

# Amendments Overview

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517-242-8556

# 1995

## Polluter Pay



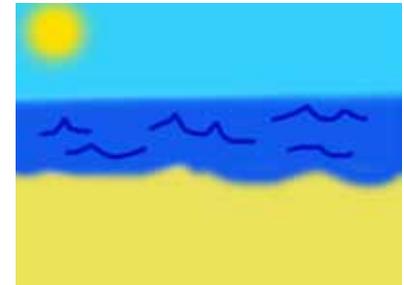
# 2010

- Response Activity Plans
- No Further Action Reports
- Response Activity Review Panel
- Site Specific Criteria Process
- BEA and Due Care Changes



# 2012

- NFA's for a Portion of a Facility
- Certificate of Completion
- Due Care Documentation (DDCC)
- Groundwater/Surface Water
- Background Calculation
- Soil Relocation



# Part 213, 2012

3 Versions!!



- No more QC/CP program
- NAPL
- Conceptual Models
- Separate from 201

# 2015

- Cleanup Categories and Criteria
  - ü Residential
  - ü Non Residential
- Criteria Table Updates



# 2015

- Response Activity Obligations
- Significant Public Interest
- Update Statute
- Common Language with 213



# 2015

## Land and Resource Use Restrictions

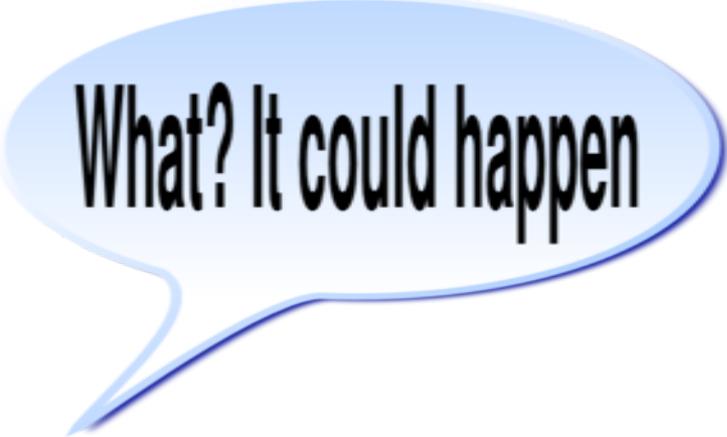


# 2015

- Baseline Environmental Assessments

*“Inconsequential”*

???

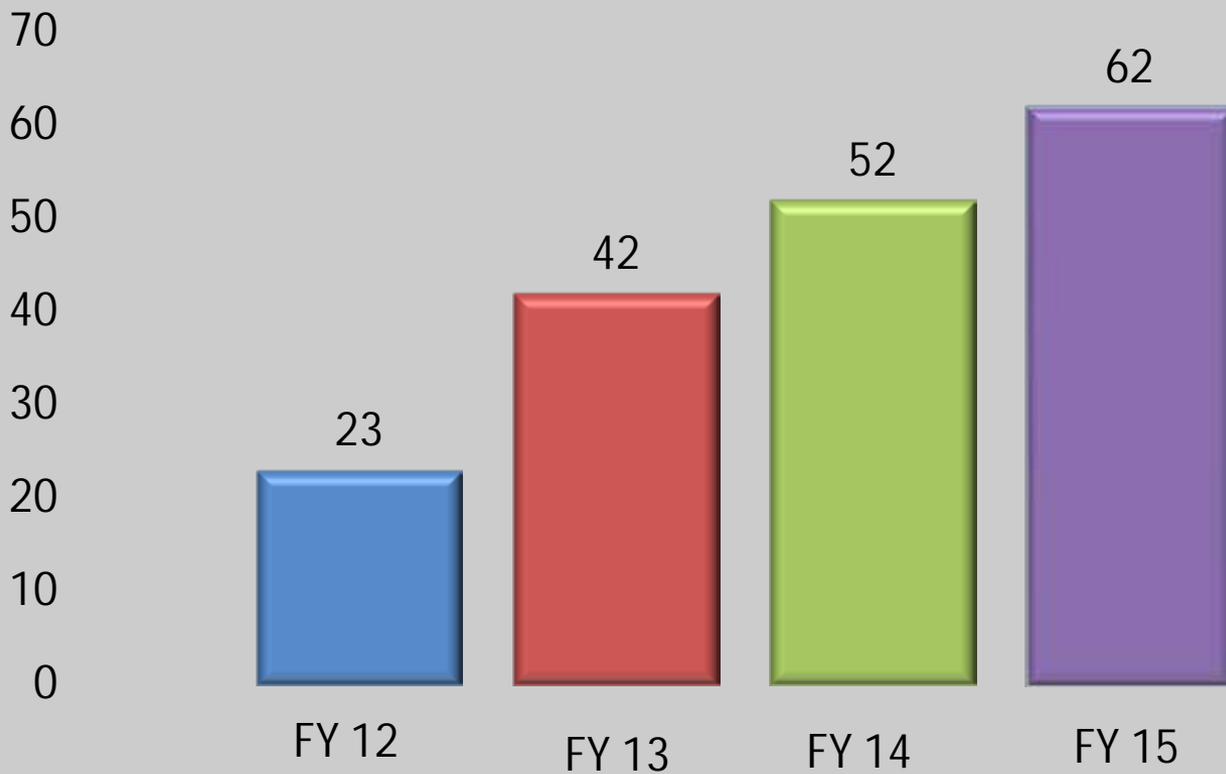


What? It could happen

# How's it working?



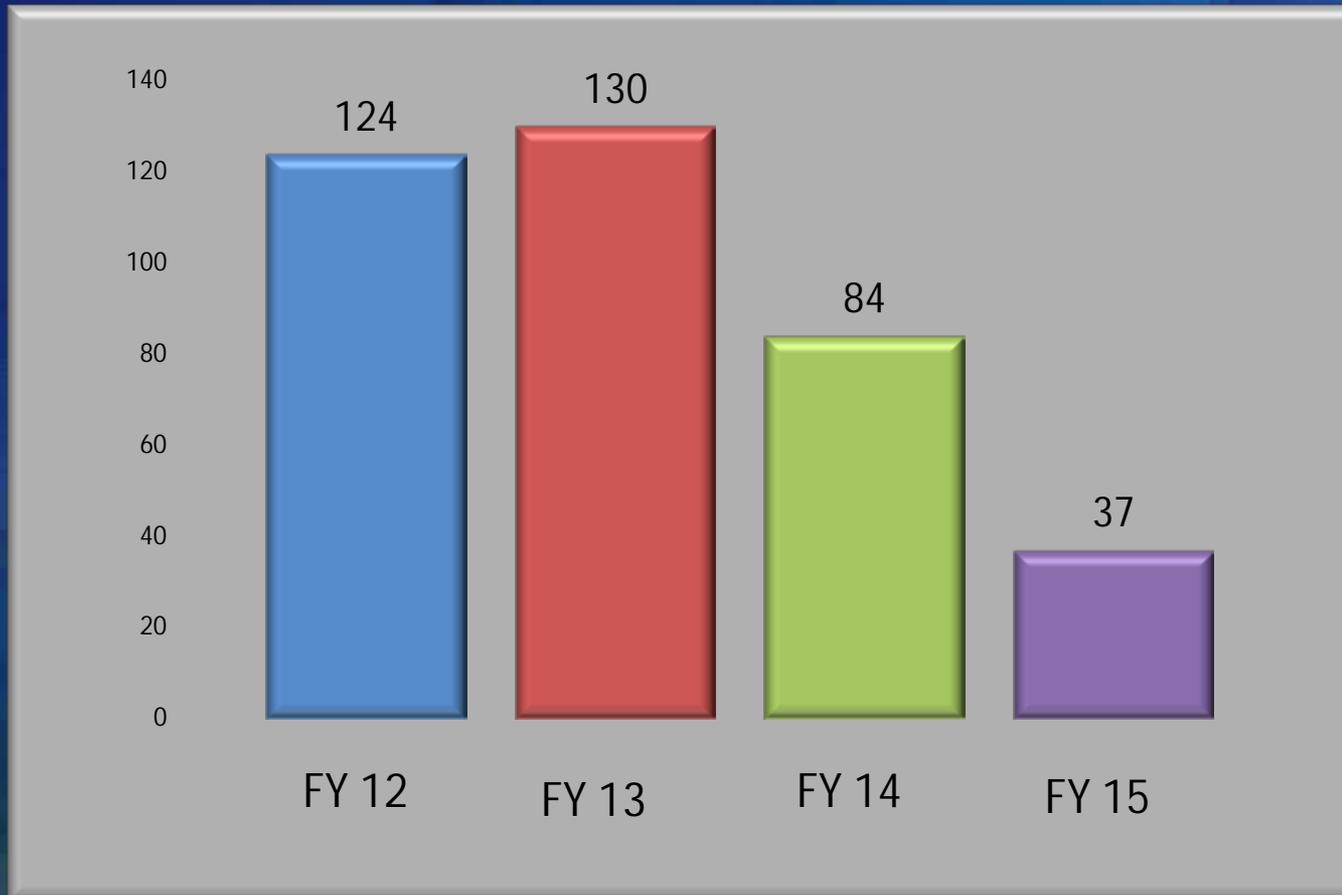
# No Further Action Reports Determinations



# Types of No Further Action Reports Submitted

Extent of Contamination Addressed by the NFA	FY 2012	FY 2013	FY 2014	FY 2015
Facility	8	37	26	33
Specific releases(s)	3	7	9	12
Portion of facility	1	8	8	17
Property		2	6	8
Specific media		2	2	2
Portion of property			2	2
Specific media - specific contaminant(s)			2	2
Specific contaminant	1		1	3
Portion of facility, specific contaminant			1	
NFAs Submitted (Includes withdrawn, pending, insufficient information)	13	56	57	81
Total NFAs Determinations	23	42	52	62

# Response Activity Plan Determinations



# Documentation of Due Care Compliance Determinations

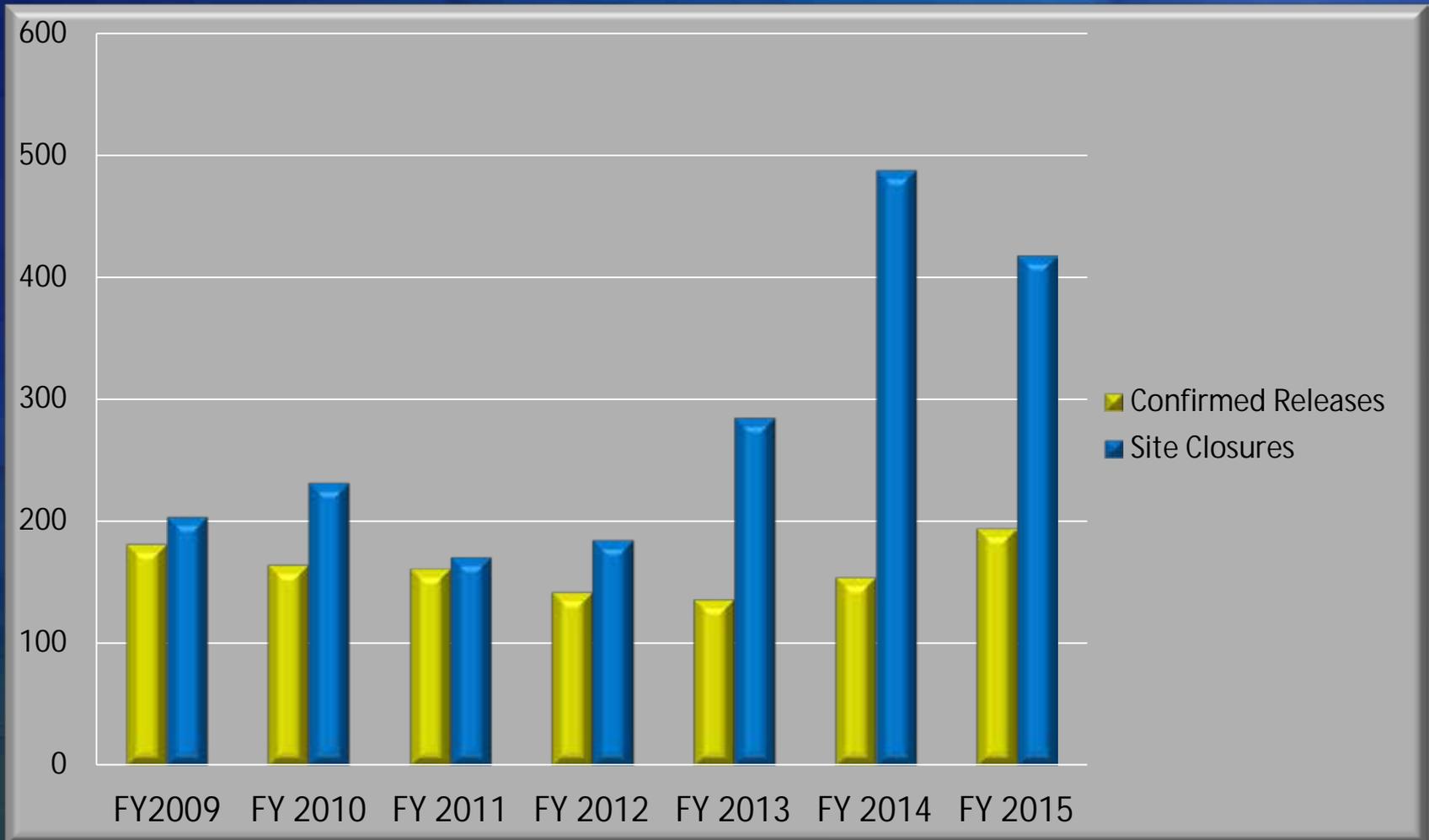
\*FY 12 and first 5 months of FY 13 - Reports were categorized as Response Activity Plans



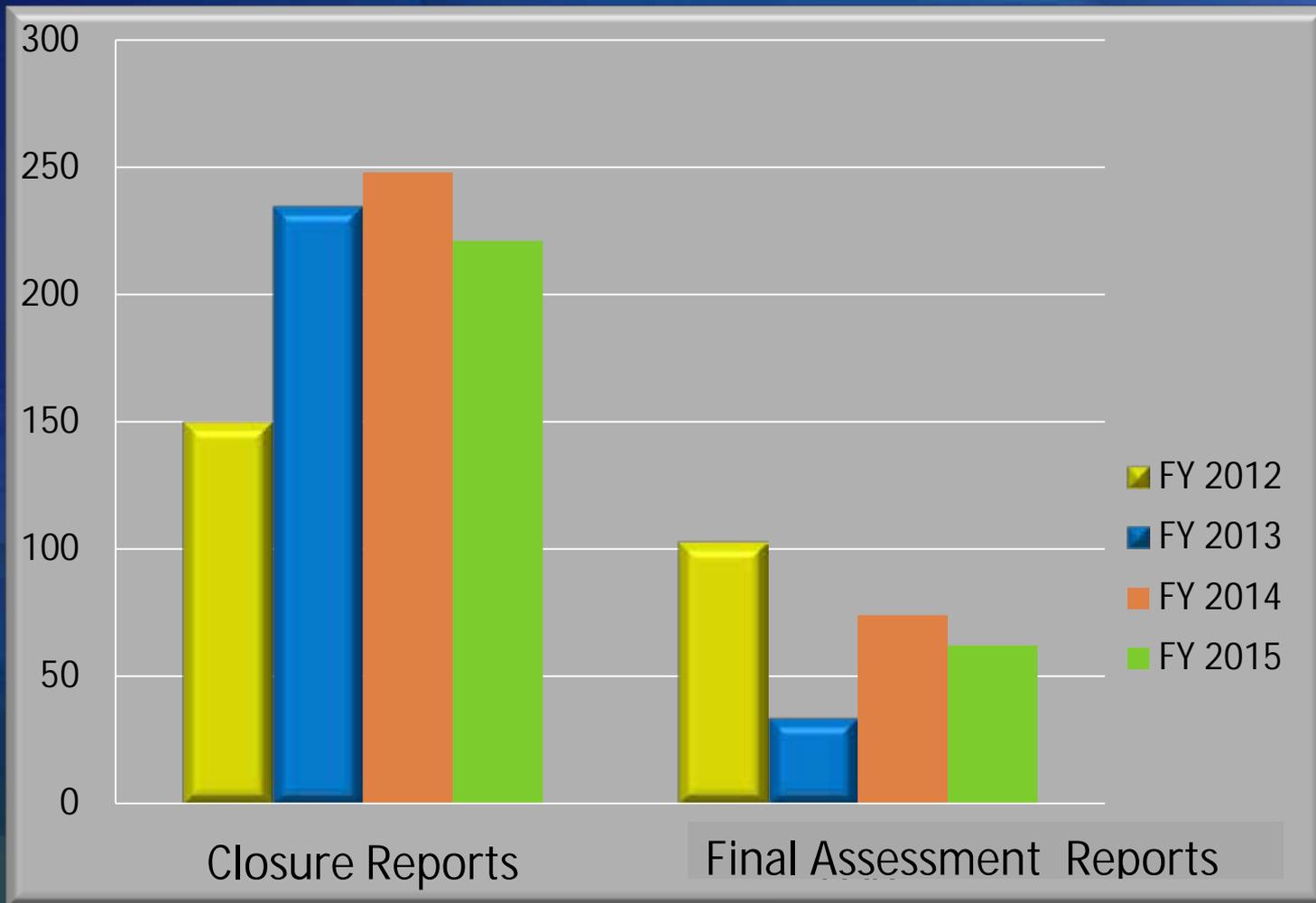
# Baseline Environmental Assessments



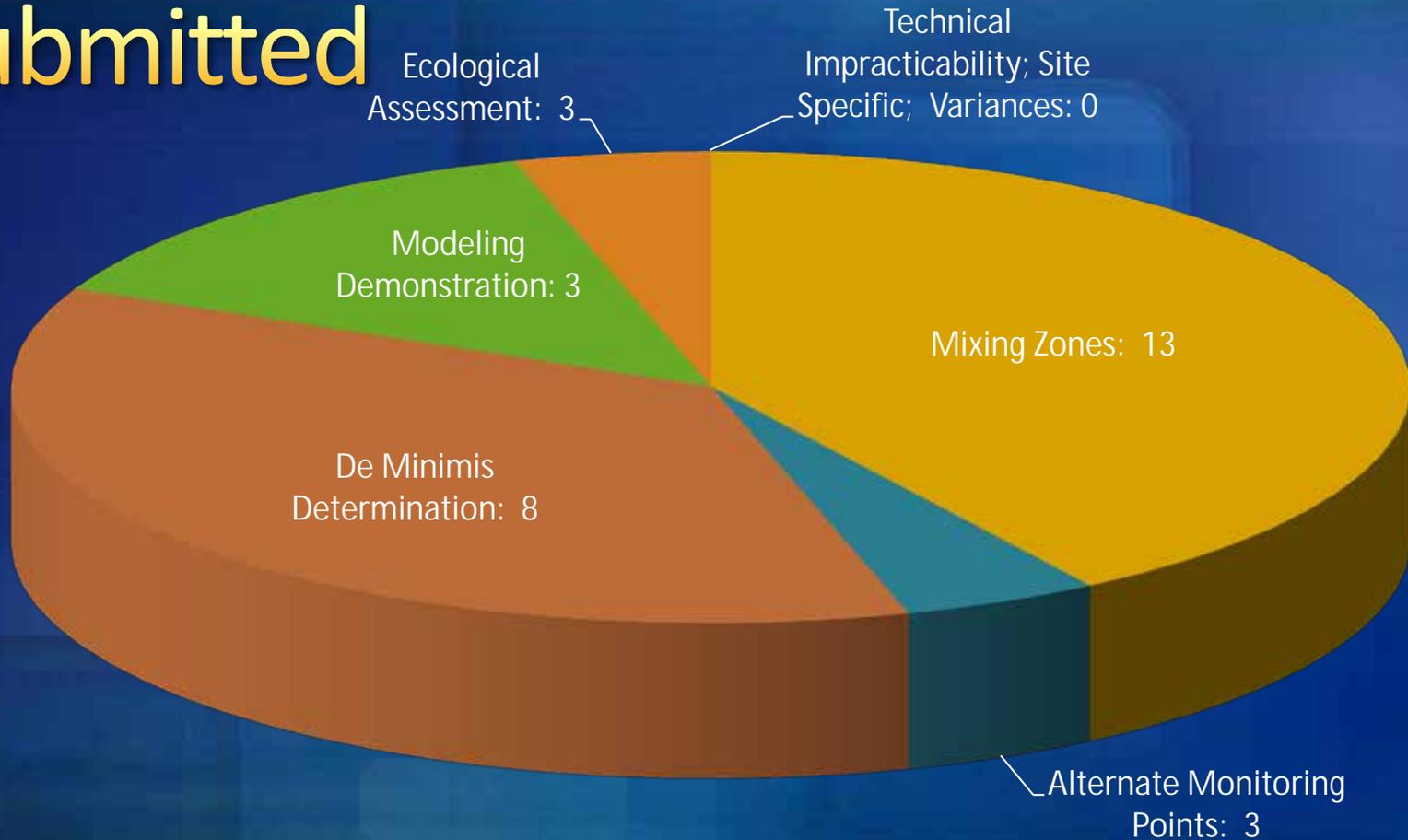
# LUST Confirmed Releases & Site Closures



# LUST Reports Submitted



# Types of GSI Compliance Options Submitted



Number of Sites Reviewed for Different Compliance Options for the Groundwater / Surface Water Interface Pathway under 201.20(e) FY 2013 through 2015



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# **RCRA/Part 111 Corrective Action**

Hazardous Waste Program  
Office of Waste Management &  
Radiological Protection

Michigan Department of Environmental  
Quality

517-284-6562

# Overview

- What is RCRA/Part 111 Corrective Action?
- Why Could This Be Important?
- Does It Apply to My Facility?
- If Yes, What do I do?

# What is RCRA/Part 111 Corrective Action?

- Resource Conservation and Recovery Act (RCRA), Subtitle C
- Part 111, Hazardous Waste Management, of Act 451
  - Generation, transportation, and treatment, storage, or disposal of hazardous wastes
  - Corrective Action – Investigation + cleanup of releases of hazardous waste or hazardous constituents

# Why Could This Be Important?

- RCRA/Part 111 vs. Part 201
  - Liability scheme
  - Environmental protection standards, including:
    - September 2012 criteria
    - Background soils
    - Vapor intrusion MIOSHA provisions
  - Waste classification
  - Administrative processes, including:
    - Terminology
    - Reporting/Tracking – **not** self-implementing
    - 525 Deed Notices

# Does it Apply to My Facility?

- Treatment, Storage, or Disposal Facility (TSDF)
- List of TSDFs
- Waste Data System (WDS)  
[www.michigan.gov/deq](http://www.michigan.gov/deq), waste, quick picks, waste data system
- RCRA ECHO <http://echo.epa.gov>
- TSDF Locations  
[www.michigan.gov/deq](http://www.michigan.gov/deq), waste, quick picks, TSDF locations

# TSDF Locator

ArcGIS ▾ Michigan Part 111 TSDs

Details

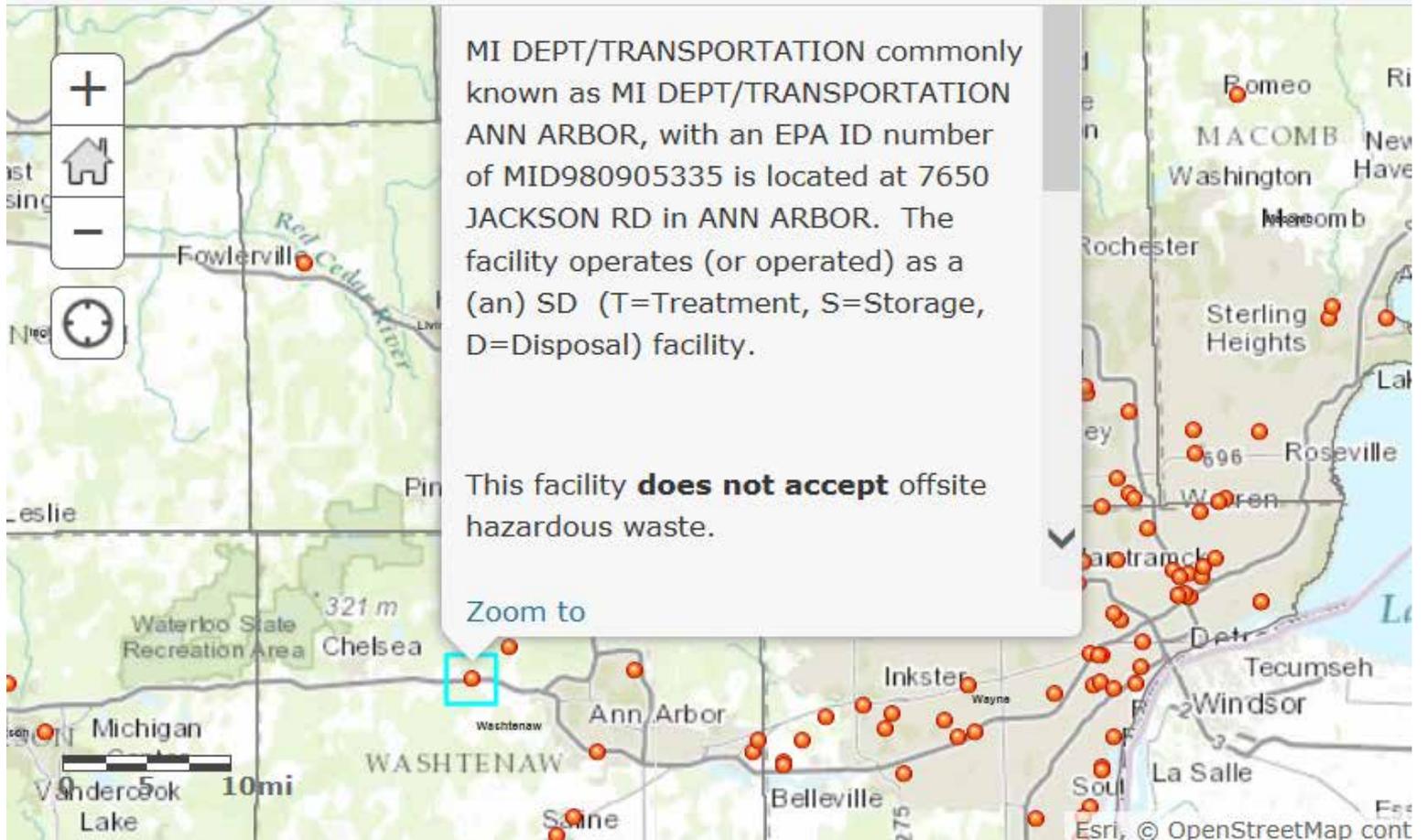
Basemap

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# If Yes, what do I do?

- Contact the RCRA/Part 111 program
- Federal program goals 2020
  - GPRA
- Corrective action progress accountability

# Contact the RCRA/Part 111 Program

- De Montgomery, Chief  
Hazardous Waste Program,  
517-284-6565  
montgomeryd1@michigan.gov
- Kimberly Tyson, Engineer  
Hazardous Waste Program  
517-284-6574  
tysonk@michigan.gov

# Michigan Department of Environmental Quality

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# **TSCA PCB Remediation - The Coordinated Approval Process**

Deb MacKenzie-Taylor

Michigan Department of Environmental Quality

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# Outline

- TSCA Background
- Another TSCA Option
- Why a coordinated approval?
- How the process works
- Recommendations

# TSCA Background

- If subject to TSCA - Options for TSCA PCB Cleanup and Disposal:
  - a. Self-implementing onsite cleanup and disposal of PCB remediation waste (40 CFR §761.61(a))
  - b. Performance-based disposal (40 CFR §761.61(b))
  - c. Risk-based disposal approval (40 CFR §761.61(c))

» **Coordinated approval (40 CFR §761.77)**

# Another TSCA Option

## § **Coordinated Approval** (40 CFR §761.77)

Approval needed from multiple agencies/  
programs for a remediation project

- PCBs require or may require TSCA approval
  - Risk-based, not self-implementing or disposal
- Other contaminants subject to remediation under other authority (e.g., state program)
- Needs an enforceable agreement

# Why a Coordinated Approval?

- Remediation must be approved by non-TSCA program (e.g., other contaminants)
- TSCA cannot be delegated to states
- TSCA Framework for approvals under both authorities (EPA & other agency) that is coordinated
- Streamline EPA review/approval process, based on working with other agency/program

# Why a Coordinated Approval?

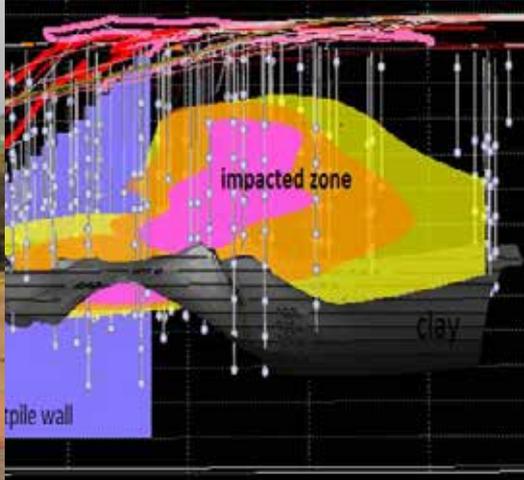
- Relies on other cleanup authorities requirements
  - Demonstrated to be equivalent to TSCA
  - Minimizes redundancy and competing requirements
- For pre-1978 as found levels > 50 ppm, EPA may decide there is an unreasonable risk
  - Coordinated approval assures against additional work later

# How the process works

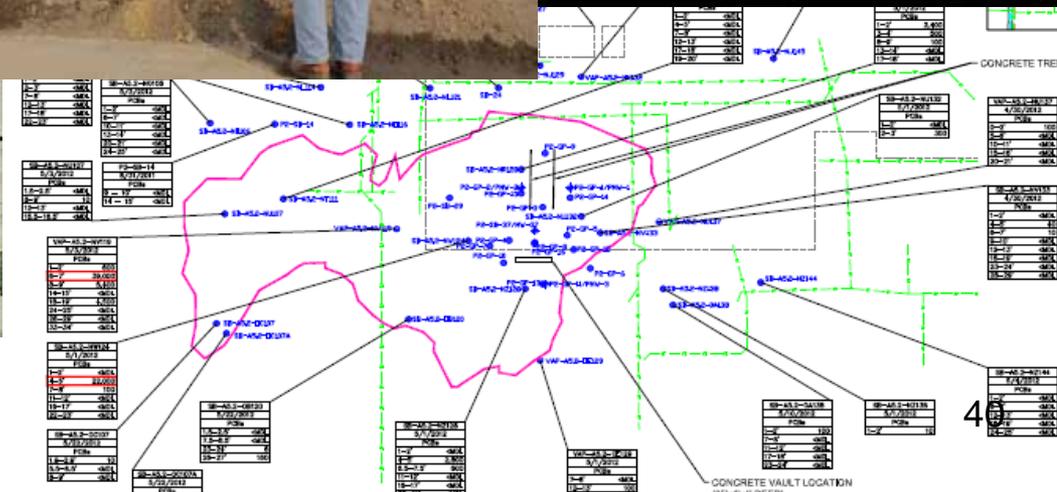
1. Facility must request a coordinated approval from EPA (40 CFR §761.77(a)(1)) **by certified mail**
  - Typically when work plan is submitted to both DEQ and EPA
2. DEQ reviews work plan and recommends decision to EPA
3. EPA reviews, concurs, provide comments, requests additional information, or requests more time

# How the process works

4. DEQ issues final approval (once receives EPA's concurrence) to facility
5. EPA provides coordinated approval to facility shortly thereafter
6. Facility implements the project
  - In accordance with the approvals (40 CFR §761.77(a)(2) and (c)(3))
  - And the TSCA reporting/recordkeeping requirements under TSCA Subparts J and K (40 CFR §761.77(c)(3))



November 6, 2015



# Recommendations

- Ø Engage DEQ staff during decision making and planning process
  - Draft work plan review with DEQ project staff and coordinator
  - DEQ and facility on same page when submitting to EPA
- Ø If complex, meet with EPA to explain the approach prior to submittal of coordinated approval request

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# Additional PCB Background Info

## TSCA Applicability

- Remediation with PCB contamination **is** subject to TSCA (40 CFR §761.50(b)(3) and §761.61)
  - If release after July 2, 1979 and source  $\geq$  50 ppm
  - If release April 18, 1978 – July 2, 1979 and source  $\geq$  500 ppm
  - Date of release and/or source concentration is unknown or cannot be demonstrated (40 CFR §761.50(b)(3)(iii))

# Additional PCB Background Info

## TSCA Applicability - Continued

- Remediation with PCB contamination **may be** subject to TSCA (40 CFR §761.50(b)(3) and §761.61)
  - If release before April 18, 1978 and as found  $\geq 50$  ppm (**typically yes**)
  - If release April 18, 1978 – July 2, 1979 and source  $\geq 50$  ppm &  $< 500$  ppm (**typically yes**)
  - EPA Regional Administrator may find that an unreasonable risk exists
  - May be prudent to get an EPA approval of response activities in these circumstances

# TSCA Background

## a. Self-Implementing (40 CFR §761.61(a))

- Notify EPA, state & local government (30 days before)
- High occupancy - Soil
  - < 1 ppm total PCBs – no restrictions
  - 1-10 ppm total PCBs – cap and deed restriction
- Low occupancy - Soil
  - <25 ppm total PCBs - deed restriction
  - <50 ppm total PCBs - specific marker, fence, and deed restriction
  - <100 ppm - cap and deed restriction
- Certification, reporting, recordkeeping

# TSCA Background

- b. Performance-based disposal (40 CFR §761.61**(b)**)
  - Cleanup all below 1 ppm
  - Treat all waste as TSCA waste
  - Document cleanup and keep records on file
  
- c. Risk-based disposal approval (40 CFR §761.61**(c)**)
  - EPA approval needed
  - Public notification
  - Address any media
  - Any approach that differs from (a) and (b)

# Additional PCB Background Info

- Other important considerations
  - Disposal based on in situ concentrations, not after removal (40 CFR §761.1(b)(5)) – may characterize in place pursuant to 40 CFR §761 Subparts N and O
  - Reporting and recordkeeping pursuant to 40 CFR §761 Subparts J and K





# Land or Resource Use Restriction Overview

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Quality

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[yordanichd@michigan.gov](mailto:yordanichd@michigan.gov)

# Objectives of Land or Resource Use Restrictions

- Reduce or restrict exposure to hazardous substances.
- Eliminate a potential exposure pathway.
- Assure the effectiveness and integrity of containment or exposure barriers.
- Provide for access.
- Assure the effectiveness and integrity of response activities undertaken at a property.

# Restrictive Covenants

- Restrictive Covenants – Requirements Modified
- Conservation Easements
- Court Orders or Judicially Approved Settlement
- Conservation Easements and Judicially Approved Settlements must meet the requirements of a restrictive covenant.
  - Must contain all required elements of a restrictive covenant, and
  - Must be recorded with the register of deeds office

# Institutional Controls

- Local ordinances or State Laws and regulations that:
  - Limit or prohibit the use of contaminated groundwater
  - Prohibit the raising of livestock
  - Prohibit the development in certain locations, or restrict property to certain uses (Zoning Ordinance)

# Institutional Controls

- Under Part 201 A Local Ordinance must:
  - Be published and maintained in the same manner as a zoning ordinance.
  - Require the local unit of government to notify the department at least 30 days prior to adopting a modification to the ordinance or prior to lapsing or revocation of the ordinance.
  - The requirement that the imposition of land or resource use restrictions through Restrictive Covenants is impractical has been abolished.

# Alternative Instruments

That may be used with department approval, but not limited to, include:

- License and license agreements
- Contracts with local, state or federal units of government
- Health codes or regulations
- Government permitting requirements

# Alternate Mechanisms Under Part 213

- Any land or resources use restriction identified under Part 201 that is not explicitly referenced in Part 213 will be considered as an alternate mechanism under Part 213, subject to approval by the department.

# Identifying Land or Resource Use Restrictions

## ENVIRONMENTAL MAPPER

<http://web1.mcgi.state.mi.us/environmentalmapper/mcgi.aspx>

Contact: Nick Ekel  
517-284-5090  
ekeln@michigan.gov

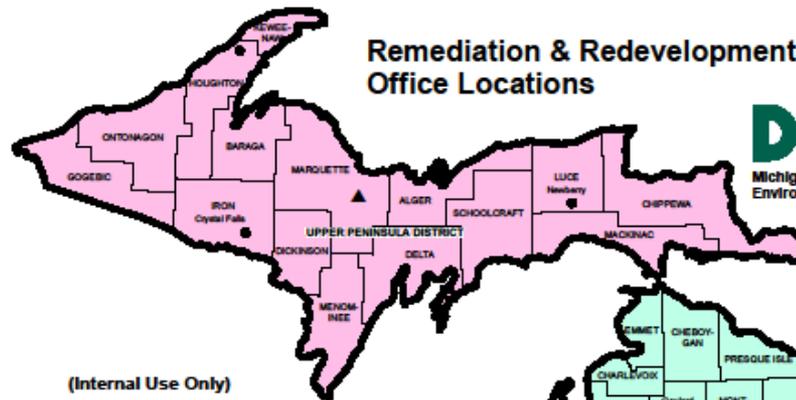
# 39 Communities with Groundwater Ordinances

City of Ypsilanti	City of Ludington
City of Grand Haven	City of Pontiac
City of Grand Rapids	City of Ionia
Village of Tekonsha	City of Clare
City of Rochester	Charter Township of Brighton
City of East Tawas	City of Hamtramck
City of Alpena (Part 213 Only)	City of Roseville
City of Evert	Bedford Township
Village of Spring Lake	Maple Ridge Township
City of Buchanan	Village of L'Anse
Cedar Creek Township	Village of Chatham
City of Muskegon	City of St. Joseph
Central Lake Township	Village of Schoolcraft
City of Frankfort	City of Charlevoix
City of Traverse City	Village of Dexter
City of Battle Creek	City of Scottville
City of Iron Mountain	Village of Bellaire
Village of Roscommon	Township of Sturgis
Village of Kalkaska	
Part 127/Local Health Codes	
Kalamazoo County	Lenawee County

# State-Wide Consistency

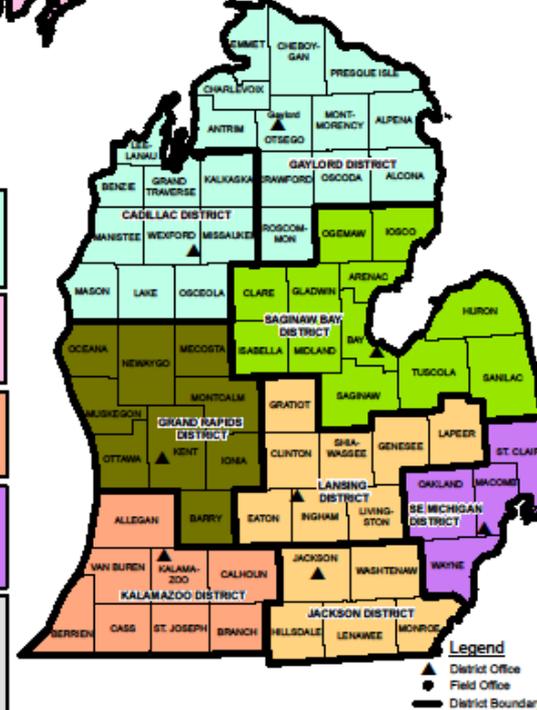
- **Institutional Control Technical Assistance and Program Support Team**
  - Developing resource documents
  - Developing model documents and checklists
  - Developing a webpage for information access
  - Assist in the development of local ordinances
  - Performing outreach to local units of government and other interested groups

# Remediation & Redevelopment Division Office Locations



(Internal Use Only)  
**Institutional Controls TAPS Team  
Members & Assignments**

<b>Saginaw Bay District Office</b> Jennifer Rezmer e-mail: rezmerj@michigan.gov Phone: 989 894-6253	<b>Cadillac &amp; Gaylord District Offices</b> Ann Emmington e-mail: johnsonn@michigan.gov Phone: 231 876-4453
<b>Jackson &amp; Lansing District Offices</b> Vicki Katko e-mail: katkov@michigan.gov Phone: 517 284-5119	<b>Upper Peninsula District Office</b> Dan Yordanich e-mail: yordanichd@michigan.gov Phone: 517 284-5174
<b>Grand Rapids District Office</b> Nancy Johnson e-mail: johnsonn@michigan.gov Phone: 616 356-0254	<b>Kalamazoo District Office</b> Steven Beukema e-mail: beukemas@michigan.gov Phone: 269 567-3513
<b>Office of Waste Management &amp; Radiological Protection Ordinances &amp; Restrictive Covenants</b> <b>Hazardous Waste Program</b> Kimberly Tyson e-mail: tysonk@michigan.gov Phone: 517 284-6574 <b>Solid Waste Program</b> Margie Ring e-mail: ringm@michigan.gov Phone: 517 284-6592	<b>Southeast Michigan District Office</b> Emily Bertolini e-mail: bertolini@michigan.gov Phone: 586 753-3847 <b>Superfund Program Ordinances &amp; Restrictive Covenants</b> Brad Emmsch e-mail: emmschb@michigan.gov Phone: 517-284-5092
<b>Water Resources Division</b> Eric Chattersone e-mail: chatterstone@michigan.gov Phone: 517 284-5572	<b>Restrictive Covenants &amp; Alternate Institutional Controls</b> Kevin Schrems e-mail: schremsk@michigan.gov Phone: 517-284-5174
<b>Office of Drinking Water &amp; Municipal Assistance</b> David Deyoung e-mail: deyoungd@michigan.gov Phone: 517 284-6526	



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 Lansing, MI 48909-7926 Lansing, MI 48933  
 Phone: 517 284-5087  
 Fax: 517 335-6938



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# No Further Action Reports (NFAs) for Redevelopment

Nancy Johnson

Department of Environmental Quality  
Remediation and Redevelopment Division

616-356-0254

[johnsonn@michigan.gov](mailto:johnsonn@michigan.gov)

# No Further Action Reports NFAs

When created?

- Ø 2010 amendments to Part 201

Who can submit?

- Ø Liable, Non-Liable

When to submit?

- Ø When remedial actions are completed

What can it cover?

- Ø Can be for entire facility, or...
- Ø Only for specific contaminant, area, media, exposure pathway

# Benefits of a NFA

Required? No

Why submit?

- Ø Document that DEQ agrees that remedial actions are complete – provides an exemption to liability per Section 201126(4)(e)
- Ø Financial institutions may require
- Ø Provides documented “closure” for a facility (or portion of) so that redevelopment becomes more feasible, attractive



MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY - REMEDIATION AND REDEVELOPMENT DIVISION  
 PO BOX 30426, LANSING, MICHIGAN 48909-7926, Phone 517-284-5087, Fax 517-241-9581

**Request for DEQ Review of No Further Action (NFA) Report**

*This form is required for submittal of a request for the DEQ to review a No Further Action Report, under Section 20114d, Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.*

**Section A: NFA Category (Check all that apply:)**

- |   |                          |   |                          |
|---|--------------------------|---|--------------------------|
| Residential   | <input type="checkbox"/> | Unrestricted  | <input type="checkbox"/> |
| Non-Residential   | <input type="checkbox"/> | Restricted  | <input type="checkbox"/> |
| 20b(3) Site Specific or Surrogate<br><i>(no generic criteria available)</i> | <input type="checkbox"/> | 20b(2) Site Specific<br><i>(modification of generic criteria)</i> | <input type="checkbox"/> |

The NFA addresses the entire facility  
 (entire facility as defined by Part 201, all releases, hazardous substances, and environmental media):

The NFA does not address the entire facility   
*Please specify the release(s), hazardous substance(s), environmental media, and/or portions of the facility addressed by the NFA.*

NFA relies on a De minimus determination of GSI impact pursuant to Section 20120e(14):

**Section B: Facility Information:**

# What should be included in a NFA Report?

Dependent on type of closure being proposed:

Ø Unrestricted residential

NFA report

Ø Restricted Residential, Non-Residential, Site Specific, dependent on required elements of closure

§ LRUR required/no FAM required

NFA report with Post Closure Plan

§ Any other circumstance.....

LRUR/FAM/O&M/Monitoring required

NFA report with Post Closure Plan and Post Closure Agreement

# Post Closure Agreements

When is it needed?

- Ø O&M, Monitoring required

- Ø May or may not need FAM

How to Submit?

- Ø Submit draft PCA with the NFA

Owner Involvement Required?

- Ø Not required, although access and institutional controls may require their consent



Neil Trotter Mission  
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# ***Brownfield Redevelopment Program Overview***

Jeff Hukill

October 14, 2015

Department of  
**Environmental Quality**  
PURE  MICHIGAN

# MDEQ Brownfield Redevelopment Program Overview

## Brownfield Funding / Incentives



Grants

Loans

Act 381 Tax  
Increment  
Financing (TIF)

# MDEQ Brownfield Redevelopment Program Overview

## DEQ Grants and Loans

- Awarded to local municipality or brownfield authority
- Loans: Max \$1,000,000
- Grants: Max \$1,000,000
- 1 grant, 1 loan per applicant per year
- Loans: 1.5% rate, 5 yrs payment & interest free

Old Sullivan Barn, Battle Creek



# MDEQ Brownfield Redevelopment Program Overview

## DEQ Brownfield Incentives – What's Eligible

- Phase I, Phase II, BEAs
- Due care
- Additional response activities



# The Garage - Northville, Michigan

## Technical challenges

- Former gas station and dry cleaner
- Significant petroleum contamination in soil and groundwater being addressed by RPF
- High levels of PCE in soil beneath the building



# The Garage - Northville, Michigan



How can the Brownfield program help?

- Removal of source soils
- Installation of a vapor barrier
- Installation of a passive vapor mitigation system



# F.C. Mason- St. Johns, Michigan



## Technical Challenges

- 265,000 square foot manufacturing facility
- TCE concentrations of 860,000 ppb in soil under the floor
- Liable party was ready to put up fence and walk away



# F.C. Mason- St. Johns, Michigan



How can the Brownfield program help?

- Facilitate Part 201 compliance with liable party prior to grant award
- Installation of a vapor barrier
- Installation of a passive vapor mitigation system

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[www.michigan.gov/deqbrownfields](http://www.michigan.gov/deqbrownfields)

*Partners in Helping Michigan Stay Pure!*



# Lenawee County Environmental Health Code to Restrict Use of Groundwater

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Sybil Kolon, EQA

Michigan Department of  
Environmental Quality

Remediation and Redevelopment Division

(517) 780-7937    [kolons@michigan.gov](mailto:kolons@michigan.gov)





# Relevant Statutory Language and Citations

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- § Land Use and Resource Use Restrictions
- § Institutional Controls
  - Intent to prevent exposure to remaining groundwater and/or soil contamination**
- § Part 201 Alternative Instruments
  - § Section 20121(9)
- § Part 213 Alternative Mechanisms
  - § Section 21310a(4)

# Health Codes to Restrict Groundwater Use

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- § Local health codes based on Michigan Public Health Code
- § Local health codes are enacted by a county or group of counties
- § Implemented by the local health department (well permitting)
- § Wells and well construction requirements must meet state health code at a minimum

# Use of Health Codes in Michigan to Restrict Groundwater Use

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Two county “health codes” approved for use by DEQ to date to restrict use of groundwater

§ Kalamazoo County Sanitary Code

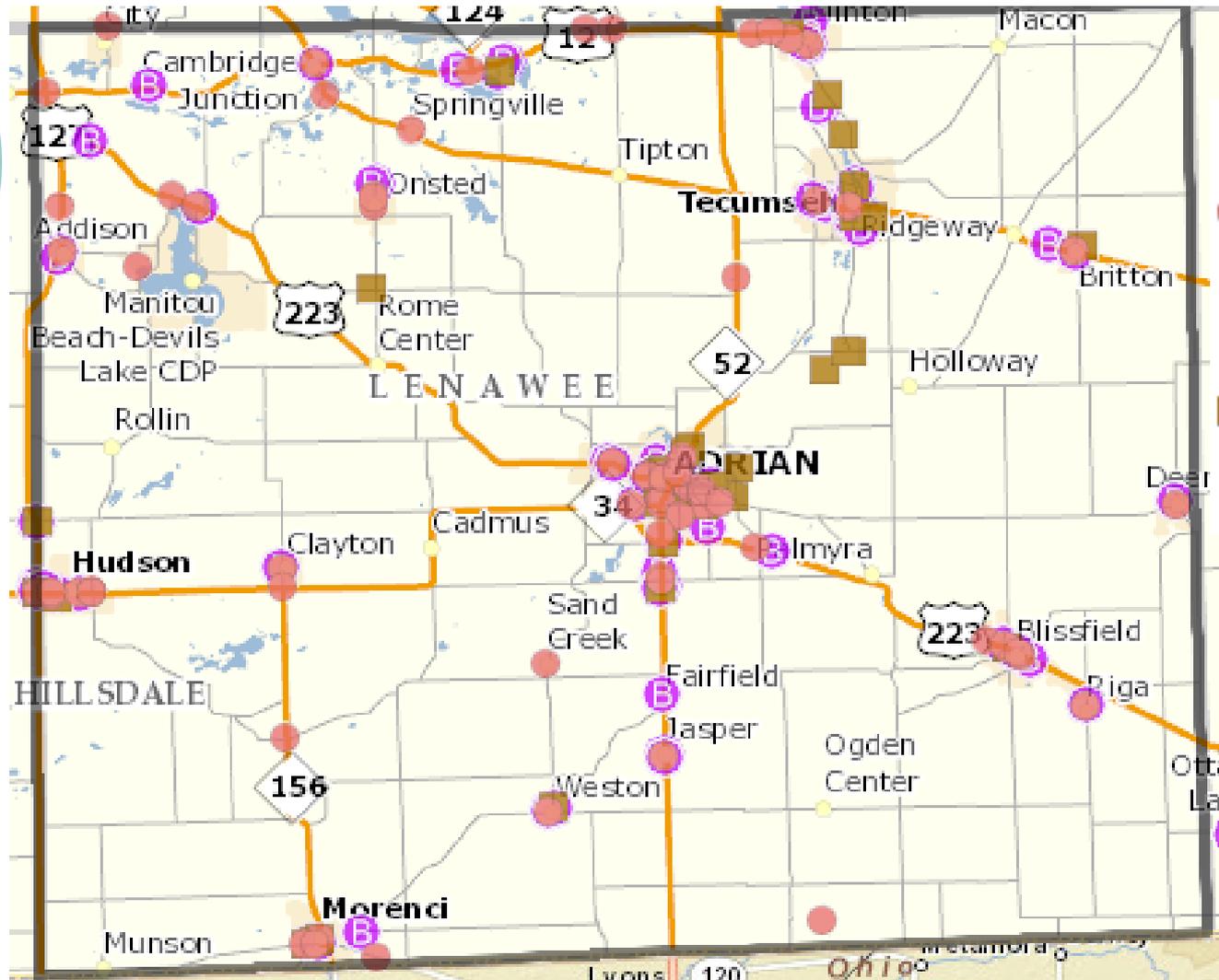
§ Lenawee County Environmental Health Code

# Southeast Michigan Counties

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# Open Part 213 and 201 Sites in Lenawee County



## Legend

- Leaking Underground Storage Tanks (Part 213 Open)
- Sites of Environmental Contamination (Part 201)



# Lenawee County Background

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- § Large area of groundwater contamination in City of Adrian
- § Small lots on well and septic
- § Municipal water extended
- § Consent Decree in 2004 required submittal of Remedial Action Plan
- § Consent Decree contemplated Institutional Controls in RAP

# Background continued

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- § Remedial investigation completed
- § Nature and extent defined
- § Remedial Action Plan proposed use of Lenawee County Environmental Health Code (EHC)
- § RAP included letter indicating county willing to amend its health code to restrict groundwater use

# Background continued

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In 2012:

- § DEQ and Brazeway met with Health Department and Lenawee County decision-makers several times
- § Revisions to Environmental Health Code (EHC) drafted by Brazeway
- § Board of Health recommended revising EHC to County Board of Commissioners
- § County Board of Commissioners agreed to consider revisions to EHC

# Background continued

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In 2013:

- § DEQ continued meeting with Health Department to revise EHC language
- § Public Hearing by County Board of Commissioners (BOC) on revised EHC
- § County BOC approved revisions
- § Revised EHC went into effect

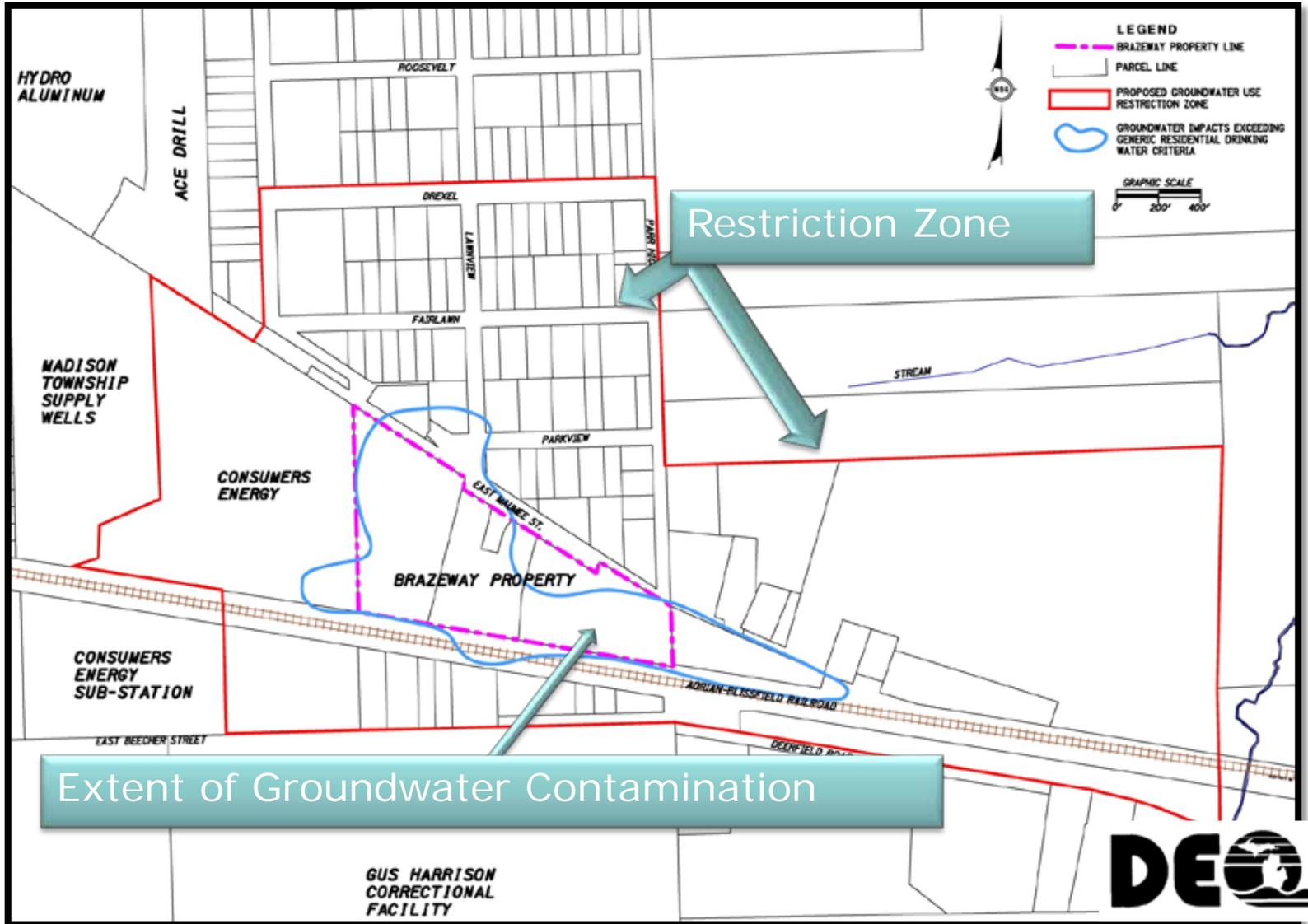
# Background continued

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In 2014:

- § Brazeway applied to Lenawee County for a Groundwater Use Restricted Zone (GRZ)
- § Board of Health recommended approval of the GRZ to BOC
- § County Board of Commissioners approved the GRZ for Brazeway

# Groundwater Restriction Zone



# Application Process for Groundwater Restricted Zone

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- § Conduct a survey of all parcels within Restricted Zone to identify and locate all water supply wells
- § Connect all dwellings and/or inhabited buildings within Restricted Zone to municipal water
- § Prepare application and submit to Health Department and Local Units of Government
- § Application approved by county
- § Letter sent to all property owners within the Restricted Zone about establishment of the RZ



# Michigan Department of Environmental Quality

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