

Testimony of Lloyd E. Dunlap  
BP America Inc.  
Michigan Senate Committee Hearing  
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Introduction

Good morning. I am Lloyd E. Dunlap, the Global Advocacy Coordinator for BP's Environmental Remediation group. I am happy to be here as part of the Associated Petroleum Industries of Michigan (API) working group. Prior to my current role in our remediation group, I managed retail service stations for Amoco and BP since 1982. I worked on remediation of retail sites in Michigan in the 1980's. Starting in 2005, I managed and coordinated remediation activities of retail sites in Michigan and most other states in the Midwest and the northeast United States. I have met often with Michigan DEQ senior management since 2005.

One of my areas of expertise is that I have worked in managing the remediation of retail sites in most states in the US. I have also done this work in Europe. This experience helps me to put the needs of the State of Michigan into perspective as policymakers in Lansing consider the improvements that would be made by the legislation before the Committee today.

## Background

Like most major oil companies, BP is committed to achieving regulatory closure at our sites where remediation is necessary. Any business needs to have a regulatory environment where regulatory closure can be obtained in a predictable amount of time if the business does the right thing to meets its responsibility – and this is also true of BP.

What I want to do is compare BP's success of obtaining closures in nearby states. I have tallied the closures that BP has received in the last five years. I could have used any number of time periods, but this seemed reasonable to me to demonstrate what has happened in the last five years.

## State Comparisons

In Ohio, in 2006, we had approximately 450 retail sites with open regulatory incidents that required assessment and/or remediation activities. To date, 126 of those sites have been closed in Ohio.

In Illinois, in 2006, we had approximately 240 retail sites with open regulatory incidents. To date, 85 of those sites have been closed.

In Indiana, in 2006, we had approximately 140 retail sites with open regulatory incidents. To date, 50 of those site shave been closed.

In Pennsylvania, in 2006, we had approximately 205 retail sites with open regulatory incidents. To date, 130 of those sites have been closed.

In Michigan, in 2006, we had approximately 180 retail sites with open incidents. But to date, only 11 of those sites have been closed.

In percentages, we have closed approximately 28% of our sites in Ohio, 35% of our sites in Illinois, 36% of our sites in Indiana, and 63% of our sites in Pennsylvania. But we have been successful in only closing approximately 6% of our sites in Michigan.

I say this to demonstrate that the Michigan Part 213 program needs to be changed to promote a more clear and sure criteria for clean-up to achieve more regulatory closures. This would be consistent with environmental protection goals and would also contribute to assisting Michigan businesses during this time of hard-fought economic recovery.

Let me briefly describe the programs in other state programs. These states have consistent and rigorous risk-based cleanup programs (RBCA) similar to the kind of risk based programs within the new proposed Part 213.

### Illinois

The Illinois EPA's Leaking Underground Storage Tank (LUST) program allows use of risk-based corrective action(s) to obtain regulatory closure status. Illinois allows use of Institutional Controls (IC's) to mitigate exposure as a means to protect human health. Institutional controls

include property deed restrictions, highway agreements, and local groundwater ordinances that eliminate the risks of someone living on the property or a construction worker that may be exposed to subsurface contamination.

In 1997, Illinois also adopted a risk-based decision-making process allowing the development of site-specific remediation objectives and the elimination of exposure routes if demonstrated to be incomplete. Comprehensive changes in the Illinois LUST program as noted above in 1993, 2002 and 2006 have resulted in rules under which sites in the LUST program can be effectively managed.

### Ohio

In Ohio, three sets of rules govern UST system corrective actions. The first is the 1992 Corrective Action (CA) rule, which is generally considered a pre-RBCA program. The other two are the 1999 CA rule and the 2005 CA Rule, both of which are RBCA programs.

Ohio employs risk-based scenarios consistent with the use of the site and the surrounding properties. The property can be categorized as only for commercial use through the use of institutional controls and environmental covenants.

### Indiana

The Indiana program, as described on the state web site (link below), was to establish cost-effective closure standards and closure options that result in negligible risk to human health and the environment. The Indiana system is designed to provide staff, industry and consultants with a consistent, but flexible, framework for achieving closure of contaminated sites. The program expanded the number of closure options by allowing methods that prevent people from coming in contact with contamination when cleanup is not technically feasible. All of these goals help Indiana achieve cost-effective closures that wisely utilize the state's limited available resources.

### Pennsylvania

The Pennsylvania Storage Tank Act regulations establish the remediation procedures by which corrective actions are to be implemented and the Land Recycling Act regulations are used to establish risk based clean-up standards.

### Michigan

We believe that Michigan needs to return to a true risk-based program so that the number of regulatory closures will increase. We believe the proposed language in Part 213 will do this.

Each of the programs described for Pennsylvania, Ohio, Indiana and Illinois are consistent. The regulated public has opportunities for meaningful input. The regulated community understands the process, knows what to

do and how to do it. Consistency and embracing the concepts and protectiveness allowed in risk-based decision making is the key to any successful state underground storage tank program. This will be a huge step in getting more retail service station closures in Michigan. This will also help in unburdening businesses in challenging economic times that want a risk-based program that is consistent, cost effective and timely so that their liabilities at service stations can be closed. Finally, properties that are not fully utilized because they do not have a regulatory closure can be put back into productive use and put back on the tax rolls.

Thank you for your time.

<http://www.in.gov/idem/4198.htm>