

# What to Expect: 2010 Amendments to Part 201

presented to  
Air & Waste Management Association  
West Michigan Chapter  
January 19, 2011

Lynelle Marolf, Chief  
Remediation Division, MDNRE



# December 2010 Legislation

- The Part 201 amendments: Public Acts 227, 228, 229, 230, 233, and 234 of 2010
- The Prop 2 funding shift: Public Acts 231 and 232 of 2010
- The RPF sunset extension: Public Act 263 of 2010
- MCL is updated at [www.michiganlegislature.org](http://www.michiganlegislature.org)



# Genesis of Part 201 Change

- First major change since 1995
  - 15 years of lessons learned
    - BEAs
    - Cleanup criteria
      - Categories
      - Technical evolution
    - Facility status – reporting, measuring progress
    - Program efficiencies, reduced resources
  - DNRE Program Redesign effort
- Link to funding for orphan site projects



# 2010 Amendments

- Emphasis was on regulatory reform elements
  - Speed cleanups
    - Self-implementation remains key
    - Response activity plan review/No Further Action report
    - Reduce time for DNRE reviews
  - Resolve technical disputes
    - Response Activity Review Panel
  - Simplify requirements
    - New BEA process
    - Two categories of cleanup criteria



# Changes you won't see

- DNRE proposal for program redesign not implemented
- Parts 201 and 213 not combined
  - Missed opportunity for efficiency
  - New elements not applicable to Part 213 sites
  - Dialogue expected to continue later in 2011
- Improved release and facility status reporting not implemented
  - Limits ability to describe outcomes and accountability
- Unqualified finality not provided



# Impact on Rules

- Some rules explicitly rescinded
- 228 PA 2010, Enacting Section 2
  - Part 2 – Site List
  - Part 6 – Selection of Response Activity
  - Part 8 – Site Assessment Model
- 227 PA 2010, Section 20126(7)
  - Some Part 9 Rules – BEAs



# Rulemaking will be required

- Cleanup Criteria (Part 7)
  - Draft rules expected mid-2011
  - Residential/Non-residential
  - Updated pathways, algorithms
  - As presented in early 2009
- Other provisions
  - Draft rules expected 2012
  - Response Activity process (Part 5)
  - Due Care timeframes (Part 10)



# Implementation Activities

- Revised BEA Materials – December 2010
- Staff Training – January 2011
- Outside Training – Late Spring 2011
- Response Activity Review Panel
  - Solicit participants – February 2011
    - Email to listserver, contact with organizations
  - Panel operational Late Spring 2011 if solicitation is successful



# Implementation Activities

- New forms – January 2011
  - Response Activity Plan Review
  - No Further Action Report Review
  - Will request forms be completed for review request submittals made after 12/14/10 as soon as forms are available
- Standardized document revisions - underway
  - Routine correspondence (demand letters)
  - Restrictive covenants
  - Model agreements – e.g., post closure agreement



# Implementation Activities

- On-line reporting required quarterly
  - Response Activity Plans, NFAs, BEAs
- Site List to be replaced with Facility Inventory – late 2011 (?)
  - possible interim steps (requires external IT support)
- Review staff/resource allocation - ongoing
  - New functions – RARP, RJA 631 appeals
  - Assess demand for NFA reviews, etc.



# Anticipated questions...

- MOU with EPA
  - Not expected to require change
  - Liability scheme unchanged
  - MOU based on “disclosed” BEAs
- Operational Memoranda
  - Some Vapor Intrusion guidance soon
  - OMs unaffected by amendments



# Anticipated questions...

- Plans received on or after 12/14/10 proceed under amendments
  - Forms will be required
  - Contact being made for active reviews under agreements
  - Other pending reviews will include comments on need to comply with amendments
- Rules remain in effect unless rescinded – read to harmonize with amendments
- Criteria, MDLs, TDLs unaffected *except that GSI criteria are Water Quality Standards*



# Questions

- Direct implementation questions to:
  - Patty Brandt
    - [brandtp@michigan.gov](mailto:brandtp@michigan.gov)
  - Rhonda Klann (BEAs and Due Care)
    - [klannr@michigan.gov](mailto:klannr@michigan.gov)
- Look for updates via listserver and web site

