JURISDICTION AND ACTIVITIES
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
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I. OVERVIEW

The jurisdiction of the Subcommittee on *Water Resources and Environment* consists generally of matters relating to water resources development, conservation and management, water pollution control and water infrastructure, and hazardous waste cleanup. During the 112th Congress, the Subcommittee's jurisdiction is the same as in the 112th Congress. For quick reference, below is a list of the Subcommittee's primary areas of jurisdiction and the agencies having primary responsibilities for such areas. Following this, major programs under the Subcommittee's jurisdiction are discussed in more detail; where significant action occurred in the 111th Congress, that action is summarized.

- Water resources programs (projects and regulations) - Army Corps of Engineers (Corps)
- Clean Water Act, Superfund, and water infrastructure and watershed protection programs - Environmental Protection Agency (EPA)
- Ocean dumping - Corps and EPA
- Oil pollution - EPA and Coast Guard
- Tennessee Valley Authority
- Saint Lawrence Seaway Development Corporation
- The small watershed program of the Natural Resources Conservation Service
- Deepwater ports - Coast Guard, EPA, Corps
- Invasive/aquatic nuisance species - EPA, Coast Guard, Corps, and other agencies
- Additional areas:
    - Coastal pollution and coastal zone management - EPA and National Oceanic and Atmospheric Administration (NOAA)
    - Natural resource damages - NOAA, Interior, and other agencies
    - Groundwater protection - primarily EPA and Corps
    - Water resources policy - multiple agencies

II. CORPS OF ENGINEERS WATER RESOURCES PROGRAMS

A. Studies and Projects

General Procedures

The Corps of Engineers constructs projects for the purposes of navigation, flood control, hurricane and storm damage reduction, and shoreline protection, hydroelectric power, recreation, water supply, environmental protection, restoration and enhancement, and fish and wildlife mitigation.

The first step in a Corps water resources development project is a study of the feasibility of the project. If the Corps has done a study in the area before, the new study can be authorized by a resolution of either our Committee or the Senate Committee on Environment and Public Works. If the area has not been previously studied by the Corps, then an Act of Congress is necessary to authorize the study. Currently, the majority of studies are authorized by Committee resolution.

The Corps first performs a reconnaissance study at federal expense, typically taking about one year to complete. If this study indicates that there may be a viable federal project and that a more detailed study should be undertaken, the Corps prepares a feasibility report, the cost of which is shared 50 percent by the Federal Government and 50 percent by the non-federal interest.

After a full study is completed, the results and recommendations of the study are submitted to the Congress, usually in the form of a report of the Chief of Engineers. If such results and recommendations are favorable, in previous Congresses, the next step would be authorization. Project authorizations are contained in water resources development acts, the last of which was enacted in 2007.

Small Projects

The Corps of Engineers also has certain authorities to construct small projects without specific authorization by the Congress. These authorities, collectively known as the "continuing authorities program," include (1) beach erosion control projects with a federal cost of not more than $5 million, (2) navigation projects with a federal cost of not more than $7 million, (3) flood control projects with a federal cost of not more than $7 million, (4) streambank and shoreline protection for public facilities projects with a federal cost of not more than $1.5 million, (5) projects to mitigate shoreline damages from federal navigation projects with a federal cost of not more than $2 million, (6) projects of snagging and clearing for flood control with a federal cost of not more than $500,000, (7) projects modifying the structure and operation of existing projects for improvement to the environment with a Federal cost of not more than $5 million, and (8) projects for the restoration and protection of aquatic ecosystems with a Federal cost of not more than $5 million. Since the continuing authorities program entails an abbreviated approval process, it offers an attractive alternative to specifically authorized work when project costs are relatively small.

Cost Sharing

The Water Resources Development Act of 1986, P.L. 99-662, as amended, contains the cost sharing provisions which are generally applicable to Corps of Engineers water resources projects. For *harbor development*, non-federal interests are required to pay during construction 10 percent of project construction costs to depths 20 feet or less; 25 percent of project construction costs for depths greater than 20 feet but not more than 45 feet; and 50 percent of project construction costs for depths greater than 45 feet. Since 1996, project construction costs include costs associated with dredged material disposal facilities. In addition, the non-federal interest must pay 10 percent of the cost of general navigation features over a period not to exceed 30 years with interest as well as provide all lands, easements, rights of way, and relocations necessary for project construction and maintenance. The cost of the lands, easements, rights of way, and relocations is credited against the additional 10 percent repaid following construction. *Operation and maintenance* costs are 100 percent federal for work associated with depths not greater than 45 feet and 50 percent federal for additional costs of maintaining depths greater than 45 feet.

The federal share of operation and maintenance is appropriated from the Harbor Maintenance Trust Fund. That fund was created in 1986 and consists of receipts from a 0.125 percent tax imposed on the value of cargo loaded or unloaded at U. S. ports. On March 31, 1998, the Supreme Court ruled that the tax on cargo that supports the Harbor Maintenance Trust Fund is unconstitutional insofar as it applies to exports. The tax on imports continues to be collected.

In recent years more revenue has been deposited than has been paid out by the Harbor Maintenance Trust Fund. As a result, there is a growing balance in the trust fund that exceeds $6 billion. Many federal navigation projects are not currently at their authorized depths and widths.

The construction and major rehabilitation of *inland waterways transportation projects* is funded 50 percent from the Inland Waterways Trust Fund, with the balance from general revenues. This trust fund consists of revenues generated from a tax on inland waterways fuel. The tax rate for the trust fund has been 20 cents per gallon since January 1, 1995. Operation and maintenance of the inland waterways system are 100 percent federal from general revenues.

In recent years, the Inland Waterways Trust Fund, while not broke, has been deficient in funding for capital improvement projects on the inland waterway system.

For *flood control projects*, structural projects require a minimum non-federal share of 35 percent (25 percent for projects authorized before October 12, 1996) and a maximum of 50 percent. Non-structural projects require a fixed 35% non-federal share. The non-federal interest must pay at least 5 percent in cash of the costs of each project assigned to flood control during construction and provide lands, easements, rights of way, relocations and dredged material disposal areas necessary for flood control. Additional cash is required to be paid during construction if the local non-cash contribution of lands, easements, rights of way, relocations and dredged material disposal areas, and the mandatory 5 percent cash contribution does not equal 35 percent (or 25 percent, depending on the date of project authorization), but the non-federal contribution is always limited to 50 percent of project costs assigned to flood control. The Water Resources Development Act of 1996 raised the minimum non-federal share to 35 percent for projects authorized after its date of enactment (October 12, 1996).

For *municipal and industrial water supply*, the non-federal share of project costs is 100 percent, repaid over time. For *agricultural water supply*, the non-federal share is 35 percent, repaid over time. For *recreation*, the non-federal share is 50 percent of the separable costs allocable to recreation and for recreational navigation 50 percent of joint and separable costs. *Hurricane and storm damage reduction* projects are cost-shared at 35 percent non-federal and *aquatic plant control* operations have a 50 percent non-federal share. For ecosystem restoration and protection, the non-Federal share is 35 percent of total project first costs.

Actions in the 111th Congress. The Subcommittee held a hearing on May 19, 2009 on the Recommendations of the National Levee Safety Committee. The Subcommittee held a hearing on Water Resources Development Act proposals on November 18, 2009. The Subcommittee held a hearing on further Water Resources Development Act proposals on April 15, 2010.

The Committee reported H.R. 5892, the Water Resources Development Act of 2010, on September 29, 2010. This bill would have authorized, modified, reauthorized and deauthorized various Corps of Engineers' water resources projects and authorized studies involving, among

other things, navigation, flood control, environmental restoration, shore protection, hydropower, water supply, and recreation. The legislation also included various policy initiatives and regional programs and other revisions to the Corps' existing water resources program. This legislation was not considered by the House.

B. Regulatory Functions

In addition to studying, constructing, and operating water resources projects, the Corps of Engineers has primary responsibility for regulating activities in and the disposal of dredged or fill material into the "navigable waters of the United States" under several laws.

For example, under section 10 of the Act of March 3, 1899, any alteration of a navigable waterway, dredging of a navigable waterway or erection of any structure such as a wharf, pier or dock in a navigable waterway, requires a permit from the Secretary of the Army. The term "navigable waters" is broadly defined to include a wide array of waterbodies, including wetlands.

Under section 103 of the Ocean Dumping Act, transportation for the purpose of dumping of dredged material into the oceans requires a permit from the Secretary of the Army. The permits are issued pursuant to guidelines developed by EPA. Ocean dumping is discussed in more detail in section IV.

Section 404 of the Clean Water Act provides that any person who discharges dredged material or fill material into a water of the United States must have a permit from the Secretary of the Army. The Environmental Protection Agency, in conjunction with the Corps of Engineers, develops guidelines for the issuance of 404 permits and has authority to review and deny permits where the discharge will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas.

Waters of the United States include *wetlands*, which generally include swamps, marshes, bogs, and similar areas (which may often appear as dry land). To be considered a wetland, an area must meet three characteristics: 1) presence of hydric soils; 2) presence of vegetation typically adapted for life in saturated soil conditions; and, 3) presence of water in the root zone sufficient to create anaerobic conditions for a designated period. Section 404 is the primary federal law for the regulation of activities occurring in wetlands.

In June 1998, the U.S. Court of Appeals for the District of Columbia Circuit ruled the Corps of Engineers had no authority under the Clean Water Act to regulate incidental fallback that occurs during dredging operations. On January 17, 2001, the Corps and EPA published in the Federal Register changes to the definition of "discharged material" to respond to the Court's decision. In January 2001, the U.S. Supreme Court ruled that the Corps' jurisdiction over certain isolated waters and wetlands based upon the use of such waters by migratory birds exceeded its authority under the Clean Water Act. In December 2002, the U.S. Supreme Court affirmed a lower court decision that the Corps' authority under the Clean Water Act extends to the discharge of pollution associated with a farmer's use of the deep-ripping technique to plow in wetlands. At the same time, the Court was unable to agree on the proper test for determining the extent to which Federal jurisdiction applies to wetlands.

In a 5-4 decision in the consolidated cases of *Rapanos v. United States* and *Carabell v. U.S. Army Corps of Engineers*, Nos. 04-1034 and 04-1384 (June 19, 2006), the Court vacated the judgments of the United States Court of Appeals for the Sixth Circuit that had upheld Federal jurisdiction over wetlands connected to traditional navigable waters by a series of drainage ditches and non-navigable creeks, and wetlands separated from a drainage ditch by a berm. The 5-4 majority of the Court remanded the cases to the lower court for further proceedings.

Actions in the 111th Congress. The Subcommittee held a hearing on Clean Water Act Enforcement on October 15, 2010. There was no significant legislative activity during the 111th Congress associated with the regulatory program of the Corps of Engineers.

C. Water Infrastructure and Watershed Protection

Much attention has been given to the role the Corps of Engineers might play in addressing the environmental infrastructure and watershed protection needs of the nation. Inadequate wastewater treatment facilities and sewer overflow problems are major issues where communities are seeking federal assistance. Although these are primarily areas of focus for other federal agencies, there are specific authorizations in previous WRDAs for the Corps to address these problems.

III. ENVIRONMENTAL PROTECTION AGENCY (EPA)

A. Clean Water Act Program

The Federal Water Pollution Control Act (commonly known as the Clean Water Act), as amended in 1972 by P.L. 92-500, in 1977 by P.L. 95-217, in 1981 by P.L. 97-117, and in 1987 by P.L. 100-4, provides for a major federal/state program to protect, restore, and maintain the quality of the nation's waters. The EPA has the major responsibility for carrying out the Act but significant parts of the program may be administered by the states if approved by EPA. The Act generally has two major areas of emphasis: Regulatory provisions that impose progressively more stringent requirements on industries and municipalities to reduce the discharge of pollutants and that regulate the discharge of dredged or fill materials into wetlands, and funding provisions that authorize federal financial assistance for municipal wastewater treatment plant construction. Additional areas emphasize planning and financial and technical assistance for various regions and issues.

The Act establishes a goal of eliminating the discharge of pollutants into navigable waters of the United States by 1985 with an interim goal of attaining water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water by 1983. "Navigable waters" is defined in the Act as “waters of the United States, including the territorial seas" -- a term that is interpreted to include various nonnavigable tributaries and wetlands.

As a step towards achieving these goals and implementing this policy, the Act imposes technology-based discharge control requirements on industrial and municipal dischargers. Industries must meet various standards based on the type of pollutant discharged and the age of

the facility (e.g., "best available technology economically achievable"). For municipalities, secondary treatment (defined in regulation as an 85 percent reduction in certain conventional pollutant concentrations) must be achieved. Additional limitations may also be imposed on dischargers where pollution levels in receiving waters continue to be too high to protect designated uses; this is accomplished through water quality based effluent limitations.

EPA is responsible for defining what the required level of treatment is for municipalities and for each type of industry to meet their standards. EPA also must develop water quality criteria, specifying the maximum concentrations of pollutants permitted for different designated uses of waters.

These requirements are implemented and enforced through permits. All *point source* dischargers that discharge pollutants directly into navigable waters must obtain a permit for that discharge either from EPA or a state, if the state has an EPA-approved permitting program. Currently, forty-five states and the Virgin Islands have approved permitting programs. Permits are based on both technology requirements and water quality impacts, and set the concentration of pollutants allowed to be discharged. Several provisions in the Act provide for time extensions and modifications of these requirements upon a satisfactory showing that specified conditions exist to justify the extension or modification.

A state may exercise its own permit program in lieu of the federal program if it meets specified requirements, such as the requirement to develop water quality standards. Water quality standards consist of a designated use for a body of water, such as fishable and swimmable, suitable for spawning, or drinking water source; criteria for the amounts of various pollutants which will permit and sustain that use; and a policy to prevent or minimize degradation of water quality. States can use either EPA developed water quality criteria or different ones if the state can demonstrate to EPA that the different criteria are justified in the particular case. For water bodies not meeting water quality standards, more stringent limitations on dischargers may be imposed in order to protect the quality of the receiving waters.

Indirect dischargers (industries that discharge to publicly owned treatment works--POTWs--rather than directly to navigable waters) must meet treatment standards similar to those established for direct industrial discharges since POTWs traditionally are designed primarily for the treatment of domestic sewage. Pretreatment requirements in section 307 are either enforced by the POTW or by state or federal authorities.

The law includes many different enforcement provisions, such as authorities regarding administrative, civil, and criminal penalties and citizen suits.

In order to address *nonpoint sources* of pollution, including runoff from farms, urban areas, construction sites, and forests, states are required under section 319 to develop management programs for identifying and controlling nonpoint pollutant sources. Federal financial assistance is available to states in implementing the nonpoint source management programs.

Titles II and VI of the Clean Water Act provide for grants to States and municipalities and the establishment of *clean water state revolving loan funds (SRFs)* , respectively, for the

construction of *treatment works*. The *Construction Grants* program contained in Title II was phased out in favor of SRFs in the Water Quality Act of 1987 (P.L. 100-4). For the Construction Grants program, Congress has appropriated approximately $60 billion since the program was authorized. For the SRF, Congress has appropriated $19.7 billion in capitalization grants since the program was authorized. States must deposit into the SRFs at least 20 percent of the amount of federal grants in matching funds. SRF revenues also include receipts from the sale of bonds, loan repayments, and interest earnings. From all sources, nearly $40 billion has deposited into the SRFs.

The SRFs are available to make low interest loans, buy or refinance local debt, subsidize or insure local bonds, make loan guarantees, act as security or guarantee of state debt, earn interest, and pay administrative expenses. All projects must be those that will assure maintenance of progress towards the goals of the Act and meet the standards and enforceable requirements of the Act. SRF monies also may be used to implement other water pollution control programs such as nonpoint source pollution management and national estuary programs. EPA has approved 57 states and territories for funding under the SRF program. According to the EPA, currently, nearly $5 billion is available from the SRFs for new loans each year. Cumulatively, SRFs have provided over $74 billion in loans for wastewater projects.

The Water Quality Act of 1987 authorized $1.2 billion per year for fiscal years 1989 and 1990, $2.4 billion for fiscal year 1991, $1.8 billion for fiscal year 1992, $1.2 billion for fiscal year 1993, and $600 million for fiscal year 1994. The SRF program was intended to be self-supporting following fiscal year 1994, however, Congress has continued to provide appropriations due to the increasing wastewater "needs." EPA, the Congressional Budget Office (CBO) and the Water Infrastructure Network, a coalition of industry and other interested stakeholders, all have estimated that significant increases in investments are needed to satisfy wastewater "needs" over the next 20 years. These estimates fall between CBO's low-cost estimate of a $3.2 billion annual gap, and CBO's high-cost estimate of an $11.1 billion annual gap.

In addition to the amendments phasing out the construction grants program and authorizing the SRFs, the Water Quality Act of 1987 contains a number of amendments that were designed to reduce the number of unpermitted discharges, increase state issuance of water quality standards, and improve compliance with these water quality standards.

The 1987 Act established a program in section 402(p) for regulating *stormwater dischargers*. This "phased-in, tiered" approach requires large and medium municipal and most industrial dischargers to get permits by specified dates. Small municipalities and other dischargers were required to obtain permits no later than October 1, 1992. EPA issued a rule in November 1990 identifying who must comply with stormwater regulations and under what time frame. Since then, EPA has issued numerous guidance documents and more specific regulations addressing general permits and the content and scope of Phase I and Phase II programs.

EPA's implementation of that program has been behind schedule and controversial. Included within the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, is an extension of permit application deadlines for certain group and individual permit applicants. Section 364 of the Water Resources Development Act of 1992, P.L. 102-580, extended the

deadline for EPA to issue regulations for permitting stormwater discharges not associated with industrial activity or emanating from a municipal separate storm sewer serving a population of less than 100,000 (Phase II regulations) until October 1, 1993, from October 1, 1992. That section also extended the date by which these discharges must have permits from October 1, 1992 until October 1, 1994. EPA did not propose its Phase II stormwater regulations until January 1998, and did not issue the final regulations until December 1999. These regulations require smaller municipalities (and smaller construction activities) to be covered by a permit for any stormwater discharges by March 10, 2003.

In order to strengthen state development of water quality standards, the 1987 amendments require states to adopt *water quality criteria* (as part of a water quality standard) for any toxic pollutant for which EPA has developed criteria, the discharge or presence of which in the affected water body could reasonably be expected to interfere with the designated uses of the water body. States are to adopt these criteria whenever they review their water quality standards, which must occur at least every three years.

The Water Quality Act of 1987 established in section 319 a $400 million, four-year grants program to encourage and assist states in the control of nonpoint sources of water pollution. The provision requires states to identify areas not meeting water quality standards because of nonpoint sources of pollution and to develop programs as necessary if states are to receive implementation grants. Notwithstanding the expiration of the authorization for grants, the nonpoint source program has continued to receive appropriations for state implementation efforts.

The Water Quality Act of 1987 codified several programs targeted at restoring specific estuaries and lakes. The Act created a *National Estuary Program* and an expanded *Clean Lakes Program*, targeting resources for water pollution control and cleanup plan development at estuaries and lakes and EPA demonstration cleanup projects at highly polluted lakes. The Act also created regional water pollution control and cleanup programs for the Chesapeake Bay and the Great Lakes because of their biological importance and the multiple political jurisdictions involved.

Actions in the 111th Congress. The Subcommittee held several hearings on issues related to Clean Water Act programs.

On February 4, 2009, the Subcommittee held a hearing on "Sustainable Wastewater Infrastructure." On March 19, 2009, the Subcommittee held a hearing on "Efforts to Address Urban Stormwater Runoff." On July 15, 2009, the Subcommittee held a hearing on "Opportunities and Challenges in the Creation of a Clean Water Trust Fund." On September 22, 2009 the Subcommittee held a hearing on legislation relating to the Chesapeake Bay. On October 6, 2009, the Subcommittee held a hearing on legislation relating to Long Island Sound. On April 28, 2010, the Subcommittee held a hearing on legislation relating to the Columbia River and San Francisco Bay. On July 15, 2010, the Subcommittee held a hearing on "Putting America Back to Work Through Clean Water Infrastructure Investment." On September 29, 2010, the Subcommittee held a hearing on Green Infrastructure.

In addition, the Committee favorable reported H.R. 1262, the Water Quality Investment Act of 2009, would reauthorize and amend the Clean Water Act State Revolving Loan Fund program to increase investments in wastewater infrastructure and assist communities in managing their infrastructure assets. The bill passed the House of Representatives on March 12, 2009.

B. Comprehensive Environmental Response, Compensation, and Liability Act (Superfund)

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, commonly referred to as "Superfund," was enacted to develop a comprehensive program to clean up the nation's worst abandoned or uncontrolled hazardous waste sites. The EPA has the major responsibility for carrying out this Act. The law requires that responsible parties pay for hazardous waste cleanups wherever possible and provides for a hazardous substances trust fund, the Superfund, to pay for remedial cleanups in cases where responsible parties cannot be found or otherwise be held accountable. Superfund is also available for responding to emergency situations involving hazardous substances. In addition, the law was intended to advance scientific and technological capabilities in all aspects of hazardous waste management, treatment, and disposal.

Superfund is a response to hazardous waste horror stories of the late 1970's (such as those involving Love Canal, a community in Niagara Falls, New York). Superfund was enacted during the final lame-duck session during the Carter Administration as a $1.6 billion five-year program to address our nation's hazardous waste problem. The program was reauthorized and amended in 1986 for an additional five years at $8.5 billion. (Superfund Amendments and Reauthorization Act of 1986, P.L. 99-499 (Oct. 17, 1986)). Superfund was extended for three years, through fiscal year 1994, by the Omnibus Budget Reconciliation Act of 1990. The taxes were extended through December 31, 1995, and have not been reinstated.

The Superfund trust fund has obtained its revenue from several sources: a tax on crude oil and petroleum products, a tax on certain feedstock chemicals, a tax on certain imported substances derived from taxable chemicals, an environmental tax imposed on a portion of the modified alternative minimum taxable income of a corporation, cost recoveries from responsible parties, penalties and punitive damages assessed under Superfund, money appropriated from general revenues, and income from investment of the fund balance. Although the taxing authority expired on December 31, 1995, the Trust Fund continues to receive revenues from the other sources listed above.

Superfund imposes liability on certain persons that generated hazardous substances found at a site, present and certain former owners and operators of a site, and certain transporters who disposed of hazardous substances at a site. As interpreted by the courts, liability under Superfund is strict, joint and several, and retroactive.

Strict liability is liability without fault or negligence. Facts related to the degree of a parties' connection between the cleanup costs incurred or to be incurred at the site and the particular hazardous substances, or types of hazardous substances, disposed by a person at the site, can be litigated in contribution actions and are considered in allocations of responsibility.

Liability is established simply by showing that a person either owned the site currently or when hazardous substances were disposed there, or sent any type or amount of a hazardous substance there, and that costs have been incurred to respond to a release or threatened release of a hazardous substance.

Joint and several liability means that once liability is established, any liable person can be held responsible individually or together with other liable persons for 100 percent of the cleanup costs, although total recoveries cannot exceed total costs. Retroactive liability means that Superfund's liability regime applies to parties for conduct that took place prior to the law's enactment in 1980.

Response actions under Superfund are divided into two categories-- removal and remedial actions. *Removal actions* are intended to be short-term emergency responses to an immediate need. Except in certain exigent circumstances, a removal action cannot require the obligation of more than $2 million or take longer than 12 months from the date of initial response. In addition, a removal action must contribute to the efficient performance of any long-term remedial action with respect to the release or threatened release concerned.

The more visible aspect of the Superfund program is the long-term *remedial action* program, which provides for long-term remedies to the nation's most serious hazardous waste sites. The initial step in having a site considered for a remedial action under Superfund is for EPA's National Response Center to be notified of a release or threatened release of a hazardous substance. This information is usually provided by state and local governments, but may be provided by anyone such as interest groups and individuals. This notification results in a site being entered into CERCLIS (Comprehensive Environmental Response, Compensation, and Liability Information System), which is EPA's computerized database of potential Superfund sites. EPA will then perform a preliminary assessment which is the process of collecting and reviewing available information about a known or suspected hazardous waste site or release. EPA uses this information to determine if the site requires further study. If further study is needed, a site inspection is undertaken.

A site inspection is a technical phase that follows the preliminary assessment and is designed to collect more extensive information about the hazardous waste site. This can include data collection and sampling. The preliminary assessment and site inspection tend to greatly reduce the number of sites considered for inclusion in Superfund. Over half of the sites which have received preliminary assessments and site inspections have been determined to be sites where no further federal action would be taken. Sites remaining in the inventory are eligible for ranking under the Hazard Ranking System.

The *Hazard Ranking System* is a scoring system the EPA uses to evaluate the relative risk to human health and the environment posed by uncontrolled hazardous waste sites. It is a numerically-based scoring system that uses information obtained from the preliminary assessment and site inspection. The Hazard Ranking System assigns each site a score ranging from 0 to 100 based on the likelihood that a site has released or has the potential to release contaminants into the environment; the characteristics of the waste (toxicity and waste quantity); and the people or sensitive environments affected by the release or threatened release. If a site

receives a hazard ranking system score of 28.5 and above, the site is eligible for listing on the National Priorities List.

The *National Priorities List* is a listing of sites which are eligible for Superfund financed cleanup activities. The fact that a site has been placed on the National Priorities List does not preclude responsible parties from paying for or conducting the cleanup.

Once a site has been placed on the National Priorities List, it is subjected to a remedial investigation in order to select the cleanup strategy best suited for the traits of that site. A remedial investigation entails extensive sampling and laboratory analyses to generate more precise data on the types and quantities of waste at the site, the soil type and water drainage patterns, and the resulting environmental or health threats. At the same time as the remedial investigation is occurring, a feasibility study is conducted. The feasibility study analyzes the specific needs of the individual site, and evaluates alternative cleanup approaches on the basis of their relative effectiveness and cost.

EPA, using the direction given it in the 1986 amendments, issued regulations in 1990 to modify the National Contingency Plan and developed guidance for remedy selection using nine criteria divided into three groups. The first two criteria are referred to as the threshold criteria because they must be satisfied in order for a remedy to be eligible for selection. They are overall protection of human health and the environment, and compliance with all legally applicable or relevant and appropriate requirements contained in other environmental laws (the so-called ARAR's).

The second set of criteria is the primary balancing criteria. These are: long-term effectiveness and permanence; reduction of toxicity, mobility, or volume through treatment; short-term effectiveness; implementability; and cost. These criteria are used to help select one alternative from the full range of potential remedies that meet the threshold criteria.

The third group of criteria, the modifying criteria, is state acceptance and community acceptance of the proposed remedial action. These criteria are used to evaluate community and state concerns. EPA may change the selected remedy based on expressed concerns of the state and community.

Once a remedy is selected, a Record of Decision is prepared to document site conditions and offer an explanation and justification of EPA's remedy selection. EPA or responsible parties will then prepare a remedial design consisting of the preparation of plans and specifications for implementing the chosen remedial alternative. Finally, EPA or responsible parties will embark upon construction or other work necessary to implement the remedial alternative.

EPA has authority to settle Superfund liability claims. In addition, since 1986, EPA has had specific authority to engage in mixed funding that is engaged in cleanups using both Superfund and responsible party financing at the same site. EPA also has authority to engage in *de minimis* settlements with parties that contributed very small amounts of waste at a hazardous waste site so that small contributors may be released from further negotiation or litigation.

In 2002, the Small Business Liability Protection Act amended CERCLA to exempt certain persons and small businesses from liability under Superfund for the transportation and disposal of certain household hazardous wastes. It also promotes the redevelopment of brownfields by exempting certain persons from liability for contamination existing at a site that they purchase after the date of enactment of this legislation, and limits Federal enforcement at sites addressed under State voluntary cleanup programs.

In addition to response costs, natural resource damages are addressed in the Act. The Department of Interior has promulgated regulations to implement the provisions in section 107(f).

The Emergency Planning and Community Right to Know Act of 1986, although not written as an amendment to the Superfund program, is closely associated with Superfund and was enacted as title III of the Superfund Amendments and Reauthorization Act of 1986. The program establishes extensive reporting requirements under which facilities that handle, store, or generate hazardous chemicals must notify appropriate state and local officials of the identity of chemicals kept at the site above the reporting thresholds and their accompanying health hazards, the volume of such chemicals kept in inventory at the site, and the storage location for such chemicals. An annual report of chemical emissions to air, water, and soil is required of persons who manufacture, process, or otherwise use chemicals at their site above the reporting threshold.

Brownfields are properties where the expansion, redevelopment, or reuse of the property may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Revitalization and redevelopment of these abandoned sites can promote economic development, revitalize neighborhoods, and enable the creation of public parks and open space, and can preserve existing properties, including undeveloped green spaces.

In 2001, Congress created specific authority for the Environmental Protection Agency to address brownfields with the enactment of the Brownfields Revitalization and Environmental Restoration Act of 2001, as an amendment to CERCLA. This legislation, enacted in 2002, authorizes funding through EPA for brownfields assessment and cleanup grants, provides targeted liability protections for innocent landowners, bona fide prospective purchasers, and contiguous property owners, and increases support for State and tribal voluntary cleanup programs. The authorization of appropriations for brownfields grants expired September 30, 2006.

The Brownfields Revitalization and Environmental Restoration Act provides grant authority totaling $250 million annually. The Act authorized appropriations of $200 million annually for assessment, cleanup, revolving loan funds, research, and job training. Of that amount, $50 million, or 25 percent of appropriated funds if less than the fully authorized level, is set aside for assessment and cleanup of petroleum contaminated sites. Assessment grants are limited to $200,000 per site except in some cases, where due to size and contamination level, the limit is $350,000. The cleanup grants can be used to capitalize a revolving loan fund or used directly to remediate sites. Each cleanup grant is limited to $1 million.

The Act authorizes appropriations of $50 million each year for state and tribal response programs. States may use this assistance to establish or enhance their response programs,

capitalize existing revolving loan programs, and develop risk-sharing pools, indemnity pools, or insurance mechanisms to provide financing for remediation activities. Only one state, North Dakota, does not have a voluntary state response program.

Since the enactment of the brownfields law, the Executive Branch has consistently requested, and Congress has funded, far less than the fully-authorized levels for assessment and cleanup grants. In fiscal year 2006, Congress appropriated $162.5 million for the brownfields program, including $88.7 million for brownfields site assessments, cleanup, job training, and technical assistance, and $49.3 million for state voluntary cleanup programs. At these funding levels, only about one-third of eligible applicants receive grants.

C. Drinking Water Infrastructure and Watershed Protection

Over the years, the Committee has exercised jurisdiction over various agency programs and activities (and legislative proposals) regarding the construction, rehabilitation, improvement and financing of drinking water and water supply infrastructure. For example, the Corps of Engineers has limited authority to provide emergency assistance for drinking water supplies and, on a site-specific basis, has authority to conduct various water infrastructure projects. The Corps also currently owns and operates the Washington Aqueduct facilities, which provide drinking water for Washington, D.C. and a small portion of the region.

The Committee, however, does not exercise jurisdiction over EPA regulatory requirements in the context of the Safe Drinking Water Act.

IV. CORPS OF ENGINEERS/EPA - OCEAN DUMPING

Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 provides for the regulation of the dumping of material into the ocean. Except as authorized by a permit, no person may transport any material from the United States for the purpose of dumping it into the ocean waters. Without a permit, no material may be transported from any location for the purpose of dumping it into the ocean where a vessel or aircraft registered in the United States, or flying the United States flag, or where a United States department, agency, or instrumentality is involved. Also, except as permitted, no person may dump any material transported from a location outside the United States into the territorial sea, or into the contiguous zone to the extent it will affect the territorial sea or the territory of the United States. The EPA regulates the dumping of material other than dredged material while dredged material is regulated by the Corps of Engineers, in accordance with criteria developed by the EPA.

The EPA is authorized to issue permits for dumping where it determines that the dumping will not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems, or economic potentialities. The EPA is to establish and apply criteria for reviewing and evaluating permit applications.

The EPA is authorized to designate recommended sites or times for dumping and, where found necessary to protect critical areas, is required to designate sites or times within which dumping is prohibited. The Corps is authorized to issue permits for the transportation of dredged

material for the purpose of dumping it into ocean waters where it determines that the dumping will not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems, or ecological health, welfare, or amenities, or economic potentialities. The Corps must apply the criteria established by the EPA.

The Corps of Engineers makes an independent determination as to the need for the dumping, based upon an evaluation of the potential effects of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce. An independent determination is also made as to other possible methods of disposal and appropriate locations for the dumping. In considering appropriate locations, the Corps is directed to utilize, to the maximum extent feasible, recommended sites designated by the EPA.

Prior to issuing a permit, the Corps of Engineers must first notify the EPA. When the EPA disagrees with the Corps' determination with regard to the statutory criteria, or with regard to a site where dumping is prohibited by the EPA, the determination of the EPA prevails. Provision is made, however, for a waiver. When the Corps finds that no economically feasible method or site is available for the deposition of the dredged material, a waiver may be requested. The EPA must grant the waiver within 30 days unless it finds that the dumping will result in an unacceptable adverse effect on municipal water supplies, shellfish beds, wildlife, fisheries, or recreational areas. Finally, in connection with federal projects involving dredged material, the Corps may, in lieu of the permit procedure, authorize ocean dumping through regulations which incorporate the same requirements which would apply in the case of permits issued by the agency.

Several amendments to this law were included in the Ocean Dumping Ban Act of 1988 (P.L. 100-688). Under this legislation, ocean disposal of sewage sludge and industrial waste is prohibited after December 31, 1991. All ocean dumping of sewage sludge and industrial waste has now ceased.

The Marine Protection, Research, and Sanctuaries Act was also amended in Title V of the Water Resources Development Act of 1992. The title establishes a national contaminated sediment task force to improve existing programs related to the disposal of contaminated sediments. Additionally, the title enhances the roles of the EPA and an affected state in regulating ocean dumping. The ocean dumping program was reauthorized through fiscal year 1997.

V. EPA/COAST GUARD - OIL POLLUTION

The discharge of oil or hazardous substances into or upon the navigable waters of the United States is prohibited by section 311 of the Clean Water Act. The section also includes contingency planning requirements for spill prevention, control, and counter measures; penalties for various violations; and other provisions related to oil and hazardous substance spills. The Oil Pollution Act of 1990 (OPA) (P.L. 101-380) included amendments to the Clean Water Act as well as free-standing provisions and other amendments to provide a more comprehensive scheme of spill cleanup, compensation, prevention and mitigation measures.

Under OPA, largely a response to the 1989 Exxon Valdez oil spill, owners or operators of vessels and onshore or offshore facilities are strictly, jointly and severally liable for cleanup costs and covered damages resulting from oil spills. Strict liability means there is liability without a showing of fault or negligence. Joint and several liability means that any liable person can be held responsible individually or together with other liable persons for 100 percent of covered damages, although total recoveries cannot exceed total costs. Covered damages include: the costs of cleanup and removal; natural resources damages including loss of use of natural resources; injury or loss of real or personal property; loss or impairment of income, profits or earning capacity; loss of subsistence use of natural resources; costs of providing increased or additional public services; and loss of taxes, royalties, rents, fees or net profit shares.

Liability limits were established at $1,200 per gross ton or $10 million, whichever is greater for larger tankers, and $1,200 per gross ton or $2 million, whichever is greater, for smaller tankers including most inland barges. Owners or operators of certain-size vessels and "offshore facilities" must demonstrate financial responsibility (through the use of certificates of financial responsibility, COFRs) sufficient to meet the maximum amount of possible liability. There is no liability limit in the case of gross negligence, willful misconduct, failure to report a spill or violation of certain federal regulations. There is no federal preemption of state laws related to the liability of oil spillers.

The law requires the President to ensure effective and immediate removal of a discharge. This requirement may be satisfied by the President removing or arranging for the removal of the discharge; directing or monitoring all federal, state, and private actions to remove a discharge; or, removing or destroying a discharging vessel by whatever means are available. The President must also establish a Coast Guard District Response Group in each Coast Guard District to assist in cleanup, maintain equipment and assist in developing Area Contingency Plans. The Area Contingency Plans are to be developed by federal, state and local interests to provide a joint response effort for the removal of a worst case discharge. The Plan will describe the responsibilities of all parties, list all available equipment, describe expedited procedures for the use of dispersants, and include integration with other contingency plans.

The Act also included many provisions to help prevent oil spills. For example, the law requires the phase-out of existing single-hull oil carrying vessels of more than 5,000 gross tons starting in 1995. The phase-out is accomplished by a schedule which requires that the oldest and largest vessels be retrofitted or retired first. (As a practical matter, older vessels will not be retrofitted, they will be retired.) Double hulls will be required for all oil carrying vessels by 2015. Smaller vessels such as inland barges must have double hulls or an equally effective double containment system by 2015.

There is established a $1 billion cleanup and compensation fund, the *Oil Spill Liability Trust Fund*, financed by a five cents per barrel petroleum fee. Taxing authority expired December 31, 1995 but was reinstated by the Energy Policy Act of 2005. The fund has borrowing authority of up to $2 billion if the balance in the fund is insufficient to fully respond to the spill. The fund will pay for cleanup costs and damages of up to $1 billion per incident, but natural resources damages are limited to $500 million. The fund will be used for immediate response costs and for costs beyond those paid by the spiller if liability limits are reached.

OPA also increased penalties to $250,000 and up to three years in prison for an individual or $500,000 for an organization for failure to report a spill. Civil penalties for a spill were increased to $25,000 per day of violation or $1,000 per barrel of oil discharged and new administrative penalties were established. A minimum penalty of $100,000, but no more than $3,000 per barrel, is set for penalties involving gross negligence or willful misconduct. Pursuant to other legislation, penalties have been increased to account for inflation.

To minimize the effects and frequency of spills and to minimize cleanup time and damages, the Act established a $25 million dollar oil pollution research and development program.

VI. TENNESSEE VALLEY AUTHORITY

The Tennessee Valley Authority (TVA) was established in 1933 to aid in the development of the Tennessee River Valley region through the proper use, conservation, and development of the region's natural resources. The region includes parts of seven states--Virginia, Kentucky, Tennessee, North Carolina, Mississippi, Alabama, and Georgia. TVA is an independent government corporation, with headquarters in Knoxville, Tennessee. Since its inception, in order to carry out its assigned tasks, it has:

1) Constructed a system of reservoirs for navigation, hydroelectric power, flood control and recreation;

2) Established an Environmental Research Center to develop new and more effective environmentally benign fertilizers and address other environmental issues in the Tennessee Valley region and throughout the nation;

3) Established a tributary area development program to help area organizations take advantage of opportunities offered by the resources of each area--new farm products, manpower training, tourist services, and the like;

4) Instituted a program to provide technical assistance to communities in preventing flood damages;

5) Established a forestry organization to work with the states, landowners and industries to improve the regions' timber stands;

6) Established the Land Between the Lakes National Recreation Area, comprising 170,000 acres in a 40-mile long strip of land between Kentucky Lake and Lake Barkley in Kentucky and Tennessee; and

7) Established various watershed management and water quality monitoring and protection programs.

One of the most significant programs of the TVA has been the furnishing of plentiful, low cost electricity to the region. During TVA's first 20 years most of the power generated was

hydroelectric. By 1950, with increased power needs, TVA began building coal-fired steam electric plants, and those now account for about 75 percent of TVA's power generation. Also, TVA constructed nuclear plants to supply additional power needs, although the nuclear program has encountered various setbacks over time, including construction and safety problems and excess power capacity in the region. TVA currently has three nuclear power plants in operation.

Prior to 1959, construction of the power projects was financed mainly by Congressional appropriations. The power program is now completely self-financed through power revenues. In 1959, Congress provided TVA with borrowing authority to finance power system construction through the sale of bonds or notes. By statute, bonding authority is limited to $30 billion. Revenues from power users are used to repay borrowed funds and to repay funds previously appropriated by the Congress for the TVA power program.

TVA's non-power programs are also now completely self-financed through power revenues.

Actions in the 111th Congress. The Subcommittee held numerous hearings on coal ash disposal in the wake of the Kingston Spill in December 2008. These hearings were held on March 31, 2009, April 30, 2009, July 28, 2009, and December 9, 2009.

VII. SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation (SLSDC) is a wholly-owned government enterprise created in 1954 to construct, operate, and develop jointly with Canada a seaway between Montreal and Lake Erie. The Corporation is operated under the Secretary of Transportation's general direction and supervision. Specifically, the Corporation (1) constructs, maintains, and operates the United States' Seaway facilities, (2) finances the United States' share of Seaway costs on a self-liquidating basis by issuing revenue bonds to the U.S. Treasury, and (3) establishes with Canada's Saint Lawrence Seaway Authority mutually satisfactory arrangements for controlling and operating the Seaway. The Seaway allows for a 2,400 mile system of waterways extending from the Atlantic Ocean to the St. Lawrence River to the headwaters of the Great Lakes. The Seaway has two sections--the Saint Lawrence River section, which extends from Montreal to Lake Ontario, and the Welland Canal section, which connects Lake Ontario and Lake Erie.

In 2009, in celebration of its 50th anniversary, the Seaway initiated an asset renewal program. The 10-year Capital Improvement Plan includes 43 projects and equipment at an estimated cost of $86 million. The U.S. side of the Seaway originally cost $130 million and only $47 million in capital expenditures had been invested up until 2009.

During the 97th Congress, legislation was enacted which relieved the Seaway Corporation of the obligation to repay its outstanding debt. During the 99th Congress, P.L. 99-662 provided that tolls paid to the United States along the Seaway would be paid to the Harbor Maintenance Trust Fund and then rebated to those who paid the tolls. The Harbor Maintenance Trust Fund, which was established by the Water Resources Development Act of 1986 primarily to pay for Corps' harbor operation and maintenance costs, is authorized to pay for

operation and maintenance of Seaway facilities. During the 103rd Congress, P.L. 103-331 abolished the U.S. tolls along the Seaway.

Actions in the 111th Congress. There were no significant legislative actions during the 111th Congress.

VIII. NATURAL RESOURCES CONSERVATION SERVICE

The Natural Resources Conservation Service of the Department of Agriculture is authorized to give technical and financial help to local organizations in planning and carrying out watershed projects for flood protection, agricultural water management, recreation, municipal and industrial water supply, and wildlife enhancement.

The watershed work plan for a project, which is the basis for authorization of the project, is prepared by a suitable local organization with assistance from the Natural Resources Conservation Service and in coordination with other federal agencies. If the estimated federal cost of a project does not exceed $5,000,000 and the project does not contain any single structure having a total capacity of more than 2,500 acre-feet, it can be undertaken without congressional authorization.

If the estimated federal cost exceeds $5,000,000 or if the work plan contains a single structure having a total capacity of more than 2,500 acre-feet, it must be submitted to Congress for authorization, after being cleared by the Office of Management and Budget. If none of the structures in the plan will have a total capacity of more than 4,000 acre-feet, then the project can be authorized by resolutions of the House and Senate Committees on Agriculture.

If any structure in the plan will have a total capacity of more than 4,000 acre-feet, it is referred to the Committee on Transportation and Infrastructure of the House and the Committee on Environment and Public Works of the Senate. Authorization is accomplished by resolutions of these two committees.

Specific appropriations are not made for studies or construction of individual watershed projects. Rather, a lump sum is appropriated to the Natural Resources Conservation Service and initiation of the planning or construction of the projects is approved by the Chief of the Service.

Actions in the 111th Congress. There were no significant legislative actions during the 111th Congress.

IX. DEEPWATER PORTS

The Deepwater Port Act of 1974 provides for federal licensing and regulation of offshore ports designed to receive oil from vessels too large to enter conventional ports. Deepwater ports consist of pumping and pipeline facilities in open, deep water (beyond the territorial sea). The Act authorizes the Secretary of Transportation to license owners and operators and to issue regulations to control the location, construction and operation of deepwater ports. The purpose

of the Act is to provide a mechanism for permitting the construction and operation of deepwater port facilities while ensuring the protection of the marine and coastal environment and recognizing and protecting the interests of affected states.

One deepwater port facility, the Louisiana Offshore Oil Port (LOOP), in the Gulf of Mexico is presently operating. Various sponsors have proposed additional deepwater ports.

The Subcommittee shares jurisdiction over the Deepwater Port Act with the Coast Guard and Maritime Transportation Subcommittee of the Transportation and Infrastructure Committee.

Actions in the 111th Congress. There were no significant legislative actions during the 111th Congress.

X. INVASIVE/AQUATIC NUISANCE SPECIES

Congress enacted the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to help reduce the introduction and spread of nonnative, invasive species (plants, animals, and other organisms). This statute, which is implemented by numerous agencies, calls for a ballast water exchange program in the Great Lakes (in response to zebra mussel infestation) and various research and information exchange programs. This statute was reauthorized and amended by the National Invasive Species Act of 1996, which expanded the program to include nationwide, voluntary measures to reduce the spread of such species. The Subcommittee shares jurisdiction over the Nonindigenous Aquatic Nuisance Prevention and Control Act and the National Invasive Species Act of 1996 with the Coast Guard and Maritime Transportation Subcommittee of the Transportation and Infrastructure Committee.

Actions in the 111th Congress. On February 9, 2010, the Subcommittee held a hearing on Asian Carp and the Great Lakes. Invasive species in the Great Lakes are major stresses that are pushing the Great Lakes ecosystem towards potentially irreversible changes. Over the last several years the Corps of Engineers has carried out the only projects on the federal level that are designed to halt the Asian carp from entering the Great Lakes.

On July 20, 2010, the House passed H.R. 5301, which later became Public Law 111-215, legislation that would extend the exemption from vessel discharge rules under the Clean Water Act for commercial vessels under 79 feet in length and all fishing vessels. Under current law, all commercial vessels longer than 79 feet operating in U.S. waters, excluding fishing vessels, must act in accordance with the Environmental Protection Agency's Vessel General Permit. Had legislative action not been taken, exempted vessels would have been required to be in compliance with EPA rules on July 31, 2010. The Vessel General Permit went into effect on December 18, 2008 and is scheduled to expire in December 2013. The bill would modify the existing exemption to continue through December 18, 2013, the day that the current permit will expire.

XI. ADDITIONAL AREAS

A. Coastal Pollution and Coastal Zone Management

Protection of the ocean and coastal environment has been an issue of increasing concern to the Committee. Several laws under the Committee's jurisdiction address ocean and coastal pollution. For example, the Clean Water Act contains provisions, including ocean discharge criteria and the national estuary program, targeted exclusively at coastal waters. In addition, because the definition of navigable waters of the United States includes coastal waters, the entire Clean Water Act generally applies to these waters. The Marine Protection, Research, and Sanctuaries Act and the Coastal Zone Management Act also are devoted to protecting coastal resources.

The 101st Congress, as part of the Coastal Zone Act Reauthorization Amendments of 1990 (P.L. 101-508), amended the Coastal Zone Management Act to increase the protection of water quality in and around coastal areas. The 1990 Act also included free-standing provisions (section 6217, Protecting Coastal Waters) to establish a program jointly administered by EPA and NOAA to address coastal nonpoint source pollution.

The 102nd Congress, as part of the NOAA Authorization Act of 1992 (P.L. 102-567), included a new Title V, the National Coastal Monitoring Act, to the existing Marine Protection, Research, and Sanctuaries Act. The new title establishes a coastal monitoring program implemented jointly by EPA and NOAA.

In the 104th Congress, the Committee's jurisdiction was broadened and clarified to include marine affairs, including coastal zone management as it relates to pollution of the navigable waters. The Resources Committee has primary jurisdiction over other aspects of marine affairs, including coastal zone management.

B. Natural Resource Damages

The Subcommittee has jurisdiction over natural resource damage provisions in CERCLA (or Superfund) and the Oil Pollution Act. The Subcommittee shares jurisdiction with the Coast Guard and Maritime Transportation Subcommittee over the Oil Pollution Act.

Section 107(f) of Superfund and Section 1006(e) of the Oil Pollution Act authorize Federal, State, and Tribal governments to act as trustees for natural resources (such as birds, animals, trees, fish, groundwater, etc.) injured, lost or destroyed by the discharge of oil or hazardous substances. Federal trustees include the Secretaries of the Interior, Commerce, Agriculture and Defense. Under these provisions, trustees may seek damages for injuries to natural resources including (1) assessment costs, (2) the cost of restoring and rehabilitating the damaged resources, (3) the cost of replacing or acquiring the equivalent of unrestored or unrehabilitated damaged resources, (4) compensation for lost use of the resources, and (5) compensation for non-use (or passive use) values of the damaged resources. Both the Department of Interior (DOI), under Superfund, and the National Oceanographic and

Atmospheric Administration (NOAA), under the Oil Pollution Act, have promulgated regulations governing the administration of natural resource damage claims.

C. Groundwater Protection

Groundwater is one of our largest natural resources. Located underground and usually within 2,500 feet of the surface, groundwater reservoirs, or aquifers, contain nearly 50 times the volume of the Nation's surface waters, constituting 96 percent of all the fresh water in the United States, and are the primary drinking water source for half of the population.

In particular locations, this resource may be threatened by various sources, including municipal, residential, agricultural and industrial activities. EPA reports that over 80% of Superfund sites that have been investigated involve groundwater contamination.

In recent years, EPA has developed a Comprehensive State Groundwater Management Protection Program to help States strengthen their groundwater programs. The voluntary guidance recognizes that States, rather than the Federal government, should take the lead in managing and protecting groundwater resources within their jurisdiction.

Groundwater protection is also addressed in a wide array of federal statutes. Some of these, such as Superfund and the Clean Water Act, are within the Committee's jurisdiction. Others, such as the Solid Waste Disposal Act -- also referred to as the Resources Conservation and Recovery Act -- and the Federal Insecticide, Fungicide, and Rodenticide Act, are not.

In the last decade, Congress has made various efforts to strengthen groundwater protection, assessment, and research programs. Two major environmental laws--the Safe Drinking Water Act and the Superfund law--were amended during the 99th Congress establishing important groundwater protection measures. The Water Quality Act of 1987 (P.L. 100-4), which amended the Clean Water Act, provided grants to states for groundwater protection activities. Congress included several provisions in the Safe Drinking Water Act Amendments of 1996 (P.L. 104-182) to increase financial and technical assistance for State and local efforts to protect groundwater (e.g. grants for State groundwater protection strategies, source water protection, and watershed management).

D. Water Resources Policy

The Subcommittee exercises jurisdiction over matters generally relating to the appropriate federal role in water resources conservation, development and management. Specific areas include drought management, water reclamation and reuse, desalination, and comprehensive watershed protection and development. The Subcommittee also reviews matters related to federal interagency coordination in water resources programs and assistance to states in water resources planning, conservation, development, and management. These issues are typically addressed in the biennial water resources development acts.