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ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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October 8, 2015

The Honorable Mathy Stanislaus
Assistant Administrator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Assistant Administrator Stanislaus:

Thank you for appearing before the Subcommittee on Environment and the Economy on Friday, September 11, 2015, to testify at the hearing entitled "Oversight of Federal Facility Cleanup under CERCLA."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Monday, October 22, 2015. Your responses should be mailed to Will Batson, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed to Will.Batson@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



John Shimkus
Chairman

Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachment

Additional Questions for the Record

The Honorable John Shimkus

1. Does EPA have difficulty in monitoring and evaluating individual federal agency compliance with the Federal Agency Hazardous Waste Compliance Docket requirements under CERCLA?
 - A. If so, please identify the difficulties and identify what tools EPA needs, if any, to assure effective and consistent compliance among the various federal agencies in implementing the Hazardous Waste Compliance Docket requirements?
2. What oversight role does EPA have with respect to cleanups at non-NPL sites where another federal agency has asserted lead agency authority under E.O. 12580?
3. What authority does EPA have to compel assessment or cleanup of federal facilities that are not on the NPL?
4. Is there consistent compliance with CERCLA among the federal agencies which are conducting cleanups at non-NPL sites and which have asserted lead agency authority?
 - A. What tools, if any, does EPA need to assure effective and consistent compliance among the various federal agencies which have asserted lead agency to conduct cleanups at non-NPL sites?
5. Is there a conflict or potential conflict when a federal agency is a potentially responsible party because it caused the contamination or is the owner of contaminated property but that same agency is also the lead agency responsible for making cleanup decisions? Please explain why or why not.
6. Does EPA oversee the assessment and cleanup of abandoned mines on federal property?
 - A. Does EPA oversee the assessment and cleanup of abandoned mines on non-federal property?

The Honorable Frank Pallone

During the second day of this hearing, state witnesses testified about potential issues related to agencies that are responsible parties asserting "Lead Agency Authority"

1. Can you explain what this authority is and why your Department makes use of this authority?
2. Does this authority apply differently at National Priority List sites and non-NPL sites?

According to state testimony, assertions of lead agency authority were more of a problem before 2008.

3. Please explain what your Department has done since 2008 to improve working relationships with states when your Department leads cleanups?

Similarly, state witnesses expressed concerns that, primarily before 2008, agency claims of sovereign immunity frustrated cleanup efforts.

4. When and why might your Department or employees of your Department claim sovereign immunity in the context of Superfund cleanups?
5. What has your Department done since 2008 to limit claims of sovereign immunity?

Lastly, state witnesses at the second day of this hearing raised the concern that priorities for cleanups are not always determined based on risk. Obviously, limitations on resources for cleanup make prioritization necessary and important.

6. What factors does the Department consider in making funding decisions for cleanups across your inventory of contaminated sites?
7. What does your Department do to ensure that contaminated sites posing serious or immediate threats to human health are cleaned up quickly and effectively?
8. How does your Department ensure that budget requests will be sufficient to cover pressing cleanup needs?
9. Did the 2013 government shutdown affect your ability to meet your cleanup obligations on schedule?

The Honorable Richard Hudson

1. How much contaminated mine drainage discharges from abandoned mines on federal lands on:
 - A. A daily basis?
 - B. A weekly basis?
 - C. A monthly basis?
 - D. An annual basis?

The Honorable Robert Latta

1. Do you believe that section 120 of CERCLA is evidence that Congress intended to waive sovereign immunity under CERCLA and to require federal agencies to comply with State cleanup laws, including state land use controls?