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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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July 25, 2007

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The Honorable David M. Walker
Comptroller General
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Walker:

In 1980, Congress enacted the Comprehensive Environmental Response and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq., establishing the Superfund Program to address the Nation's most serious uncontrolled hazardous waste sites. Primary regulatory responsibility has been vested in the Environmental Protection Agency (EPA) to administer and oversee the Superfund Program.

CERCLA requires EPA to develop and maintain a list of hazardous sites, known as the National Priorities List (NPL), to include sites that present the most serious threats to human health and the environment. The process of listing a site on the NPL begins when a reported hazardous waste site is reported into the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS). Once a site is listed on CERCLIS, the site then enters the beginning phase of the Superfund program known as the "Site Assessment Phase." In this phase, either EPA or the State in which the site is situated seeks to determine whether a particular site poses a potential threat to human health and the environment.

The Committee is conducting an inquiry into the current state of the Superfund Program, including whether new sites are being expeditiously assessed, scored, and listed where appropriate. As such, we request the assistance of the Government Accountability Office (GAO) in this endeavor. First, we ask GAO to examine whether non-Federal and Federal facility sites are being expeditiously assessed and determine whether the EPA is appropriately following up with a hazardous ranking scoring and listing decisions pursuant to Section 105 of CERCLA, where preliminary assessments and site investigations indicate the presence of serious contamination. Please further investigate whether any policies, formal or informal, have been put in place by the EPA that would slow down or constrain the proposal of or listing of new sites on the NPL. Such a review should include an examination of the adequacy of budget proposals by the EPA for the site-assessments and listing phase of the Superfund pipeline.

Second, we request that the GAO conduct a follow-up review on its 1998 report entitled “Hazardous Waste: Information on Potential Superfund Sites” to determine the cleanup status of the 232 sites that either EPA or a State indicated were likely to be listed on the Superfund NPL. In addition, we would like to know what actions, if any, EPA has taken to determine whether the other sites identified in the 1998 GAO report, which had preliminarily scored over 28.5 under the hazard ranking system, remain potentially eligible for placement on the NPL.

Third, we request that GAO investigate the reasons why EPA has essentially stopped listing Department of Defense (DOD) contaminated sites that are owned or operated by the Nation’s largest polluter, on the Superfund NPL. As part of this inquiry we request that GAO evaluate whether the apparent policy change to stop listing DOD facilities is consistent with the intent of Congress under CERCLA and what non-listing has on the expeditious cleanup of contaminated DOD facilities. One of the last DOD facilities proposed for listing was Chanute Air Force Base (AFB) in December 2000. We understand that both EPA and the State of Illinois wanted it listed on the NPL but the Air Force resisted the listing. Please detail the facts concerning the proposed listing of Chanute AFB and identify any Office of Management and Budget (OMB) involvement and/or interference in the proposed regulation to list Chanute AFB on the NPL.

Fourth, the Agency’s Superfund Alternative sites program, which is not based on specific statutory authority, is an alternative program EPA employs rather than listing a site on the NPL. As noted in the U.S. EPA’s Inspector General Report, *EPA Needs to Take More Action in Implementing Alternative Approaches to Superfund Cleanups*, June 6, 2007, recent reviews have reported problems in EPA’s managing and implementing this alternative approach. We request that GAO identify by Region the number and names of sites that have been designated as Superfund Alternative sites for the time periods of 1996 through 2006, including when the site was designated. In addition, please describe where the site is in the remedial process including the percentage of total cleanup that has been achieved to date.

Finally, based on information recently obtained by the Committee on Energy and Commerce from EPA, it appears that there are 229 Superfund NPL sites that are teenager sites, i.e., listed on NPL more than 13 years ago. Of these, 159 are sites where the potentially responsible parties (PRP) have the lead for cleanup actions. Please determine whether EPA is vigorously overseeing these PRP lead cleanups, including achievement of work plan milestones under the consent decrees and/or administrative orders, in a manner that expedites the cleanup and identify any sites where you believe cleanup could proceed at a faster pace.

With respect to the remaining 70 teenager sites where cleanups are being funded with general fund taxpayer dollars, please determine which of these sites have had cleanups delayed do to a shortage of funds.

The Honorable David M. Walker
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Should you have questions with this request, please contact Karen E. Torrent or Richard A. Frandsen with the Committee on Energy and Commerce staff at (202) 225-2529.

Thank you for your cooperation with the work of the Committee.

Sincerely,



John D. Dingell
Chairman



Albert R. Wynn
Chairman
Subcommittee on
Environment and
Hazardous Materials



Hilda L. Solis
Vice Chair
Subcommittee on
Environment and
Hazardous Materials

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable John Shimkus, Ranking Member
Subcommittee on Environment and Hazardous Materials