

**Proposed Draft Revisions - January 12, 2010**  
**Bay Harbor CKD Site Regional Stakeholder Group Operating Procedures**  
(as adopted by the RSG at the October 29, 2009 organizational meeting)

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***A5.1 Role, Mission Statement, and Goals***

The Bay Harbor Cement Kiln Dust Regional Stakeholder Group (RSG) was established by stakeholders and the U.S. Environmental Protection Agency (EPA) to represent the interests of the communities and stakeholders, to receive and share information, and to provide advice and input regarding the remediation of the Bay Harbor/Little Traverse Bay Cement Kiln Dust Site (the Site).

The RSG is designed to serve as an ongoing vehicle for information-sharing, discussion, and, where possible, consensus-building regarding decision-making related to the Site. Its members represent a diverse cross-section of key stakeholder interests, including affected property owners, concerned residents, local governments, community groups, environmental groups, health experts, the business community, and others as appropriate.

The RSG's role is advisory only. While the RSG is encouraged to make recommendations and/or requests, those recommendations are not binding. RSG meetings are intended to provide an opportunity for all relevant points of view to be discussed constructively and openly.

EPA, Michigan Department of Environmental Quality (MDEQ), the Northwest Michigan Community Health Agency (NMCHA), CMS, Boyne USA, and Bay Harbor Company are non-voting, or ex-officio, participants.

**RSG Goals and Objectives**

- To develop a thorough and objective understanding of the Site from the standpoint of environmental and health implications, remediation options, and overall community objectives.
- To offer EPA and MDEQ informed realistic recommendations on short- and long-term actions to be taken regarding cleanup of the Site.
- The RSG will develop and modify as needed, the objectives, tasks, and schedules for accomplishing the goals.

**Mutual Commitments**

EPA and MDEQ agree to assist the RSG in accessing information that the RSG needs to provide informed input and consider RSG input along with public comments while making decisions about the site.

RSG members agree to consider the information and the needs of the community and its key stakeholders thoughtfully and to provide constructive advice, suggestions, and input to the agencies.

Either the agencies or the RSG may propose additional goals, as amendments to the RSG Mission and Operating Procedures.

## **A5.2 Roles and Responsibilities of the Participants**

### **RSG Members**

The role of the RSG members is advisory.

The RSG will advise EPA and MDEQ on issues regarding the Site. To do this, RSG members are expected to:

- Attend regular meetings, receive information and training, and complete homework assignments.
- Participate in work group activities.
- Openly communicate RSG progress with people or groups with whom they are affiliated.
- Present their concerns and issues as well as those of people and groups with whom they are affiliated, at RSG meetings.
- Handle, in a responsible manner, information and materials provided by the agencies.
- Comply with these Operating Procedures.
- Work civilly and collaboratively with other RSG members and strive towards consensus agreements.

#### **1. Meeting Attendance and Alternates**

The success of the RSG will depend largely on consistent attendance by the RSG members, EPA, and MDEQ. RSG members, and their alternates, are expected to make a concerted effort to attend all meetings of the RSG. Unless the RSG informs EPA, MDEQ, and NMCHA that their attendance is not requested at a meeting, their concerted effort to be present is also expected.

Members who fail to attend half of the scheduled meetings in a calendar year may be removed from the RSG by consensus of the RSG members present at the first scheduled meeting of each calendar year.

RSG members are encouraged to have an alternate attend a meeting in his or her place if the member is unable to attend and shall provide the name of one designated alternate. Each alternate is encouraged to represent the organizational interest or affiliation of the member, attend RSG meetings, and exchange full briefing information with the member, so that the presence of the alternate will not delay the progress of the RSG. The alternate's attendance at a meeting on behalf of the RSG member shall be considered as attendance by the RSG member. Interested parties can only serve as the alternate to one RSG member.

#### **2. Length of Service and Maximum Number of Members**

Terms of membership will be two years. Members may serve three terms for a total of six years. The maximum number of RSG members serving at any one time shall be ~~25 XX [a number to be determined by the RSG]~~ (including EPA, MDEQ, and NMCHA ex-officio members). EPA will periodically review RSG membership to promote and ensure appropriate community representation.

#### **3. Right to Resign**

Any RSG member may resign from the RSG at any time. If the resigning member represented an organization, that organization may select a replacement to sit on the RSG. If the organization resigns from the RSG, the RSG will evaluate the need to replace that stakeholder interest or organization. If the RSG agrees to replace the resigning organization, the provisions in subsections 4 and 5(a) below should be followed to replace that organization.

#### 4. Replacement, Addition or Removal of RSG Members

*Replacement or Adding New Members* – Nominations for replacement of a RSG member should meet, as far as possible, the RSG’s existing stakeholder balance, diversity, and geographical distribution. A list of the current stakeholder interests and their numerical distribution is shown at Appendix 1. Nominees for new members should represent a stakeholder interest not currently represented.

*Removal* – Any member of the RSG or a work group may be recommended for removal from membership at a regular or special meeting called for that purpose by the affirmative vote of two-thirds of the RSG members then serving. A RSG member whose conduct is detrimental to the RSG or who refuses to render reasonable assistance in carrying out the purpose of the RSG may be considered for removal. Any such member proposed to be removed shall be entitled to at least five days notice in writing of the meeting at which such removal is to be voted upon and shall be entitled to appear before and be heard at such meeting. A work group chair may be removed from their office for misconduct or neglect of duty by an affirmative vote of two-thirds of the RSG members, with notice as provided above. The RSG will evaluate the need to replace that stakeholder interest or organization. If the RSG agrees to replace the member who was removed, the provisions in Sub-section 5(a) below should be followed.

#### 5. Voting on RSG Membership

a. Filling RSG Vacancies - When the RSG votes on ~~membership issues~~replacement of a member organization, the RSG shall use the following procedure:

I. The ~~RSG facilitator~~Administrative Committee Chairperson shall announce at an RSG meeting any and all open RSG membership positions.

II. Nominations may be made by RSG members.

~~III.~~ Nominations shall be accepted in writing by an announced deadline.

~~Nominations may be made by RSG members~~ Nominations shall be submitted to the Administrative Committee only. Each nomination shall include the nominee’s full name and contact information as well as the nominee’s connection to a stakeholder interest as described herein. Nominations shall also include a resume or similar biographical data.

~~III.~~IV. The chair of the Administrative Committee shall contact each nominee to confirm that the nominee is willing to serve on the RSG. The chair of the Administrative Committee shall also notify the facilitator that the RSG is ready to hold a vote at the next scheduled meeting so that time can be set aside. The chair of the Administrative Committee shall circulate to all RSG members and designated alternates the names and background information on the nominees as submitted by the candidate.

~~IV.~~V. At the RSG meeting where the vote will be held, each nominee will give a two to three minute statement or presentation explaining his/her interest in serving on

the RSG and what s/he can offer to the RSG. RSG members shall be allotted time to ask questions. Following the statements/presentations and any questions from the RSG members, the RSG shall go into Executive Session. Discussion will be held during Executive Session.

~~V~~.VI. Voting shall be by written ballot. In order to vote, a RSG member or his/her designated alternate must be present at the meeting. The written ballots shall be provided by the Rules Committee and the Rules Committee shall count the votes.

~~VI~~.VII. A nominee shall need a majority vote of the members present and voting in order to be seated as a new RSG member; however, if a majority is not reached on the first ballot, a runoff vote between the two nominees receiving the most votes shall be immediately held, and the nominee with the most votes in the runoff vote shall be seated as a RSG member.

- b. *Process for addition of new stakeholder interests to the RSG – Nominations to add new stakeholder interests to the RSG may be made by any RSG member, and the nominees should represent a stakeholder interest not currently represented on the RSG. The process for nomination and election of a new stakeholder interest shall follow items III – VII above.*

## **EPA and MDEQ**

EPA and MDEQ are committed to participating in the RSG and carefully considering its advice regarding the Site. EPA and MDEQ will participate in the discussions of the RSG, openly discussing site knowledge including technical details, institutional constraints, and budgetary information, and will help to clarify previously disseminated information on activities affecting the Site. EPA and MDEQ will continue to hold agency-organized public meetings to share new information regarding sampling or activity at the Site with the public at large.

## **RSG Facilitator**

If funding (or a qualified volunteer facilitator) is available, a neutral facilitator will lead and coordinate the RSG process and facilitate meetings. The facilitator's role includes:

- Helping maintain a level playing field for all participants.
- Helping clarify roles and purposes of the group.
- Helping parties identify and prioritize the issues that need to be discussed.
- Helping the RSG develop and implement meeting agendas, group goals, tasks, and work plans.
- Helping the RSG stay on task and schedule with meeting agendas and long-term work plans.
- Intervening to redirect non-productive communications, enforcing behavioral ground rules, and resolving conflicts.
- Helping resolve impasses that develop because of technical complexity, political visibility, poor communication, personalities, or past history.
- Assisting the group in developing/modifying procedural guidelines for the group process.
- Summarizing and documenting agreements to date and tracking action items.
- Coordinating and building linkages/trust among participants.
- Ensuring that all issues are addressed and all parties have an opportunity to be heard.
- Developing draft agendas in consultation with the facilitator, based on RSG input, to be approved by the Executive Committee.

- Working with RSG to set the times and locations for the meetings, and making logistical arrangements, if necessary.
- Distributing meeting notices and other information to members.

### **Technical Resources for the RSG**

During its deliberations, the RSG will receive information from various technical resources including, but not limited to, EPA and MDEQ contractors and regulatory officials.

### **A5.3 Committees and Work Groups**

#### **Executive Committee**

The Executive Committee membership shall be composed of the facilitator, and chairpersons of the Administrative Committee and work groups. The facilitator shall chair Executive Committee meetings. During the intervals between meetings of the RSG, the decisions involving the daily business operations of the RSG may be made by a majority vote of the Executive Committee; however, this committee shall have no authority to set RSG policy or to make any recommendations to EPA or MDEQ concerning issues that fall within the scope of the RSG authority.

The Executive Committee shall endeavor to ensure that information is received by the RSG early enough in the decision-making process to allow meaningful and timely comments or recommendations by the RSG.

#### **Administrative Committee**

This Committee shall consist of no less than three members of the RSG. The members and chairperson of this Committee shall be selected by the RSG. The facilitator shall serve as a member of this Committee. This Committee shall advise the RSG on any issue that arises pertaining to the substance or scope of these Operating Procedures. Proposed amendments to the Operating Procedures shall be submitted to the Administrative Committee for recommendation to the RSG in accordance with the guidelines and procedure set forth in the section "Amendments to RSG Operating Procedures" below.

This Committee shall also conduct membership replacement functions.

#### **Work Groups**

Work groups may be formed to address specific topics or issues and make recommendations to the full RSG. The decision to form (or disband) a work group shall be made by agreement of at least three-quarters of the RSG present at the meeting where the proposal is made. Work group membership is voluntary. A work group chairperson will be selected by the work group membership.

Work groups might comprise RSG members and their alternates. Other volunteers may serve on work groups, if recommended and approved by at least three-quarters of the RSG members present at the meeting when the proposal is made. The work groups are not authorized to make decisions or recommendations for the RSG as a whole. Work group meetings will be held between full RSG meetings and scheduled at the convenience of the participants. Alternately, work group meetings may be held by teleconference. All RSG members, alternates, and other

work group members will be notified of all work group meetings. Either the RSG facilitator or the work group chairperson will provide notification and written summaries of work group meetings.

#### ***A5.4 RSG Procedures***

##### **RSG Meetings**

Meetings of the RSG will be open to the public. As needed, meetings will be held monthly on a regular date as agreed to by RSG members, unless the RSG adopts a different schedule. At any meeting of the RSG, the presence of fifty percent plus one of the members then serving shall be necessary to constitute a quorum. Special meetings of the RSG may be called any time at the request of a majority of members. All procedural requirements for a regular meeting shall apply to Special Meetings if the majority of RSG members are present.

Meetings will be held at convenient location(s) determined with input from the RSG. Work group meetings will be held as needed (in-person or by conference call) and may be closed to the public at the discretion of the members. A brief summary of the deliberations of any closed session must be prepared and made available within a reasonable time.

##### **Conduct at Meetings**

Participants agree to follow the facilitator's guidance regarding conduct at meetings and agree to adhere to the following guidelines:

- Be on time.
- Listen as an ally, not as an adversary. Listen with an open mind and heart.
- Speak one at a time; interruptions and side conversations are distracting and disrespectful.
- Be concise. Speak only once on a particular issue, unless you have new or different information to share.
- Ask for clarification; do not assume you know what someone means.
- Disagree respectfully and openly, not in private.
- Focus on the issue, not the speaker.
- Treat each other with respect as you would like to be treated.
- Allow all members to participate equally; avoid dominating.
- Honor time limits.
- Turn off all beepers and cell phones; take or make all calls outside the room.

##### **RSG Decision Process**

###### **1. *Consensus***

The RSG will endeavor to make substantive decisions or recommendations by consensus (agreement) of all members (or alternate if representing a member) that are present at the meeting. Ex-officio members will not participate in determinations of consensus. In the event of irreconcilable differences of opinion, the meeting summary will reflect the different viewpoints expressed. The use of straw votes is allowed to gauge the strength of the various viewpoints for discussion purposes. Procedural decision-making may be made by a vote of

three-quarters the RSG members present at the meeting where the decision is made unless specified otherwise in these Procedures.

## 2. Majority/Minority Reports

If the RSG is unable to reach consensus on its comments or recommendations, the RSG may report its findings in majority and minority reports. In addition, RSG members wishing to abstain from any particular RSG position may request that the abstention be noted clearly in the meeting summary and in any documents prepared and submitted by the RSG.

## 3. Use of Consensus Recommendations

To the extent that the RSG reaches a consensus agreement on recommendations regarding the Site, EPA and MDEQ participants will convey the consensus recommendations to their respective agencies.

## **Amendments to RSG Operating Procedures**

After adoption, these Operating Procedures may be amended only by consensus of all members present at the meeting in which the amendments are presented for adoption. Members shall be given reasonable advance notice of proposed amendments.

## **Observers**

All persons attending meetings who are not RSG participants are considered observers. Observers may speak only at times designated for observer comments on the meeting agenda. Members of the public may also offer written comments to the RSG by submitting comments to the facilitator. The RSG may schedule special meetings for extended interaction with interested members of the public.

## **Media Relations**

No RSG member will speak for the RSG to the media without the consensus of the RSG. Any RSG member who chooses to speak to the media without approval of the RSG must specify that he or she is not speaking on behalf of the RSG. RSG members may develop a specific plan for interacting with media representatives.

## **Meeting Summaries**

Draft summaries of the RSG meetings will be prepared by the facilitator (or EPA, MDEQ, an RSG member, or other volunteer) and reviewed by the RSG members, and EPA and MDEQ. Also, summaries will be made available to all RSG members at least one week prior to the next regular RSG meeting and sent to all individuals on a mailing or electronic distribution list developed by the RSG.

## **Agendas**

RSG meeting agendas will be drafted by the facilitator in consultation with the Executive Committee, RSG members, and ex-officio members. The agenda will be reviewed at the beginning of each meeting and will be revised, if agreed by the RSG. Committee and work group

meeting agendas will be developed by their leadership in consultation with Committee and work group membership.

### **Administrative Support**

EPA, together with state agencies, local government(s), local universities, and others may assist the RSG with administrative support.

Resources permitting, agency administrative support for the RSG may include the following:

- Arranging for meeting space in a central location.
- Preparing and distributing meeting notices and agenda.
- Taking notes during meetings and preparing meeting summaries.
- Duplicating site-related documents for RSG review.
- Duplicating and distributing RSG review comments, fact sheets, and other materials.
- Providing mailing services and postage.
- Preparing and placing public notices in local newspapers.
- Maintaining RSG mailing lists.

### **Annual Organizational Meeting**

The RSG shall hold its annual organizational meeting as part of its December-first meeting of the calendar year. At this meeting the meeting attendance for the past year will be reviewed, elections will be held (if scheduled) and the RSG process and progress will be evaluated.

#### ***A5.5 Safeguards for the Participants***

##### **Good Faith**

All participants agree to act in good faith in all aspects of the RSG's deliberations. In order to encourage the free and open exchange of ideas, views, and information prior to achieving consensus, participants agree not to use specific offers, positions, or statements made by another participant outside the RSG process. No RSG member will speak for the RSG without the consensus of the RSG.

##### **Personal Attacks**

Personal attacks and prejudiced statements will not be tolerated. As provided in Section A.5.2(4), A RSG member (or work group member) whose conduct is detrimental to the RSG process may be considered for removal.

**Bay Harbor CKD Site Regional Stakeholder Group Operating Procedures**  
**Appendix 1 – RSG Membership as of October 29, 2009**

*Community/Homeowners Associations*

- The Preserve Homeowner Association and Bay Harbor Community Council – Bob Walker
- The Cliffs Homeowner Association and Bay Harbor Community Council – Joe Sproles

*Environmental/Conservation Groups*

- Friends of the Jordan River Watershed – Ray Bier
- Michigan Environmental Council – Brad Garmon
- Tip of the Mitt Watershed Council – Jennifer McKay
- Walloon Lake Association – Rick Gross
- Three Lakes Association – Gary Knapp

*Native American Interests*

- Little Traverse Bay Bands of Odawa Indians, Environmental Services – Rachel Smolinski

*Local Business Interests*

- Petoskey Regional Chamber of Commerce – Carlin Smith

*Local Government*

- City of Petoskey – Dan Ralley
- Emmet County – Lyn Johnson
- Resort Township – Robert Wheaton
- Antrim County – Laura Stanek
- Star Township – Richard Steel

*Ex-Officio: Agencies and Parties Involved in Remediation Efforts*

- Northwest Michigan Community Health Agency – Scott Kendzierski
- Environmental Protection Agency (EPA) Region 5 – Ralph Dollhopf
- Michigan Department of Environmental Quality (MDEQ) – Bob Wagner
- CMS Energy – Gary Kelterborn
- Boyne USA – Steve Kircher
- Bay Harbor Company and Bay Harbor Properties – Dennis Brya