

## RCRA FIRST TOOL 3: Elevation Process

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### Background

The current (“As-Is”) RFI/CMS process does not include an explicit opportunity to use an *informal* process to raise an impasse to the next level of management for resolution. Participants in both RFI and CMS Lean events identified this as a root cause of inefficiency in the RFI/CMS process. If a problem arises, both parties might agree to “come back to it later” or decide to perform another round of sampling that may make the decision easier, which can delay the facility investigation and remedy selection process. Problems need to be resolved as they occur, before they affect downstream process steps.

The RCRA FIRST approach addresses this root cause by planning multiple points at which failure to reach consensus at a decision step *requires an elevation* to the next level of management. This tool provides the steps required to engage in an elevation and lays out nine specific points in the process where it should be used. The specific process steps where elevation may occur are marked on the RFI and Remedy Selection/CMS process flow diagrams included as an attachment to this Toolbox.<sup>1</sup>

### Points Where Elevation is *the* Response to Impasse

The following decision points provide examples of where elevation should be *the* response to a failure to reach consensus during the facility investigation and remedy selection/CMS processes.

#### *RCRA Facility Investigation*

1. CAF meeting fails to generate RFI objectives
2. State or Agency disapproves RFI workplan
3. RFI Data Review Meeting result is “insufficient data to proceed to remedy selection or to support risk assessment”
4. RFI Data Review Meeting result is no CMS path selected
5. State or Agency disapproves RFI report or risk assessment results

#### *Remedy Selection/CMS*

1. RSP Meeting fails to agree on a Corrective Action Objectives
2. RSP Meeting fails to agree on Remedy Approach (e.g., no CMS, etc.)
3. State or Agency disapproves CMS or data collection workplan
4. State or Agency disapproves CMS or data collection report

### Navigating the Elevation Process: Key Questions

#### **How is Elevation Initiated?**

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<sup>1</sup> Note: This process was an outcome of original RFI and CMS Lean events held in 2013 and 2014. Participants at a mini-Lean event in Ohio in December 2015 provided additional input to further improve the process.

Elevation is automatic at any decision point where a consensus cannot be reached.

### **What are the steps required for Elevation?**

A one-page form (see “Elevation Form” below) can be completed to initiate the elevation process. The co-chairs for both parties are responsible for completing this form together. The first section calls for a description of the issue written by both co-chairs. The remainder of the form contains a section for each party to describe their position. The form also includes a section to describe the resolution of the issue or outline the next steps resulting from the elevation.

The prepared form is provided to the individuals named at the CAF/RSP meeting as the elevation point of contact (POC). Both teams brief the elevation POC and the meeting co-chairs schedule a conference call or meeting to resolve the issue.

### **How long should Elevation take?**

Elevation should occur within a period of 30 to 60 days.

### **What if Elevation does not resolve the issue?**

If the elevation step does not resolve the issue, the next step should be a formal proceeding chosen from those already available in the RCRA program.

### **Principles of Elevation**

The joint elevation process as defined in the facility-specific CAF/RSP should take into account the following principles:

- The elevation process can be initiated by any project team member if they have encountered an obstacle to resolving an issue in a timely manner. The co-chairs of the CAF/RSP are responsible for implementing the elevation.
- The elevation process is intended to increase awareness on the part of the project team members of their ability to engage decision makers early in the CAF/RSP process when needed.
- The elevation process does not invoke formal dispute resolution procedures such as the procedures found in permits and orders.
- While decision makers may be called upon to resolve concerns or issues encountered during the CAF/RSP process, the parties are aware that no action or decision by the EPA or State, including those of decision makers, constitutes a final agency action.
- The joint elevation process does not alter in any way the lead agency’s (EPA or State) requirement to propose a remedy for public comment, respond to public comments, and potentially consider other remedial alternatives than the one proposed.

## Elevation Form

The co-chairs complete the following form to initiate the elevation process.

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### RCRA FIRST ELEVATION: SUMMARY OF ISSUES

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**Date:**

**Scheduled for Resolution by** (*within 30-60 days of form date*):

**Date of Scheduled Meeting or Call:**

**Problem Statement (only one statement permitted):**

**Description of Agency or State Position:**

**Description of Facility Position:**

**Resolution/Next Step:**

*Anticipated Date:*