geologists, and Engineers, collectively referred to as Project Managers) complete a review of work plans and reports that were submitted by parties regulated under the programs administered by RRD. At times, the recommendations of division Technical Assistance and Program Support (TAPS) teams is needed to complete the analysis of the merits of the document under review from a technical, regulatory, and policy perspective. The division then routinely concludes the analysis of the work plan or report through a peer review session. Peer review is not limited to decisions on statutorily required submittals and may be used to facilitate a decision making in the work unit on a variety of topics like state funded projects.

Peer review is a deliberative practice where a project manager's professional peers and at times TAPS teams assist in rendering the Division's determination on a work plan or report submitted. This is accomplished through a meeting where the project manager, several peers, and the field manager/unit supervisor review the project manager's recommendations regarding the document with the field manager/unit supervisor having the authority to render the final decision. The assistance and input of the party proposing the work plan or report may be sought concurrent with this process to assure that staff has a complete understanding of the party's reasoning behind the conclusions contained in the document. It is encouraged to invite the external parties to attend a peer review meeting to personally present their proposals/reports. The objective of this process is to facilitate consistent decision making in a manner that promotes the application of best professional judgment, sound science, continuous learning, and transparency to the regulated community.

The purpose of this procedure is to describe steps that will be taken to complete the peer review process when it is needed to determine the adequacy of certain documents submitted. These circumstances will include review of a Response Activity Plan, No Further Action (NFA) Report, Documentation of Due Care Compliance (DDCC), Certificate of Completion, a Final Assessment Report (FAR), Closure Report and may include a work plan, report, or request submitted pursuant to the programs administered by RRD (all now collectively referred to as Documents). Please note this does not include instances where NFA Reports are submitted with proposed post closure agreements. Compliance and Enforcement (C&E) Section takes the lead role in reviewing post closure agreements and does not function as a TAPS team in these circumstances. Project managers must contact their District Enforcement Coordinator within 14 days of receipt of such a document so a review timeline can be established. The final review of the

adequacy of the document, however, may still be completed through a peer review session with staff of the C&E Section participating.

AUTHORITY

Parts 201, 213, and Part 196, Clean Michigan Initiative Implementation, of NREPA, the Brownfield Redevelopment Financing (Act 381), and the Comprehensive Environmental Response, Compensation, and Liability Act provide the department the general authority to review submittals. Sections 20114b, 20114d, 21308a and 21315 of the NREPA provide the department the authority to review the adequacy of work plans and reports submitted under the Part 201 and Part 213 programs. There is no prescribed method in Part 201 and Part 213 to accomplish this task.

POLICY

Peer review will be conducted under the following circumstances:

- Determination of the adequacy of a response activity plan, no further action plan, documentation of due care compliance, or a request for a certificate of completion.
- Determination of the adequacy of a final assessment report or a closure report (Part 213)
- Determination of the adequacy of an NPL site submittal that is being addressed under Part 201.
- A determination of the adequacy of activities conducted under a court order or a legally binding agreement.
- Where other policy requires peer review (e.g. RRD-37)
- When requested, to evaluate strategy, tactics, and plans for state funded actions.
- The project manager specifically requests peer review assistance with a technical or policy matter

The list above does not include response activity plans for remedial investigation unless specifically requested by the project manager. A site should be adequately characterized prior to being considered in the peer review process.

Please also note that at the discretion of the field manager/unit supervisor, Documents that require decisions that are or become routine based on increasing experience of reviewing staff and/or the nature of the site/facility may not require a peer review or may be more appropriately reviewed through a review limited to the project manager and the field manager/unit supervisor.

PROCEDURE

Step	Who	Does What
Project manager review of Documents and input from Peer Review & TAPS Teams		
1.	Project Manager	<p>Gains thorough knowledge of the Document through their review along with pertinent file materials and preliminary document review from the geologist or DECC as necessary. The PM will review using available guidance and will complete checklists developed by the appropriate TAPS Teams. The review will include:</p> <ul style="list-style-type: none"> - Determination whether there is sufficient site characterization to support the documents decision. - Determination whether the information necessary for TAPS review is available for a TAPS review of adequacy. <p>Based on this thorough understanding, consults with applicable TAPS Team point of contact (POC) to determine if TAPS Review is needed. Consults with the field manager/unit supervisor to determine if a peer review is needed for the department to render a decision on the adequacy of the Document.</p>
2.	Field Manager/Unit Supervisor	Makes the final determination whether a peer review or the assistance of a TAPS team is needed or required based on other RRD policy or procedure.
3.	Project Manager	<p>If the assistance of any TAPS team will be requested, works with team members to compile the information needed for the requested review consistent with the Teams Operating Procedure. . This must be submitted to the TAPS team no later than 90 days prior to the statutory due date for department review of the Document (Decision Deadline). If the Document is an <u>amended</u> FAR or Closure Report as defined in the Part 213 program, information will be submitted to the TAPS teams 60 days prior to the Decision Deadline. Shorter review timeframes may be accommodated but require discussions in advance with the TAPS Team and management to determine if the expedited review is appropriate or possible. The discussion outcomes will be communicated with the document submitter.`</p>
4.	TAPS Teams	<p>Completes the review of supplied information and provides a recommendation within 30 days of receipt of the information , or within the timeframe indicated in a Team Operating Procedure. If the information pertains to an <u>amended</u> FAR or Closure Report under the Part 213 program, answers will be provided within 20 days of receipt. If additional time is needed due to the complexity of the issues covered, an alternate schedule can be established through agreement between the TAPS team leader, the project manager, and the field manager/unit supervisor. The nature of the output (e-mail versus interdepartmental memo) and the breadth of team member involvement (i.e. full team member participation versus one team member answering the questions) will be determined by the Teams Operating Procedure.</p>

Step	Who	Does What
Scheduling and preparation of supporting documentation for the peer review meeting		
1.	Project Manager	Contacts secretary or designee to request a peer review meeting. The date of the meeting will be at least 30 days prior to the Decision Deadline.
2.	Secretary (or other designee)	Schedules the meeting with the following staff typically participating project manager, field manager/unit supervisor, geologist, and enforcement coordinator. The participation of a TAPS team POC will also be scheduled if they assisted with the project and additional input is needed. The title of the peer review meeting set on a calendar will contain the site name, program, type of document, and other key identifiers (e.g. work plan for AS/SVE, Restricted Closure, and Due Care).
3.	Project Manager	<p>Completes the peer review documentation and supplies it to all parties participating in the meeting a minimum of three business days prior to the date of the meeting. Peer review documentation consists of a completed peer review form (including attachments required by the form), and any written guidance provided by a TAPS team.</p> <p>The most current versions of the peer review form and attachments are located on the RRD SharePoint Site under FOS Model Documents</p>
4.	Peer Review Participants	As time allows, review the materials supplied by the project manager prior to the peer review meeting.
5.	Field Manager/Unit Supervisor	Follows up with project manager to correct any deficiencies identified in the materials prior to the peer review meeting if they will inhibit a meaningful discussion of the merits of the Document being reviewed.
6.	Project Manager	Corrects any deficiencies identified in the prepared materials prior to the peer review meeting and produces amended ones to be used at the meeting.
Conducting the peer review meeting		
1.	Project Manager	Provides a verbal summary of the nature and extent of the release, a history of response activities taken to date, and pertinent site features. The project manager will then describe in detail the response activities or closure proposed and answers any questions from participants in the peer review session. This portion of the meeting may also include presentation by and participation of the submitter.
2.	Peer Review Participants	The project manager will present their recommendation(s) for the submittal and the participants will discuss the merits of the Document from a technical, regulatory, and policy standpoint. Develop a consensus on the merits of the Document by the end of the peer review meeting. If the Document is found to be deficient, develop a specific list of activities that need to be conducted to correct identified deficiencies and, if applicable, identify specific items in the Document that cannot be adequately reviewed until the deficiencies are corrected.
3.	Field Manager/Unit Supervisor	Acts as the facilitator at the meeting to develop consensus and makes the final determination on the adequacy or specific deficiencies in the Document.

Step	Who	Does What
4.	Project Manager	Assures that written documentation is gathered at the meeting on decisions made so this can be incorporated into the peer review materials prepared. After the materials have been updated, the project manager secures the signature of all parties involved at the meeting.
Input from executive management		
1.	Field Manager/Unit Supervisor	<p>At the end of the peer review meeting, determines if the extenuating factors merit presenting the document to division executive management before a final determination is rendered. Factors that will be considered include:</p> <ul style="list-style-type: none"> • Deviation from a TAPS Team recommended action that is based on policy, procedure or practice. • The likelihood a determination that the Document is deficient will be appealed to the Response Activity Review Panel or through a contested case hearing. • The decision on the adequacy of the Document significantly varies from established policy or guidance and will be precedent setting for the division. <p>If a meeting with executive management is arranged, the meeting will be conducted in a similar fashion to the peer review meeting and with the following participants: Division Director and/or the Assistant Division Director, Field Operations Section Manager East or West, Superfund Section Manager, Field Manager/Unit supervisor, Project Manager, Geologist, and any TAPS team members that participated in the peer review meeting.</p>
2.	Project Manager	Upon direction from the field manager/unit supervisor that a meeting with executive staff is needed, contacts the senior management assistant or secretary for the Division Director and/or the Assistant Division Director to schedule the meeting and provides the secretary a list of participants. The meeting will be held a minimum of 15 days prior to the Decision Deadline.
3.	Project Manager	Provides updated materials to all participants a minimum of three business days in advance of the meeting.
4.	Executive Management Meeting Participants	At the meeting, examine the technical or policy questions at hand and develop a consensus on the division's best response to the Document submitted.
5.	Division Director and/or Assistant Division Director	Acts as the facilitator at the meeting to develop consensus and makes the final determination on the adequacy or specific deficiencies in the Document.
6.	Project Manager	Assures that written documentation is gathered at the meeting on decisions made so this can be incorporated into the peer review materials prepared. After the materials have been updated, the project manager secures the signature of all parties involved at the meeting.

Step	Who	Does What
Documentation of the outcome of the peer review process		
1.	Project Manager	Assures that the materials prepared for the peer review meeting (and possibly the meeting with executive staff) are incorporated into the site file. This includes the final recommendations and staff signatures. Assures that required data entry is made into designated tracking tools. Prepares a draft compliance communication or audit letter that reflects the outcome of the peer review process, which is forwarded to the field manager/unit supervisor. This will be completed no later than ten days prior to the Decision Deadline. Provides informal notification to the submitter of the compliance communication prior to their receipt of the compliance communication.
2.	Field Manager/Unit Supervisor	Reviews the draft compliance communication for completeness, working with the project manager to rectify any deficiencies. Forwards completed compliance communication to the secretary for formatting no later than seven days prior to the Decision Deadline.
3.	Secretary	Assures the compliance communication is grammatically correct and constructed according to department guidelines. Either prints the communication for signature pursuant to the division's delegation authority or forwards it to the secretary for the Assistant Division Director if a higher-level signature is required. This will be completed no later than five days prior to the Decision Deadline.
4.	Senior Executive Management Assistant/ Executive Secretary	Checks compliance communication for proper formatting and assures the Division Director and/or the Assistant Division Director or designee signs it before the Decision Deadline.
Coordination with the Compliance and Enforcement Section (C&E) for entry of a Postclosure Agreement as part of the NFA Report approval process		
1.	Project Manager or Enforcement Case Coordinator	Within 14 days of submittal of a No Further Action Report that requires entry of a Postclosure Agreement pursuant to Sec. 20114d of Part 201, reviews the No Further Action Report Submittal to determine if it includes all the components required for the Postclosure Agreement. If it does not, contacts submitter to requests the missing components. Once it is determined all compomets are complete, makes a request to the C&E Section for review and entry of a Postclosure Agreement for the No Further Action Report submittal. Along with the request, provides all submitted components required for the postclosure agreement (agreement, postclosure plan, and proposed financial assurance mechanism or determination why a FAM is not required) and all other pertinent information required for review of the postclosure agreement.
2.	C&E Section	Within 45 days of receipt of request, determines if the postclosure agreement can be entered as submitted. If not, compiles a list of items that need to be addressed before it can be entered. Provides determination and/or list of specific items that need to be addressed to the Project Manager and District Enforcement Coordinator.

Step	Who	Does What
3.	Project Manager or District Enforcement Case Coordinator	In consultation with the C&E Section staff, determines whether or not it is necessary for the C&E Section staff to participate in the Peer Review Meeting in order to adequately address any issues regarding the Postclosure Agreement.
4.	C&E Section	In consultation with the Project Manager and District Enforcement coordinator, works directly with the submitting party to resolve any issues regarding the postclosure agreement requirements. Determines if it is necessary to request an extension to the timeframe for review of the No Further Action Report to address any issues regarding the Postclosure Agreement. If necessary, makes the request to the submitting party.
5.	Project Manager or District Enforcement Case Coordinator	Informs C&E Section staff regarding the status of the technical review and whether the No Further Action Report will be approvable based on its technical merits. If intent is to approve, drafts approval letter and forwards draft to C&E Section staff at least 21 days prior to deadline for review of the No Further Action Report.
6.	C&E Section	Attains RRD management approval for entry of the Postclosure Agreement Obtains signatures from submitting party and RRD management for execution of the Postclosure Agreement. Sends out approval letter and executed copies of Postclosure Agreement indicating final approval of the No Further Action Report.
Stakeholder involvement		
1.	Project Manager	Although not required, there may be times when stakeholder participation in the peer review process may be necessary, appropriate or requested by the submitter. Prior to the peer review meeting, identifies a circumstance where an open fact-finding discussion with the party that submitted the Document will help staff understand its full merits. This may be due to the project manager's own initiative to address concerns already identified or through a request by the party that submitted the Document. Contacts the field manager/unit supervisor to discuss the possibility of arranging this meeting concurrent with the peer review process. This is conducted with sufficient lead time so the party's participation can be scheduled immediately prior to the peer review meeting.
2.	Field Manager/Unit Supervisor	Determines if stakeholder involvement will be beneficial in each circumstance.
3.	Project Manager	If directed by the field manager/unit supervisor, contacts the party that submitted the Document relaying an invitation to discuss its merits and any concerns or questions identified. If the party accepts the invitation, the project manager will schedule time to meet immediately prior to the peer review meeting. Any concerns or questions already identified by the project manager will be relayed to the party a minimum of one week prior to the meeting.

Step	Who	Does What
4.	District Peer Review Members	All staff scheduled to participate in the peer review meeting will make their best effort to participate in the meeting with the party that submitted the Document.
5.	Project Manager	Leads the discussion at the meeting with the party that submitted the Document assuring that all questions or concerns are addressed to the fullest extent possible. Contacts the party after the peer review meeting is completed to informally relay the results of the process.
Information sharing and collaboration between offices		
1.	Field Manager/Unit Supervisor	It is the responsibility of the field managers/unit supervisors to take steps to promote consistency across the division. These steps may include participation by managers and staff in peer review in other offices; sharing of issues discussed and resolved at regular field operations manager /unit supervisor meetings, shared unit peer reviews across districts/units/sections.
2.	Field Operations/ Section Manager/ Division Executives	At the discretion of the division management where stakeholders have reported inconsistent application of statute and rules, field operations managers or division executives may create inter-office review teams for specific: types of sites, submitters, media, pathways, or other attributes (e.g. petroleum site characterization) to promote cross district consistency and knowledge.
3.	Field Manager/Unit Supervisor or designee	Assures that the division's database documenting key issues addressed at each peer review meeting and the result is maintained. The database is located at U:\Transfer\RRD\RRD FOS Programs Tracking\RRD-FOS Submittal DPR Tracking.accdb .
4.	Field Manager/Unit Supervisor or designee	Assures that documentation for each peer review meeting is saved in Content Manager; the file name in Content Manager shall include "District Peer Review" ("Peer Review" for Superfund sites).
5.	Field Manager/Unit Supervisor	Discuss notable policy or technical matters addressed at peer review meetings at the monthly field manager/unit supervisor meeting.
6.	Field Operations Manager	Intermittently participates in peer review meetings. Monitors correspondence and forms generated through the peer review process and follows up with the field managers/unit supervisors when significant inconsistencies are encountered.

LINKS TO ADDITIONAL INFORMATION

[Risk Evaluation and Response Activity Worksheet EQP 4027](#)
[District Peer Review Form EQP 4026](#)
[Directions for District Peer Review Form](#)
[Directions for Risk Evaluation and Response Activity Worksheet](#)
[RRD FOS Submittal Tracking Database](#)

APPROVING AUTHORITY

DIVISION DIRECTOR APPROVAL:



Mike Neller, Director
Remediation and Redevelopment Division

HISTORY

Policy No.	Action	Date	Title
RD-15	Original	8/31/2012	RD-15 Peer Review Procedure
RRD-15	Revised	9/1/2020	Peer Review Procedure

CONTACT/UPDATE RESPONSIBILITY

Any questions or concerns regarding this policy and procedure should be directed to EGLE-RRD@Michigan.gov.

An EGLE policy and procedure cannot establish regulatory requirements for parties outside of EGLE. This document provides direction to EGLE staff regarding the implementation of rules and laws administered by EGLE. 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. EGLE staff shall follow the directions contained in this document.