

	REMEDATION and REDEVELOPMENT DIVISION POLICY AND PROCEDURE		DEPARTMENT OF ENVIRONMENTAL QUALITY
Original Effective Date: June 29, 2012 Revised Date: February 7, 2013	Subject: Response Activity Review Panel Procedure		Category: <input type="checkbox"/> Internal/Administrative <input checked="" type="checkbox"/> External/Non-Interpretive <input type="checkbox"/> External/Interpretive
	Program Names: Part 201 and 213 Programs		
	Number: RRD-13	Page: 1 of 6	

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 describe the steps to be taken by the DEQ and Response Activity Review Panel (Panel) upon receipt of petitions submitted to the DEQ under the authority described below.

AUTHORITY:

Sections 20114e and 21315(7) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451).

POLICY:

Upon the receipt of a petition appealing the DEQ's decision, the procedures below shall be followed.

PROCEDURES:

Who	Does What
Receipt, logging, and initial distribution of the petition and fee	
Petitioner	Submits the petition and a \$3,500 fee (for a petition regarding a Response Activity Plan, No Further Action Report, Request for Certificate of Completion or Documentation of Due Care Compliance under Part 201 of Act 451), or a \$300 fee (for a petition regarding a Final Assessment Report, Closure Report or Documentation of Due Care Compliance under Part 213 of Act 451) to the DEQ Cashier's Office. The petition should include the DEQ Petition Submittal Form (appendix 1); however, this is not statutorily mandated.

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Who	Does What
DEQ Cashier's Office	Processes the payment and sends the petition to the Remediation and Redevelopment Division (RRD) petition coordinator (Petition Coordinator) on the same day it is received.
Petition Coordinator	Assigns a petition number and enters the receipt in the petition database. Copies are then distributed to the RRD (or other appropriate division) project manager and that person's immediate supervisor and all of the members of the Panel via email.
Panel Members	Notify the Petition Coordinator as to whether or not they have the necessary expertise and whether or not they have a conflict of interest if it comes to choosing a Panel to hear the dispute.
Petition Coordinator	Schedules an internal meeting of the Petition Subcommittee consisting of the project manager, their district supervisor or unit chief, the RRD Assistant Division Chief and a representative from the RRD Field Operations Section in Lansing. If the dispute involves a No Further Action Report issue which includes a post-closure agreement, an appropriate person from the RRD Compliance and Enforcement Section will also be included. The meeting should be held within five days of receipt of the petition.
Within five business days of the initial receipt of the petition	
Petition Subcommittee	<p>Meets to discuss the petition and determine whether the issue is appropriate for review, consistent with the statute, and whether the issue is resolvable within 45 days. If appropriate, the Petition Subcommittee will also produce a recommendation for the RRD Chief's review. The recommendation shall be provided within five days after the Petition Subcommittee meeting.</p> <p>or</p> <p>Recommends which DEQ personnel will represent the DEQ at the meeting of the Panel if the matter is not resolved as described below.</p> <p>If the petition is not consistent with statute and appropriate for review, the Petition Coordinator shall notify the Petitioner the RRD Administration</p>

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Who	Does What
	Section will be notified to return the submittal fee to the Petitioner.
Within 45 calendar days of the initial receipt of the petition	
RRD Chief	Reviews the recommendation of the Petition Subcommittee and the information provided by the Petitioner. If the RRD Chief believes the dispute may be resolved without convening the Panel, the RRD Chief will contact the Petitioner regarding the issues in dispute and may negotiate a resolution of the dispute.
Petition Coordinator	If the dispute is resolved without convening the Panel, the Petition Coordinator notifies the RRD Administration Section to refund the appropriate fee to the Petitioner.
Within 60 calendar days of the initial receipt of the petition	
Petition Coordinator	If the dispute is not resolved as described above, the Petition Coordinator schedules two meetings meeting of five Panel members and one alternate based on those that indicated that they did not have a conflict of interest and have the necessary expertise to hear the appeal. The second meeting will only be held if the issue(s) could not be resolved at the first meeting. A random number generator shall be used to select the Panel members to be seated and the alternate. The meetings of the Panel should be scheduled to be held within 105 calendar days from the date the petition was received. The seated panel members at the second meeting, if held, will be the same as those who were seated for the first meeting.
Petition Coordinator	Notifies the Petitioner and all 15 Panel members of the dates, locations and times of the meetings. Notifies the appropriate DEQ staff and the Petitioner of the due date in which they have to supply information that they wish to be provided to the Panel. The due date shall be 21 days prior to the first scheduled meeting date. The petitioner is also asked if they would like to present their argument to the Panel either before or after the DEQ presents its arguments. It will be suggested that the Petitioner and DEQ summarize their arguments within 20 pages, although this is not mandated.
Petition Coordinator	Provides all 15 panel members and appropriate DEQ staff all of the documentation provided by the Petitioner and DEQ to support their

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Who	Does What
	appeal. This is done at least 21 days prior to the first scheduled meeting date. Also notifies the Panel and DEQ as to who will present their argument first at the meeting.
Petition Coordinator	Posts appropriate public notice of the Panel meetings at least seven days prior to the first scheduled meeting date.
Meeting of the Panel	
Petition Coordinator	The meeting(s) shall be held on the date(s) established earlier in this procedure.
Panel	<ul style="list-style-type: none"> *Elects a chairperson for the meeting. *Approves the meeting agenda. *Approves the minutes from the previous meeting. *Takes public comment (the DEQ shall read in any comment received via email or fax. Members of the Public who wish to be heard shall be given three minutes to speak. The Panel may or may not respond to the public comments). *Hears the arguments from the Petitioner and DEQ.
Representatives of the Petitioner and DEQ staff	Representatives of the Petitioner and DEQ staff will present their positions to the Panel in the order determined earlier in this procedure.
Panel	<p>The Panel adopts, modifies or reverses, in whole or in part, the DEQ's decision. Any action by the members selected to hear the dispute shall require a majority of the votes cast.</p> <p>Note: If, at a meeting of the Panel, the dispute is tabled to be taken up at a subsequent meeting, the process for holding the meeting as described above will occur.</p>
Within 45 calendar days of the first Panel meeting in which the dispute was heard	
Panel	The Panel provides written notice of their recommendation to the DEQ Chief Deputy Director. The recommendation shall include the specific scientific or technical rationale for the recommendation. The notice may be drafted by the DEQ personnel at the request of the Panel, but will be

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Who	Does What
	<p>signed by the chairperson of the Panel who heard the dispute.</p> <p>If the Panel does not make its recommendation within the 45-day time period, the decision of the RRD Chief is the final decision for the Director.</p>
<p>Within 60 calendar days of receiving the Panel's recommendation (or an extended time period per written agreement between the Director and the Petitioner), the Director shall issue a final decision in writing regarding the petition.</p>	
<p>DEQ Chief Deputy Director</p>	<p>Reviews the recommendation and sends it to the DEQ Director</p>
<p>Director</p>	<p>If the Director agrees with the recommendation of the Panel, the Director notifies the RRD in writing and the RRD shall incorporate the recommendation into its response to the Response Activity Plan, No Further Action Report, Final Assessment Report, Closure Report, Request for Certificate of Completion or Documentation of Due Care Compliance.</p>
<p>Director</p>	<p>If the Director rejects the recommendation of the Panel, the Director shall issue a written decision to the Petitioner with a specific rationale for the rejection.</p>
<p>Note</p>	<p>If the Director fails to issue a final decision within 60 days of receiving the Panel's recommendation (or an extended time period per written agreement between the Director and the Petitioner), the recommendation of the Panel shall be considered the final decision for the Director.</p>
<p>The final decision of the Director is subject to review pursuant to Section 631 of the Revised Judicature Act of 1961, 1961 PA 236, MCL 600.631.</p>	

APPENDICES:

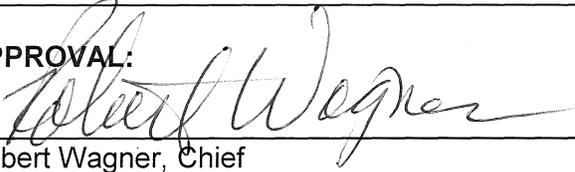
DEQ Petition Cover Sheet

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APPROVAL:



Robert Wagner, Chief
Remediation and Redevelopment Division

2/11/13
Date



MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
REMEDICATION and REDEVELOPMENT DIVISION

FOR DEQ USE ONLY

Date/Time Received:
Petition Number:

RESPONSE ACTIVITY REVIEW PANEL PETITION COVER SHEET

Authority: Section 20114e and Section 21315(7) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451).

Submit this completed form and all supporting documentation to: Department of Environmental Quality (DEQ), P.O. Box 30657, Lansing, Michigan 48909. For questions contact: Mr. Robert Reisner, 517-335-6843, e-mail: reisnerr@michigan.gov.

The petitioner must sign this form and submit a fee (noted below) for the petition to be considered.

- A fee of \$3,500.00 (Response Activity Plans, No Further Action Reports, Request for Certificate of Completion or Documentation of Due Care Compliance under Part 201 of Act 451).
- A fee of \$300.00 (for Final Assessment Reports, Closure Reports or Documentation of due Care Compliance under Part 213 of Act 451).

The issue(s) in dispute, the relevant facts upon which the dispute is based, factual data, analysis, opinion, and any supporting documentation that the petitioner wishes to be considered must be attached to this form.

The petitioner must be the person who submitted the plan or report that is in dispute.

PLAN OR REPORT FOR WHICH PETITION IS BEING SUBMITTED:
(Example: April 1, 2011, Remedial Investigation Plan or April 7, 2011, No Further Action Report)

FACILITY NAME: _____

FACILITY ADDRESS: _____

CITY: _____ ZIP CODE: _____

PETITIONER NAME: _____

CONTACT PERSON: _____

CONTACT PHONE NO.: _____

CONTACT E-MAIL: _____

RELATIONSHIP OF CONTACT PERSON TO PETITIONER: _____

SIGNATURE

The undersigned requests an appeal of the decision made by the DEQ regarding a technical or scientific provision of the noted document as described in the backup documentation.

Signature of Petitioner

Printed Name of Petitioner

Date

The Michigan Department of Environmental Quality will not discriminate against any individual or group on the basis of race, color, religion, national origin or ancestry, age, sex, marital status, or handicap.