


Resource Materials

INFORMATION NECESSARY TO PROCESS A BEA INCONSEQUENTIAL REQUEST

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 a determination of inconsequential with respect to the time frames for conducting and submitting a Baseline Environmental Assessment (BEA). This document was developed consistent with RRD Policy and Procedure for BEA Inconsequential Determinations RRD-39. This document provides information to RRD staff, and persons submitting BEA inconsequential requests for RRD review regarding the necessary content of the request, 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 the department regarding BEA inconsequential requests will be made by applying the governing statutes and administrative rules to relevant facts.

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

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The Remediation and Redevelopment Division (RRD) has determined that a demonstration of the owner or operator (O/O's) compliance with its non-labile party obligations under Part 201, Environmental Remediation and/or Part 213, Leaking Underground Storage Tanks of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended is necessary to evaluate the consequences of the failure to conduct or submit a Baseline Environmental Assessment (BEA) within the statutorily required timeframes. Noncompliance with the BEA time frames may result in potential or actual harm to human health or the environment.

Therefore, the request for a determination must include at the time of submittal, a BEA (if not previously submitted), and all necessary documentation to demonstrate that the requestor is and has been in compliance with all its Part 201 and/or Part 213 non-labile party obligations since becoming the O/O of the property.

BEA REPORT SUBMITTED	
<input type="checkbox"/> BEA submitted with Inconsequential BEA Request <input type="checkbox"/> BEA submitted prior to Inconsequential BEA Request EGLE BEA Number: _____ (available with EGLE BEA Acknowledgement Letter) Date BEA Submitted: _____	
SIGNED AND DATED BEA SUBMITTAL FORM	<input type="checkbox"/>
LETTER FROM SUBMITTER (LEGAL ENTITY) REQUESTING AN INCONSEQUENTIAL DETERMINATION	<input type="checkbox"/>
DOCUMENTATION OF COMPLIANCE WITH APPLICABLE OBLIGATIONS UNDER SECTION 21304c OR 20107a and the PART 10 RULES	<input type="checkbox"/>
DOCUMENTATION THAT REQUIRED NOTICES UNDER SECTIONS 20120(c) or 21304b, 20126 or 21323a, and 20107a and the DUE CARE RULES¹ or SECTION 21304c WERE PROVIDED	<input type="checkbox"/>

Key Points

- The request for an inconsequential determination must be submitted by the person identified as the legal entity (or legal counsel authorized to represent the person in this matter) on the BEA submittal form.
- The documentation of compliance with applicable obligations under Section 21304c or 20107a and the Due Care Rules must include documentation that demonstrates the O/O has conducted sufficient investigations and/or taken actions to evaluate all pathways for all chemicals of concern, identify all complete or potentially complete pathways, and mitigated any unacceptable exposures.
- If the request for an inconsequential determination is denied, the denial is a final determination. Resubmissions will not be accepted.
- If a determination of inconsequential is made, the O/O is considered not liable for contamination existing on the property at the earlier of the date purchase, occupancy, or foreclosure provided the foreclosure provided the BEA meets all other requirements of the law.

¹ R 299.51001 to R 299.51021