



**Superfund Task Force Listening Session
Recommendation 28
Improving Comfort Letters to Address
Superfund Liability Concerns**

Office of Site Remediation Enforcement
Office of Enforcement and Compliance Assurance

June 18, 2018





Housekeeping

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Disclaimer

Case examples contained in this presentation are for illustration purposes only and do not imply any particular endorsement of these entities, only that EPA determined that these were appropriate tools to use based on the facts specific to each site.



Agenda

- Introduction
- Presentation on Recommendation 28
- Live remarks by session participants
- Resources
- Closing remarks



Superfund Task Force Report

- **Create:** May 2017, Task Force comprised of senior representatives from Superfund program and enforcement offices, EPA's General Counsel, Regions, and other offices
- **Charge:** propose recommendations to streamline and strengthen the Superfund program
- **Report:** July 2017, 5 goals with 42 recommendations





Superfund Task Force Recommendations

Five Goals:

1. Expediting cleanup and remediation process
2. Reinvigorating responsible party cleanup and reuse
3. Encouraging private investment
4. Promoting redevelopment and community revitalization
5. Engaging partners and stakeholders



Download the report at

<https://www.epa.gov/superfund/superfund-task-force-recommendations>



Superfund Task Force Listening Sessions

- Eight sessions – May 21, 2018 – June 18, 2018
- Session number 7
- Input from stakeholders and the public
- Increase transparency and improve communications



Presenters

- Elisabeth Freed
 - OSRE's Policy and Program Evaluation Division, Policy and Guidance Branch
- Casey Luckett Snyder
 - Region 6 Superfund Program, Region 6 Reuse Coordinator



Overview of Recommendation 28

EPA Issues Comfort/Status Letters:

- Facilitate private investment in the cleanup, reuse and redevelopment of impacted properties by easing a developer's fears and uncertainties associated with acquiring, cleaning up, and developing these properties
- Provide the party with information EPA currently has about a property and potentially applicable Agency policies to help inform the party as it moves forward with acquisition and development decisions concerning a property

Goals of Recommendation 28

- Identify revisions needed to the model comfort/status letters to provide more “robust” comfort language
- Identify concerns not currently addressed by model comfort letters
- Revise/update policy and model letters, accordingly



What Can/Can't a Comfort/Status Letter Do?

Can

- Provide EPA information about the property and cleanup process
- Share EPA's present involvement at a property
- Identify statutory protections and enforcement discretion guidance that may be potentially available at the property
- Suggest "reasonable steps" that should be taken at a site
- Provide information on resources and tools that may be useful or pertinent to the redevelopment effort

Can't:

- Provide the recipient with a covenant not to sue
- Provide explicit approval for a project design or end use



Comfort Letter for Non-Profit Organization

- 2015 request from the East Central Oklahoma Family Health Center, Inc. (ECOFHC), a non-profit 501(c)(3)
- Requested comfort letter to support ECOFHC Health Infrastructure Investment Program grant proposal to build a rural health clinic in Okmulgee County, OK
- Grant funding was awarded and construction of the health clinic is near completion





Comfort Letter for Developer

- MDI Superfund site is on the EPA Administrator's High Redevelopment Potential list
- Developer provided EPA with a Phase I and II environmental site assessments
- EPA comfort letter made affirmative statement about the condition of the property
- BUT comfort letter could not affirm protectiveness of proposed residential reuse





Comfort Letter for Municipality

- City of Wylie, TX planned involuntary acquisition of property
- City acquisition of property allowed EPA access to perform removal
- City requested comfort letter
- Post cleanup, EPA issued a Ready for Reuse determination for the property to affirm its protectiveness for light industrial and commercial uses





What we would like to hear from you

- What type of standard language could OSRE include in our model comfort/status letters that would assist you in reusing Superfund sites?
- Are there concerns that are not being addressed by the current model comfort/status letter?

Written remarks can be emailed to osre-sftf-listeningsession@epa.gov until June 25, 2018.



Next Steps

- Evaluate comments received from listening session participants
- Revise model comfort/status letters to provide greater comfort
- Continue to identify reuse concerns that may benefit from a comfort/status letter
- Revise comfort/status letter policy



How to share remarks

- Live during online broadcast
 - Pre-registered participants may share remarks by phone
 - Attendees may also type remarks into the Q&A window in the lower left
- After today's online broadcast
 - Interested parties may submit remarks in writing at any time to OSRE-SFTF-listeningession@epa.gov with the following subject: LS 28. The deadline is June 25, 2018



Public Remarks

1. Constance Westfall, Clark Hill Strasburger
2. James Morriss, Thompson & Knight LLP
3. Lawrence Schnapf, Schnapf LLC

*Press #6 to unmute when your name
is called to share remarks.*



Interested parties may submit written remarks by June 25, 2018 to OSRE-SFTF-listeningsession@epa.gov with the following subject: LS 28



Reference Materials

- [Superfund Task Force website](#)
- [Superfund enforcement website](#)
- [Revised Policy on Issuance of Superfund Comfort/Status Letters](#) (Aug. 25, 2015)
- [Superfund Reuse website](#)
- Comfort/Status sample letters contained within the Cleanup Enforcement Model Language and Sample Documents Database at <https://cfpub.epa.gov/compliance/models/>



For More Information

- Visit the Superfund Task Force website at <https://www.epa.gov/superfund/superfund-task-force>, and the Information page for the OSRE-sponsored listening session series at <https://www.epa.gov/enforcement/listening-sessions-superfund-task-force-recommendations>
- Email
 - OSRE-SFTF-listeningsession@epa.gov with the following subject: LS 28. Deadline for written remarks is June 25, 2018.