**TESTIMONY OF**
**SUSAN PARKER BODINE**
**ASSISTANT ADMINISTRATOR**
**OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE**
**U.S. ENVIRONMENTAL PROTECTION AGENCY**
**BEFORE THE COMMITTEE ON**
**ENVIRONMENT AND PUBLIC WORKS**
**UNITED STATES SENATE**

**SEPTEMBER 18, 2008**

Madam Chairwoman and members of the Committee, I am Susan Parker Bodine, Assistant Administrator for the Office of Solid Waste and Emergency Response at the U.S. Environmental Protection Agency. Thank you for inviting me to appear today to discuss EPA's role in the cleanup and restoration of contaminated federal facilities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

## CLEAN UP PROGRESS UNDER CERCLA

Protection and restoration of our land is an important component in EPA's mission to protect human health and the environment. EPA leads the federal effort to reduce risks posed by contaminated land, undertaking cleanup and other activities that allow land to be returned to beneficial use. Since the enactment of CERCLA (or "Superfund"), EPA and federal agencies, as well as States and Tribes, have made significant progress toward this goal. Under the Superfund program, EPA and its state and Tribal partners have assessed 47,820 sites; the removal program has conducted 10,046 removals at 7,273 sites; and 1,650 sites

have either been proposed to, listed on, or deleted from the Superfund National Priorities List (NPL). Of the 1,587 final or deleted sites, 95 percent have undergone construction activity, have been completed, or have been deleted from the NPL.

## FEDERAL FACILITY CLEANUP AND REUSE

CERCLA Section 120 provides a framework for identifying contaminated federal facility sites, assessing actual or potential environmental risks from these sites, and assuring cleanup and other actions to protect human health and the environment. Under CERCLA, EPA and its federal and state partners address releases of hazardous substances that may or do pose current or future threats to human health and the environment. The federal facility restoration and reuse program is an important component of the broader Superfund program. Under CERCLA Section 120, federal facilities are required to comply with CERCLA in the same manner, both substantively and procedurally, as private entities.

Section 120 includes some unique provisions and timetables that apply to federal facilities only, including creation by EPA of the federal agency hazardous waste docket, completion of a preliminary assessment/site investigation by a federal facility after docket listing, commencement of a remedial investigation/feasibility study by a federal facility within 6 months of listing on the NPL, and the requirement that EPA and the federal facility enter into an

Interagency Agreement (commonly referred to as a “Federal Facility Agreement”, or FFA at NPL sites.) Also, special provisions govern the transfer of federal property to private entities. Finally, CERCLA restricts the use of Superfund Trust Fund monies at federal facilities.

Instead, federal departments and agencies pay for the cleanup of facilities under their jurisdiction, custody or control. Under Executive Order 12580, federal agencies are designated as the “lead agency” for carrying out many CERCLA statutory requirements at their facilities. However, EPA retains the final decision authority over selection of a remedial action at sites listed on the NPL. CERCLA Section 120(e)(4) specifies that an IAG must include the review of alternative remedial actions, with the selection of remedial action by the head of the federal agency *and* EPA. The Administrator of EPA makes the final selection of the remedial action if an agreement is not reached. Thus, in some respects, DoD, DOE, and other federal agencies are EPA’s partners - - as well as regulated entities - - under the CERCLA framework. At federal facilities, unlike non-federal Superfund sites, the federal agencies responsible for cleanup generally write Records of Decision (RODs), with EPA review and concurrence. In addition, federal agencies assume the lead responsibility for carrying out NPL 5 year reviews to determine if the remedy remains protective at federal facility sites, again with EPA review and concurrence.

The shared responsibility for program implementation under CERCLA has

posed unique challenges for EPA and other federal agencies, but has generally worked effectively. At most federal facility NPL sites, field staff relationships are strong, and the program has made significant progress since the 1990s. Currently there are 172 final and deleted federal sites listed on the NPL. Approximately 81% of these are DoD Component sites, and all but 11 of those military facilities have in place signed Federal Facility Agreements, as required by CERCLA Section 120. The FFAs negotiated with DoD, DOE and other agencies are enforceable agreements, that govern the cleanup at Federal Superfund sites, and are comparable to consent decrees which govern cleanups at private sites. FFAs often include a state as a signatory, and provide a formal mechanism for state involvement in the remedial action. Tribal governments also are often involved in the cleanup process and participate in the decision making process.

**PROGRESS THROUGH EFFECTIVE PARTNERSHIPS**

The CERCLA process and FFAs have worked effectively for ensuring appropriate oversight of clean ups for more than 20 years, with a proven track record for achieving consistent, protective cleanup results at the nation's federal facility NPL sites. FFA's provide a consistent framework for EPA and federal agencies to cooperate in the field. Moreover, because states are often parties to the agreements, the FFA provides the opportunity for states and EPA to work together to help ensure NPL cleanups meet statutory requirements. Further, FFA's help ensure that EPA and state regulators avoid duplicative or inconsistent directions at

federal facility sites. Finally, FFA's provide the flexibility for innovative and accelerated cleanup approaches. For example, at Fort Ord and McClellan Air Force Base in California, effective team work and innovation resulted in the nation's first privatized cleanup agreements for federal facility NPL sites. At Dover Air Force Base in Delaware, accelerated cleanup saved $1.5 million in staff time, and construction completion was reached in 2006. At Rocky Flats, cleanup was completed in 10 years and saved the federal government more than $500 million. At Alameda Naval Air Station, innovative technologies and expedited cleanup actions paved the way for 100 percent leasing of available buildings, new housing, and the creation of hundreds of jobs. Last year, the Air Force highlighted the role of EPA and the State of California when announcing the final transfer of the former Castle Air Force Base property to private ownership. This year we anticipate achieving two construction completions at the Joliet Army Ammunition Plant near Joliet, Illinois.

Overall, in the last five years alone, construction completion has been reached at 22 federal sites, including 14 DoD sites and 6 DOE sites. Since the Superfund program's inception, construction completion has been reached at 59 of the 172 federal sites on the NPL, including 46 (out of 140) military sites, and 8 (out of 21) DOE sites. Federal agencies are on pace to achieve construction completion at 50 percent of federal NPL sites within the next three to four years.

## BASE REALIGNMENT AND CLOSURE ACT (BRAC) SITES

EPA also works in close partnership with DoD to address contamination on properties slated for transfer and conversion to other purposes under the Base Realignment and Closure Act (BRAC). Early this year I signed a Memorandum of Understanding (MOU) with DoD that addresses how EPA intends to support the military's cleanup and transfer of property under the BRAC program for the next three years. The MOU provides a mechanism for DoD to provide funding to EPA to support accelerated environmental restoration and cleanup decisions in support of reuse at selected DoD BRAC installations. On an annual basis, DoD provides approximately $7 million to EPA to provide environmental review, personnel, and other technical support to assure that BRAC properties are environmentally acceptable for transfer, while protecting human health and the environment. Between 40 to 50 EPA full time equivalent employees (FTE) are supporting DoD's BRAC program, and EPA has been involved at 107 BRAC installations associated with the first four BRAC rounds.

## RECENT INITIATIVES

EPA is engaging with other federal departments and agencies on a range of activities to maintain and accelerate cleanup progress at federal facilities. EPA is working with DOE to formulate funding priorities for future cleanup activities affecting cleanup at DOE's NPL sites. We are working collaboratively with DoD

on tools to assist field staff in assessing alternative risk reduction options at munitions sites, improving site level data quality, and resolving technical issues associated with emerging contaminants. We have also initiated a project to harmonize EPA and DoD internal progress measures and GPRA goals with the aim of better measuring and reporting cleanup progress. Finally, I just announced funding for a cooperative agreement with the Environmental Council of the States to lead a federal-state dialogue, including DoD, on munitions response issues, and to foster state research on tools and practices to address munitions. These new initiatives build upon a range of longstanding partnerships for exchanging information and training on remediation technologies, monitoring and chemical testing methods, and data quality practices.

**CONCLUSION**

I appreciate the Committee's interest in the cleanup of NPL federal facility sites. In partnership with other federal departments and agencies, States, Tribes and local communities, we will continue our efforts to help ensure the cleanup of contaminated federal facility sites to protect human health and the environment.