

Resource Materials

INFORMATION NECESSARY TO PROCESS A PART 213 REPORTING EXTENSION

In order to promote a consistent and informed approach for Michigan Department of Environment, Great Lakes, and Energy, Remediation and Redevelopment Division (RRD) regarding the review and approval of requests for extensions of the statutory reporting deadlines for good cause, this document was developed consistent with RRD Policy and Procedure for Part 213 Reporting Extension and Audit Extension Procedure RRD-23. This document provides information to RRD staff, and persons submitting extension requests for RRD review regarding the content of the request, examples that represent good cause, and other key points.

This document is explanatory and does not contain any regulatory requirements. It does not establish or affect the legal rights or obligations for the determination of background concentrations of metals in the soil. It does not have the force or effect of law and is not legally binding on the public or the regulated community. Any regulatory decisions made by RRD regarding approval of an extension request will be made by applying the governing statute rules to relevant facts.

Approved:

A handwritten signature in black ink that reads "Mike Neller". The signature is written in a cursive style and is positioned above a horizontal line.

Mike Neller, Director
Remediation and Redevelopment Division
October 26, 2020

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Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 213) Section 21313a(3) allows EGLE Remediation and Redevelopment Division (RRD) to approve extensions of the statutory reporting deadlines for good cause upon an owner's or operator's (O/O's) written request 15 days prior to the reporting deadline. RRD has established a process for granting extensions an O/O's request for an extension to Part 213 Initial Assessment Report (IAR) and Final Assessment Report (FAR) reporting deadlines. The process does not address a reporting extension for the Closure Report because there is no specific submittal deadline identified in the statute.

The key determination of whether the RRD will grant an extension of time is based on what constitutes "good cause". RRD has identified the following circumstances as examples constituting good cause, for which an extension of time for submittal of an IAR or FAR may be granted:

1. A valid dispute between an O/O and a qualified consultant (QC) that cannot be resolved and thus the O/O employs a different QC. A written statement is required from the O/O or the newly retained QC with an O/O co-signature.
2. Site conditions requiring additional investigations to fully assess and classify the site, or additional media sampling needed to assess or account for seasonal variability. Written confirmation of such a situation is required from the QC.
3. Difficulty in securing access from third parties including, but not limited to seeking court ordered access. Documentation of the efforts to secure access is required.
4. Seasonal weather conditions (heavy snowfall, deep frost penetration, local frost laws, etc.) that may preclude site access or reasonable working conditions on a site.

Other circumstances may also be documented as good cause.

To be effective, requests for an extension from an O/O for an extension should include:

- Progress of the corrective actions at the site.
- Site classification or status of determining site classification.
- Good cause basis for requesting an extension.

Key points:

- It is a statutory requirement that the O/O submit a written request for extension at least 15 days prior to the report submittal deadline to be eligible for a deadline extension. The department has no authority to grant any extension if requested less than 15 days prior to the report's deadline.
- If the circumstances for requesting an IAR extension will result in a delay in the submittal of the FAR, then an extension for the IAR and FAR can be requested at the same time or separately.
- If an O/O has received a previous extension for a given site and the O/O makes a subsequent extension request, it will only be considered if the O/O shows specific changes in circumstances from the first extension approval.
- When a second request is approved it will indicate that it is the FINAL extension approval. A request for a third extension will be denied unless there are extenuating circumstances.
- There is no standard time frame for an extension. All time frames will be considered on a case-by-case basis and will only be granted if determined appropriate for the circumstances that warranted the extension.