

CHAPTER 1

INTRODUCTION

The Nature of the Problem

Based on a 1995 report, the U.S. government is responsible for addressing approximately 61,155 contaminated sites. Current cost estimates for cleaning up environmental contamination at these sites range from \$230 billion to \$390 billion over the next 75 years. During the most recent fiscal year, the federal government spent \$9 billion on efforts to identify, address, and clean up this contamination.¹ The contamination includes many types of sites ranging from abandoned mines in remote locations to major weapons production facilities adjacent to urban areas. Cleanup at many of these sites will require both new technologies and creative applications of existing technologies.

Although most federal agencies face some degree of environmental contamination at their facilities, the estimated number and magnitude of these problems are greatest at DOD and DOE facilities (see Figure 1). Most of the environmental contamination associated with federal facilities is the result of DOE or DOD activities. For the most part, these facilities served and continue to serve national security needs. Historically, the national defense mission often took primacy over other objectives, including environmental stewardship. It also promoted a general resistance to external oversight. As a result, the full nature and extent of the environmental contamination caused by the operations of these facilities only recently has begun to be realized.

Unlike DOD and DOE, the USDA and DOI directly caused only a small percentage of environmental contamination on lands they manage. Laws such as the Mining Act of 1872 authorized nonfederal activities to take place on public lands that resulted in active, inactive and abandoned mines, municipal and county landfills, and shooting ranges, all of which have significant environmental contamination associated with them. "Midnight dumping" of hazardous waste, illegal "drug labs," pipeline breaks, and releases of petroleum products and hazardous substances associated with transportation accidents have also contributed to the environmental contamination present on these federal lands. USDA and DOI believe that many of these sites are not "federal facilities" under CERCLA. They are included as part of these agencies' cleanup programs where appropriate to protect human health and the environment. The Committee did not spend time discussing this matter, therefore, the views of other Committee members may differ.

¹*Improving Federal Facility Cleanup*, Report of the Federal Facilities Policy Group, October 1995.

Figure 1: FEDERAL FACILITIES PROFILE*

	DOE	DOD	DOI	USDA	NASA
Nature of Contamination	Radioactive, hazardous and mixed waste and fissile material	Fuels and solvents, industrial waste and unexploded ordnance	Mining, municipal and industrial wastes	Hazardous, mining and chemical waste	Fuels and solvents and industrial waste
Number of potentially contaminated sites and major site types	10,000 sites - former weapons production facilities	21,425 sites - underground tanks - landfills - spill areas - storage areas	26,000 sites - abandoned mines ** - oil & gas production - landfills	3,000 sites - abandoned mines ** - landfills	730 sites - underground storage tanks - spill areas
Number of potentially contaminated facilities	137	1,769	NA	NA	17
Number of active sites	10,000	11,785	26,000	3,000	575
Current estimate to complete cleanup	\$200 to \$350 billion ***	\$30 billion	\$3.9 - \$8.2 billion	\$2.5 billion	\$1.5-2 billion
Estimate being revised	Released March 1995	Yes	None scheduled	Yes; due FY 1996	Yes; due FY 1995
Estimate of years to finish cleanup	30-75+ yrs	20 yrs	NA	10 yrs - landfills 40 yrs - mines 50 yrs - NRD ***	25 yrs
Annual budget:					
1994 actual	\$6.1 billion ***	\$2.5 billion *****	\$61 million	\$16 million	\$34 million
1995 enacted	\$5.9 billion ***	\$2.0 billion *****	\$65 million	\$16 million	\$21 million
1996 request	\$6.6 billion ***	\$2.1 billion *****	\$66 million	\$45 million	\$37 million
Current funding source	Federal	Federal	Federal	Federal	Federal
Responsibility for contamination	Agency	Agency	Agency, private parties and local governments	Agency, private parties and local governments	Agency

* Adapted from *Improving Federal Facilities Cleanup* Report of the Federal Facilities Policy Group, October 1995.

** The DOI and USDA believe that abandoned and inactive mines on public lands are not generally "federal facilities" under Section 120 of CERCLA.

*** DOE's budget includes waste management, facility stabilization, technology development, and associated support costs that include many unique operational, safety, and national security costs in addition to environmental cleanup.

**** Natural Resources Damage.

***** DOD includes only Defense Environmental Security Cleanup budgets.

While DOE and DOD cleanups must be publicly funded, USDA and DOI must ensure that responsible parties conduct cleanup actions and/or recover public funds used for cleanups on their lands, if a viable responsible party or parties can be located. Where USDA and DOI and are responsible parties they must contribute an appropriate share of the cleanup costs. In the cases in which environmental contamination has resulted from DOD or DOE activities on land USDA and DOI now manage, DOD and DOE funds are sought. Further, as federal trustees under the natural resource damage provisions of CERCLA, USDA and DOI, as well as other federal agencies, must, as appropriate, seek performance by responsible parties, public funds, and/or recovery of public funds, to address natural resource damages.

Priorities for cleanup activities must be established because of the magnitude of environmental contamination at federal facilities, the responsibility of the federal government to address the contamination it caused or permitted to occur, and resources needed to conduct cleanup. The federal government must nonetheless sustain its commitment to address the contamination it caused or permitted to occur. The Departments of Defense and Energy, in particular, face significant challenges to set priorities and allocate funding in a fair manner that stakeholders perceive as legitimate. As a nation, we will be making difficult decisions regarding the nature of these cleanups and the priorities of actions to be taken at federal facilities into the next century.

Past approaches to public involvement associated with the national defense missions of DOD and DOE facilities bred significant mistrust among stakeholders. The federal government has an opportunity to address this mistrust by making cleanup information publicly available and involving more public stakeholders in the decision-making process. The Committee recognizes and commends federal agencies for their actions taken so far to seize this opportunity. However, work still needs to occur to ensure that the full range of public stakeholders are meaningfully involved in cleanup decision-making processes.

The problem of mistrust is of particular concern where federal facility environmental problems affect communities of color and low-income communities that have historically lacked economic and political power, adequate health services, and other resources. Efforts have not always been made to address the specific environmental and associated impacts to these communities. Therefore, federal agencies' credibility in such communities is particularly tenuous. Strategies for cleanup are inextricably linked to economic development, future land use, public health, education, housing transportation, and cultural development of communities. By meaningfully involving public stakeholders from these affected communities in cleanup decisions, agencies can begin to address their cleanup needs and build more positive relationships.

Executive Order 12898 requires federal agencies to address environmental justice concerns in all of their programs, policies, and activities. Building on this, this report contains recommendations regarding special efforts that should be made to ensure that affected communities, particularly communities of color, indigenous peoples, and low-income communities, understand and participate in the cleanup process, and that their values are reflected in the actions taken.

In some cases, local governments have not been adequately involved in the cleanup decision-making process. Local governments play a critical role because they interact with federal facility cleanups on many different levels, including as the regulating agency of certain wastes, as the emergency responder, and as the responsible authority for land use planning.

Several factors limit local government participation in federal facilities cleanup decision making. Because federal agencies often are not fully aware of local government functions and responsibilities, there is a lack of guidance and formal mechanisms for interactions between local governments and federal agencies. As a result, local governments' role in cleanup advisory boards, and other stakeholder involvement mechanisms is sometimes unclear. Local government participation has also been hampered because communities sometimes mistrust local governments' ability to integrate environmental and economic objectives, and because local governments' capacity and willingness to participate in cleanup decisions in some instances has been limited. Addressing these barriers is important, because local governments, in many cases, are the institutional authority that will address the effects of cleanup decisions long after the federal cleanup agency has withdrawn from the community. This report also contains recommendations regarding the role that local governments play in the federal facility cleanup decision-making process.

The History and Goal of the Federal Facilities Environmental Restoration Dialogue Committee

The Committee is an advisory committee federally chartered under the U.S. Environmental Protection Agency. Participants also include individuals from the U.S. Departments of Agriculture, Defense (and its Military Services), Energy, and the Interior, the National Oceanic and Atmospheric Administration, and the Agency for Toxic Substances and Disease Registry; state, tribal, and local governments; and numerous other nationally, regionally and locally-based environmental, community, environmental justice, indigenous peoples, and labor organizations. Further information on the Committee members, charter, ground rules, members, history is included in Appendices A-C.

The members of the Committee participate as individuals, not as official representatives of their agencies and organizations. The goal of the Committee is to develop consensus policy recommendations aimed at improving the process by which federal facility environmental cleanup decisions are made, such that these decisions reflect the priorities and concerns of all stakeholders.

With this goal in mind, the Committee published an Interim Report in February 1993 that focused on recommendations for improving: the dissemination of federal facilities cleanup information; stakeholder involvement in key federal facilities cleanup decisions, particularly through the use of advisory boards; and consultation on federal facilities cleanup funding decisions and setting priorities in the event of funding shortfalls.

The Interim Report has had a significant impact on the way federal facility cleanup decisions are made. Most federal agencies have established information dissemination policies and central points of contact for public stakeholders to obtain information about environmental contamination. The Committee estimates that over 200 facilities have established advisory boards that represent a wide diversity of public stakeholders affected by the facilities' operations and cleanup actions. These boards are providing advice to agency personnel on issues such as the use of innovative cleanup technologies and setting goals and priorities for cleanup activities. Examples of how these boards have helped agencies better involve a broad range of public stakeholders to make more informed and cost-effective cleanup decisions are included throughout this report.

The Nature of the Committee's Consensus

The principles and recommendations in this report reflect a consensus on the part of all Committee members listed in Appendix A. As defined by the Committee's ground rules, consensus was reached when there was no dissent from any Committee member. Although the dialogue process was not intended to bind any of the organizations, agencies, or associations of the Committee members and alternates, all of the signatories to this report have agreed to work proactively toward the implementation of the recommendations contained in this report.

The Committee hopes that this report will help improve the federal facility cleanup decision-making process, as its Interim Report did. In proactively working toward the implementation of these recommendations, the Committee expects participating agencies, particularly EPA, to support activities designed to ensure that the broad spectrum of people and organizations with an interest in federal facilities cleanup are aware of and understand the essence of this report.

Overview of the Report

Since the publication of the Interim Report, the Committee has witnessed a fundamental change in the way federal agencies approach cleanup. In producing this report the Committee has attempted to build on the successes of agency efforts to involve stakeholders, and to include recommendations that consider the lessons learned from these efforts.

In this report, the Committee has included all relevant recommendations from its Interim Report. The Committee clarifies the intent of recommendations in the Interim Report where misunderstandings have developed, and offers new recommendations developed to address the changing environment in which federal facilities cleanup decisions are being made. The principles and recommendations elaborated upon in this report are intended to improve the overall decision-making and priority-setting process. The content of every chapter in the report is integrally linked, and it should be approached in a holistic manner.

The recommendations in this report attempt to create an open, public consultative process that originates at the facility level and extends through the entire hierarchy of the federal government. However, the Committee recognizes that all facilities, agencies, and communities have unique structures, histories, and concerns. Accordingly, the Committee encourages flexible approaches based upon the principles of inclusiveness, openness, and accountability.

CHAPTER 2: PRINCIPLES FOR CLEANUP In August 1995, the Committee released *Principles for Environmental Cleanup of Federal Facilities* to benefit then-current policy making on federal facility cleanup matters, and to provide a stepping stone for this Final Report. These principles provide an overall context for the federal facility cleanup decision-making process. They are stated and elaborated upon in Chapter 2.

CHAPTER 3: COMMUNITY INVOLVEMENT Building on the principles, the recommendations in this chapter are aimed at improving overall community involvement processes to more actively engage public stakeholders. Because agencies have for the most part developed guidance documents on how to implement the recommendations of the Interim Report, the recommendations in this chapter focus on what these guidance documents should address in the future.

CHAPTER 4: ADVISORY BOARDS One of the Committee's specific recommendations in the Interim Report for improving community involvement was the creation of advisory boards. While many agencies have established advisory boards at their facilities and developed guidance for their operation, the Committee has identified some continuing problems with the establishment and operations of advisory boards. The recommendations in this chapter reiterate how advisory boards should be established, and they focus on improving the quality of boards' interactions with the federal agencies and other stakeholders. New recommendations include processes for education and training of board members, evaluation of boards, and networking boards on a national level.

CHAPTER 5: FUNDING AND PRIORITY SETTING The recommendations in this chapter update and revise those contained in Chapter 4 of the Interim Report. The primary objectives of the recommendations contained in this chapter are to promote a credible process for planning and undertaking federal facility cleanup activities at a reasonable pace that is protective of human health and the environment and to deal with funding shortfalls in an equitable, timely, open, understandable, and cost-effective matter. To accomplish these objectives, the Committee has developed a set of recommendations for a process whereby stakeholders are informed of, and to the greatest extent feasible, participate in important decisions that will affect the scope and schedule (i.e., pace) of work to be performed at federal facilities. The recommendations in this chapter focus more strongly than those in the 1993 Interim Report on building consensus at the local facility level on cleanup priorities and budgets at early stages of the budget process.

CHAPTER 6: CAPACITY BUILDING The recommendations in this chapter focus on building the capacity of stakeholders to participate effectively in the federal facility cleanup

decision-making process. The recommendations address the need to build the capacity of agencies to involve affected communities of color, indigenous peoples and residents of low-income communities in the decision-making processes. They also address building the capacity of local, state, and tribal governments to effectively participate in federal facility cleanup decisions.

