



# SUPERFUND TASK FORCE RECOMMENDATIONS 2018 UPDATE

2018 update to recommendations developed in response to the EPA Administrator's request on May 22, 2017. The recommendations address: expediting cleanup and remediation process; reducing financial burden on all parties involved in the entire cleanup process; encouraging private investment; promoting redevelopment and community revitalization; and building and strengthening partnerships.





July 23, 2018

The core mission of the U.S. Environmental Protection Agency (EPA) is to protect human health and the environment and ensure all Americans have access to safe and clean air, land, and water. As such, a key responsibility of the Agency is cleaning up and revitalizing contaminated land and returning it to use so that communities can utilize and enjoy it.

Since 1980, EPA's Superfund program has helped protect human health and the environment by managing the cleanup of the nation's worst hazardous waste sites and responding to local and nationally significant environmental emergencies.

The Superfund Task Force represents EPA's commitment to continuously look for opportunities to identify and resolve environmental challenges. The recommendations in the Superfund Task Force Report address barriers that delay the cleanup and redevelopment of contaminated sites. Implementing these recommendations will ensure EPA is able to remediate and revitalize even more sites throughout the nation.

I am proud to present the 2018 Update to the Superfund Task Force Report, which highlights the numerous accomplishments achieved by the hard-working EPA staff who planned and implemented specific actions to expedite reduction of risks to human health and the environment and accelerate the reuse of properties affected by hazardous substance contamination. The accomplishments are many indeed and have led to significant progress at Superfund sites throughout the country. I am grateful for the assistance of our partners and stakeholders in the progress made thus far, and I look forward to continuing our successful partnership.

The report also outlines next steps for all open recommendations and emphasizes a continued commitment to engage partners and stakeholders at all levels in making cleanup and land revitalization decisions that will provide future generations with a cleaner and healthier environment.

I look forward to working together with states, local communities, tribes, and private parties as we continue the environmental and economic restoration work happening across the nation.

Respectfully,

Andrew Wheeler  
Acting Administrator



# CONTENTS

Acting Administrator’s Statement.....	3
Executive Summary .....	7
Chapter 1 .....	13
Chapter 2 .....	55



# EXECUTIVE SUMMARY

The core mission of the Environmental Protection Agency (EPA) is to protect human health and the environment. The Superfund program makes a visible and lasting difference in communities by cleaning up the nation's worst hazardous waste sites; tackling threats to public health and our natural environment; supporting local economies and enhancing the quality of life; and preventing future hazardous substance releases. The Superfund program's achievements represent significant contributions in meeting the Agency's mission.

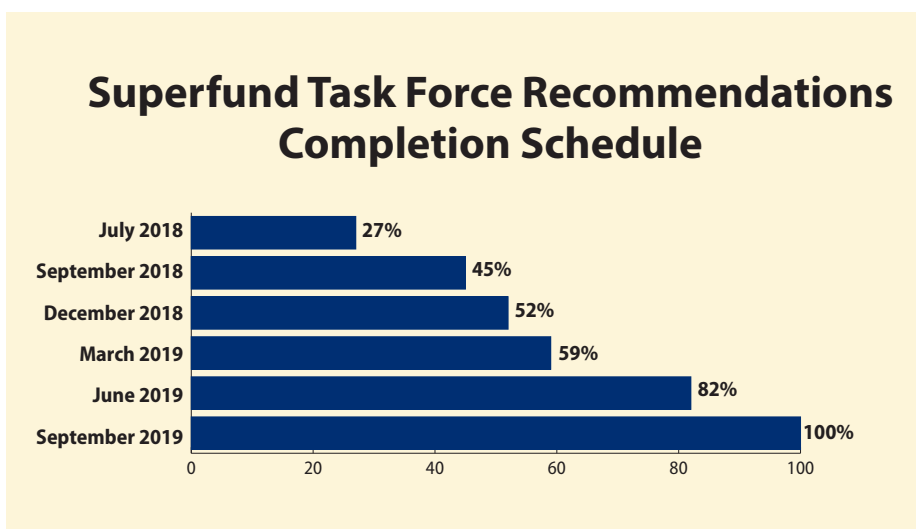
Superfund's National Priorities List (NPL) is the list of sites of national priority among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories. Although many sites included on the NPL have been remediated and removed from the list, numerous sites remain and each year sites are added to the list.

As of July 3, 2018, there are 1,346 sites on the NPL, of which 1,189 are private sites and 157 are federal facilities. As sites move through the remediation process and cleanup objectives have been met, they will be deleted from the NPL. To date, 399 sites have been deleted from the NPL.

As noted above, the Superfund program has many demonstrated achievements over its 40-year existence and has periodically reviewed and improved the program. EPA continues to seek ways to more efficiently and effectively remediate Superfund sites. The Superfund Task Force was commissioned on May 22, 2017, to, "provide recommendations on an expedited timeframe on how the agency can restructure the cleanup process, realign incentives of all involved parties to promote expeditious remediation, reduce the burden on cooperating parties, incentivize parties to remediate sites, encourage private investment in cleanups of sites and promote the revitalization of properties across the country." On July 25, 2017, the Superfund Task Force developed a report that included 42 recommendations in five specific goal areas including: Expediting Cleanup and Remediation; Re-Invigorating Responsible Party Cleanup and Reuse; Encouraging Private Investment; Promoting Redevelopment and Community Revitalization; and Engaging Partners and Stakeholders. The Superfund Task Force Report can be found at [https://www.epa.gov/sites/production/files/2017-07/documents/superfund\\_task\\_force\\_report.pdf](https://www.epa.gov/sites/production/files/2017-07/documents/superfund_task_force_report.pdf). Implementation of these recommendations was initiated during Year 1, July 2017 through July 2018.



Chapter 1 of this report describes the accomplishments under each of the recommendations along with status, completion dates, refinements made, and integration of the recommendation into the program. As outlined in Chapter 2, some of the recommendations will be completed throughout Year 2.



## ACCOMPLISHMENTS:

For each of the recommendations, EPA convened workgroups and identified specific implementing tasks. The Superfund Task Force workgroups worked diligently to find the most efficient ways to implement the recommendations and reach outcome-driven results that expedite site cleanups, site redevelopment and community revitalization. Below are a few highlights:

### Released Administrator’s Emphasis List

EPA released the Administrator’s Emphasis List (AEL) on December 8, 2017. The list included 21 sites from across the United States that EPA targeted for immediate and intense attention. Substantial progress has been made at sites on the list. The next update of the AEL will be published at the end of July 2018.

### Improved Information on Human Exposure Status

EPA launched a Human Exposure Dashboard that provides real time determinations of human exposure status for all NPL sites in an easily accessible webpage. The Superfund program has successfully effectuated control at a net total of 24 sites in FY2017 and 20 sites thus far in FY2018, compared to 12 sites in FY2016.

### Moved More Sites Toward Deletion/Partial Deletion

Due to more direct attention to the sites potentially eligible for partial or full deletion, the program achieved 2 full site deletions and 4 partial deletions in FY2017, and as of July 1, 2018, has accomplished 5 full deletions and 1 partial deletion. EPA is on track for 10 or more deletions in FY2018.

### Implemented Administrator Review of Remedy Decisions Equal to or Greater than \$50M

To ensure timely involvement by the Administrator’s office, the Superfund program developed, and is implementing, the Administrator’s review and approval process for proposed remedial actions that may be equal to or exceed \$50 million.

### Focused Optimization Evaluations on Priority Sites

Since July 2017, EPA has implemented 18 optimization evaluations and is considering 17 additional optimization candidates. To prioritize allocation of optimization resources, EPA has established criteria to prioritize site attributes tied to Task Force recommendations, such as human exposure not under control; large and complex, such as sites with remedies greater than \$50 million; stakeholder interests or concerns; projected completion dates within 5-15 years, where optimization may accelerate closure; and placement on the AEL. EPA is also implementing several projects to advance optimization practices and related tools in all phases of cleanup.

### Completed Fact Sheets on Best Management Practices to Facilitate Site Investigations

To assist in the planning process for remedial investigations, EPA completed three facts sheets containing best management practices (BMPs) related to scoping, sampling and data management: “Smart Scoping for Environmental Investigations Technical Guide,” “Strategic Sampling Approaches Technical Guide,” and “Best Practices for Data Management Technical Guide.” These documents will be posted on EPA’s website in the coming months.



## **Implemented Superfund Technical Support, Training, and Information Sharing**

Since July 2017, EPA implemented over 15 site-specific technical support projects related to site characterization and cleanup; conducted numerous webinars for EPA remedial project managers and other EPA cleanup professionals; published two technical fact sheets related to improved implementation of in-situ technologies; and finalized improved technical resource web pages.

## **Developed On-Line In-House Tool to Locate Technical Experts**

EPA developed an internal electronic tool to allow regional Superfund staff to easily locate Agency technology and policy experts. The tool also allows EPA staff to share their expertise on innovative technology pilots and demonstrations.

## **Issued New Guidance on Separate Tracks for Remedial Design and Remedial Actions**

EPA issued a new guidance memorandum titled, “Bifurcating Remedial Design and Remedial Action to Accelerate Remedial Design Starts at PRP-Lead Superfund Sites.” The guidance recommends that Regions consider using separate settlement tracks for remedial design and remedial action to get work underway quickly where negotiations for a single consent decree addressing both remedial design/remedial action are likely to be protracted.

## **Issued New Guidance on the Use of Special Accounts as a Settlement Incentive**

EPA issued an Updated Special Account Disbursement Guidance to provide guidance to regions on disbursing special account funds to bona fide prospective purchasers as an incentive to perform work as well as to potentially responsible parties as settlement incentive.

## **Drafted Model Settlement Language for Sites with Federal Potentially Responsible Parties**

EPA has accelerated the process for resolving settlement issues at sites with Federal PRPs. EPA developed model settling Federal agency language to address common settlement delays. EPA will continue to streamline the settlement process for sites involving Federal PRPs and will finalize the model language in Year 2.

## **Created New Tools Related to Federal Facility Informal and Formal Dispute Timelines**

EPA created two tools to reinforce adherence to informal and formal dispute timelines in Federal Facility Agreements (FFAs) at NPL Federal Facility sites.

## **Developed Tools and a Processes to Encourage Third-Party Investment**

Because third-party entities such as developers are generally on aggressive timeframes to complete land development investments, EPA created a national team of redevelopment experts led by EPA and the Department of Justice (DOJ) to help move cases through the legal system and address liability concerns. EPA and DOJ issued a new policy memorandum titled “Agreements with Third Parties to Support Cleanup and Reuse at Sites on the Superfund National Priorities List.” The memorandum encourages more frequent consideration of Bona Fide Prospective Purchaser (BFPP) agreements and Prospective Purchaser Agreements (PPAs), when appropriate, to foster cleanup and reuse of NPL sites.

## **Promote Redevelopment and Community Revitalization**

In January 2018, EPA released the initial Redevelopment Focus List of 31 NPL Superfund sites with the greatest reuse potential. Since the list’s release, EPA has responded to over 120 redevelopment-related prospective purchaser inquiries and has issued reuse fact sheets for all sites plus an additional 32 sites. EPA also created a new mapping tool that provides map-based search capabilities for Superfund site maps depicting site-specific information related to the 31 Redevelopment Focus List sites.

EPA has worked to engage communities affected by EPA cleanup and redevelopment by providing relevant trainings and information on Superfund and Brownfield processes. EPA published over 20 case studies, fact sheets, reports and online materials.

EPA provided technical assistance to over 20 communities in 9 regions through regional seed projects and ongoing regionally funded support; published five technical reuse reports that highlight reuse planning processes and outcomes at sites that have received technical assistance; and supported a Superfund Job Training Initiative project at Madison County Mines site in Region 7. In March 2018, 24 residents graduated from the program and job placement of graduates is ongoing.

## **Engaging Partners and Stakeholders**

EPA has long recognized the importance of early and meaningful participation of stakeholders, and will continue to enhance community and stakeholder engagement to promote transparency, community support, and more timely cleanup decisions. EPA will also continue to build strong strategic partnerships with communities and stakeholders to implement the Superfund Task Force recommendations. Implementing clear and effective communication and public engagement processes will help



**Between July 25, 2017 and June 27, 2018, the Superfund Community Involvement Program implemented a number of outreach activities to engage communities impacted by Superfund sites that included:**



**Held or participated in more than 1370 public meetings**



**Conducted or participated in more than 3190 in-person meetings or interviews**



**Distributed more than 460 factsheets, mailings, postcards, ads or newsletters that reached tens of thousands of people living near Superfund sites**



**#SuperfundTaskForce**

accelerate the pace of cleanups and encourage reuse while addressing risks to human health and the environment. As an example of ongoing outreach activities, the Superfund Community Involvement Program completed the following activities between July 25, 2017, and June 27, 2018: EPA held or participated in more than 1,370 public meetings; conducted or participated in more than 3190 in-person meetings or interviews; and distributed more than 460 factsheets, mailings, postcards, ads or newsletters that reached tens of thousands of people living near Superfund sites. In addition, senior EPA leaders meet with environmental justice groups on a quarterly basis to discuss community needs.

The Environmental Council of States (ECOS) formed an ECOS-EPA Superfund Workgroup to work with EPA on implementing the Superfund Task Force recommendations. The workgroup holds monthly calls with EPA to discuss state comments on Task Force recommendations and provides state input on implementation moving forward. EPA and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) developed an approach for providing ongoing state input from both ASTSWMO and ECOS. EPA is working with the National Tribal Caucus on an engagement process during implementation of the recommendations and moving forward in the Superfund process.

EPA maintains a webpage to inform the public and a broad range of partners, stakeholders, and tribes about the status and results of the recommendations, including quarterly updates on the status of the recommendations. The webpage also features information about events and opportunities for public participation, input and comment for the implementation of individual recommendations.

EPA's Office of Enforcement and Compliance Assurance hosted eight listening sessions to solicit public and stakeholder input related to specific recommendations and to report on the progress to date on activities related to the recommendations. More than 650 persons registered to participate in the eight sessions, representing external stakeholders from the legal community (private attorneys and law schools); corporations and companies; state, municipal and tribal agencies; environmental and other non-profit groups; and public citizens. The listening sessions were part of the Agency's efforts to increase public participation and transparency, and strengthen communication with stakeholders. Recordings of the listening session can be accessed at: <https://www.epa.gov/enforcement/listening-sessions-superfund-task-force-recommendations>. OECA representatives also attended the Environmental Bankers Association Conference in June 2018 to receive stakeholder input from lenders and to report on progress to date on activities related to the recommendations.

## NEXT STEPS

In Year 2, EPA will finalize implementation of all the recommendations designed to expedite reduction of risks to human health and the environment and accelerate the reuse of properties. As with the Year 1 recommendations, once the Year 2 actions are finalized, EPA will integrate them into program processes and develop mechanisms to ensure sustainability and continuous improvement.

In Year 2, EPA will finish implementing the Remedial Acquisition Framework (RAF), a series of multiple award, indefinite quantity contracts that will be competitively awarded in 2018 and 2019. When RAF becomes operational, EPA will expand the pool of vendors available for Superfund remedial program activities. To foster innovation and reduce costs, EPA will compete tasks among the pool of RAF contract holders.

EPA will continue to evaluate sites to move them toward deletion and will place even greater emphasis on the internal tracking of site progress using visual management tools to evaluate where the site is in the Superfund process, how long it has been there, and reasons for any delays.

Adaptive Management will be more widely utilized as a site project management tool in Year 2. Some elements of Adaptive Management principles have been used by EPA in the past. EPA is diligently working on an implementation plan for using Adaptive Management on a more structured and broader scale and is planning to formally implement Adaptive Management principles at select pilot sites by the end of calendar year 2018.

EPA will collaborate with ASTSWMO to complete a thorough evaluation of groundwater beneficial use policies with a focus on beneficial use determinations.

To continue to re-invigorate responsible party cleanup and reuse, EPA will explore options for revising and managing negotiation timeframes. This includes compiling best practices to reduce negotiation and PRP-lead cleanup timeframes, and modifying model agreement language to speed up timeframes and to provide financial incentives in the form of reduced oversight when appropriate. EPA will also continue to look for efficiencies with other federal agencies and states in overseeing and implementing cleanups. In addition, EPA may pilot an approach suggested by stakeholders, during a listening session conducted on this topic, whereby an existing company spins off a new, but related (and sufficiently funded) corporate entity for the purpose of being the primary party responsible for performing cleanup, including at a portfolio of sites.

To continue to encourage private investment in cleanup

and reuse of contaminated sites, EPA will finalize revisions to the “Common Elements Guidance” to assist third parties with identifying and creating opportunities for new investment in cleaning up contaminated sites. EPA will also finalize revisions to the 2015 Comfort/Status Letter policy and model letter to provide more certainty in EPA’s comfort language. This includes developing a new model work agreement and comfort letter for Good Samaritans and other third parties to encourage cleanup and redevelopment.

EPA will continue focusing on identifying, supporting and tracking the redevelopment opportunities at Superfund sites. Through ongoing training for EPA staff and communities EPA will continue to build capacity and awareness around the benefits that redevelopment offers. Specifically, EPA will continue to inform potential developers about key components of land use and economic development planning and funding, and financing tools which will provide better support to communities and promote redevelopment of Superfund sites. A continued focus on early planning at the local level, especially during the Remedial Investigation/Feasibility Study phase of cleanup, will allow for better partnership building and land use options.

EPA will also continue to provide communities and potential developers with a variety of information in the form of online resources, fact sheets, economic analysis, outreach, and visioning opportunities in a sustained effort to keep sites visible and attractive to developers.

Successful reuse depends on EPA’s ability to provide communities and developers with the information they need to determine the future of Superfund sites. We will expand outreach efforts to ensure that information about all potential reuse sites is visible and available to communities and developers. The expansion of work that will continue in 2019 will pave the way for communities to benefit from enhanced quality of life, a safe and healthy environment and economic growth.

EPA will continue to focus on stakeholder and partner engagement at all levels of the Superfund process to make the process more efficient and promote community revitalization. Specific actions will include supporting risk communication, especially as it relates to long-term stewardship (LTS) at Superfund sites.

Opportunities to participate in the implementation process will continue to be posted on the Superfund Task Force web page at <https://www.epa.gov/superfund/superfund-task-force-public-participation-opportunities>.



# Chapter 1: SUPERFUND TASK FORCE YEAR 1 ACCOMPLISHMENTS

The July 25, 2017, Superfund Task Force Report identified multiple opportunities to accelerate cleanup and reuse of Superfund cleanups. Specifically, the Task Force identified 42 recommendations, which EPA initiated during Year 1 (i.e., July 2017 through July 2018) of the Task Force.

For each of the recommendations, EPA convened workgroups and identified numerous specific implementing tasks. The Superfund Task Force workgroups identified the most efficient ways to implement the recommendations and reach outcome-driven results to expedite cleanups, site redevelopment and community revitalization. Table 1 summarizes the status of each recommendation along with the anticipated completion date.

**Table 1. Status of Superfund Task Force Recommendations**

RECOMMENDATION #	IMPLEMENTATION STATUS	COMPLETION DATE
<b>GOAL 1</b>		
<b>1 – Administrator’s Emphasis List</b>	Complete	July 2018
<b>1 – Human Exposure Status</b>	Complete	July 2018
<b>1 – Site Tracking</b>	Partially Complete	June 2019
<b>2</b>	Partially Complete	June 2019
<b>3</b>	Partially Complete	June 2019
<b>4</b>	Partially Complete	June 2019
<b>5</b>	Partially Complete	June 2019
<b>6</b>	Partially Complete	June 2019
<b>7</b>	Complete	July 2018
<b>8</b>	Partially Complete	June 2019
<b>9</b>	Almost Complete	September 2018
<b>10</b>	Almost Complete	September 2018
<b>11</b>	Partially Complete	December 2018

RECOMMENDATION #	IMPLEMENTATION STATUS	COMPLETION DATE
<b>GOAL 2</b>		
12	Complete	July 2018
13	Partially Complete	December 2018
14	Partially Complete	December 2018
15	Partially Complete	March 2019
16	Partially Complete	September 2018/ March 2019
17	Almost Complete	September 2018
18	Almost Complete	September 2018
19	Partially Complete	December 2018/ March 2019
20	Complete	July 2018
21	Almost Complete	September 2018
<b>GOAL 3</b>		
22	Partially Complete	September 2019
23	Partially Complete	September 2019
24	Complete	July 2018
25	Partially Complete	September 2019
26	Partially Complete	September 2019
27	Complete	July 2018
28	Partially Complete	September 2018/ September 2019
29	Partially Complete	September 2018/ September 2019
30	Almost Complete	September 2018
31	Partially Complete	June 2019
32	Partially Complete	June 2019

RECOMMENDATION #	IMPLEMENTATION STATUS	COMPLETION DATE
<b>GOAL 4</b>		
33	Almost Complete	September 2018
34	Almost Complete	September 2018
35	Complete	July 2018
36	Complete	July 2018
37	Complete	July 2018
38	Complete	July 2018
39	Partially Complete	June 2019
<b>GOAL 5</b>		
40	Partially Complete	September 2019
41	Complete	July 2018
42	Partially Complete	September 2019

## GOAL 1: EXPEDITING CLEANUP AND REMEDIATION

### STRATEGY 1:

#### EVALUATE AND ACCELERATE NATIONAL PRIORITIES LIST (NPL) SITES TO COMPLETION

**BACKGROUND:** As of July 3, 2018, there are 1,346 sites on the NPL. These sites (and portions thereof) are in various stages of investigation, cleanup and reuse. As sites have been added to the NPL, EPA has chosen to spread its resources across the Superfund pipeline (from remedial investigation through remedial action, including long-term response actions) to maximize its ability to make incremental progress at most sites. An effort to accelerate remedial action and NPL completions will involve re-prioritizing some resources to focus on remedial actions, construction completions, ready-for-reuse determinations, and deletions.

#### **RECOMMENDATION 1: Oversee Administrator’s Emphasis List of Superfund Sites**

##### *What was accomplished?*

EPA released the Administrator’s Emphasis List (AEL) on December 8, 2017. The list included 21 sites from across the United States that EPA targeted for immediate and intense attention. In developing this list, EPA considered sites that could benefit from the Administrator’s direct engagement and that have identifiable actions to protect human health and the environment. These are sites requiring timely resolution of specific issues to expedite cleanup and redevelopment efforts. The dynamic list is designed to spur action at sites where opportunities exist to act quickly and comprehensively. Significant progress has been made at each of the sites because of this special emphasis. Information on the AEL can be found at <https://www.epa.gov/superfund/superfund-sites-targeted-immediate-intense-action>.

The following are examples of sites that have been included on the AEL and the progress that has been made to date:

### **Portland Harbor Superfund Site, Portland, Oregon**

EPA placed the Portland Harbor Superfund site, located in Portland, Oregon, on the Superfund National Priorities List in 2000. In 2017, EPA issued the Record of Decision or final cleanup plan for the site, a 10-mile stretch of the Lower Willamette River. The cleanup will reduce health risks to people, fish, and wildlife, and set the stage for commercial and industrial redevelopment and revitalization of the river and waterfront that runs through the economic heart of Portland. EPA is working with Responsible Parties and partners to implement the Record of Decision, negotiating agreements to develop baseline sampling and remedial design plans and move forward with Early Action Area, or hot spot, cleanups. Active cleanup construction work is expected to take approximately 13 years and cost approximately \$1 billion.



Portland Harbor Superfund site

### **San Jacinto River Waste Pits in Texas**

EPA signed a Record of Decision that approved a \$115 million cleanup plan for the site that will completely remove highly contaminated material and secure the less contaminated areas. Subsequently, EPA entered into an Administrative Settlement Agreement and Order on Consent with the potentially responsible parties to conduct the remedial design of the remedy. EPA and the potentially responsible parties (PRPs) are moving forward with the remedial design.



San Jacinto River Waste Pits

#### ***How are the accomplishments integrated into the program?***

The AEL is intended to be dynamic; sites will move on and off the list as appropriate. At times, there may be more or fewer sites based on where the Administrator's attention and focus is most needed. The second iteration of the AEL was released on April 16, 2018. Two sites were removed from the list to reflect the completion of specific milestones that benefited from the Administrator's attention. Three new sites were added to spur action on cleanup and redevelopment efforts, and other sites remained with some revisions to key milestones.

#### ***How will the accomplishments be sustained?***

The Agency anticipates releasing an updated AEL approximately four times per year to continually reflect the sites that could benefit most from the Administrator's attention. EPA regional offices will continue to identify potential sites for AEL consideration, with final decisions made by the Administrator to add or remove sites. The EPA website will be updated as needed to reflect changes to the composition of the list and progress on the sites.

#### ***Timeframe:***

The implementation of this recommendation is complete, and EPA will continue to look for ways to improve management of the AEL.



## **RECOMMENDATION 1: Prioritize and take action to expeditiously effectuate control over any site where risk of human exposure is not fully controlled**

### ***What was accomplished?***

The Superfund program has taken many steps to implement the aspect of this recommendation related to actual or potential human exposure to contamination at NPL sites. The Superfund program provided the Administrator with a list of Superfund sites that were considered Human Exposure Not Under Control (HENUC) as of September 2017. In October 2017, the program provided additional detail on why each site was HENUC at that time, and what actions are being taken or will be taken to bring each site to a status of Human Exposure Under Control (HEUC). Human exposure determinations and descriptions continue to be available on each Superfund Site Profile page on the EPA website. In January 2018, EPA launched a Human Exposure Dashboard on its Superfund Task Force website to improve public access to this information. The dashboard provides real time determinations of human exposure status for all sites in a single, easily accessible webpage with descriptive paragraphs for sites where status is either HENUC or where there is currently insufficient data to make a human exposure determination (i.e., status of Human Exposure Insufficient Data or HEID). Most importantly, the Superfund program has successfully effectuated control at a net total of 24 sites in FY2017 and 20 sites thus far in FY2018, compared to 12 in FY2016. Information about the Human Exposure Dashboard and the Superfund Site Profile Pages can be found at <https://www.epa.gov/superfund/superfund-human-exposure-dashboard>. A few examples of sites that achieved Human Exposure Under Control are highlighted below:

### **Galen Myers Dump/Drum Salvage Superfund site in Indiana**

EPA completed multiple soil gas, sub-slab, and indoor air sampling events at 40 residences and in the vicinity of the Galen Myers Dump/Drum Salvage Superfund site. The sampling indicated that vapor intrusion (VI) was occurring at a number of residences via the presence of volatile organic compounds above screening levels. EPA performed an emergency action to install VI mitigation systems in 2017. This site was designated “Human Exposure Under Control” in September 2017.

### **Bennett Stone Quarry Superfund site in Indiana**

EPA constructed a collection and treatment system to treat spring water contaminated with polychlorinated biphenyls (PCBs) at the Bennett Stone Quarry Superfund site. The contaminated water is captured through a series of collection trenches and treated in the on-site water treatment plant prior to its discharge to Stout’s Creek. As a result, unacceptable releases of PCBs into Stout’s Creek are now being prevented. Monitoring of the fish indicates that PCB concentrations in fish are also declining. This site was designated “Human Exposure Under Control” in October 2017.

### **California Gulch Superfund site in Colorado**

Located in Lake County, Colorado, the California Gulch site originally included the city of Leadville, parts of the Leadville Historic Mining District and a section of the Arkansas River. Former mining operations contributed to metals contamination in surface water, groundwater, soil and sediment. Cleanup is complete at over 90 percent of the site. EPA has partially deleted 9 (including the residential areas) of the 12 operable units from the NPL. The remedies for the remaining operable units are being monitored for effectiveness or are in operations and maintenance. This site was designated “Human Exposure Under Control” in December 2017.



### ***How are the accomplishments integrated into the program?***

EPA will continue to update the human exposure status at Superfund sites annually or as site conditions change; these changes are reflected in real time on the Human Exposure Dashboard and on the Superfund Site Profile pages. In April 2018, the program solicited feedback from EPA regional offices on best practices for managing human exposure at sites nationally. In May 2018, the National Environmental Indicator (EI) Workgroup, comprised of 10 regional EI experts, met to establish best management practices (BMPs) for EIs. These BMPs include the following:

- Periodic management focus on Environmental Indicators;
- Consideration of human exposure status in prioritization of site work;
- Regular review and management attention to HENUC/HEID data;
- Increased information sharing and coordination via tools, educational resources, and training;
- Increased situational awareness of linkages between EIs, the Site-Wide Ready for Anticipated Use metric, and five-year review protectiveness determinations; and
- Continued focus on quality EI data.

Many Regions have and continue to integrate these BMPs into their regional operations, with an overarching goal to effectuate control at Superfund sites where human exposure is not currently under control.

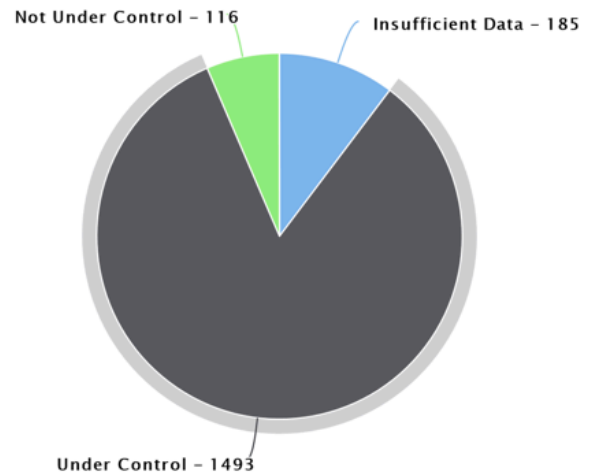
### ***How will the accomplishments be sustained?***

The National EI Workgroup continues to meet periodically to discuss and address EI issues, and to discuss future improvements to program management of EIs nationally. The Superfund Headquarters EI lead continues to closely monitor human exposure changes as soon as they occur and coordinates with the Regions to answer questions, address issues and to strategize meeting annual program targets. To continue the focus on prioritizing control at sites where human exposure is not under control nationally, EPA regional offices are reviewing a list of HENUC sites that are estimated to become “under control” within the next five fiscal years (FY2019 through 2023) and determine what can be done to accelerate the timeline in which those sites reach the HEUC milestone. This review will be completed in late July 2018, and will culminate in each Region presenting options for “prioritizing effecting control” at these sites, including both opportunities and challenges during the program’s annual work planning discussions in August 2018. Additionally, the Superfund program will prepare an annual report on the status of the human exposure measure. The Superfund program continues to report annual accomplishments for this metric in EPA’s Congressional Justification, EPA’s Report on the Environment, and on the accomplishments page of the Superfund website found at <https://www.epa.gov/superfund/superfund-accomplishments-and-benefits>.

### ***Timeframe:***

The implementation of this recommendation is complete, and EPA will continue to look for opportunities to improve management of human exposure at NPL sites.

Human Exposure Environmental Indicator Status



Notes: Pie chart data exclude 48 Proposed, 10 Final, and 5 Deleted sites that are not in the Environmental Indicator baseline. Data as of 07-08-2018 13:15. <https://www.epa.gov/superfund/superfund-human-exposure-dashboard#summary>

## **RECOMMENDATION 1/2: Develop list of potential NPL sites to target for completion and develop recommendations for tracking and reporting progress**

### ***What was accomplished?***

EPA identified and applied criteria to identify potential NPL sites to target for this recommendation. EPA also began to develop methodology for metrics, and tracking and reporting progression for moving sites toward completion.

### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

### ***Timeframe:***

The implementation of this recommendation is partially complete. The remainder of this effort will be combined with the remaining activities in Recommendation 2 and will be completed in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

## **RECOMMENDATION 2: Focus resources on maximizing deletions/partial deletions, including review of policy and tracking eligible sites**

### ***What was accomplished?***

After a review of current NPL deletion policies and practices, EPA developed several recommendations relating to both procedural and technical issues that may affect deletion or partial deletion of an NPL site. In June 2018, EPA implemented one recommendation with the issuance of a memorandum to regional offices emphasizing the importance of close coordination between the remedial and legal programs to ensure timely implementation of institutional controls. The program also provided the Administrator's Office with a monthly projection of deletion actions. Due to more direct attention to the sites potentially eligible for partial for full deletion, the program achieved 2 full site deletions and 4 partial deletions in FY2017, and as of July 1, 2018, has accomplished 5 full deletions and 1 partial deletion in FY2018. EPA is on track for 10 or more deletions in FY2018.

Examples of deleted Superfund sites include:

- Nutting Truck & Caster Co. in Minnesota, originally contaminated with trichloroethylene (TCE) in groundwater;
- Shpack Landfill in Massachusetts, which had contaminated soil, sediment and groundwater;
- Perdido Ground Water Contamination in Alabama, which was originally contaminated with benzene.

Examples of partially deleted Superfund sites include:

- Omaha Lead in Nebraska, where surface soil was contaminated by deposition of air emissions from historic lead smelting and refining operations;
- Mystery Bridge Rd/U.S. Highway 20 in Wyoming, which had a groundwater plume and soils that contained benzene, toluene, ethylbenzene, and total xylenes;
- North Penn - Area 6 in Pennsylvania, where soils and groundwater were contaminated with volatile organic compounds;
- Pacific Coast Pipeline, where surface soil was contaminated from decades of oil and refinery operations and disposal.

**More information regarding NPL site deletions can be found at: <https://www.epa.gov/superfund/superfund-national-priorities-list-deletion>.**



Excavation of lead contaminated soil at residence within the Omaha Lead Superfund Site

***How are the accomplishments integrated into the program?***

In Year 2, EPA will continue to focus on moving sites through the process to deletion. EPA will emphasize partial deletions where cleanup is complete at a portion of the site and reuse may be possible. The additional attention to institutional controls described above will assist in the implementation of what is commonly the final action necessary to ensure long-term protectiveness and to allow for deleting the site from the NPL.

***How will the accomplishments be sustained?***

EPA's Office of Superfund Remediation and Technology Innovation will continue to monitor deletion candidates monthly to maximize opportunities to demonstrate completion of cleanup activities. These efforts include increasing regional expertise on deletions through training and sharing information on effective approaches to moving sites to deletion. EPA announces deletions and partial deletions on the EPA website at <https://www.epa.gov/superfund/superfund-national-priorities-list-npl-deletion-search>.



On March 22, 2018, EPA deleted the surface soil portion of the 55-acre Pacific Coast Pipeline site in Fillmore, Calif., from the Superfund National Priorities List clearing the way for commercial or recreational use.

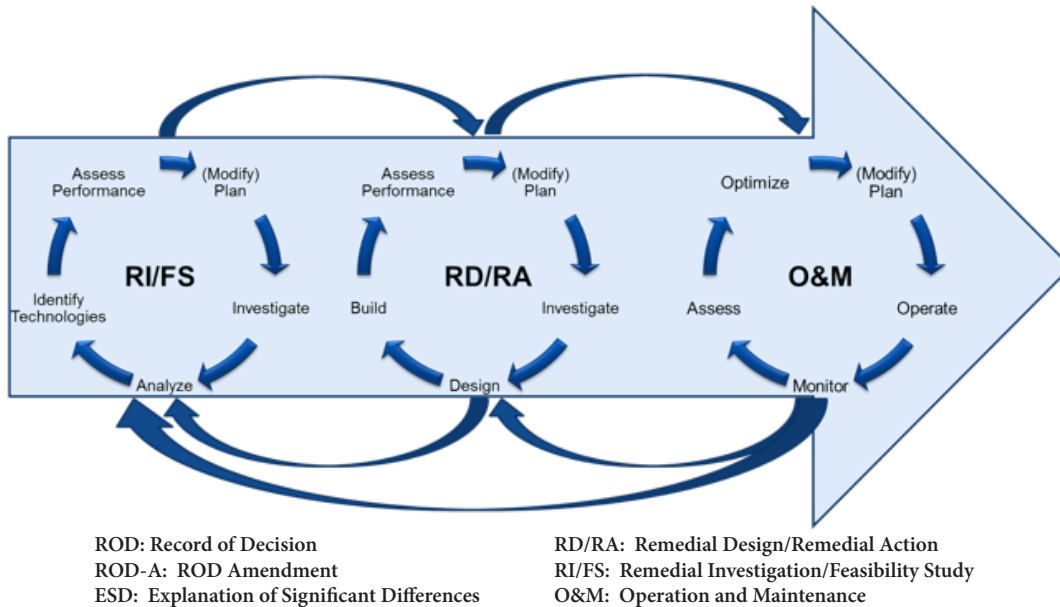
***Timeframe:***

The implementation of this recommendation is partially complete. The remainder of this effort will be combined with the remaining activities in Recommendation 1 and will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

**STRATEGY 2:**  
**PROMOTE THE APPLICATION OF ADAPTIVE MANAGEMENT AT  
COMPLEX SITES AND EXPEDITE CLEANUP THROUGH USE OF EARLY/INTERIM  
RODS AND REMOVAL ACTIONS**

**BACKGROUND:** Adaptive Management is an approach used at large and/or complex sites that focuses limited resources on making informed decisions throughout the remedial process. Adaptive Management requires the development of a clear site strategy with measurable decision points, and focuses site decision-making on a sound understanding of site conditions and uncertainties. Based on site uncertainties, decisions are made from data collection, to remedy selection and implementation that allow for the ability to adapt if these uncertainties result in fundamental changes to site conditions.

Under an Adaptive Management strategy, regions are encouraged to consider greater use of early and/or interim actions including use of removal authority or interim remedies, to address immediate risks, prevent source migration, and to return portions of sites to use pending more detailed evaluations on other parts of sites. The characterization data collected to support the early/interim actions can be used to update the site Conceptual Site Model (CSM) and reduce time and costs associated with the Remedial Investigation/Feasibility Study (RI/FS). This approach will be most effective at contaminated sediment and complex groundwater sites where using removals or early actions to address sources or areas of high contamination is highly efficient. US EPA's 2017 Directive (9200.1-130) memo reiterates EPA's stated bias for initiating responses as soon as the information makes it possible to do so and recommends the use of removals or early actions to quickly address high risk areas. US EPA's 1996 Directive (9283.1-12) outlines the "phased approach" strategy for addressing contaminated groundwater integration, site characterization, early actions, and remedy selection.



### RECOMMENDATION 3: Promote the Application of Adaptive Management at Complex Sites

#### *What was accomplished?*

In response to the Task Force recommendation, EPA is diligently working on an implementation plan for utilizing Adaptive Management on a more structured and broader scale. EPA issued a memorandum to EPA regional offices that provided a working definition of Adaptive Management and outlined an implementation plan to expand the use of Adaptive Management at Superfund sites.

#### *How are the accomplishments integrated into the program and sustained?*

EPA will address program integration and sustainability in Year 2.

#### **Timeframe:**

The implementation of this recommendation will be combined with remaining activities under Recommendations 5 and 8 and will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

## STRATEGY 3: CLARIFY POLICIES/GUIDANCE TO EXPEDITE REMEDIATION

**BACKGROUND:** Regions should be consistent in prioritizing Remedial Investigations/Feasibility Studies (RI/FSs) to identify those sites that need more immediate action to help focus available funds and resources. Targeting EPA's efforts, resources, and funding may achieve efficiencies in both performance and results. This will foster cooperative partnerships, shorten review times, target sampling and analysis, foster creative thinking, provide a higher level of program accountability and communicate EPA's commitment to the public. To accomplish this, the program should focus resources (funds and personnel) to activities associated with NPL sites and establish timeframes and financial limits for conducting RI/FSs.

The principles of groundwater restoration are key concepts outlined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the National Contingency Plan (NCP). Developing improved guidance in this area may help facilitate more timely remedy decisions and make use of the flexibilities inherent within the statute and the NCP. Flexibilities include: using a phased approach, considering monitored natural attenuation, determining whether a technical impracticability waiver is warranted, etc. These strategies, considered early in the cleanup process, may allow for early stakeholder consensus and input and more expedient implementation of remedies.

Currently, the National Remedy Review Board (NRRB) and Contaminated Sediments Technical Advisory Group (CSTAG) are review boards for high-cost sites and sediment sites respectively. Current policy provides that all remedy decisions over \$50 million, which require approval by the Administrator, undergo a NRRB review. Both national consistency and expediting remedy completion are goals of this Administration.

**RECOMMENDATION 4: To Better Promote National Consistency and Review, Update the Authority for Approval of the Remedy Selection While Considering the Retained Authority of the Administrator**

***What was accomplished?***

EPA developed a review process and flowchart for the Administrator’s review and approval of remedies equal to or greater than \$50M, or that are part of a remedy that is equal to or greater than \$50M. As of June 28, 2018, the Administrator has signed four decision documents (San Jacinto River Waste Pits, TX; USS Lead, IN; Mississippi Phosphate, MS; and Casmalia Resources, CA) and has participated in the decision-making process for 9 additional site decisions American Cyanamid (OU8), NJ; Ventron/Velsicol Wood Ridge Borough (Berry’s Creek); Atlantic Wood, VA; B.F. Goodrich Calvert City, KY; USS Lead (OU1), IN; West Lake Landfill, MO; Quendall Terminal, WA; Harbor Island, East Waterway, WA; Hanford 100 D/H (DOE), WA; Wyckoff Co./Eagle Harbor (OU2/OU4), WA]. EPA has begun to review charters for the National Remedy Review Board and the Contaminated Sediment Technical Advisory Group to ensure greater consistency in national remedy selection.

***How are the accomplishments integrated into the program?***

EPA is implementing the new Administrator’s review process. The Agency is closely tracking planned decisions that may be equal to or exceed \$50 million to ensure timely involvement by the Administrator.

***How will the accomplishments be sustained?***

EPA will continue to implement the process for Administrator review of actions for any site with an estimated cost equal to or greater than \$50 million.

***Timeframe:***

The implementation of this recommendation is partially completed. Remaining activities will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.



EPA signed a \$107.6M action memorandum to fund clean-up of the Mississippi Phosphates Corporation Superfund site.



In February 2018, EPA announced a proposed remedy for the West Lake Landfill Superfund Site in Bridgeton, Missouri.

## **RECOMMENDATION 5: Clarify Priorities for RI/FS Resources and Encourage Performing Interim/Early Actions During the RI/FS Process to Address Immediate Risks**

### ***What was accomplished?***

EPA began reviewing current guidance on conducting the RI/FS process and using interim and early actions.

### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

### ***Timeframe:***

The implementation of this recommendation will be combined with remaining activities under Recommendations 3 and 8 and will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

## **RECOMMENDATION 6: Provide Clarification to the Principles for Superfund Groundwater Restoration**

### ***What was accomplished?***

For the first activity under this recommendation, EPA drafted a list and summary description of available groundwater policy flexibilities in existing EPA Superfund groundwater policy documents. As of the time of this report, the flexibilities paper is undergoing internal Agency review. The second activity, evaluating the groundwater beneficial use policy with a focus on beneficial use determinations, is currently in progress. EPA is working closely with ASTSWMO to address implementation of this portion of the recommendation.

### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

## **STRATEGY 4:**

### **USE BEST MANAGEMENT PRACTICES, SYSTEMATIC PLANNING, REMEDY OPTIMIZATION, AND ACCESS TO EXPERT TECHNICAL RESOURCES TO EXPEDITE REMEDIATION**

**BACKGROUND:** Site characterization and remedial actions can take years to complete, especially when site conditions are complex and dynamic. Remedial activities should be continually reviewed and optimized to enhance the understanding of the changing site complexities and conditions.

Reinforcing the need for thorough systematic planning early in the process and throughout the project lifecycle as well as providing Remedial Project Managers (RPMs) the resources for systematic planning facilitation could significantly improve project efficiencies. Further, as site work progresses, emphasizing progress review through independent, third-party optimization of the remedy and evolving site conditions can help ensure maximum effectiveness throughout the project life cycle. RPMs shall utilize best science and continue research on innovative technologies and cleanup approaches, while promoting Best Management Practices (BMPs) for optimization activities. RI/FS planning will require development of tools and enhanced communication of internal and external resources to support these activities.

Recent developments in real-time investigation technologies and data visualization techniques offer opportunities to build robust understanding of site conditions portrayed in conceptual site models focused on root causes and high-value, targeted remedial actions. Advances in electronic data capture and distance collaboration platforms enable project stakeholders to work as a team on RI/FS and Remedial Design/Remedial Action (RD/RA) activities, ensuring all stakeholder concerns are considered as the work is performed. In this way, the team can focus on taking actions that drive sites toward completion.

## RECOMMENDATION 7: Promote Use of Third-Party Optimization Throughout the Remediation Process and Focus Optimization on Complex Sites or Sites of Significant Public Interest

### What was accomplished?

Since the July 2017 release of the Superfund Task Force report, EPA has implemented 18 optimization evaluations and is considering 17 additional optimization candidates. EPA has established criteria to prioritize optimization resource allocation in a manner consistent with the Task Force report's objectives and priorities. To prioritize allocation of optimization resources, EPA has established criteria to rank site attributes tied to Task Force recommendations, such as human exposure not under control, particularly groundwater migration; large and complex, such as large sediment sites and those sites with remedies greater than \$50 million; stakeholder interests or concerns or significant congressional or media interest; projected completion dates within 5-15 years where optimization may accelerate closure; and placement on the AEL.

### How are the accomplishments integrated into the program?

EPA will use the identified criteria to allocate optimization resources and enhance cleanup progress at these sites. To advance optimization as a tool throughout the cleanup pipeline - from remedial investigation through remedial action (including long-term response actions) - EPA is implementing several projects to advance both optimization practices and related tools in all phases of cleanup, including:

- Expanding the number of third-party service providers and identifying additional team members who can lead optimization projects;
- Increasing efficiencies, where possible, by: (1) conducting more “portfolio” optimization projects looking at multiple, often related sites in a region in a single optimization event, and (2) conducting less intensive “desk top” optimizations where appropriate;
- Developing best management practices (BMP) fact sheets based on lessons learned from individual optimization projects and continuing classroom and webinar training programs. Fact sheets are designed to translate BMP lessons learned into routine practice. New BMPs will target site activities earlier in the pipeline and will include topics, such as strategic sampling, smart project scoping and improved data management. EPA's Office of Superfund Remediation and Technology Innovation (OSRTI) will continue to use its classroom and webinar training programs to disseminate BMPs to RPMs and other site support staff; and
- Improving significantly the tracking of ongoing optimization projects and implementation of resulting recommendations. OSRTI is also developing two-page project summaries to capture key optimization evaluation recommendations to disseminate results more widely to the cleanup community.



EPA defines optimization as: “Efforts at any phase of the removal or remedial response to identify and implement specific actions that improve the effectiveness and cost-efficiency of that phase. Such actions may also improve the remedy’s protectiveness and long-term implementation which may facilitate progress towards site completion. To identify these opportunities, regions may use a systematic site review by a team of independent technical experts, apply techniques or principles from Green Remediation or Triad, or apply other approaches to identify opportunities for greater efficiency and effectiveness;” For more information, reference the Office of Remediation and Technology Innovation June 2013 Guidance, “Remediation Optimization: Definition, Scope and Approach” available at [https://clu-in.org/Optimization/pdfs/OptimizationPrimer\\_final\\_June2013.pdf](https://clu-in.org/Optimization/pdfs/OptimizationPrimer_final_June2013.pdf).



### ***How will the accomplishments be sustained?***

EPA will continue to work to identify sites priority candidates for optimization, and will implement the program efficiencies noted above. EPA routinely issues an annual report that provides a national summary of the optimization projects and results.

### ***Timeframe:***

The implementation of this recommendation is completed, and EPA will continue to look for ways to improve the implementation of optimization at Superfund sites.

## **RECOMMENDATION 8: Reinforce Focused Scoping Which Closely Targets the Specific Areas for Remediation and Identify and Use Best Management Practices (BMP) in the Remedial Investigation/Feasibility Study (RI/FS) Stage**

### ***What was accomplished?***

To assist in the planning process for remedial investigations, EPA completed three facts sheets containing BMPs related to scoping, sampling, and data management:

- Smart Scoping for Environmental Investigations Technical Guide;
- Strategic Sampling Approaches Technical Guide; and
- Best Practices for Data Management Technical Guide.

EPA also provided classroom training related to these BMPs at the 2017 National Association of Remedial Project Managers (NARPM) training conference.

### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

### ***Timeframe:***

The implementation of this recommendation will be combined with remaining activities under Recommendations 3 and 5 and will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

## **RECOMMENDATION 9: Utilize State-Of-The-Art Technologies to Expedite Cleanup**

### ***What was accomplished?***

EPA cleanup professionals find information on cleanup technologies in many ways. In Year 1 EPA employed numerous methods to maximize opportunities to inform, train and assist regional staff. EPA's accomplishments include the following:

- Worked directly with site managers by implementing over 15 site-specific technical support projects related to site characterization and cleanup;
- Conducted webinars for EPA remedial project managers (RPMs) and other EPA cleanup professionals on pragmatic approaches to remedial investigation and technology selection, bioreactors for mining-influenced water, combined remedies, in situ carbon amendments, and phytoremediation. Archived webinars are available at <https://clu-in.org/live/archive/>;
- Provided classroom training for EPA RPMs, other EPA cleanup professionals, and state technical support staff on groundwater high resolution site characterization and best practices for site characterization throughout the remediation process;
- Developed multiple presentations on geological characterization and three-dimensional data visualization at meetings of the EPA Ground Water Forum and NARPM;
- Published two technical fact sheets related to improved implementation of in situ technologies (related to in situ carbon amendments and performance monitoring for in situ technologies);

- In Situ Treatment Performance Monitoring: Issues and Best Practices (available at <https://semspub.epa.gov/work/HQ/100001169.pdf>);
- Remedial Technology Fact Sheet– Activated-Carbon Based Technology for In Situ Remediation (available at <https://semspub.epa.gov/src/document/11/100001159.pdf>); and
- Finalized improved technical resource webpages for Characterization and Monitoring Technologies and Remediation Technologies, which are available at <http://www.epa.gov/remedytech>.

***How are the accomplishments integrated into the program?***

EPA's Superfund technology transfer program has begun to incorporate the practices initiated under this recommendation. Under this program, EPA will continue to identify, initiate, and implement regional technical support related to site cleanups, and identify technical webinar and fact sheet topics.

***How will the accomplishments be sustained?***

This will be addressed in Year 2 in the development of a coordinated technical information dissemination strategy.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will be combined with the remaining activities in Recommendation 10 and will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

**RECOMMENDATION 10: Develop a Technical Support Team and Tools to Inform RPMs Regarding Available Resources to Assist with Best Management Practice (BMP) Applications, Including Scoping and Targeted Technical Reviews**

***What was accomplished?***

EPA focused on developing an internal electronic tool to allow regional Superfund staff to easily locate Agency technology experts. EPA completed a beta version of Superfund TechHub, a catalog of EPA Superfund technical support and information resources on EPA's SharePoint site. EPA also initiated updates to the Office of Research and Development Technical Support Center and Superfund and Technology Liaison SharePoint sites for Superfund technical support requests. TechHub was also expanded to allow EPA staff to share their expertise on innovative technology pilots and demonstrations. Consistent with the Superfund Task Force recommendations, EPA determined that the current Superfund Optimization Initiative (Recommendation 7) has identified over 15 sites to undergo optimization reviews.

***How are the accomplishments integrated into the program?***

EPA's technology transfer program has begun to incorporate the practices initiated under this recommendation. Under this program, EPA will continue to identify, initiate, and implement regional technical support related to site cleanups, and identify technical webinar and fact sheet topics.

***How will the accomplishments be sustained?***

This will be addressed in Year 2 in the development of a coordinated technical information dissemination strategy.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will be combined with the remaining activities in Recommendation 9 and will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

## **RECOMMENDATION 11: Review all Third-Party Contracting Procedures, Large EPA- Approved Contractors, and Contracts to Determine Appropriate Use Parameters and Qualification Methods for EPA Contracting**

### ***What was accomplished?***

To implement this recommendation, EPA created the Remedial Acquisition Framework (RAF), a series of multiple award, indefinite quantity contracts that will be competitively awarded in 2018/2019. When RAF becomes operational, EPA will expand the pool of vendors available for Superfund remedial program activities. To foster innovation and reduce costs, EPA will compete tasks among the pool of RAF contract holders. Prior to developing RAF, EPA has reviewed all large contracts approved by EPA. Specific actions included:

- Reviewed all current remedial contracts during the planning stages of RAF;
- Completed market research to inform the best acquisition approach for the remedial program; and
- Signed a Remedial Acquisition Strategy dated September 2015 to document finding and approach for moving forward.

EPA is currently implementing the RAF. Activities include the following:

- Delivered initial RAF training in five EPA regional offices, and will deliver training in the five remaining regional offices in FY2018; and
- Continued work on award of suites of contracts for Design and Engineering Services (DES), Remediation Environmental Services (RES), and Environmental Services and Operations (ESO).

### ***How are the accomplishments integrated into the program?***

EPA has updated policies, procedures and information systems to reflect new RAF program management policies. Senior EPA leaders are serving as change champions to drive RAF change management activities across the program. Additionally, each region has a principal point of contact responsible for integrating RAF acquisition, program management and budget activities.

EPA has identified “Early Adopters,” initial task orders that will be competed as part of the RAF process, and that will be used to validate RAF processes and inform program improvements.

### ***How will the accomplishments be sustained?***

EPA will capture lessons learned and will use continuous process improvement to implement refinements; use metrics to track cost efficiency, cycle times and compliance with policy and guidance; and document and share best practices as task orders are competed. EPA will continue to track progress and drive change management activities.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

## GOAL 2: RE-INVIGORATING RESPONSIBLE PARTY CLEANUP AND REUSE

### STRATEGY 1:

#### ENCOURAGE AND FACILITATE RESPONSIBLE PARTIES' EXPEDITIOUS AND THOROUGH CLEAN-UP OF SITES TO EFFECT RE-USE MORE QUICKLY

**BACKGROUND:** At sites where responsible parties can be identified, the cost of remediation is intended to be borne by them. However, utilizing tools and procedures to assist these parties in their efforts is helpful to all stakeholders. Settlement can be reached sooner by providing incentives to performing parties. More importantly, proper use of incentives will reinforce the notion that cooperative parties who settle early will obtain significant benefits by doing so.

Second, cleaning up a Superfund site can be completed faster and more efficiently by using incentives to reach expected milestones in the cleanup work. Third, enforcement authorities can be used as leverage in certain cases to get the cleanup started or to help reach settlement. Fourth, all parties can avoid the increased transaction costs associated with protracted negotiations.

Each of the federal facility agreements (FFAs) at federal facility NPL sites includes timelines for moving through the dispute process. These timelines were developed to ensure that work at Federal Facility (FF) NPL sites moved efficiently even in the case of disagreements between the parties. The dispute resolution process includes a commitment by the parties to make reasonable efforts to resolve disputes informally before invoking formal dispute procedures.

Informal disputes and each of the stages of formal dispute have specific timeframes built into the FFAs. Reinforcing these timelines to ensure that the dispute resolution timelines are more closely adhered to will ensure that cleanup work is not unreasonably slowed when a disagreement between the FFA parties arises.

#### **RECOMMENDATION 12: Recommend Consideration and Use of Early Response Actions at Superfund Sites, Particularly Sediment Sites, While Comprehensive Negotiations Are Underway for the Entire Cleanup**

##### **What was accomplished?**

EPA has been addressing the use of early response actions through recommendations 3, 5, and 8. The early action portion of this recommendation will be implemented through those recommendations in Year 2. Accomplishments described below pertain to the issuance of an EPA guidance memorandum recommending Regions consider using separate settlement tracks for negotiating remedial design and remedial action at PRP-funded Superfund Sites, enforcement-related aspect of recommendation 12 referred to as recommendation 12.2 in the Quarterly Reports.

On June 21, 2018, the Office of Site Remediation Enforcement (OSRE) issued a new guidance memorandum titled, "Bifurcating Remedial Design and Remedial Action to Accelerate Remedial Design Starts at PRP-Lead Superfund Sites." The guidance was the product of one year of research and analysis by OSRE complemented by input from the Regions, national Superfund program and Department of Justice. The guidance recommends a discrete strategy that Regions can use to expedite settlements and accelerate remedial design starts by PRPs at certain Superfund sites.

The guidance is being applied and has already helped expedite remedial design. The following are some examples of the application of the new guidance:

##### ***How are the accomplishments integrated into the program?***

The guidance was distributed by OSRE to the Superfund National Program Managers, Regional Counsels, Office of Superfund Remediation and Technology Innovation and the Department of Justice for application to the national Superfund program, namely Superfund settlement negotiations. The guidance has also been publicly posted on EPA's Superfund Cleanup Policies and Guidance web page, and included as a supporting document to the applicable Superfund model enforcement settlement agreements and orders.



Bioventing system at drum disposal area, DS&G Landfill

### **DS&G LANDFILL SUPERFUND SITE — REMEDIAL DESIGN SETTLEMENT**

Valued at \$1.5 Million

On May 22, 2018, EPA entered into an Administrative Order on Consent for Remedial Design (RD AOC) at the DS&G Landfill Superfund Site, New Castle County, DE.

The RD AOC, negotiated in less than six weeks, provides that the Potentially Responsible Parties (PRPs) agree to start designing the response action EPA selected in a Record of Decision (Amendment No. 2) signed by EPA on Dec. 12, 2017.

The estimated cost of the RD work is \$1.5 million dollars.

### **DEPUE/NEW JERSEY, ZINC/MOBIL CHEMICAL SUPERFUND SITE – REMEDIAL DESIGN SETTLEMENT ENTERED IMMEDIATELY AFTER ROD SIGNED**

In June 2017, in consultation with EPA, the Illinois EPA finalized the Record of Decision (ROD) and entered immediately into an agreement to start Remedial Design work at the DePue/New Jersey, Zinc/Mobil Chemical site, in the Village of DePue, Bureau County, Illinois.

This 950-acre area is contaminated with elevated levels of metals that includes zinc, lead, arsenic, cadmium, chromium and copper.

The remedial design for this site was initiated almost immediately.



Gypsum stack at DePue/New Jersey, Zinc/Mobil Chemical Superfund Site

### **SAN JACINTO RIVER WASTE PITS SUPERFUND SITE – REMEDIAL DESIGN SETTLEMENT**

On October 11, 2017, EPA signed the Record of Decision calling for the excavation and removal of dioxin contaminated waste at the San Jacinto River Waste Pits Superfund Site in Channelview, Texas, located approximately 15 miles east of downtown Houston, Texas.

The Site consists of several waste ponds, or impoundments, built in the mid-1960s for the disposal of paper mill wastes. The cleanup is estimated to cost \$115M.

On April 9, 2018, Region 6 and the potentially responsible parties, International Paper Company and McGinnes Industrial Maintenance Corporation, entered into an Administrative Order on Consent which obligates the parties to complete the Remedial Design.

At this complicated site, within less than six months EPA and the PRPs agreed to initiating design work for the subsequent remedial action.



Aerial view of San Jacinto Waste Pits Area

## **PORTLAND HARBOR SUPERFUND SITE – MULTIPLE REMEDIAL DESIGN SETTLEMENTS AT LARGE SEDIMENT SITE**

In January 2017, EPA issued a cleanup plan (Record of Decision or ROD) for the Portland Harbor Superfund Site (Site), which encompasses an approximately 10-mile stretch of the Willamette River that has been contaminated by over 100 years of industrial activities.

Since ROD issuance, EPA has entered into administrative settlements for the following early work:

- Restarted work in June 2017 for early action RD at Gasco/Siltronic hotspot
- Entered into an AOC for Site-Wide Baseline Sampling in December 2017
- Amended an AOC for early RD at river mile 11E hotspot on January 2018

Pursuant to the guidance, Regions should consider using separate settlement tracks for remedial design and remedial action where negotiations for a single consent decree addressing both remedial design/remedial action are likely to be protracted at PRP-lead Superfund sites. In these situations, the guidance seeks Regions to consider whether to approach the PRPs to perform the remedial design pursuant to a CERCLA administrative settlement agreement.

The guidance encourages Regions to use the existing model remedial design administrative settlement agreement and accompanying statement of work for this purpose, which were developed to further standardize and streamline the remedial design negotiation process. If negotiations for an administrative settlement agreement for remedial design are unsuccessful,

Regions are encouraged to proceed with issuing an order to the PRPs to perform either the remedial design or the remedial design/remedial action, depending on the case team's assessment of which approach will best expedite cleanup at the site.

### ***How will the accomplishments be sustained?***

The settlement strategy recommended in the guidance is intended to be considered by Regions as a matter of national practice going forward. To further ensure its longevity and accessibility, and as noted above, the guidance has been publicly posted on EPA's Superfund Cleanup Policies and Guidance web page, and it is included as a supporting document to all the applicable Superfund model enforcement settlement agreements and orders.

### ***Timeframe:***

The implementation of this recommendation is completed. The outstanding aspects of recommendation 12 were previously incorporated into recommendations 3 and 5.

## **RECOMMENDATION 13: Identify Opportunities to Utilize Various Federal and State Authorities to Conduct Response Actions that are Consistent with CERCLA and the NCP**

### ***What was accomplished?***

EPA reviewed data on NPL-caliber sites using approaches other than listing on the NPL and identified and reviewed internal guidelines that highlight opportunities for various statutory authorities to be used in conjunction with CERCLA to address hazardous waste sites (e.g., using other Imminent and Substantial Endangerment authorities). This review included an evaluation of examples where alternate paths have been used to address NPL-caliber sites. In addition, EPA reviewed delegations of authority for other approaches, evaluated Superfund Alternative Approach (SAA) as a path for cleanup at NPL-caliber sites, and examined previous federal and state reviews of opportunities and practices to using other federal and state authorities for cleanup.

### ***How are the accomplishments integrated into the program and sustained?***

EPA will make information available to the regions so that every consideration may be taken into account when decisions are made to proceed (or not) toward NPL proposal.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue very briefly in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

## **RECOMMENDATION 14: Maximize the Use of Special Accounts to Facilitate Site Cleanup and/or Redevelopment**

### ***What was accomplished?***

Following comprehensive review and discussion between EPA and DOJ staff, EPA issued an Updated Special Account Disbursement Guidance to provide guidance to regions on disbursing special account funds to bona fide prospective purchasers as an incentive to perform work as well as to potentially responsible parties as settlement incentive.

### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

## **RECOMMENDATION 15: Speed Up Settlement Process Where There Are Federal PRPs at a Site**

### ***What was accomplished?***

Over several months, EPA has held discussions on several federal PRP issues with DOJ and other federal agencies to address ways to speed up settlement language disagreements, as well as to focus on issues arising at specific Superfund sites that are delaying cleanup. After comprehensive review and discussion with EPA and DOJ staff, EPA developed model settling Federal agency language to address common settlement delays.

### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

## **RECOMMENDATION 16: Provide Reduced-Oversight Incentives to Cooperative, High-performing PRPs, and Make Full Use of Enforcement Tools as Disincentives for Protracted Negotiations, or Slow Performance Under Existing Cleanup Agreements**

### ***What was accomplished?***

EPA divided this recommendation into two major actions: provide reduced oversight incentives to cooperative, high-performing PRPs; and expedite negotiations and PRP cleanup.

#### ***Provide reduced oversight incentives to cooperative, high-performing PRPs***

EPA completed an indirect cost practices and planning document and drafted a compilation of regional practices and charges of indirect costs.

#### ***Expedite negotiations, and PRP cleanup***

EPA reviewed relevant guidance documents, current and prior policy and settlement practices, and existing data regarding duration of negotiations over last several years. EPA distributed a survey to EPA regional and DOJ staff and management to solicit input on factors that can delay negotiations and PRP cleanups, and strategies to address those factors. EPA compiled the survey feedback and will analyze results. In addition, EPA conducted a listening session seeking public feedback in June 2018.

***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

**RECOMMENDATION 17: Adjust Financial Assurance (FA) Required Under Enforcement Documents to Reduce Cooperating PRP's Financial Burden While Ensuring Resources Are Available to Complete Cleanups**

***What was accomplished?***

EPA reviewed relevant feedback and considered situations where FA might be adjusted, and identified situations which posed a higher risk to EPA and the public.

EPA determined that while flexibility can be important in achieving settlements with potentially responsible parties, application of flexibility must be implemented in way that does not jeopardize cleanup. Any compromises which are made to FA have a potentially direct and negative impact on whether adequate financial resources are available to clean up the site in the event a potentially responsible party were to default or stop performing the work. While there may be situations where the FA requirements within an enforcement instrument may be adjusted, such adjustments need to be based on the site-specific circumstances. Factors that may be considered include those which are listed in the CERCLA FA guidance (e.g., estimated cost of performing the response action, estimated time to complete the response action, nature and extent of contamination, etc.). Therefore, due to the variability of the fact and site-specific factors, adding general applicability of flexibility to EPA's FA requirements cannot be uniformly provided for because each request for flexibility depends on the site-specific circumstances.

Accordingly, while EPA no longer plans to implement this particular recommendation, as written, it will continue to make improvements to the FA program which include: updating the CERCLA FA Guidance to address high risk situations and to ensure national consistency in how the FA program is implemented. EPA will also be evaluating the program effectiveness of the financial test and corporate guarantee.

***How are the accomplishments integrated into the program?***

Regions will continue to look to the EPA's FA guidance in their negotiations with PRPs. EPA also plans to present a webinar to review the FA fundamentals for cleaning up a CERCLA Superfund site, as well as the recent changes to the FA guidance.

***How will the accomplishments be sustained?***

OSRE's FA team will use the CERCLA FA data management tool to monitor when FA is secured and not secured, and continue to have ongoing discussions with case teams about ensuring adequate FA.

***Timeframe:***

Investigating the feasibility of implementing this recommendation is completed. EPA will continue to look for ways to ensure adequate FA.



## **RECOMMENDATION 18: Reinforce the Federal Facility Agreement Informal and Formal Dispute Timelines**

### ***What was accomplished?***

EPA created two tools to meet the recommendation's call to reinforce adherence to informal and formal dispute timelines in Federal Facility Agreements (FFAs) at NPL Federal Facility sites. The tools include an informal dispute tracking spreadsheet, which will supplement existing EPA Headquarters tracking of formal disputes, and an audit tool that captures postponed cleanup milestones. The policy, which is framed as a set of principles, outlines key themes for FFA parties, including the states, other Federal agencies, and EPA, to reinforce adherence to FFA dispute timelines. States, other Federal agencies, and the EPA Regions provided critical feedback on both the tools and the principles document prior to finalization.

### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

## **STRATEGY 2: CREATE OVERSIGHT EFFICIENCIES FOR PRP-LEAD CLEANUPS**

**BACKGROUND:** Cleanup decisions and implementation often take a long time due to the number of people and issues involved. Oversight efficiencies can be realized and costs can be reduced if responsibility for overseeing cleanup is clarified and better distributed.

## **RECOMMENDATION 19: Expand Cleanup Capacity by Designating One Agency Lead for Each Project in Order to Reduce Overlap and Duplication**

### ***What was accomplished?***

#### *Federal Agency Related Efficiencies*

OSRE has engaged in regular dialogue and coordination with Federal Land Management Agencies (FLMAs) such as the Department of Interior's Bureau of Land Management and the U.S. Department of Agriculture's U.S. Forest Service and regions about the potential use of Executive Order 12580 (Superfund Implementation) to redelegate CERCLA authorities from one agency to another to create federal government efficiencies at mixed ownership mining sites.

#### *State Related Efficiencies*

EPA developed a publicly available sample Clean Water Act (CWA)/CERCLA Memorandum of Understanding (MOU) to memorialize intended steps for regional and state coordination and cooperation at contaminated sediment sites. The sample CWA/CERCLA MOU was developed with state and tribal review and input. EPA also developed a working draft of an MOU to guide EPA regional offices through the complex web of requirements that arise when oversight responsibility for a PRP-lead CERCLA cleanup is assumed by a state under a state cleanup law. Contemporaneously, EPA researched and reviewed regional and state cooperative efforts and responsibilities at Superfund sites, and conducted discussions with regions about suggestions for further regional and state coordination and involvement.

### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

## **RECOMMENDATION 20: Identify Opportunities to Engage Independent Third Parties to Oversee Certain Aspects of PRP-Lead Cleanups**

### ***What was accomplished?***

EPA researched all six of the state licensed site professional (LSP) programs currently in place. The workgroup obtained and analyzed those states' laws and regulations to determine how the programs worked and the sites that were subject to these programs. As part of this effort, EPA held individual conference calls with staff from five of the six states. EPA also held a call with Massachusetts' Licensed Site Professionals Association, a group that represents the LSPs in that state, as it is not affiliated with the Massachusetts state government. EPA also researched current federal law and regulations to determine the full effect of EPA's role in oversight at CERCLA sites and to determine the Agency's ability to have third parties conduct oversight. In addition, EPA researched existing and new EPA policies and tools that accomplish the same identified goals as Recommendation 20.

### ***How are the accomplishments integrated into the program?***

The workgroup's findings and recommendations will be shared with EPA's regional offices and EPA's key Superfund headquarters offices (i.e., OSRTI and OSRE). EPA concluded that there are several existing and new EPA policies, guidance documents, and other tools to achieve the same goals under this recommendation without creating a new program or relying on state LSP programs. EPA also concluded that using state LSP programs or similar programs for PRP oversight at NPL sites is not necessary or feasible at this point. EPA further concluded that, because oversight assistance by third parties may complement EPA's oversight role and not substitute for it, as a practical matter retaining independent third parties to perform oversight would likely not result in more efficient or less costly oversight for PRPs.

### ***How will the accomplishments be sustained?***

The focus of this effort is to remind the Regions about existing Agency tools already in place that use, to a limited extent, independent third parties to assist in EPA's oversight (e.g., using independent quality assurance teams during PRP-led remedial action). This effort will also include informing the Regions about the development of more recent tools (e.g., including third party verification provisions in settlement agreements with PRPs where appropriate), as well as new guidance documents that are being released (e.g., OSRE memo on Advanced Monitoring Technologies and Approaches to Support Long-Term Stewardship). The workgroup may conduct additional outreach to the Regions on an as-needed basis over the next year (e.g., participating on regular calls with regional remedial branch chiefs and/or Superfund regional counsel branch chiefs).

### ***Timeframe:***

The implementation of this recommendation is completed and EPA will continue to look for opportunities to create oversight efficiencies for PRP-lead cleanups.

### **STRATEGY 3:**

## **PROMOTE REDEVELOPMENT/REUSE OF SITES BY ENCOURAGING PRPS TO INVEST IN REUSE OUTCOMES**

**BACKGROUND:** PRPs may resist engaging with third parties to facilitate reuse. To overcome such resistance, EPA should understand and address the legal, financial and technical burdens that may arise when a third party wants to build on a contaminated site. For instance, some uses may require additional cleanup beyond what is necessary to stabilize a site for protectiveness, while some uses involve a project schedule that differs from the cleanup and some uses may complicate the long-term maintenance obligations for the property.

### **RECOMMENDATION 21: Facilitate Site Redevelopment During Cleanup by Encouraging PRPs to Fully Integrate and Implement Reuse Opportunities into Investigations and Cleanups of NPL Sites**

#### ***What was accomplished?***

EPA developed a list of more than 60 case studies where PRPs have incorporated reuse considerations throughout the cleanup process. As part of this effort, follow-up was done on Regional Seeds, Regionally Funded Projects, and Excellence in Site Reuse Awards to identify in-field examples of effective PRP-driven reuse efforts. Also, EPA conducted a public listening session to solicit stakeholder input.

#### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

#### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.



Aerojet General Corporation Superfund Site, Rancho Cordova, CA  
Aerojet collaborated with private and public entities and created a redevelopment plan, in accordance with smart growth principles, that includes solar panels, rangeland, office, commercial, and light industrial use.



Taylor Road Landfill Superfund Site, Hillsborough County, Florida  
Taylor Road Landfill is a 42-acre municipal landfill that is being reused to serve multiple purposes that benefit the community. Reuse includes a recycling center, household chemical and electronics collection center, community collection center, growth of hay for erosion control, and a study on methane's potential as a renewable energy source.

## GOAL 3: ENCOURAGING PRIVATE INVESTMENT

### STRATEGY 1:

#### USE ALTERNATIVE AND NON-TRADITIONAL APPROACHES FOR FINANCING SITE CLEANUPS

**BACKGROUND:** Private sector tools and approaches to manage environmental liabilities and risks are important to the cleanup and reuse of contaminated sites. Some PRPs engage in contractual arrangements to pay a premium for unknown risks and transfer responsibilities to environmental remediation companies where the Superfund site cleanup has a fair degree of certainty. These arrangements may be in the form of an insurance policy, annuity, a designated agent, or an agreement to allow a third party to assume all obligations for remediation and legal liability.

However, as provided by CERCLA section 107(e)(1), even the most comprehensive arrangement does not legally bar the government from pursuing the PRP at a later date. Such arrangements tend to be reasonably specific to the circumstances of a site, but they can help expedite the cleanup and reuse of a site. EPA recognizes that it should support, where appropriate, innovative approaches to promote third-party investment in cleanup and reuse of contaminated properties consistent with statutory authorities and needs to consider mitigating its retained rights.

#### **RECOMMENDATION 22: Explore Environmental Liability Transfer (ELT) Approaches and Other Risk Management Tools at PRP cleanups**

##### *What was accomplished?*

EPA conducted outreach to companies engaged in buyouts of contaminated properties, the contractual assumption of Superfund cleanup obligations and the issuance of environmental insurance policies. EPA held discussions on ELT business models, products and the current industry climate for ELTs to analyze the benefits, challenges and other considerations associated with ELTs. EPA also collected information on settlements at Superfund sites that included ELT approaches where EPA was a party to the settlement. In addition, EPA conducted a public listening session seeking feedback from stakeholders on the use of alternative and non-traditional approaches for financing site cleanups.

##### *How are the accomplishments integrated into the program and sustained?*

EPA will address program integration and sustainability in Year 2. For example, OSRE is planning to pilot an approach suggested by stakeholders whereby an existing company spins off a new, but related (and sufficiently funded) corporate entity for the purpose of performing cleanup, including at a portfolio of sites.

##### *Timeframe:*

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

### STRATEGY 2:

#### STREAMLINE THE PROCESS FOR COMFORT LETTERS AND SETTLEMENT AGREEMENTS WITH THIRD PARTIES

**BACKGROUND:** The 2002 Brownfield Amendments to CERCLA added new landowner liability protections, including the Bona Fide Prospective Purchaser (BFPP) protection, to address the liability concerns that act as a barrier to the cleanup and reuse of contaminated properties.

Congress intended these liability protections to be self-implementing, although some third parties remain concerned about potential liability and the availability of the BFPP protection at contaminated properties (see Ashley II ). As a result, at some sites, a site-specific tool may be needed for third parties to address liability concerns before the third party can move forward with the cleanup and reuse of the site. EPA's primary tools to address the CERCLA liability concerns of third

parties are comfort/status letters and settlement agreements. These site-specific tools have enabled some cleanup and reuse at sites on the NPL to move forward where liability concerns posed a barrier. However, more substantive tools must be used.

**RECOMMENDATION 23: Ensure Timely Use of Site-Specific Tools When Needed and Appropriate to Address Liability Concerns at Contaminated Sites**

***What was accomplished?***

A national team of redevelopment experts was created and is being led by OSRE in coordination with a DOJ counterpart to help move cases through the legal system. Additionally, a decision-making process is being developed to help Regions identify liability issues of concern to a potential developer of contaminated property and to identify the tool needed to address those concerns. Also, a best practices document is being developed to highlight a team approach to addressing the liability concerns. Finally, internal communication processes were standardized and streamlined to provide a quicker and more holistic response to an interested party.

**MIDDLEFIELD-ELLIS-WHISMAN STUDY AREA - BFPP AGREEMENT FOR CLEANUP**

On July 27, 2017, EPA and DOJ entered into a bona fide prospective purchaser (BFPP) agreement with Warmington Fairchild Associates, LLC (Warmington Fairchild) at the Middlefield-Ellis-Whisman (MEW) Study Area in Mountain View, California.

Under the BFPP agreement, Warmington Fairchild agreed to conduct cleanup actions at three parcels within the MEW Study Area, which will significantly and rapidly reduce subsurface contamination at the properties so that redevelopment, including construction of homes, can move forward in a manner protective of human health for future occupancy.

This agreement is related to many of the goals outlined in the Superfund Task Force Report, including Recommendation 23 (timely use of site-specific tools to address liability concerns).

***How are the accomplishments integrated into the program?***

Integration will occur in part because of the outreach conducted and multiple stakeholders who participated in the creation of these tools. Another significant key to integrating these elements in the program will be the OSRE's and DOJ's oversight. Both will rely on the tools developed pursuant to SFTF Recommendation 23 and help ensure integrated and consistent application.

***How will the accomplishments be sustained?***

These accomplishments will be sustained because they will become the standard operating procedures for the Regions. As EPA gains experience in using these tools, they may be modified to reflect the experience and knowledge gained over time. Success in resolving liability issues for purchasers and developers of contaminated sites and the ultimate redevelopment of these sites will also help sustain these practices and procedures.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will be combined with remaining tasks under recommendation 25 and 26 and will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

**RECOMMENDATION 24: Create and Maintain an OECA Information Repository to Provide Access to Enforcement Information and Tools to Support Third-Party Cleanup and Reuse.**

***What was accomplished?***

EPA established a special collection of comfort letters and other enforcement tools in the Superfund Enterprise Management System (SEMS) that EPA staff can access when necessary. EPA Headquarters instructed the Regions to upload such documents to SEMS on an on-going basis. EPA has completed extensive revisions of the enforcement website to inform and facilitate third-party cleanup and reuse, and will upload sample comfort letters to EPA's intranet site for staff reference.

***How are the accomplishments integrated into the program?***

Accomplishments are integrated via the SEMS repository, website revisions, and EPA intranet uploads.

***How will the accomplishments be sustained?***

Accomplishments will be sustained by ensuring Regions continue to upload enforcement documents into SEMS and by regularly reviewing EPA's enforcement website and intranet content to ensure it contains timely material.

***Timeframe:***

The implementation of this recommendation is completed and EPA will continue to look for opportunities to provide access to enforcement information and tools to support third-party cleanup and reuse of NPL sites.

**STRATEGY 3:**  
**OPTIMIZE TOOLS AND REALIGN INCENTIVES  
TO ENCOURAGE THIRD-PARTY INVESTMENT**

**BACKGROUND:** Before the enactment of the Brownfield Amendments to CERCLA, Prospective Purchaser Agreements (PPAs) and comfort/status letters were used by Regions to address the CERCLA liability concerns of parties who wanted to reuse contaminated properties.

Comfort/status letters were developed as an efficient tool, where a settlement agreement is not appropriate, to provide prospective purchasers and other parties with the information EPA has about a particular party, EPA's intentions with respect to the property as of the date of the letter, and the liability protections that may be available to the party. (See 2015 Revised Comfort/Status Letter Policy and Models.) After the addition of the landowner liability protections by the Brownfield Amendments, EPA issued enforcement guidance which explained that EPA involvement is no longer necessary in most private party transactions given the self-implementing nature of the protections and that EPA generally will no longer be entering into PPAs. In 2006, in recognition that BFPPs at some sites might be interested in performing cleanup work beyond what would be expected of them to maintain their BFPP liability protection (e.g., conducting cleanup work beyond the statutory requirement to take "reasonable steps" to prevent or limit exposure and stop continuing or threatened releases at the site), EPA issued a model agreement for BFPPs who are interested in performing Superfund removal work. EPA also has developed a model agreement to resolve an existing or potential "windfall lien" with interested BFPPs.

**RECOMMENDATION 25: Update EPA's Position on the Use of Site-Specific Agreements with Third Parties at NPL Sites**

***What was accomplished?***

On April 17, 2018, EPA and DOJ issued a new policy memorandum titled "Agreements with Third Parties to Support Cleanup and Reuse at Sites on the Superfund National Priorities List." The memorandum encourages more frequent consideration of Bona Fide Prospective Purchaser (BFPP) agreements and Prospective Purchaser Agreements (PPAs), when appropriate, to foster cleanup and reuse of NPL sites. The new policy memorandum is available on the Agency's

## **GILT EDGE SUPERFUND SITE - PROSPECTIVE LESSEE AGREEMENT HELPS TO DEFINE THE NATURE AND EXTENT OF CONTAMINATION**

The Gilt Edge Superfund Site is an abandoned gold mine located in the northern Black Hills of Lawrence County, South Dakota. Historical operations at the Site caused acidic, heavy metals contamination in surface water and groundwater. To address the contamination, EPA divided the Site into three operable units (OUs). OU2 addresses management and treatment of the acid rock drainage that threatens surface water in the area. EPA implemented an interim remedy at OU2, but will further investigate and address levels of cadmium in surface water that periodically exceed acceptable levels for aquatic life.

Agnico Eagle Mines Ltd. (“Agnico”), a prospective lessee at the Site, approached EPA and the State of South Dakota offering to perform work at the Site in exchange for liability protection. Task Force Recommendation 25 encourages EPA to make greater use of agreements with third-parties to leverage Superfund cleanup and provide liability protections. And Recommendation 23 encourages EPA to make timely use of site-specific tools to address liability concerns.

On February 12, 2018, EPA, the State of South Dakota and Agnico signed an agreement and order on consent for Agnico to perform additional remedial investigative activities within OU2 related to sources of historic mining contamination. These investigations will be used to help define the nature and extent of contamination within OU2 and will also gather information on the subsurface geology. More information about the Site is available at <https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.Cleanup&id=0801668#bkground>



Gilt Edge Superfund Site

website at <https://www.epa.gov/enforcement/third-party-agreements-support-cleanup-and-reuse-superfund-npl-sites>.

### ***How are the accomplishments integrated into the program?***

Regional case teams and Headquarters’ CERCLA Liability and Reuse Action (CLARA) Team will help to ensure this new policy is integrated into the program, i.e., site-specific agreements are used, where appropriate, to foster cleanup and reuse of NPL sites. In addition, EPA designated a new Headquarters’ agreements coordinator to provide support to the Regions in the development of a site-specific PPA or BFPP agreement and a case tracking system to monitor case progress. Case teams will develop public summaries of final agreements for highlighting on EPA’s website.

### ***How will the accomplishments be sustained?***

To sustain these efforts, EPA currently is updating its BFPP and PPA model agreements, under Recommendation 26, to aid Regions in their timely development of site-specific agreements and EPA may issue additional guidance regarding the use of these types of agreements. In addition, under Recommendation 33, EPA also has developed a list of Superfund National Priorities List sites with the greatest expected redevelopment potential (Superfund Redevelopment Focus List). EPA is focusing redevelopment training, tools and resources toward the sites on this list. EPA will continue to publicize successful agreements that support cleanup and reuse by third parties on its Civil Cases and Settlements webpage located at <https://cfpub.epa.gov/enforcement/cases/index.cfm?templatePage=1>.

### **Timeframe:**

The implementation of this recommendation is partially completed. The remainder of this effort will be combined with remaining tasks under recommendation 23 and 26 and will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

## **RECOMMENDATION 26: Revise EPA's Model Agreements to Create More Opportunities for Settlement with Third Parties Interested in Cleaning Up and Reusing NPL Sites**

### ***What was accomplished?***

EPA reinstated its internal cleanup and reuse case tracking system to monitor site-specific progress and identify timely steps to resolve a party's liability issues using EPA's liability tools. EPA also designated a Headquarters' agreements coordinator to support regional work and consult directly with DOJ on site-specific agreements in the tracking system. To integrate and sustain these accomplishments, EPA Headquarters' staff and agreements coordinator will maintain the tracking system, regularly review cases in the system, and work with regional case teams and DOJ to ensure case progress.

In addition, EPA has conducted outreach to BFPPs and other third parties involved in cleanup and redevelopment of contaminated properties to discuss ongoing liability concerns and potential new approaches to facilitate cleanup and reuse.

### ***How are the accomplishments integrated into the program?***

Based on this outreach and lessons learned from site-specific agreements, EPA has identified potential revisions to the current BFPP and PPA model agreements. EPA and DOJ will continue to identify and evaluate opportunities to revise the models to address future liability consistent with CERCLA and DOJ authority and issue new models, as necessary.

### ***How will the accomplishments be sustained?***

The model BFPP and PPA agreements are used by the regions and provide national consistency in the way that EPA applies liability clarification tools.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will be combined with remaining tasks under recommendation 23 and 25 and will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

## **RECOMMENDATION 27: Identify Tools for Third Parties Interested in Investment or Other Opportunities Supporting the Cleanup or Reuse of NPL Sites**

### ***What was accomplished?***

EPA has conducted extensive outreach to lenders, investors, purchasers, and other third parties involved in cleanup and redevelopment of Superfund sites to discuss ongoing liability concerns and potential new approaches to facilitate cleanup and reuse. In June 2018, EPA held two public meetings to solicit stakeholder input. The first meeting was a virtual listening session titled "New Tools to Encourage Private Investment in Cleaning Up and Reusing Superfund Sites" which involved approximately 60 interested parties. The listening session included a discussion of the goals of Recommendation 27, an overview of EPA's current liability clarification tools, and a discussion of issues and topics warranting stakeholder input. Information on the listening sessions, as well as a recording of the session on Recommendation 27, is available at <https://www.epa.gov/enforcement/listening-sessions-superfund-task-force-recommendations>. The second meeting was an in-person meeting with the Environmental Bankers Association that included over 100 interested parties. This meeting included a discussion of the goals of Recommendation 27, an overview of EPA's current liability clarification tools, and a discussion of issues and topics warranting stakeholder input.

### ***How are the accomplishments integrated into the program?***

Through these comprehensive efforts, EPA has identified revisions to the BFPP and PPA model agreements which it will consider through Recommendation 26, revisions to the model comfort/status letter which it will consider through Recommendation 28, changes to the Common Elements Guidance which it will consider through Recommendation 29, and potential new tools it will consider under Recommendation 29.

### ***How will the accomplishments be sustained?***

The BFPP and PPA model agreements, model comfort/status letters and the Common Elements Guidance are the core tools used by EPA to clarify liability issues related to the reuse and redevelopment of contaminated sites. Incorporating the



## **BUNKER HILL MINING & METALLURGICAL SITE - THIRD PARTY SETTLEMENT AGREEMENT SAVES EPA \$1 MILLION ANNUALLY AND MORE**

The Bunker Hill Mining & Metallurgical Site is on the Administrator's Redevelopment Focus List. Bunker Hill Mining Corp (BHMC) is leasing the Bunker Hill Mine from the current owner, Placer Mining Corp. (PMC), and has an option to purchase the mine from PMC. This settlement agreement, between BHMC and EPA and the Department of Justice, presents an opportunity for the potential reuse of a mine that has been shuttered and dormant for some time and offers the following significant benefits to EPA's cleanup efforts at the Site.

Under this agreement, BHMC will: (1) Perform work required under two unilateral administrative orders previously issued by EPA to PMC; this work is a result of PMC's previous operations at the Mine and is work that BHMC was not otherwise responsible for; (2) pay almost \$1 million annually for water treatment costs incurred by EPA, as a result of past operations and BHMC's current use of the mine; and (3) pay up to \$20 million – of approximately \$24 million in outstanding, recoverable past costs against PMC – that EPA would not otherwise recover from PMC because of its inability to pay. BHMC is paying this money on behalf of PMC, the current PRP-owner.

This agreement and associated efforts at Bunker Hill employed a unique approach for addressing contamination from previous operations and waste generation from proposed operations at the Site. These actions are related to many of the goals outlined in the Superfund Task Force Report, including Recommendation 23 (timely use of site-specific tools to address liability concerns) and Recommendation 27 (identifying tools for third parties interested in opportunities supporting cleanup and reuse of contaminated sites).



EPA-operated Central Treatment Plant, where EPA is currently treating the acid mine drainage coming from the Bunker Hill Mine

accomplishments of this recommendation into those documents will ensure they will be sustained.

### ***Timeframe:***

The implementation of this recommendation is completed and EPA will continue to look for opportunities to support third-party cleanup and reuse of NPL sites.

### **RECOMMENDATION 28: Provide Greater “Comfort” in Comfort/Status Letters**

#### ***What was accomplished?***

EPA is revising the 2015 Comfort/Status Letter policy and model letters to reflect changes made to CERCLA through the BUILD Act and in an effort to provide more certainty in EPA's comfort language. OSRE also hosted a listening session for outside participants on comfort/status letters offering them a chance to provide verbal feedback during the session as well as provide written feedback. Thus far, EPA has issued four letters using new language: Mississippi Phosphates (R4), Sanford Gasification Plan (R4), Fulton Avenue (R2), and Bubbly Creek (R5).

#### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

## RECOMMENDATION 29: Revise or Develop New Enforcement Guidance to Support the Cleanup and Reuse of Contaminated Sites

### *What was accomplished?*

EPA divided this recommendation into two major actions: 1. Propose potential revisions to the 2003 “Common Elements Guidance” based on case law developments and lessons learned by EPA and private sector and 2. Identify potential opportunities to expand non-liable party approaches under CERCLA section 107(d) for addressing liability issues and promoting redevelopment.

#### *2003 “Common Elements Guidance”*

EPA has conducted comprehensive review and discussions on potential revisions to the “Common Elements” Guidance. The anticipated revisions to the guidance have been thoroughly discussed by an internal national EPA workgroup, and feedback has been received and integrated into the guidance via an OSRE-sponsored listening session attended by approximately 50 stakeholders.

#### *CERCLA section 107(d)*

EPA developed a working draft of a broader model CERCLA section 107(d) settlement agreement to facilitate third party participation in rendering care, assistance or advice in response to a release of a hazardous substance. In addition, EPA developed a working draft of a broader model section 107(d) comfort/status letter. For both models EPA identified key issues and questions that need to be resolved before the models may be finalized.

### **UPPER COLUMBIA RIVER SUPERFUND SITE - 107(D) SETTLEMENT AGREEMENT RESULTS IN CLEANUP OF FOUR RESIDENTIAL YARDS**

The Upper Columbia River Superfund Site in Region 10 starts at the US/Canada border and extends 150 river miles into Washington; both the river and uplands areas are contaminated due to discharges from the Teck Cominco lead-zinc smelter in Trail, British Columbia. Although Teck was held not liable as an arranger for contamination in the uplands portion of the Site, it was willing to voluntarily conduct additional removal actions on four residential properties in the uplands portion. Because Teck is not acquiring the properties at issue, a BFPP agreement was unavailable as a tool.

Region 10 proposed using an administrative settlement agreement and order on consent (ASAOC), which relied on CERCLA § 107(d), with a covenant not to sue for the work to be performed. CERCLA 107(d) provides that “no person shall be liable under this for costs or damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice in accordance with the NCP or at the direction of an on-scene coordinator appointed under such plan, with respect to an incident creating a danger to public health or welfare or the environment as a result of any releases of a hazardous substance or the threat thereof.”

Because it's not liable under CERCLA for the uplands portion of the Site, Teck would be rendering care by voluntarily performing removals at four residential properties. In September 2017, Teck, EPA, and the Department of Justice signed an ASAOC, relying on CERCLA § 107(d). This effort directly relates to Task Force Recommendation #29: identifying potential opportunities to expand non-liable party approaches under § 107(d) for addressing liability issues.

### *How are the accomplishments integrated into the program?*

#### *2003 “Common Elements Guidance”*

The revised “Common Elements Guidance,” through the integration of updated case law, a more thorough analysis of specific obligations, the inclusion of references to recently issued EPA guidance documents, and the development of language based on stakeholder comments and site-specific work on landowner liability issues, will assist third parties with identifying and creating opportunities for new investment in cleaning up contaminated sites.

EPA will address program integration of revisions to the model section 107(d) settlement agreement and comfort letter under this recommendation in Year 2 before determining whether the models may be finalized.

***How will the accomplishments be sustained?***

EPA personnel and stakeholders will be directed to the revised “Common Elements Guidance” for the main source of information on the landowner liability provisions. The revised guidance should provide parties with better clarity on their obligations and their liability as they move toward redevelopment of contaminated sites. OSRE may provide additional education on the revised guidance via webinars and in-person presentations at the next Brownfields Conference and other stakeholder forums.

EPA will address sustainability of revisions to model section 107(d) settlement agreement and comfort letter under this recommendation in Year 2 before determining whether the models may be finalized.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of the work related to models under CERCLA section 107(d) will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

**RECOMMENDATION 30: Revise Federal Facility Enforcement Guidance**

***What was accomplished?***

EPA has developed a first revision of the 1997 “Policy Towards Landowners and Transferees of Federal Facilities.” Originally, a primary focus of the revision was to assist the Alaskan Natives with pre-1986 transfers of U.S. land. An Alaskan Native representative testified before Congress recently that the Alaskan Natives were concerned about becoming CERCLA liable if they redeveloped property transferred by the United States prior to 1986. EPA had several meetings on providing relief to the Alaskan Natives with other Federal agencies, particularly DOD as they transferred the most land, and ECOS and ASTSWMO. In the meantime, Congress passed a law exempting the Alaskan Natives from CERCLA owner/operator status under certain conditions. A primary focus of the policy then changed. The remaining primary focus is to encourage redevelopment at Federal facilities by increasing flexibility for EPA to provide comfort to transferees that they will not be held liable for U.S. contamination. The most recent version has been commented upon by an internal workgroup and those comments are being incorporated.

EPA has also developed a first draft of model language for placing Federal Facilities Agreement (FFA) provisions on hold in instances where a third party wants to perform the cleanup work. This recommendation has been discussed with other federal agencies and with ECOS and ASTSWMO on several occasions. Comments from the internal workgroup are being incorporated

***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

## **STRATEGY 4:**

### **ADDRESS LIABILITY CONCERNS OF LOCAL GOVERNMENTS**

**BACKGROUND:** Local governments play an integral role in facilitating the cleanup and reuse of contaminated properties. By acquiring contaminated properties, local governments have the opportunity to evaluate and assess public safety needs and promote redevelopment projects that will protect and improve the health, environment, and economic well-being of their communities. Although local governments may take advantage of the statutory liability protections, including the “involuntary acquisition” protection in section 101(20)(D), the innocent landowner defense in section 101(35)(A), and the BFPP protection, these governments continue to raise potential liability concerns about the acquisition of contaminated property as a barrier to reuse. Local government liability concerns at contaminated properties include the timing of and the cost associated with conducting due diligence, the meaning of “involuntary acquisition” in the statutory provisions, and the need for tools specific for local governments.

#### **RECOMMENDATION 31: Develop New Local Government Enforcement Guidance to Address Concerns Raised by the Landowner Liability Provisions Potentially Applicable to Local Governments**

##### ***What was accomplished?***

EPA identified a fact sheet as the best tool to address local governments potential liability concerns. EPA conducted an internal review and comment process on the existing EPA fact sheet addressing CERCLA liability for local government activities. During the fact sheet revision process, Congress amended Section 101(20)(D) to expand the liability protection for state and local governments. EPA evaluated the statutory change and will incorporate new policies into the fact sheet. Once complete, the revised fact sheet will serve as primary resource for local governments evaluating CERCLA liability concerns. EPA continues to consider policy options, tools, and approaches to address liability concerns of local governments.

##### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

##### ***Timeframe:***

The implementation of this recommendation and analysis of the statutory change are partially completed. The remainder of this effort will be combined with the remaining activities in Recommendation 32 and will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

#### **RECOMMENDATION 32: Develop a Model Comfort/Status Letter and Other Tools to Address the Liability Concerns and Other Barriers Unique to Local Governments**

##### ***What was accomplished?***

EPA identified a local government-specific comfort letter as the best tool to facilitate and support local governments in the acquisition of contaminated properties. EPA is in the process of drafting the local government specific comfort letter. EPA continues to consider policy options, tools, and approaches to address liability concerns of local governments.

##### ***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

##### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will be combined with the remaining activities in Recommendation 31 and will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

# GOAL 4 – PROMOTING REDEVELOPMENT AND COMMUNITY REVITALIZATION

## STRATEGY 1: FACILITATE SITE REDEVELOPMENT AND SUPPORT ONGOING INFORMATION SHARING

**BACKGROUND:** Building capacity and providing training to EPA, federal, state, tribal and local government staff, elected officials, and other community-based organizations on: the overall site cleanup process as it relates to redevelopment potential; key components of land use and economic development planning; and funding and financing tools will provide better support to communities and promote redevelopment of Superfund sites. Local planning departments and elected officials are critical in developing land use alternatives especially during the RI/FS phase of cleanup. Making sure interested parties have the training and basic knowledge regarding the site cleanup process will inform future use decisions and facilitate interested parties' ability to promote redevelopment at Superfund sites.

Providing training that identifies specific actions a community can take in the near term will help community stakeholders understand the market potential/limitations of the site, including how they can make the site more attractive to future development. Initial work by a community demonstrates commitment to site reuse, and signals to developers that the community is a willing partner.

Reuse is further promoted when the community, including developers, has access to more information about an individual site and the sites around it. This includes determining which types of sites businesses/industries/developers are interested in potentially redeveloping and sharing information with them to promote Superfund site redevelopment.

### **RECOMMENDATION 33: Focus Redevelopment Efforts on 20 NPL Sites with Redevelopment Potential and Identify 20 Sites with Greatest Potential Reuse**

#### *What was accomplished?*

In January 2018, EPA released the initial Redevelopment Focus List of 31 NPL Superfund sites with the greatest reuse potential. To identify sites, EPA coordinated extensively within the Agency, as well as with state counterparts and site owners. Since the list's release, EPA activities have included the following:

- Provided training, tools and resources to these sites as well as other priority sites identified by the regions;
- Responded to over 120 redevelopment-related prospective purchaser inquiries for sites on the Focus List, in addition to other sites garnering interest;
- Issued reuse fact sheets for all sites on the Focus List, as well as an additional 32 sites in Region 4, and posting the fact sheets to the "Promoting Redevelopment" section of the Superfund Redevelopment Initiative (SRI) website. The fact sheets provide site owners, future site users, prospective purchasers, lenders and developers with valuable redevelopment information; and
- Provided site stakeholders, businesses and developers interested in Superfund site reuse with the information needed to understand the site cleanup and redevelopment process, and associated liabilities and obligations. Efforts include training, both in person and via webinar, for EPA staff across waste programs with a land revitalization interest.

The Redevelopment Focus List and facts sheets for each list site, are available at <https://www.epa.gov/superfund-redevelopment-initiative/superfund-redevelopment-focus-list>.

### ***How are the accomplishments integrated into the program?***

EPA has integrated these accomplishments into the routine activities of SRI. The activities resulting from this recommendation are consistent with the mission of SRI – to ensure that effective processes and tools needed to return Superfund sites to beneficial reuse are available to stakeholders, communities, developers and property owners. EPA will continue to focus on providing direct support and training to EPA regions, as well as site-specific information to communities, stakeholders and developers interested in redeveloping these sites. EPA will stress the importance of understanding future use early in the cleanup process through training, best practices, and case studies to ensure site redevelopment potential is realized.

### ***How will the accomplishments be sustained?***

EPA will continue to post site-specific information about sites available for reuse prominently on the SRI website for stakeholders, developers and businesses seeking information about sites available for redevelopment. Additionally, EPA will identify and promote best practices across the regions for working with potential developers. EPA will continue to ensure accurate information about liability tools are available to interested parties. These tools can be incorporated into the Prospective Purchase Inquiry (PPI) toolbox, currently a joint effort between Superfund enforcement and cleanup staff in the regions.

### ***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will be combined with the remaining activities in recommendation 34 and will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

## **RECOMMENDATION 34: Publicize Site Specific Information to Promote Community Revitalization**

### ***What was accomplished?***

Under this recommendation, EPA focused on developing and providing site-specific information on sites ready for reuse including:

- Reorganized the Superfund Redevelopment Initiative (SRI) website (<https://www.epa.gov/superfund-redevelopment-initiative>) to reflect Task Force activities and to consolidate reuse opportunities under a new topic area, “Promoting Redevelopment;”
- Issued 63 new or updated reuse fact sheets for sites on the Redevelopment Focus List and other sites identified by the regions that could benefit from publicizing site information. The fact sheets provide site owners, future site users, prospective purchasers, lenders and developers with site-specific information from both Superfund cleanup and real estate-oriented perspectives; and
- Created a new mapping tool on the SRI website that provides map-based search capabilities for Superfund site maps depicting site-specific information related to the 31 Redevelopment Focus List sites.

Sites that have achieved the Agency’s Sitewide Ready for Anticipated Use (SWRAU) measure are particularly relevant to those interested in reusing Superfund sites or identifying sites that may be able to support additional uses. EPA activities to promote reuse at SWRAU sites, included the following:

- Ensured that information related to the SWRAU performance measure is up-to-date and readily accessible on the SRI website;
- Updated the total number of SWRAU sites by fiscal year and expanded the list of confirmed SWRAU sites to include site reuse status; and
- Updated the list of SWRAU retractions.



**EPA** Potential for Future Use  
Charleston Former Industrial Property  
Charleston Heights, Charleston, South Carolina 29405

*An aerial photograph of the site.*

**Site Name:** Koppers Co., Inc. (Charleston Plant) Superfund Site  
**Size:** 102 acres  
**Existing Site Infrastructure:** All major utilities are available on site.  
**Readiness for Reuse:** The site is part of an infill development project that is expected to include a mix of residential, retail, office/hotel space and parks.  
**Use Restrictions:** Future owners must comply with any land use controls required by the remedy to ensure long-term protection of the site remedy.

**SETTING:**

- The site is a key part of a larger, 220-acre assemblage of properties that the city of Charleston has zoned for a mixed-use brownfield redevelopment project that includes commercial office space and shopping areas, residential areas, parks, and civic and park space.
- Phase 1 of construction began in October 2008, but development stalled for several years due to the recession.
- After bankruptcy proceedings, the site has a new owner. The new site owner and developers remain committed to completing a mixed-use project on the site.
- New cleanup plans will support the potential for redevelopment moving forward.
- Land uses nearby include residential, commercial and industrial areas. The neighborhood of Rosemont is just north of the site.
- Surrounding population: 0.5 mile, 291 people; 2.5 miles, 31,342 people; 1.4 miles, 98,145 people.

(Disclaimer: EPA does not warrant that the property is suitable for any particular use. Prospective purchasers must consult the property owner for such potential.)

**REMEDIAL STATUS:**

- Cleanup began in 1991. Construction of the site-wide remedy finished in 2003.
- In September 2017, EPA issued a Proposed Plan for \$30 million in remedy upgrades to be protective under a future commercial/industrial land use scenario.
- EPA anticipates signing this amendment to the cleanup plan in early 2018.
- Additional cleanup work will start in spring/summer 2018.

**FOR MORE INFORMATION, PLEASE CONTACT:**

Bill Dumas Superfund Remediation Coordinator Superfund Division U.S. EPA Region 4 Phone: (803) 562-6039 Email: <a href="mailto:bill.dumas@epa.gov">bill.dumas@epa.gov</a>	Craig Zeller Remedial Project Manager Superfund Division U.S. EPA Region 4 Phone: (803) 562-6027 Email: <a href="mailto:craig.zeller@epa.gov">craig.zeller@epa.gov</a>
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Site Summary: [www.epa.gov/superfund/sites/charleston-plant](https://www.epa.gov/superfund/sites/charleston-plant)  
January 2018

EPA Region 4 Reuse Fact Sheets

Information on NPL sites achieving the SWRAU measure is found at: <https://www.epa.gov/superfund-redevelopment-initiative/performance-measures-superfund-sites#SWRAU>.

***How are the accomplishments integrated into the program?***

EPA has integrated these accomplishments into routine SRI activities. The activities resulting from this recommendation are consistent with the mission of SRI – to ensure that effective processes and tools needed to return Superfund sites are available to stakeholders, communities, developers and property owners. EPA will continue to develop and publicize site-specific information to promote Superfund site redevelopment and community revitalization.

***How will the accomplishments be sustained?***

Moving forward, EPA will continue to develop materials that include site-specific information about sites available for reuse and post these materials prominently on the SRI website. EPA will continue to provide direct support to communities interested in Superfund redevelopment and ensure that key information about site cleanup and redevelopment is available to interested parties.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will be combined with the remaining activities in recommendation 33 and will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

**RECOMMENDATION 35: Build Capacity of EPA and Its Stakeholders on the Broad Community and Economic Development Context for Site Remediation and Redevelopment**

***What was accomplished?***

During Year 1, the SFTF built capacity internally for EPA staff and externally for stakeholders through a variety of trainings focused on Superfund redevelopment. Activities included the following:

- Conducted three training webinars for EPA staff, and a public webinar. One of the internal training webinars, “Contaminated Properties,” trained EPA staff on how to engage with industries, businesses and developers regarding redevelopment at all types of sites within EPA’s cleanup programs;
- Provided two half-day training sessions highlighting reuse at the 25th National Association of Remedial Project Manager (NARPM) Conference;
- Attended the National Brownfields Conference to share reuse planning, training and redevelopment success story materials with conference attendees. EPA met with community members, developers, contractors, state representatives and other interested parties to share redevelopment information; and
- Developed materials for the July 2018, EPA Community Involvement Training Program to help Superfund Community Involvement Coordinators understand Superfund redevelopment and are equipped with the tools to support communities and stakeholders interested in redevelopment, especially redevelopment at sites on the Redevelopment Focus List.

***How are the accomplishments integrated into the program?***

EPA has integrated these accomplishments into the routine activities of SRI and Brownfields and Land Revitalization programs, with future webinars, regional training, NARPM support, and Brownfields conference participation expected. The activities resulting from this recommendation are consistent with SRI’s mission. EPA will continue to share tools and information through a variety of internal and external trainings, meetings and conferences.

### ***How will the accomplishments be sustained?***

As a regular course of action, site redevelopment training will be made available to Superfund, Brownfields, RCRA and other interested EPA staff to ensure that staff across all programs stay up-to-date on reuse barriers and the tools available to address these barriers and support redevelopment.

### ***Timeframe:***

The implementation of this recommendation is complete, and EPA will continue to look for ways to build capacity for redevelopment at Superfund sites.

## **RECOMMENDATION 36: Engage Superfund Communities in Cleanup and Redevelopment**

### ***What was accomplished?***

During Year 1 EPA has worked to engage communities affected by EPA cleanup and redevelopment by providing relevant trainings and information on the Superfund and Brownfield processes.

- Published over 20 case studies, fact sheets, reports and online materials. These case studies and fact sheets explore Superfund reuse stories to document what redevelopment strategies worked, acknowledge reuse barriers and understand how communities overcame the barriers to create new reuse outcomes. Case studies and fact sheets are available at <https://www.epa.gov/superfund-redevelopment-initiative/depth-case-studies-superfund-reuse> and <https://www.epa.gov/superfund-redevelopment-initiative/superfund-redevelopment-initiative-success-stories>;
- Collected and published national economic data for FY2017. EPA tracks this economic information to give a general overview of the beneficial effects nationally associated with Superfund redevelopment. Information on redevelopment economics can be found at <https://www.epa.gov/superfund-redevelopment-initiative/redevelopment-economics-superfund-sites>; and
- Provided trainings and attended meetings, events and conferences to engage communities and provide materials to promote redevelopment.

### ***How are the accomplishments integrated into the program?***

EPA has integrated these accomplishments into routine SRI activities. EPA routinely publishes case studies, fact sheets, and other online materials to provide examples, tools and resources for communities and stakeholders to reference when they are considering site redevelopment. EPA also continues to collect and report out on the economic impacts associated with redevelopment via national numbers, regional reports and site-specific local economic impact case studies on an annual basis. This includes ongoing research and analysis to ensure current information is available.

### ***How will the accomplishments be sustained?***

EPA will continue to develop materials that provide site-specific information about sites available for reuse, and that highlight the processes, best practices and strategies that have been used at sites that are now redeveloped. SRI will continue to provide direct support to communities interested in Superfund redevelopment and ensure that key information about site cleanup and redevelopment is available to interested parties.

### ***Timeframe:***

The implementation of this recommendation is completed, and EPA will continue to look for ways to engage communities in Superfund site redevelopment.



## RECOMMENDATION 37: Recognize and Replicate Local Site Redevelopment Successes

### *What was accomplished?*

During Year 1, EPA focused on awarding more site reuse awards across the regions to recognize redevelopment success and promote and replicate these successes. EPA developed an internal ‘how-to’ guide for EPA staff on how to plan for and issue site reuse awards. The internal guide discusses regional reuse award programs and provides information to help EPA staff and site teams explore ways to celebrate achievements and success stories. EPA presented “State Excellence in Supporting Reuse Awards” to three state agencies at the annual ASTSWMO Meeting. Additionally, SRI presented site-specific awards at 7 sites to over 70 recipients, recognizing community members, local governments, developers and others for their contributions to site redevelopment successes. Information on sites that received reuse awards is available at <https://www.epa.gov/superfund-redevelopment-initiative/superfund-redevelopment-initiative-reuse-awards>.

The State winners were:

- Indiana Department of Environmental Management
  - Continental Steel (Kokomo)
  - Lake Sandy Jo (M&M Landfill) (Gary)
  - Tippecanoe Sanitary Landfill (Lafayette)
- North Carolina Department of Environmental Quality
  - Martin-Marietta, Sodyeco, Inc. (Charlotte)
  - Ecusta Mill (Pisgah Forest)
- Virginia Department of Environmental Quality
  - Avtex Fibers (Front Royal)
  - Chisman Creek (York County)
  - Dixie Caverns County Landfill (Salem)



Continental Steel Corp.



Martin-Marietta, Sodyeco, Inc.

### *How are the accomplishments integrated into the program?*

EPA has integrated these accomplishments into routine SRI activities. The activities resulting from this recommendation are in line with the mission of SRI – to ensure that effective processes and tools needed to return Superfund site are available to stakeholders, communities, developers and property owners. EPA will continue to identify sites where redevelopment successes have occurred and recognize the entities contributing to the successes.

### *How will the accomplishments be sustained?*

EPA will share the internal ‘how-to’ guide with the appropriate contacts to ensure understanding of the reuse awards and the process for issuing these awards. EPA will track all awards issued, which will enable fast and easy implementation of an annual, national award if senior management requests, and will strive to present at least one award in each region annually.

### *Timeframe:*

The implementation of this recommendation is completed, and EPA will continue to look for ways to recognize successful Superfund site redevelopment.

## STRATEGY 2:

### UTILIZE REUSE PLANNING TO LAY THE FOUNDATION & SET EXPECTATIONS FOR SITE REDEVELOPMENT

**BACKGROUND:** EPA can play a significant role in helping communities realize the associated health, economic and social benefits that accompany Superfund site redevelopment. Cleanup must be coupled with assistance that addresses neighborhood and community challenges to redevelopment to expand the community's ability to redevelop sites. That assistance includes identifying barriers to redevelopment and helping to overcome them.

Additionally, EPA can help communities find ways to enter into partnerships with more public/private organizations and private business organizations such as real estate professionals, lenders, and developers. Using these partnerships can facilitate reuse by identifying resources these partners may have or connecting the site with potential users interested in developing the site.

#### RECOMMENDATION 38: Support Community Visioning, Revitalization, and Redevelopment of Superfund Sites (Superfund)

##### *What was accomplished?*

During Year 1, EPA focused on providing direct support to communities interested in Superfund redevelopment and ensuring communities have the information they need to plan for site redevelopment. Specific accomplishments include the following:

- Provided technical assistance to over 20 communities in 9 Regions through regional seed projects and ongoing regionally-funded support;
- Published five technical reuse reports on the SRI website that highlight the reuse planning processes and outcomes at sites that have received technical assistance;
- Worked to develop Ready for Reuse (RfR) Determinations for three sites to provide information about land use restrictions and other institutional controls to stakeholders and ensure these sites are reused safely;
- Assembled a redevelopment team of EPA experts available to help advise businesses, developers and stakeholders, when needed;
- Conducted regular meetings of Regional SRI Coordinators to discuss redevelopment efforts taking place in the regions; and
- Supported a Superfund Job Training Initiative project at Madison County Mines site in Region 7. In March 2018, 24 residents graduated from the program, and job placement of graduates is ongoing.

##### *How are the accomplishments integrated into the program?*

EPA has integrated these accomplishments into routine SRI activities. The activities resulting from portions of this recommendation are consistent with the mission of SRI – to ensure that effective processes and tools needed to return Superfund site are available to stakeholders, communities, developers and property owners. EPA will continue to provide direct support to communities through technical assistance. Redevelopment experts and Regional SRI Coordinators will continue to provide support to EPA site teams and stakeholders, as needed.



***How will the accomplishments be sustained?***

Superfund will continue to coordinate with Brownfields and other Programs to support cross-program efforts where and when appropriate. Portions of Recommendation 38 related to other cleanup programs will be tracked independently of Superfund redevelopment.

***Timeframe:***

The implementation of this recommendation is completed, and EPA will continue to look for ways to support community revitalization.

**RECOMMENDATION 39: Engage and Facilitate Public/Private Partnerships to Share Information, Resources, and Work Toward Advancing and Promoting the Revitalization of the Site.**

***What was accomplished?***

As noted in Recommendation 38, during Year 1 EPA provided technical assistance to over 20 communities in 9 Regions through regional seed projects and ongoing regionally funded support. These regional seed projects provided the opportunity for interactions between a wide range of stakeholders, including EPA, property owners, local government officials, state agencies, school districts, community groups, other federal agencies such as the United States Department of Agriculture (USDA), development agencies and other entities.

***How are the accomplishments integrated into the program?***

EPA has integrated these accomplishments into the routine SRI activities. The activities resulting from the Superfund-related portions of this recommendation are consistent with the mission of SRI – to ensure that effective processes and tools needed to return Superfund site are available to stakeholders, communities, developers and property owners. EPA will continue to provide direct support to communities through technical assistance. Redevelopment experts and Regional SRI Coordinators will continue to provide support to EPA site teams and stakeholders, as needed.

***How will the accomplishments be sustained?***

This recommendation has been combined with recommendations 33 and 34. EPA will address program integration and sustainability in Year 2 through these combined recommendations.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Chapter 2 for next steps.

# GOAL 5: ENGAGING PARTNERS AND STAKEHOLDERS

## STRATEGY 1: KEY STAKEHOLDER ENGAGEMENT

**BACKGROUND:** Making the Superfund process more efficient and promoting revitalization to gain long-term benefits for impacted communities must necessarily include building stronger strategic partnerships with key stakeholders across the Superfund process. Such strong partnerships will serve as the underpinnings of this plan's other goals and the basis of relationships going forward.

We must deploy an assortment of partnership building activities and engagement opportunities to increase the collaboration with, and impact of, key partners and stakeholders. New activities and opportunities will be combined with ensuring that traditional engagement activities include a focus on the goals of this Administrator's initiative.

### RECOMMENDATION 40: Develop a Robust Communications Strategy to Identify and Target Key Stakeholders

#### *What was accomplished?*

EPA developed and released a "Partnership and Stakeholder Engagement Strategy" to increase public participation and transparency at Superfund sites and to strengthen EPA's partnerships and engagement with: states; tribal governments; local governments and regional authorities; environmental and community-based organizations - including Environmental Justice; industry, contractors and potentially responsible parties; land development and banking associations; and other federal agencies.

To implement this strategy, EPA formed an internal stakeholder engagement team to support public participation in the ongoing SFTF recommendations work. The team developed and maintains a web page to inform the public, partners, and stakeholders about the status and results of the SFTF recommendations, including quarterly updates on the status of all recommendations. The SFTF web page can be found at <https://www.epa.gov/superfund/superfund-task-force>. The web page also features the information about events and opportunities for public participation, input and comment on individual SFTF recommendation activities.

EPA also participated in and conducted a series of dialogues via meetings, webinars and workgroups to strengthen partnerships and engagement to implement the SFTF recommendations. The Environmental Council of States (ECOS) formed an ECOS-EPA Superfund Workgroup to work with EPA on implementing the SFTF recommendations. The workgroup holds regular calls with EPA to discuss state comments on



Senior EPA representatives meet with the Kansas City National Association for the Advancement of Colored People chapter president, a representative of the Kansas Sierra Club chapter and Wyandotte County Unified Government representatives to discuss redevelopment in the county.

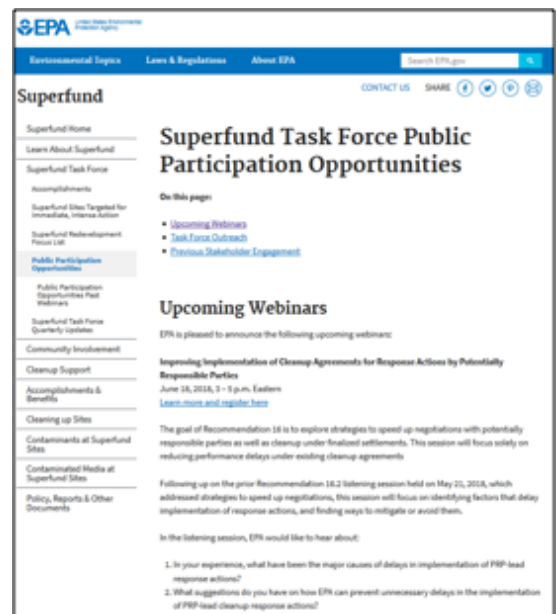


Photo of EPA's Superfund Task Force Public Participation Opportunities web page linked at <https://www.epa.gov/superfund/superfund-task-force-public-participation-opportunities>

task force recommendations and provide state input on implementation moving forward. EPA and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) developed an approach for providing ongoing state input as EPA implements the SFTF recommendations and will provide regular updates on this work to the ECOS SFTF workgroup. EPA is working with the National Tribal Caucus on a regular engagement process during implementation of the recommendations and moving forward in the Superfund process.

At EPA's national Brownfields conference in December 2017, EPA discussed redevelopment opportunities and ideas for enhanced participation in site reuse planning at Superfund sites – and these discussions will continue as part of year 2 SFTF activities.

Between May 21, 2018 and June 18, 2018, EPA's Office of Enforcement and Compliance Assurance hosted eight listening sessions to solicit public and stakeholder input related to specific recommendations and to report on the progress to date on activities related to the recommendations. More than 650 persons registered to participate in the eight sessions, representing the legal community (private attorneys and law schools); corporations and companies; state, municipal and tribal agencies; environmental and other non-profit groups including environmental justice organizations; and public citizens. The listening sessions are part of the Agency's efforts to increase public participation and transparency, and strengthen communication with stakeholders. The sessions were well received by external stakeholders. During the public remarks section of the sessions, the participants thanked the Agency repeatedly for the opportunity to participate, be part of the process, and provide remarks. Recordings of the listening session can be accessed at: <https://www.epa.gov/enforcement/listening-sessions-superfund-task-force-recommendations>

Through the SFTF, EPA has increased its efforts to directly engage communities and stakeholders at Superfund sites. Senior EPA leaders have visited over 40 sites and met with community leaders, local governments and concerned stakeholders to better understand their issues and options for site cleanup and reuse. EPA senior leaders have also regularly and formally met with stakeholders to discuss the Task Force work and the future of the Superfund program. For example, on January 24, 2018, they met with representatives from the Center for Health, Environment and Justice; Texas Environmental Justice Advocacy Service; Texas Campaign for the Environment; Headwater Defense; Local Environmental Action Demanded; Jesus People Against Pollution; United Neighbors Concerned About GE Dewey Loeffel Landfill; Hoosick Falls Support Network; POWER Action Group; Texas Health and Environment Alliance; and San Jacinto River Coalition.

This direct stakeholder engagement with EPA senior leadership and program staff is critical to EPA's mission of protecting human health and the environment around Superfund sites now and over the long-term. It builds on the ongoing Superfund program efforts, where between July 25, 2017 and June 27, 2018, regional Superfund staff:

- Held or participated in more than 1,370 public meetings
- Conducted or participated in more than 3,190 in-person meetings or interviews
- Distributed more than 460 factsheets, mailings, postcards, ads or newsletters that reached tens of thousands of people living near Superfund sites

This critical, comprehensive, senior management-to-site management level engagement with affected communities and stakeholders will continue in year 2 of the SFTF and will serve as a standard for EPA efforts throughout the Superfund program in years to come.

***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

**RECOMMENDATION 41: For Federal Facility Sites, Collaborate with Other Federal Agencies (OFAs) to Solicit Their Views on How EPA Can Better Engage Federal Agencies**

***What was accomplished?***

EPA has enhanced its engagement with other Federal agencies and states through a multi-step process. First, to examine what was working well, EPA compiled a baseline list of the ways it engages with other Federal agencies and states at both the headquarters and Regional levels. Next, EPA incorporated feedback received on this effort and shared the feedback with states and other Federal agencies. Finally, EPA prepared and piloted a headquarters-to-headquarters engagement plan with Department of Defense (DoD) and requested ideas to further refine the plan.

***How are the accomplishments integrated into the program?***

EPA has regularly-scheduled meetings with other Federal agencies and states and has improved these meetings in terms of focus, purpose, and construction through this recommendation. For example, EPA used executive level meetings with DoD and the military components (e.g., Army, Navy, Air Force, and Defense Logistics Agency) to target and resolve critical programmatic issues. EPA Headquarters staff also participated in Regional engagement meetings with states and other Federal agencies to discuss national program issues.

***How will the accomplishments be sustained?***

EPA will continue to seek ways to improve its engagement with other Federal agencies and states, emphasizing protective cleanups and recognizing site reuse opportunities and successes. EPA, other Federal agencies, and states have committed to continuing early meeting planning and focusing on issues with a problem-solving and action-oriented approach. EPA has invited parties to hold one another accountable to these goals. In addition, EPA will continue to identify best practices and focused engagement opportunities at a national level through organizations like the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) and the Environmental Council of the States (ECOS) as well as at a Regional level through tools like tiered partnering with states and other Federal agencies.

***Timeframe:***

The implementation of this recommendation is completed and EPA will continue to look for opportunities to improve collaboration with other Federal agencies.

**RECOMMENDATION 42: Use a Federal Advisory Committee to Work with a Broad Array of Stakeholders to Identify Barriers and Opportunities Related to Cleanup and Reuse of Superfund Sites**

***What was accomplished?***

The planned activities and deliverables for this recommendation are underway. The National Environmental Justice Advisory Council (NEJAC) has been selected as the federal advisory committee through which recommendations will be sought. It is anticipated that individual members of other relevant EPA federal advisory committees will serve on the NEJAC work group that will be convened to draft proposed recommendations for the NEJAC. A preliminary draft charge is under review and anticipated that the final draft charge will be issued to the NEJAC in Q1 FY2019.

***How are the accomplishments integrated into the program and sustained?***

EPA will address program integration and sustainability in Year 2.

***Timeframe:***

The implementation of this recommendation is partially completed. The remainder of this effort will continue in Year 2 of the Superfund Task Force. Please refer to Superfund Task Force Year 2 Chapter for next steps.

# Chapter 2:

## SUPERFUND TASK FORCE

### YEAR 2 WORK PLAN

EPA will finalize numerous critical actions designed to expedite reduction of risks to human health and the environment and accelerate the reuse of properties affected by hazardous substance contamination. Once the actions are finalized, EPA will integrate them into program processes and develop mechanisms to ensure sustainability and continuous improvement.

For Year 2, EPA has combined some of the remaining tasks into fewer related recommendations to gain efficiencies and avoid duplication.

**Table 2. Year 2 Continuing Recommendations**

Five of the continuing recommendations will complete by September 2018.

RECOMMENDATION # (REMAINING TASKS)	COMPLETION DATE
1, 2*	June 2019
3, 5, 8*	June 2019
4	June 2019
6	June 2019
9, 10	September 2018
11	December 2018
13	December 2018
14	December 2018
15	March 2019
16	September 2018/March 2019
18	September 2018
19	December 2018/March 2019
21	September 2018
22	September 2019
23, 25, 26*	September 2019
28	September 2018
29	September 2018/ September 2019
30	September 2018
31, 32*	June 2019
33, 34, 39*	September 2018/September 2019
40	September 2019
42	September 2019

\*Combined for Year 2

# GOAL 1: EXPEDITING CLEANUP AND REMEDIATION

## **RECOMMENDATIONS 1, 2: Target NPL Sites That Are Not Showing Sufficient Progress Toward Site Cleanup and Completion**

EPA will continue to focus on targeting sites for completion through implementation of the following activities:

- Continue to replenish the list of NPL sites to target for completion based on applicable criteria that signify that a site may not be progressing through the Superfund pipeline in a timely manner.
- Adhere to established processes for tracking and reporting on progress towards site completion:
- Establish metrics on all sites to track and report progress on achieving/meeting timelines;
- Track site progress within Superfund Enterprise Management System (SEMS); and
- Continue to conduct regional and Headquarters work planning sessions at least annually to discuss site progress.
- Develop strategies to move NPL sites toward deletion:
- Continue to review and revise the NPL deletion policy to maximize statutory flexibility;
- Focus resources on maximizing deletions/partial deletions for sites that meet statutory criteria; and
- Provide the Administrator an annual report of sites progressing to deletion.

**Completion Date:** June 2019

## **RECOMMENDATIONS 3, 5, 8: Improve NPL Site Planning and Management through Promotion of Adaptive Management for Complex Sites, Clarify Use of Interim and Early Actions, and Focused Scoping and Priority Setting during Remedial Investigations and Feasibility Studies (RI/FSs)**

This recommendation will leverage progress on Adaptive Management and best management practices for focused scoping accomplished in Year 1. Year 2 activities will include the following:

- Initiate Adaptive Management early adopter pilot projects and issue final project management guidance based on pilot results;
- Conduct additional training on Adaptive Management guidance and lessons learned from pilots;
- Clarify guidance on interim and early actions and on focused scoping and priority setting during the RI/FS process;
- Develop a RI/FS Toolbox for regional staff to make guidance and tools for conducting RIs and FSs more readily available;
- Incorporate early/interim action guidance and use scoping BMPs into AM pilots, as appropriate; and
- Conduct training on focused scoping and RI/FS priority setting.

**Completion Date:** June 2019



#### **RECOMMENDATION 4: To Better Promote National Consistency and Review, Update Authority of Approval of Remedy Selection While Considering the Retained Authority of the Administrator**

EPA plans to finalize new charters for the National Remedy Review Board and the Contaminated Sediments Technical Advisory Group to ensure greater consistency in national remedy selection. EPA will also revamp its implementation processes during the RI/FS stage to continue to accelerate work and achieve greater consistency.

**Completion Date:** June 2019

#### **RECOMMENDATION 6: Provide Clarification to the Principles for Superfund Groundwater Restoration**

EPA will complete the following remaining activities:

- In December 2018, EPA will issue the available groundwater response flexibilities in existing EPA Superfund groundwater policy documents drafted in Year 1; and
- EPA, in collaboration with ASTSWMO and ECOS, will complete an evaluation of groundwater beneficial use policies with a focus on beneficial use determinations. EPA will then decide if new guidance related to this topic is needed.

**Completion Date:** June 2019

#### **RECOMMENDATIONS 9, 10: Utilize State-of-the-Art Technologies to Expedite Cleanup and Develop Technical Tools to Inform RPMs Regarding Available Resources so that Technical Support Providers Can Assist with Best Management Practice Applications**

EPA will complete the following remaining activities:

- Make TechHub available to regional Superfund staff;
- Implement TechHub outreach strategy to ensure regional staff are aware of and know how to use the tool; and
- Develop a coordinated technical information dissemination plan.

EPA's technology transfer program has begun to incorporate the practices initiated under this recommendation. EPA will continue to identify, initiate, and implement regional technical support related to remedial site cleanups, and identify technical webinar and fact sheet topics.

**Completion Date:** September 2018

#### **RECOMMENDATION 11: Review of all Third-Party Contracting Procedures, Large EPA Approved Contractors, and Contracts to Determine Appropriate Use Parameters and Qualification Methods for EPA Contracting**

EPA will complete the following activities:

- Deliver the Remedial Acquisition Framework (RAF) training in EPA regional offices; and
- Award a suite of contracts for Design and Engineering Services (DES), Remediation Environmental Services (RES), and Environmental Services and Operations (ESO).

**Completion Date:** December 2018

## GOAL 2: RE-INVIGORATING RESPONSIBLE PARTY CLEANUP AND REUSE

### **RECOMMENDATION 13: Revised from: Identify Opportunities to Utilize Various Federal and State Authorities to Conduct Response Actions that are Consistent with CERCLA and the NCP to Examine Opportunities to Achieve Protective Cleanup at NPL-Caliber Sites Without Listing on the NPL**

EPA will compile a compendium of sites where regions and states have used alternative approaches to achieve protective clean-up at NPL caliber sites. We have solicited regional programs, and states through ATSWMO to provide the work group with site examples where use of an alternative approach was successfully used to achieve a protective clean-up of an NPL caliber Site, and if possible, at least one Site example where use of an alternative approach resulted in significant challenges. The states are being requested to provide examples that they would like to share with their regional programs through the state representative on the workgroup with ATSWMO's knowledge. The Regional and State input will be analyzed and incorporated in the Recommendation 13 summary document.

**Completion Date:** December 2018

### **RECOMMENDATION 14: Maximize the Use of Special Accounts to Facilitate Site Cleanup and/or Redevelopment**

EPA will develop and issue the "Updated Consolidated Guidance on the Establishment, Management, and Use of CERCLA Special Accounts" to help provide greater clarity to regions on effective ways to manage and use special accounts by providing a single point of reference.

**Completion Date:** December 2018

### **RECOMMENDATION 15: Speed Up Settlement Process Where There Are Federal PRPs at a Site**

EPA will finalize model settling Federal agency language to address common settlement delays in all judicial and administrative settlements. EPA will develop process for reserving private PRP contribution and contractual rights in CERCLA settlements.

**Completion Date:** March 2019

### **RECOMMENDATION 16: Provide Reduced-Oversight Incentives to Cooperative, High-performing PRPs, and Make Full Use of Enforcement Tools as Disincentives for Protracted Negotiations, or Slow Performance Under Existing Cleanup Agreements**

*Provide Reduced-Oversight Incentives to Cooperative, High-performing PRPs*

EPA will develop and finalize guidance and model language for settlement documents to provide financial incentives in the form of reduced oversight. EPA continues to look for active measures that will reduce the amount of oversight as well as recommendation to reduce oversight costs. EPA believes the recommendations coming out of this effort will result in decreased oversight costs charged to PRPs.

### *Expedite Negotiations and PRP Cleanup*

EPA will explore options for revising and managing the duration of RD/RA negotiations. EPA will also compile best practices to address delays in RD/RA negotiations as well as PRP implementation of cleanups.

**COMPLETION DATE:** Provide Reduced-Oversight Incentives to Cooperative, High-performing PRPs – September 2018; Expedite Negotiations and PRP Cleanup – March 2019

### **RECOMMENDATION 18: Reinforce the Federal Facility Agreement Informal and Formal Dispute Timelines**

EPA will integrate the tools and the principles document into the federal facility program, including adding appropriate language in the FY2019 Superfund Program Implementation Manual (SPIM). EPA has implemented the audit tool during its work-planning discussions with the EPA Regions and will work closely with the Regions to implement the informal dispute tracking spreadsheet. In addition, EPA will release the final principles document to the Regions, states, and other Federal agencies for awareness and integration into dispute resolution discussions.

EPA will continue to use the tracking and audit tools as part of its work-planning discussions and will continue to discuss and refine the tools as they are implemented. EPA will incorporate the principles into training it conducts, which includes state, other Federal agency, and EPA remedial project managers and attorneys.

**Completion Date:** September 2018

### **RECOMMENDATION 19: Expand Cleanup Capacity by Designating One Agency Lead for Each Project in Order to Reduce Overlap and Duplication**

#### *Federal Agency Related Efficiencies*

EPA will issue a memorandum describing the ability of, and the circumstances under which to consider, a redelegation of CERCLA enforcement and clean-up authorities at mixed ownership mining sites. The memorandum instructs that pursuant to Executive Order 12580, EPA and FLMAs may redelegate their authorities to another federal agency, serving to consolidate CERCLA authority at appropriate sites to just one agency, instead of two.

The memorandum will help to expand “Cleanup Capacity by Designating One Agency Lead for Each Project in Order to Reduce Overlap and Duplication.” OSRE will ask the Regions to nominate pilot sites to implement the redelegation approach for implementation in FY2019.

#### *State Related Efficiencies*

EPA will complete a model MOU for CERCLA PRP-lead sites transitioning to state law oversight and implementation. This MOU will be available to guide EPA regional offices through the complex web of requirements that arise when oversight responsibility for a PRP-lead CERCLA cleanup is assumed by a state under a state cleanup law.

**Completion Date:** Federal Agency Related Efficiencies – December 2018; State Related Efficiencies – March 2019

### **RECOMMENDATION 21: Facilitate Site Redevelopment During Cleanup by Encouraging PRPs to Fully Integrate and Implement Reuse Opportunities into Investigations and Cleanups of NPL Sites**

EPA will complete interviews with PRPs to identify opportunities for PRP-lead cleanups and reuse. EPA will complete, distribute for comment, and finalize a white paper to summarize findings, and provide conclusions and recommendations for follow-up actions in support of the integration of reuse outcomes into PRP-lead cleanups. In conjunction with Recommendations 33 and 34, EPA will consider developing a comprehensive marketing strategy to connect PRPs/owners

with end-users to integrate reuse into early cleanup plans. EPA will draft an agency directive and model language to facilitate PRPs working with developers and Federal and local governments to incorporate reuse work throughout the cleanup process.

The work products (e.g., case study analysis, PRP interviews, and white paper) will be used as reference material for Superfund site reuse and redevelopment purposes. EPA will use the marketing strategy, stakeholder advisory group, national directive, and model language to encourage integration of reuse opportunities into investigations and cleanups of NPL sites.

**Completion Date:** September 2018

## GOAL 3: ENCOURAGING PRIVATE INVESTMENT

### **RECOMMENDATION 22: Explore Environmental Liability Transfer (ELT) Approaches and Other Risk Management Tools at PRP cleanups**

EPA is continuing to implement Recommendation 22 as described in the Superfund Task Force report. As currently drafted, this task force recommendation will focus on the transfer of cleanup responsibility, consistent with CERCLA statutory authority, to a separate entity.

OSRE is planning to pilot an approach suggested by stakeholders, during a listening session conducted on this topic, whereby an existing company spins off a new, but related (and sufficiently funded) corporate entity for the purpose of performing cleanup, including at a portfolio of sites. OSRE will also continue researching sites that could be both attractive for and benefit from an ELT or other cleanup approach, including sites with highest redevelopment potential.

**Completion Date:** September 2019

### **RECOMMENDATIONS 23, 25, 26: Ensure Timely Use of Site-Specific Tools When Needed and Appropriate to Address Liability Concerns at Contaminated Sites; Update EPA's Position on the Use of Site-Specific Agreements with Third Parties at NPL Sites; Revise EPA's Model Agreements to Create More Opportunities for Settlement with Third Parties Interested in Cleaning Up and Reusing NPL Sites**

Based on stakeholder outreach and lessons learned from site-specific agreements, EPA has identified potential revisions to the current BFPP and PPA model agreements to create more opportunities for settlement with third-parties interested in cleaning up and reusing NPL sites. EPA and DOJ will continue to identify opportunities to update the model BFPP work agreement, PPA model, and model windfall lien settlement agreement, as appropriate within existing statutory authorities. EPA and DOJ will then evaluate potential revisions to model settlement provisions and develop recommended revisions.

**Completion Date:** September 2019

## **RECOMMENDATION 28: Provide Greater “Comfort” in Comfort/Status Letters**

EPA will finalize revisions to the 2015 Comfort/Status Letter policy and model letter to reflect changes to CERCLA through the BUILD Act and an effort to provide more certainty in EPA’s comfort language.

EPA has been issuing comfort/status letters since 1996. Regional staff already use these letters to facilitate and encourage reuse of Superfund sites. EPA will continue this practice using the updated 2018 policy and model letters. EPA will also announce the updated policy and model letters during various meetings and conferences.

EPA will ensure utilization of the 2018 comfort/status letter policy and model letters through ongoing reporting requirements, regular check-ins with regional staff on reuse opportunities, and updating the policy with new letters, if appropriate, as reuse issues that may benefit from a comfort/status letter come to EPA’s attention.

**Completion Date:** September 2018

## **RECOMMENDATION 29: Revise or Develop New Enforcement Guidance to Support the Cleanup and Reuse of Contaminated Sites**

### *2003 “Common Elements Guidance”*

OSRE anticipates finalizing revisions to the “Common Elements” Guidance by the end of the 4th quarter of FY2018, based on case law developments and lessons learned by EPA and the private sector. The updated guidance will include major revisions to sections covering the requirements to: take “reasonable steps” with respect to hazardous substance releases, and to comply with land use restrictions and not impede the effectiveness or integrity of institutional controls. There will be more minor updates to sections on “all appropriate inquiries” (AAI), affiliation, and the remaining continuing obligations. Further, the revised guidance will include a new section on the requirement that bona fide prospective purchasers and innocent landowners not dispose of hazardous substances after property acquisition.

### *CERCLA section 107(d)*

EPA may develop a new model work agreement and comfort letter that relies on CERCLA section 107(d). This provision provides statutory liability protection to any person who renders care at a site in accordance with the NCP. Many of the legal and policy questions that need to be addressed in the development of these 107(d) models will be answered as other tools (such as an updated model BFPP work agreement and updated model comfort letters) are developed and finalized. Thus, these 107(d) models may be finalized once these tools are finalized.

**Completion Date:** Common Elements Guidance – September 2018; CERCLA 107(d) Guidance – September 2019

## **RECOMMENDATION 30: Revise Federal Facility Enforcement Guidance**

EPA will finalize revisions to the 1997 “Policy Towards Landowners and Transferees of Federal Facilities. The policy is aimed at encouraging redevelopment and provide comfort to transferees that they will not be held liable for U.S. contamination. EPA will also finalize the model language for placing Federal Facilities Agreement (FFA) provisions on hold in instances where a third party wants to perform the cleanup work. This policy should help streamline resolution of responsibility issues as between a Federal agency and third party who wants to perform the cleanup. As a result, this language should help encourage redevelopment at Federal facilities.

EPA plans to share both products with EPA’s regions and state and Federal agency partners. We hope to distribute it to developers and others who attend Brownfield’s and redevelopment conferences. EPA will also distribute them to EPA’s Federal Facility Leadership Counsel. EPA would post both products on the EPA website and FedCenter, which is a web platform for sharing compliance assistance and enforcement information, etc., with Federal agencies. EPA would also include the documents in trainings such as the Superfund attorney and the Remedial Project Manager training.

**Completion Date:** September 2018

## **RECOMMENDATIONS 31, 32: Develop New Local Government Enforcement Guidance to Address Concerns Raised by the Landowner Liability Provisions Potentially Applicable to Local Governments; Develop a Model Comfort/Status Letter and Other Tools to Address the Liability Concerns and Other Barriers Unique to Local Governments**

Recommendations 31 and 32 were combined into one action to address landowner liability concerns and other barriers that are potentially applicable to local governments. EPA developed a list of policy options, tools, and approaches to address liability concerns of local governments.

EPA identified a fact sheet as the best tool to address local governments potential liability concerns. The completed fact sheet will discuss the effect of the recent BUILD Act Amendments on local government liability under CERCLA Section 101(20)(D). It will also clarify EPA's position on the liability of local governments that acquire contaminated property. The document will be used by the Regions to provide support and clarity to local governments, and will be a resource publicly available to local governments. The fact sheet will be a living document that can be updated as needed when, or if, the courts speak specifically to the breadth of the BUILD Act Amendments.

EPA identified a local government specific comfort letter as the best tool to facilitate and support local governments in the acquisition of contaminated properties. The new comfort letter will be used by the Regions, as appropriate, to provide clarity and assurance for local governments that acquire contaminated property.

**Completion Date:** June 2019

## **GOAL 4 – PROMOTING REDEVELOPMENT AND COMMUNITY REVITALIZATION**

### **RECOMMENDATIONS 33, 34, 39: Focus resources on NPL sites with more redevelopment potential**

EPA will complete the following remaining activities:

- Integrate the Prospective Purchase Inquiry (PPI) toolbox, a joint effort between Superfund enforcement and cleanup staff in the regions
- Complete GIS-based map of site reuse information
- Implement a strategic management tool that tracks all sites with redevelopment potential
- Continue the focus on engaging communities and stakeholders in the redevelopment process through outreach and training opportunities
- Continue to explore innovative ways to ensure that information about sites is communicated to potential developers
- Collaborate with Superfund enforcement to explore ways to engage PRPs into the redevelopment process
- The Office of Policy will collaborate with OSRTI on ongoing Superfund redevelopment activities to identify opportunities for additional community revitalization projects.

**Completion Date:** Recommendation 33 - September 2018; Recommendations 34 and 39 -September 2019

## GOAL 5: ENGAGING PARTNERS AND STAKEHOLDERS

### **RECOMMENDATION 40: Develop a Robust Communications Strategy to Identify and Target Key Stakeholders**

This recommendation will focus on stakeholder and partner engagement to support risk communication at Superfund sites, especially as it relates to long-term stewardship (LTS). EPA will form an internal risk communication / LTS team of staff experts and senior leadership to:

- Focus this effort on sites with remedies that require long-term O&M and institutional controls
- Identify existing processes, tools, and training for LTS/risk communication
- Conduct stakeholder and partner listening sessions to identify needs, gaps and weaknesses
- Develop an action plan and potential measures of improvement

**Completion Date:** September 2019

### **RECOMMENDATION 42: Use a Federal Advisory Committee to Work with a Broad Array of Stakeholders to Identify Barriers and Opportunities Related to Cleanup and Reuse of Superfund Sites**

The NEJAC will undertake the task of preparing a report of formal consensus advice and recommendations related to long-term stewardship and risk communication at Superfund sites. Additional stakeholder and partner engagement processes will be used to seek feedback from targeted stakeholders, including engaging other EPA federal advisory committees to inform them about what EPA is doing. In addition to using this mechanism to elicit individual feedback from advisory committee members, consideration is being given (in accordance with FACA obligations to hold open meetings) to seek additional stakeholder and partner input related to long-term stewardship and risk communication at Superfund sites.

**Completion Date:** September 2019



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