



REMEDIATION AND REDEVELOPMENT POLICY AND PROCEDURE

Part 213 Reporting Extension and Audit Extension RRD-23

Effective Date: April 13, 2020
Distribution: Internal

The Michigan Department of Environment, Great Lakes, and Energy (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.

PURPOSE

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 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. This procedure provides direction on the process to be used by Remediation and Redevelopment Division (RRD) staff to evaluate an O/O's request for an extension to Part 213 Initial Assessment Report (IAR) and Final Assessment Report (FAR) reporting deadlines and to respond to the request. This procedure does not address a reporting extension for the Closure Report because there is no specific submittal deadline identified in the statute¹.

This procedure also provides direction on the process to be used by RRD staff to request an extension of the audit time frame for an IAR or FAR. The audit window may be extended by mutual agreement in writing between EGLE and the O/O submitting the report under Section 21315(5) of Part 213.

STAKEHOLDER INVOLVEMENT

Review and comment of this policy was provided by Michigan Petroleum Association members of the joint MPA/EGLE Petroleum Stakeholder Workgroup.

DEFINITIONS and ACRONYMS

All terms are the same as defined in Part 213.

EGLE – Michigan Department of Environment, Great Lakes, and Energy

Days – days are counted as calendar days unless otherwise specified in statute. (*note*: Part 213 only specifies business days in Sec. 21323n(2) regarding documentation of due care)

DEC – District Enforcement Coordinator

FM – Field Manager

FAR – Final Assessment Report

IAR – Initial Assessment Report

LUST – Leaking Underground Storage Tank

O/O – Owner/Operator

¹ Section 21312a, upon completion of the corrective action, the O/O that is liable under Section 21323a shall complete a closure report and submit the report to the department.

PM – Project Manager
 QC – Qualified Consultant
 RRD – Remediation and Redevelopment Division
 SID – Storage Tank Information Database

POLICY

The procedures of this policy are intended to provide direction to staff that will result in consistent application of granting extensions for good cause.

PROCEDURE

Reporting Extensions Requested by the Owner or Operator

Who	Does What
Processing of IAR or FAR reporting extension upon receipt in district or field office	
Administrative Assistant or PM	Receives the written request for extension. The letter signed by the O/O may be, mailed, e-mailed or faxed.
Administrative Assistant	Date stamps the request with the date it is received and then delivers the request to the Project Manager (PM) assigned to the site, county, or area where the site is located, unless first entering information into the appropriate database.
PM	Enters the date of receipt of the request and the submitter’s name into the appropriate tracking database if not done by the Administrative Assistant.
Screening the request for timely submittal	
It is a statutory requirement that the owner or operator (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.	
PM	Determines if the written request was received at least 15 days prior to the report submittal deadline. Calculated IAR and FAR due dates can be found in the appropriate database. If the extension request is late, prepares a denial letter for the Field Manager’s (FM) signature. ² See Note: Issuing a denial letter does not dictate enforcement actions are required. Enforcement matters should be discussed with the DEC and FM for late IARs and FARs and be implemented consistent with RRD-31 (Administrative Penalties for Late Reports). If the request is on time, continues to the next step of this procedure to determine if the request is for good cause.
FM	Reviews and signs the denial letter.
PM	Enters date of the letter signed by the FM and denial action into the appropriate tracking database. Files the request and response in the site file folder.

² RRD 213-03 delegations, #16, delegates reporting deadline time extension decisions to field managers.

Determining if circumstances are a good cause for extension	
<p>The key determination of whether the RRD will grant an extension of time is based on what constitutes “good cause”. The RRD has identified the following circumstances as <u>examples</u> constituting good cause, for which an extension of time for submittal of an IAR or FAR may be granted:</p> <ol style="list-style-type: none"> 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. 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. 5. Other circumstances as discussed with the FM. 	
PM	<p>Reviews the following to determine if circumstances are a good cause for extension of time to submit the report:</p> <ul style="list-style-type: none"> • Progress of the corrective actions at the site. • Site classification or status of determining site classification • Basis for requesting an extension. <p>Note: 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.</p> <ul style="list-style-type: none"> • 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, such as additional unknown releases or a change in finances. The second request, if approved, will have a paragraph that this is the FINAL extension approval. A request for a third extension shall be denied unless the PM and FM obtain approval from a Field Operations Section Manager. • There is no standard time frame for an extension. All time frames will be considered on a case-by-case basis and shall only be granted if determined appropriate for the circumstances that warranted the extension. <p>Consults with the FM as necessary.</p>
FOS and C&E Section Staff	<p>To allow for flexibility in special situations, or when it is unclear if an extension is warranted under the above criteria, the FM may elect to consult with the DEC, and/or Compliance & Enforcement (C&E) Section Manager. The DEC and C&E Section staff will assist in determining what resolution should be reached in these special circumstances. This contact will also ensure that we are achieving statewide consistency and impartiality.</p>
PM	<p>Determines whether to recommend if the request should be approved, denied, or more documentation is needed to make a decision. Consults with FM as necessary. Prepares a letter for the FM’s signature.</p>
FM	<p>Reviews and signs the response letter.</p>

PM	Enters the date the response letter is signed by the FM and whether the RRD approved, denied, or requested additional documentation into the appropriate tracking database. If approved, also enters the new report due date. Files the request and response in the site file folder.
PM	If the additional documentation requested by RRD is submitted, repeat the procedure.

Audit Extensions Requested by the RRD

Who	Does What
PM	Determines that an extension of the time frame for RRD to audit a FAR or closure report is needed. [Note: EGLE must send the “intent to audit” letter to the O/O within 90 days of receipt of the FAR or Closure Report in accordance with Section 21315(1).] In most cases the PM contacts the O/O or O/O’s consultant to discuss the reasons the RRD needs additional time to audit a FAR or closure report. If the O/O is agreeable, prepares a letter for the FM’s signature to the O/O that proposes a new audit due date and describes the reason why the extension is needed. The letter should be sent to the O/O as soon as practicable when the PM knows the deadline will not be met. The letter requests the O/O to respond to the proposed audit date change in writing, including e-mail or fax, by a certain date. The O/O’s response date must be prior to the original date for EGLE’s audit determination.
FM	Signs the request letter. Consults with PM as necessary.
PM	If the submitter acknowledges in writing that there is a mutual agreement on the proposed audit date, then the PM changes the date that the audit is due in the appropriate tracking database. If the submitter does not acknowledge in writing that there is a mutual agreement, the original audit due date stands. Enters into the appropriate tracking database the date of the request letter from the FM, the date of the O/O response, and whether it was approved or denied. Files the request and response in the site file folder.

LINKS TO ADDITIONAL INFORMATION

[Part 213, Leaking Underground Storage Tanks](#), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

[RRD Policy and Procedure #RRD-21](#), Leaking Underground Storage Tank (LUST) Site Classification System.

Model Letter Documents:

[Extension Request Info Request Letter– New Library](#)
[Extension Request Info Request Letter - Active Library](#)

[Extension Request FAR Approval – New Library](#)
[Extension Request FAR Approval – Active Library](#)

[Extension Request FAR Denial – New Library](#)
[Extension Request FAR Denial – Active Library](#)

[Extension Request IAR Approval – New Library](#)
[Extension Request IAR Approval – Active Library](#)

[Extension Request IAR Denial – New Library](#)
[Extension Request IAR Denial – Active Library](#)

[EGLE Audit Extension Request Letter FAR-Closure – New Library](#)
[EGLE Audit Extension Request Letter FAR-Closure – Active Library](#)

APPROVING AUTHORITY



Mike Neller, Division Director
Remediation and Redevelopment Division

HISTORY

Policy No.	Action	Date	Title
Storage Tank Division FO-12 Original 6/5/1998 Revised 8/26/2002	Rescinded	4/13/2020	Part 213 Reporting Extensions
RRD-23	Original	4/13/2020	Part 213 Reporting Extension and Audit Extension

CONTACT/UPDATE RESPONSIBILITY

Any questions or concerns regarding this policy and procedure should be directed to the Field Operations Section Manager(s) of RRD.