

**TESTIMONY OF  
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BEFORE THE  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
UNITED STATES SENATE**

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Chairman Barrasso, Ranking Member Carper, and members of the Committee, thank you for inviting me to appear today to discuss the EPA's role in the cleanup and restoration of contaminated federal facilities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund").

**CLEAN UP PROGRESS UNDER CERCLA**

At EPA, focusing on the Superfund program is one of Administrator Pruitt's top priorities. Extensive data suggests that the Superfund program is a premier example of how EPA can accomplish one of its core missions of protecting human health and the environment, while simultaneously promoting jobs and growth.

A 2011 National Bureau of Economic Research study entitled "Superfund Cleanups and Infant Health" shows that Superfund cleanups reduce congenital abnormalities in infants by as much as 25 percent for those living within 2,000 meters of a site.<sup>1</sup> Birth defects avoided, means improved human health for an entire future generation. Additionally,

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<sup>1</sup> Currie, Janet, Michael Greenstone, and Enrico Moretti. 2011. "Superfund Cleanups and Infant Health". *American Economic Review*, 101(3): 435-441

data shows that at 454 reuse sites, approximately 3,900 businesses are generating \$29 billion in sales and these businesses employed more than 108,000 people who earned a combined income of \$7.8 billion.<sup>2</sup> Work under the Superfund Program improves property values as well. A 2013 study by researchers at Duke University and the University of Pittsburgh analyzed census tract data and found that deletion of sites from the NPL after cleanup raises the value of owner-occupied housing within three miles of the site by 18.6 - 24.5 percent.<sup>3</sup> Increased property values mean a healthier tax base for local communities that support so many other benefits, such as public schools, libraries, police and fire departments and other local services. This data clearly demonstrates how the Superfund program can provide tremendous improvements to both human health and the economy.

Since enactment of CERCLA, the EPA, other federal agencies, and states and tribes have made significant progress. Under the Superfund program, the EPA and its state, tribal, and federal partners have assessed more than 50,000 sites; the removal program has conducted more than 15,000 removals at over 9,000 sites; and 1,782 sites have either been proposed to, listed on, or deleted from the Superfund National Priorities List (NPL). Of the 1,729 final or deleted sites, more than 90 percent have undergone construction activity, have been completed, or have been deleted from the NPL.

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<sup>2</sup> For more information on Redevelopment Economics and in depth case studies please use the link below.

<https://www.epa.gov/superfund-redevelopment-initiative/redevelopment-economics>

<sup>3</sup> Gamper-Rabindran, Shanti and Christopher Timmons. 2013. "Does cleanup of hazardous waste sites raise housing values? Evidence of spatially localized benefits," *Journal of Environmental Economics and Management* 65(3): 345-360

## **FEDERAL FACILITY CLEANUP AND REUSE**

CERCLA Section 120 provides a framework for identifying contaminated federal facility sites, assessing actual or potential environmental risks from these sites, and assuring cleanup and other actions to protect human health and the environment. Under CERCLA, the EPA and its federal and state partners address releases of hazardous substances that pose or may pose current or future threats to human health and the environment. The federal facility restoration and reuse program is an important component of the broader Superfund program. Under CERCLA Section 120, federal facilities are required to comply with CERCLA in the same manner and to the same extent, both substantively and procedurally, as private entities.

Section 120 includes some unique provisions and timetables that apply to federal facilities only, including requiring the EPA to establish a federal agency hazardous waste docket, requiring completion of a preliminary assessment by a federal facility after docket listing, requiring a federal agency to commence a remedial investigation and feasibility study of a facility it owns or operates within six months of that facility being placed on the NPL, and requiring the EPA and the federal facility enter into an Interagency Agreement (IAG) (commonly referred to as a “Federal Facility Agreement” or FFA) at NPL sites. Also, specific provisions govern the transfer of federal property to private entities. Finally, CERCLA restricts the use of Superfund Trust Fund monies to carry out remedial actions at federal facilities. Instead, federal departments and agencies pay for the assessment and cleanup of facilities under their jurisdiction, custody or

control, while the EPA uses its Superfund resources to provide technical assistance and oversight.

Under Executive Order 12580, federal agencies are designated as the “lead agency” for carrying out many CERCLA statutory requirements at their facilities. CERCLA Section 120(e)(4) specifies that an IAG must include the review of alternative remedial actions, with the selection of remedial action by the head of the federal agency *and* the EPA. The Administrator of the EPA makes the final selection of the remedial action if the federal agency/department and the EPA are unable to reach agreement on the selection of a remedial action. Thus, in some respects, other federal agencies such as the Department of Defense (DoD) and the Department of Energy (DOE) are the EPA’s partners, as well as regulated entities, under the CERCLA framework.

At federal facilities on the NPL, unlike non-federal Superfund sites, the federal agencies responsible for cleanup generally write Records of Decision (RODs), with EPA review and concurrence. In addition, federal agencies assume the lead responsibility for carrying out CERCLA section 121(c) five-year reviews to determine if the remedy remains protective at federal facility NPL sites, again with EPA review and concurrence.

At most federal facility NPL sites, field staff relationships are strong. Currently there are 157 federal facility sites on the NPL. Another 17 federal sites were on the NPL, but have been deleted. Of the 174 total NPL sites, 140 are DOD sites. The FFAs negotiated with DoD, DOE and other agencies are enforceable agreements that govern the cleanup at federal Superfund sites, and are comparable to EPA’s cleanup agreements with private

parties at non-federal sites. A majority of the FFAs include a state as a signatory, and provide a formal mechanism for state involvement in the oversight of response actions. Tribal governments may also be involved in the cleanup process and participate in the decision making with the other federal agency as the lead for tribal consultation.

Often, the EPA and the other federal agencies implementing the remedies face unique challenges due to the types of contamination present, the size of the facility, the extent of contamination, ongoing facility operation needs, and complexities related to the redevelopment plans for the facilities.

### **FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET**

Since 1988, EPA has maintained the Federal Agency Hazardous Waste Compliance Docket (Docket) required under Section 120(c) of CERCLA. The Docket contains information on federal facilities that manage hazardous waste or from which hazardous substances, pollutants or contaminants have been or may be released. The Docket is developed from information submitted by the federal facility under the following authorities: Resource Conservation and Recovery Act Sections 3005, 3010, 3016 and CERCLA Section 103. The Docket serves three major purposes: (1) to identify all federal facilities that must be evaluated to determine whether they pose a threat to human health and the environment sufficient to warrant inclusion on the NPL; (2) to compile and maintain the information submitted to EPA on these facilities; and (3) to provide a mechanism to make the information available to the public. EPA updates the Docket every six months with the last update occurring in October, 2016. The total number currently on the Docket is 2,318.

## **PROGRESS THROUGH EFFECTIVE PARTNERSHIPS**

The CERCLA Section 120 framework has worked effectively for helping to ensure appropriate oversight of clean ups for more than 25 years, with a proven track record for achieving consistent, protective cleanups at the nation's federal facility sites. CERCLA has provided a consistent foundation for the EPA and federal agencies to cooperate in the field. Moreover, because states are most often parties to the FFA's and state Applicable or Relevant and Appropriate Requirements apply to site cleanups, states and the EPA work together to help ensure NPL cleanups meet statutory requirements and are protective of human health and the environment.

In the last five years, construction completion has been reached at eight federal sites, including seven DoD sites and one U.S. Coast Guard site. Construction completion of a site is an important milestone as it means the construction of all cleanup actions is finished at a site, including actions to address all immediate threats and to bring all long-term threats under control. Since the Superfund program's inception, construction completion has been reached at 78 of the 174 federal sites on the NPL, including 62 (out of 140) DoD sites, and 10 (out of 21) DOE sites.

The EPA is engaging with other federal departments and agencies on a range of activities to maintain and accelerate cleanup progress at federal facilities. For example, we are working collaboratively with DoD on tools for advanced geophysical classification to allow for more accurate and efficient cleanup of munitions sites, improving site level data quality, and resolving technical issues associated with emerging contaminants. We are continuing to modernize the Federal Agency Hazardous Waste Compliance Docket and

have implemented ways to make the federal facilityff program data more accessible to communities and other stakeholders as required by CERCLA.

Contaminated sites and cleanup activities have a significant impact on the surrounding communities. EPA's federal facilityff program has been working collaboratively with DoD, DOE, and Department of the Interior through a federal workgroup to improve the technical quality and timeliness, and reduce the cost of five-year review reports; and to ensure that the community is aware of whether the remedy in place at the NPL site continues to be protective of human health and the environment. These long-standing partnerships are successful at exchanging information and training on remediation technologies, monitoring and chemical methods and data quality practices.

## **CONCLUSION**

I appreciate the Committee's interest in the cleanup of NPL federal facility sites. As previously stated, protecting human health and the environment through continuing, and perhaps expanding upon, ongoing cleanup and reuse activities remains among Administrator Pruitt's top priorities. Such efforts will always be done so in a manner that continues to protect human health and the environment and in partnership with other federal departments and agencies, states, tribes and local communities.